

REASONABLE AND PRUDENT PARENT STANDARD
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Overview of Wisconsin Act 128: The Reasonable and Prudent Parent Standard

The 2015 WI Act 128: Reasonable and Prudent Parent Standard is an act that relates to child welfare. The act was passed by the legislature to comply with recent federal legislation concerning the federal Preventing Sex Trafficking and Strengthening Families Act of 2014 (H.R. 4980).

The Act requires, at the time of placement, that Group Homes, Residential Care Centers for Children and Youth, and Shelter Care Facilities use the Reasonable and Prudent Parent Standard to promote normalcy for children and youth placed in the facility. The Operator of the facility (the Licensee or Authorized Representative) is responsible for making reasonable and prudent parenting decisions for residents. Also, the Operator may choose a designee(s) to be responsible for making reasonable and prudent parenting decisions.

Agency Requirements

1. The agency shall ensure that all individuals responsible for making reasonable and prudent parenting decisions are trained in the use of the Reasonable and Prudent Parent Standard prior to making reasonable and prudent parenting decisions for residents.
2. At the time of placement, the agency shall incorporate the considerations documented on the "Considerations for Reasonable and Prudent Parenting" form (DCF-F-5089) into each resident's treatment plan.
3. The agency shall ensure that designees are available to make reasonable and prudent parenting decisions for a resident in a timely manner, and that reasonable and prudent parenting decisions are not delayed due to a designee being unavailable to make the decision.

4. The agency shall keep a record of all reasonable and prudent parenting decisions made for each child, and who made the decision.
5. The agency shall have policies and procedures in place for the operator or designee to inform the next shift's designee about any reasonable and prudent parenting decisions made during their shift, or any considerations from that shift that should be taken into consideration for future reasonable and prudent parenting decisions.
6. The agency shall have policies and procedures in place to review the application of the Reasonable and Prudent Parent Standard quarterly to ensure that the Reasonable and Prudent Parent Standard is being followed and decisions are being made consistently.
7. The agency shall conduct a review of Reasonable and Prudent Parent Standard parameters, requirements, and agency policies and procedures pertaining to the Reasonable and Prudent Parent Standard at least annually.

Designee Requirements

1. The designee shall be a manager, supervisor, or a full-time staff member who has been employed at the agency for at least 3 months. The personnel record of each designee shall contain the date the employee was appointed as a designee.
2. The designee shall be trained in Reasonable and Prudent Parent Standard prior to making any reasonable and prudent parenting decisions for residents. The personnel record of each designee must contain documentation of the training, including the date on which it was completed.
3. The designee shall have knowledge of the child and the child's treatment plan in order to make reasonable and prudent parenting decisions. The designee shall have access to child specific forms related to making reasonable and prudent parenting decisions, and the resident's treatment plan if the child is placed in a group home or residential care center.
4. A designee shall be onsite when making reasonable and prudent parenting decisions.

Applicability

It applies to out-of-home care providers of children, including:

- Foster homes
- Unlicensed non-relatives
- Unlicensed relatives
- Court-ordered Kinship care
- Guardians who have had a child placed in their home
- The operator of a shelter care facility, group home, and residential care center, as well as any designee of a shelter care facility, group home, or residential center.

Respite care providers and voluntary kinship providers are not subject to the Reasonable and Prudent Parent Standard.

Normalcy

Normalcy is defined in the act as the ability to have experiential opportunities for normal growth and development that promotes well-being. Every child has a right to normalcy, and personal growth should not be hindered by a child's placement in out-of-home care.

Considerations for making reasonable and prudent parenting decisions

When making a decision using reasonable and prudent parenting, care providers will consider a combination of factors in relation to the child and the specific situation. Factors include, but are not limited to:

- Child's wishes
- Age, Maturity, Development
- Potential Risk Factors
- Best Interests of the Child
- Opportunity for Growth

- Family-like Life Experience
- Child's Behavioral History
- Court/Legal Considerations
- Cultural, Religious, and Tribal Considerations
- Parent and guardian values

The child must have any necessary training for participation in that activity must be completed, and safety equipment must be provided.

Involving a child's parent/guardian

Parent/guardian input is encouraged, but not required for care providers to make parenting decisions for a child placed in their care. Care providers are not required to call or talk to a parent/guardian, but when possible and appropriate, they should take a parent/guardian's wishes into consideration. Parents/guardians have valuable insights about the child that often help the care provider in making decisions, and will allow the parents/guardians to remain an active part of the child's life.

Excluded

Reasonable and prudent parenting decisions may not violate court orders, other laws, administrative rules, or other services that are part of the child's permanency plan, including but not limited to:

- Court-ordered family interaction
- Medical approvals/Other medical laws
- Medication authorizations or approvals
- Confidentiality laws
- Educational-related decisions based on statute

If a care provider is unsure whether a decision conflicts with any of the above, the care provider must contact the child's caseworker and/or their foster care licensor, if applicable.

A few actions which could fall under the normalcy discretion of care providers which are contrary to, or may not be in line with, a Tribes religious, cultural, or traditional values.

- Forcing a child to cut their hair
- Making a child attend certain types of religious functions or gatherings which are contrary to their own
- Not allowing a child to exercise their treaty rights (hunting, fishing, or gathering)
- Not allowing a child to attend ceremonies, pow wows, or use religious/traditional objects

The Standard as it relates to Tribes

Any care provider must get permission when going against the religious, cultural, or traditional values of a tribe that are contained in either the tribe's code or ordinances. Typically, a tribe's traditional/customary code or juvenile/children's code are the places to verify that the care provider's decisions pertaining to normalcy are in fact in line with a tribes religious, cultural, or traditional values.

Recommendations for Tribes

It is recommended that tribes make the necessary changes to their codes or ordinances so as to make clear their cultural and traditional values as they relate to children and their upbringing. One place to start is by noting which activities or practices are contrary to the tribe's cultural or traditional values and then enact codes or ordinances which clearly lay out those actions, as they relate to care providers, and penalize them accordingly.

One other way that tribes can make sure that the actions of care providers are not contradictory to their religious, cultural, or traditional values is to add specific language to their court orders. Just as court orders pertaining to children in need of care contain language stating that "reasonable efforts have been made," before a child is placed with a care provider, similar language can be added as a standard on court orders, which clearly demonstrates that no act of normalcy can be contrary to a tribe's religious, cultural, or traditional values, as can be found in their code or ordinances. This would be an effective measure that tribes could take to make sure that practices which a care provider would otherwise deem to be acceptable under the state's

normalcy standard do not fly in the face of their values, so long as they are not contrary to state law.

Recommendations for State legislators

The State-Tribal relations committee could implement state legislation which clearly lays out that certain acts by caregivers do not fall within their discretion, as they may relate to the state's normalcy standard. Short of implementing, the committee could also recommend a proposal to do so.