

## PROMOTING WELL-BEING THROUGH THE REASONABLE AND PRUDENT PARENT STANDARD: A GUIDE FOR STATES IMPLEMENTING THE PREVENTING SEX TRAFFICKING AND STRENGTHENING FAMILIES ACT (H.R.4980)

### INTRODUCTION

Youth in foster care are often unable to participate equally in extracurricular, social and cultural activities in ways similar to their classmates and other peers. This is due in large part to the ways in which states have traditionally defined their role as a child’s legal guardian or parent. However, research highlights the positive impact of engaging in these activities as a way to promote social, cognitive and emotional development.<sup>1</sup>

The *Preventing Sex Trafficking and Strengthening Families Act (H.R.4980)*<sup>2</sup>, signed into law September 29, 2014, attempts to expand the opportunities for youth in foster care to participate in developmentally appropriate activities such as field trips, sleepovers and other extracurricular activities.

The law requires states to support the healthy development of youth in care through implementing a “reasonable and prudent parent standard” for decisions made by a foster parent or a designated official for a child care institution. This standard provides designated decision-makers with the latitude to make parental decisions that support the health, safety and best interest of the child. These include involvement in extracurricular, cultural, enrichment and social activities, including opportunities for safe risk-taking, like those typically made by parents of children who are not in foster care.<sup>3,4</sup> Through this standard, the act intends to promote “normalcy” – the ability to engage in healthy and developmentally appropriate activities that promote well-being – for all youth in care.

As states move forward to meet the requirements of H.R.4980 and implement a “reasonable and prudent parent standard” that supports the healthy development and well-being of *all* youth in care, states will need to implement the law in ways that incorporate protective and promotive factors<sup>5</sup> that

**Advancing healthy development & well-being:** It is important for youth to be exposed to experiences that create positive stress so that youth learn how to effectively manage stress, regulate emotions and develop the social, behavioral and cognitive coping resources needed to overcome obstacles throughout the course of their life (Gunnar et al., (2009).

<sup>1</sup> Harper Browne, C. (2014, September). Youth Thrive: Advancing healthy adolescent development and well-being. Washington, DC: Center for the Study of Social Policy.

<sup>2</sup> H.R. 4980 also includes key provisions that address protecting children and youth at risk of sex trafficking, improving adoption incentives and extending family connection grants and improving international child support recovery.

<sup>3</sup> Children’s Defense Fund (2014, October) *Preventing Sex Trafficking and Strengthening Families Act (H.R. 4980)*.

<sup>4</sup> This provision includes that liability policies will ensure appropriate liability for caregivers who approve a youth’s participation in an activity in accordance with this standard.

<sup>5</sup> The Protective and Promotive Factors – youth resilience, social connections, knowledge of adolescent development, concrete support in times of need and cognitive and social-emotional competence – are central to CSSP’s Youth Thrive initiative and are supported by extensive research on adolescent development and well-being.

help ensure all youth thrive, while thinking through potential considerations for young people who may need additional support.<sup>6</sup>

Two of the subgroups of youth who can be positively impacted by thoughtful implementation of the new law are **expectant and parenting youth in foster care** and **youth in care who identify as lesbian, gay, bisexual, transgender or questioning (LGBTQ)**. These youth often face additional stigma as a result of their sexual orientation or being expectant or parenting. CSSP has additional bodies of work that focus on improving outcomes for these youth which are aimed at addressing the overlapping challenges they face and the disparate outcomes they often experience.<sup>7</sup>

In considering ways to meet the specific needs of youth in foster care who have experienced trauma, it is critical to consider the **interconnectedness of factors**, including race, ethnicity, class and gender, and the ways they create overlapping and interdependent systems of discrimination or disadvantage (Crenshaw, K., 2004).

*Expectant and Parenting Youth in Foster Care:* Adolescent girls in foster care are 2.5 times as likely to have a baby by age 19 compared to their peers not in foster care. And about half of 21-year-old males transitioning out of foster care report getting a partner pregnant compared to 19 percent of their non-foster care peers.<sup>8,9</sup> Expectant and parenting youth in foster care are less likely to engage in social and extracurricular opportunities in the same way as their peers due to lack of child care or restrictions based on their pregnancy – even when the activity does not pose a health risk. Furthermore, expectant or parenting youth in care are often penalized<sup>10</sup> for engaging in activities with friends and participating in an afterschool or weekend activity.<sup>11</sup> All expectant and parenting youth, including those outside of foster care, experience the difficulty of balancing the pursuit of activities and opportunities associated with being an adolescent and those of being a parent. The health and well-being of young parents influences their ability to parent successfully. Consequently, it is particularly important that youth in care be provided opportunities to participate in enriching activities that both support their social development as teenagers and their development as parents.

*LGBTQ Youth in Foster Care:* The exploration of sexual orientation and gender identity is key to healthy adolescent development. For youth who identify as LGBTQ, this process can be more complicated and these youth may require unique activities and supports to ensure their healthy development. These are important considerations to make when implementing policy on enrichment activities and prudent parenting. Specifically, healthy and appropriate activities must be clearly

<sup>6</sup> CSSP recognizes that there are many subgroup populations within the foster care population that have unique needs. CSSP has chosen to focus this brief on expectant and parenting youth and youth who identify as LGBTQ due to ongoing organizational work on the ground to improve outcomes for these specific populations.

<sup>7</sup> CSSP's [Youth Thrive](#), [get R.E.A.L.](#) and [Expectant and Parenting Youth](#) initiatives provide guidance for systems to improve outcomes for adolescents, LGBTQ and expectant and parenting youth in foster care.

<sup>8</sup> Fast Facts: Reproductive Health Outcomes Among Youth Who Ever Lived in Foster Care (2009). The National Campaign to Prevent Teen and Unplanned Pregnancy.

<sup>9</sup> This is likely a under representation of the true population as there is currently no standard and effective means for collecting data and tracking this population on a national level. Furthermore, these data often do not capture expectant or parenting fathers when they are not living with their partner or child.

<sup>10</sup> Parenting youth in care can be subject to a child protection services investigation, lose privileges or experience level demotion in a group home for activities such as staying out beyond curfew with their child.

<sup>11</sup> Horwitz, R., Junge, C. & Rosin, S. (2012, January). Protection v. Presentment: When Youths in Foster Care Become Respondents in Child Welfare Proceedings. *Sargent Shriver National Center on Poverty Law, Clearinghouse Review: Journal of Poverty Law and Policy*.

defined in ways that provide flexibility for participation in activities that would create safe spaces for LGBTQ youth in foster care. In order for youth to find activities that best suit their specific identity and developmental needs there may be concessions required. For instance, the location of the activity might be further away and therefore would require accommodating transportation or adjusting a curfew.

While much can be written about supporting the healthy development of these subgroups of foster youth and the role and responsibility of the child welfare system for their well-being, this brief is specifically focused on how states can meet this requirement of H.R.4980. It is the responsibility of the state to promote “normalcy,” healthy development and well-being for all youth – and to ensure that youth, especially those who age out of care, leave foster care healthy and prepared for life. Having a high standard for reasonable, prudent parenting can help achieve those goals. The following section of this brief provides recommendations for policy implementation of a “reasonable and prudent parent standard” for *all* youth in care, as well as specific recommendations for expectant and parenting youth and youth who identify as LGBTQ.

## RECOMMENDATIONS:

*In order to improve outcomes for youth in care, it is critical to provide opportunities for these young people to experience socially and developmentally appropriate activities and to take risks in supportive environments. The following recommendations can help state policymakers and child welfare administrators begin to do this.*

### All Youth in Foster Care:

- Incorporate “nurturing” into the definition of a reasonable and prudent parent.*** All youth in care have experienced some form of grief, loss or trauma, which makes it critical that their caregiver be able to support the youth’s emotional development and well-being. A traditional definition of a reasonable and prudent parent may only focus on a caregiver’s capacity to allow the youth to participate in developmentally appropriate cultural and social activities. The requirements for decision-making in Florida’s prudent parent policy go beyond that and include specific language concerning the importance of encouraging the child’s emotional growth and providing the most family-like living experience possible.<sup>12</sup> This is particularly important for expectant and parenting youth in care as they balance responsibilities and establish priorities for learning to be a prudent parent themselves. For youth in care who are LGBTQ, the process of coming out can be difficult and caregivers’ acceptance, or moving toward acceptance from rejection, greatly improves the health and mental health outcomes of these youth.<sup>13</sup> LGBTQ and expectant and parenting youth in care are also more likely than their peers in care to experience a placement in a group home. In these situations the environment of a group home must also be structured to allow opportunities for independence, growth and a nurturing home life.

<sup>12</sup> California, Ohio, Pennsylvania, Utah and Washington all have policies that include a reasonable and prudent parent standard or guidance for promoting normalcy.

<sup>13</sup> Ryan, C., & Diaz, R. (2011). Family Acceptance Project: Intervention guidelines and strategies. San Francisco: Family Acceptance Project.

- ***Protective and promotive factors should be included when outlining requirements for reasonable and prudent decision-making.***

Policymakers have the opportunity to provide guidance to caregivers on what should be considered when acting as a reasonable and prudent parent. Beyond balancing risk and safety in decision-making, it is important that guidance for those acting in the role of the youth's parent also focus on building those protective and promotive factors that are associated with well-being and helping youth to thrive. Such guidance should include:

- specific language that caregivers provide concrete support in times of need, either directly or through a community resource
- suggestions for building youth resilience
- recognition of the importance of social connections and opportunities for youth to be constructively engaged in their school and community
- information about the youth's developmental stage and activities that foster cognitive and social emotional competence

Florida's prudent parenting legislation provides a model by highlighting the importance of participation in enrichment activities as an important way to enhance well-being and to develop valuable life-coping skills for success after leaving foster care.

- ***Ensure that the healthy sexual development of youth in care is addressed in efforts to promote well-being.*** Key to adolescent well-being is healthy sexual development and an understanding of healthy relationships. Caregivers often rely on professionals to provide this guidance to youth in care; however, it is important that this critical aspect of identity development be supported through both formal and informal settings, including a youth's home environment. For LGBTQ youth, exploring sexual identity, gender expression and coming out can be a long process that needs to be supported in a safe space. For expectant and parenting youth, the framework for discussing healthy sexual development must acknowledge the youth's position

**Enhancing Well-Being in Florida.** While H.R.4980 explicitly requires states to implement a "reasonable and prudent parent standard", a handful of states already had policies in place that can provide guidance for other states to follow. Florida is one of those states.

Florida's state policy (§39.4091) is applicable for all youth in care and provides guidance for implementing a reasonable and prudent parent standard including:

- The child's age, maturity and developmental level to maintain the overall health and safety of the child.
- The potential risk factors and appropriateness of the extracurricular, enrichment and social activity.
- The best interest of the child based on the information known by the caregiver.
- The importance of encouraging the child's emotional and developmental growth.
- The importance of providing the child with the most family-like living experience possible.
- The behavioral history of the child and the child's ability to safely participate in the proposed activity, as with any other child.

as a parent or expectant parent and include a focus on decisions moving forward as well as those specific to healthy development through pregnancy.

- **Leverage already existing financing structures to fund programs that support well-being for youth in care.** Title IV-E waivers aimed at promoting well-being offer states an opportunity to use funds to support the healthy development of youth in care, including supporting youth participation in “normal” enrichment activities. State and local child welfare agencies should also implement changes to provisions in state plans, case plans and transition planning requirements in Title IV-B and Title IV-E to focus on the well-being outcomes of LGBTQ and expectant and parenting youth in foster care.

### Expectant and Parenting Youth:

- **Support the developmental and emotional needs of youth both as adolescents and as parents.** Expectant and parenting youth need extra support in order to take advantage of developmental opportunities, such as participating in afterschool clubs, field trips and social activities, *and* to become prudent and nurturing parents themselves. This does not mean that caregivers should be expected to always provide care for a youth’s child so they can participate in social activities, but rather that they be sensitive to these needs and that they support the youth in balancing responsibilities and in developing solutions to conflicting priorities. This is particularly important for expectant and parenting youth in care who may not be able to rely on biological family for support.
- **Specify the inclusion and support of young fathers.** Fathers are often an afterthought when discussing the needs of expectant and parenting youth in foster care. As a result, their emotional and developmental needs often go unmet and a lack of attention is paid to the growth of skills related to healthy relationships and co-parenting. A reasonable and prudent parent standard must highlight the need for fathers to be supported and included in pre-pregnancy activities and upon the birth of their child so they can develop a strong bond with their child and an appropriate co-parenting relationship with the child’s mother. They too need help balancing their need to pursue “normal” adolescent activities with those of being a parent.
- **Provide specific training and education around supporting the healthy development and well-being of expectant and parenting youth in care.** Youth in foster care have often experienced trauma and neglect that can impact their own ideas about parenting. Caregivers must receive education and training on the best practices for supporting youth in age-appropriate, developmental, cultural and social activities while also balancing being a young parent. Education and training should highlight the involvement of fathers, co-parenting and healthy sexual development.

## LGBTQ Youth:

- Support LGBTQ youth in accessing the highest quality opportunities to meet their needs.** It is critical for youth in care to be supported in finding safe spaces to explore their identity. Often times high quality safe spaces are not conveniently located and youth in care have to travel a distance that may make meeting established curfews difficult. A reasonable and prudent parent standard must include flexibility in order for LGBTQ youth to access high quality supports to promote healthy development.
- Support youth-created safe spaces when appropriate.** LGBTQ youth often create their own safe spaces with peers. These activities are often self-designed and organized and may be viewed by others as formal or informal. As previously discussed, a reasonable and prudent parent standard requires flexibility for caregivers to explore safe spaces in order to support a youth's healthy development.
- Provide specific training and education around supporting the healthy development and well-being of LGBTQ youth in care.** Youth in care who identify as LGBTQ often have had to grapple with the combined effects of trauma, stigma and the risk of rejection due to their sexual orientation and gender identity. These adverse experiences can lead to poor health and mental health outcomes. To support LGBTQ youth in the coming out process, caregivers must be well-supported and trained to have conversations with youth about healthy development and exploring their sexuality.

**Massachusetts' Safe Spaces** program provides opportunities for gay, lesbian, bisexual and transgender youth to develop their full potential in a safe and supportive environment through youth leadership development, peer-to-peer support and a sense of community.

## RESOURCES:

The following resources provide additional information and tools to help support states in their work with foster youth, expectant or parenting youth in care and youth in care who identify as LGBTQ.

### ***Youth Thrive: Advancing Healthy Adolescent Development and Well-Being***

Youth Thrive<sup>™</sup> is a CSSP Initiative that provides a framework for healthy development and well-being for adolescent youth. The framework is built on five protective and promotive factors – youth resilience, social connections, knowledge of adolescent development, concrete support in times of need and cognitive and social-emotional competence – and supports the integration of these factors into practice and policy.

### ***PolicyforResults: Support Youth Transitioning from Foster Care***

PolicyforResults.org provides policymakers with research-informed policy solutions and state examples for the implementation of policy strategies that can improve outcomes for children and families. This section of the website is dedicated to youth transitioning from foster care and includes policy-specific information on data and trends, strategies, implementation, accountability and funding.

***Expectant and Parenting Youth in Foster Care: A Resource Guide (2014)***

CSSP's Expectant and Parenting Youth initiative works with jurisdictions to improve child welfare services for expectant and parenting youth and their children within foster care systems. This guide provides information on effective programs, curricula and other resources to guide the child welfare field in addressing the complex needs of these young families.

***Improving Outcomes for Pregnant and Parenting Youth in Foster Care: Federal Policy Recommendations***

This brief provides federally-focused recommendations to effectively address the complex needs of pregnant and parenting youth who are in foster care or transitioning out of care. The recommendations are derived from CSSP's analysis of federal laws and policies, current research and numerous interviews with federal, state and local policymakers, researchers and other experts in the fields of foster care and teenage pregnancy.

***State Policies Concerning LGBTQ Youth***

This table provides an overview of policies in all 50 states and the District of Columbia that concern LGBTQ youth, including public accommodations, social services, child welfare, foster care, juvenile detention/services, school and educational facilities and social worker guidelines.

***get R.E.AL. Webinar: A Home Within: Developing Tools for Identity Development***

CSSP's get R.E.AL. initiative is dedicated to improving the healthy sexual and identity development for all children and youth in the child welfare system. This webinar is led by Dr. Toni Heineman, director of A Home Within, a national network of licensed volunteer therapists who provide pro-bono weekly therapy to foster children.

The Center for the Study of Social Policy (CSSP) works to secure equal opportunities and better futures for all children and families through systems reform, community change activities and policy guidance. CSSP believes that policymaking should be based on achieving concrete results; and that using reliable data for learning and accountability leads to improved outcomes for all children and families.

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