

# Normalcy Provisions for Delaware Youth in Foster Care

August 17, 2017

Court Improvement Project Meeting  
Duncan Center  
Dover, DE



# Federal Legislation

- On September 29, 2014, President Obama signed into law the Preventing Sex Trafficking and Strengthening Families Act
- Also known as “P.L. 113-183”
- The Act takes important steps toward protecting children and youth in foster care from becoming victims of sex trafficking and improving outcomes for children and youth in foster care
- Many provisions of the Act became effective on September 29, 2015



# Federal Legislation

- Requires states to develop policies for identifying, documenting, and determining appropriate services for children who are victims, or at risk of becoming victims, of sex trafficking
- Requires states to immediately report children who are victims of sex trafficking to law enforcement
- Requires states to develop plans to expeditiously locate any child missing from foster care; determine the primary factors that contribute to the child's running away or being absent from foster care; determine the child's experiences while absent from foster care, including screening whether the child was a victim of sex trafficking



# Federal Legislation

- Promotes normalcy for children and adolescents in foster care
- Requires states to implement a “reasonable and prudent parent standard” for decisions made by a foster parent or a designated official in a child care facility or group home
- Permits foster parents more autonomy to made decisions about the child’s participation in extracurricular, cultural, and social activities
- States must train and support foster parents in implementing the reasonable prudent parent standard
- Child welfare agencies must certify the caregivers have the skills and knowledge to use the standard



# Delaware's Implementation

13 Del. C. § 2502(18)

“Reasonable and Prudent Parent Standard” means the standard characterized by careful and sensible parental decisions that maintain the health, safety, and best interests of a child, while at the same time encouraging the emotional and developmental growth of the child, that a caregiver shall use when determining whether to allow a child placed in his or her care while in DSCYF custody to participate in extracurricular, enrichment, cultural, and social activities



# Delaware's Implementation

13 Del. C. § 2514(3)

Subsequent to the adjudicatory hearing, the court shall make specific findings at each hearing for a child, whether DSCYF has ensured:

- a. The caregiver is exercising the reasonable and prudent parent standard
- b. The child has regular, ongoing opportunities to engage in age- or developmentally-appropriate activities, and that any barriers to participation have been identified and addressed



# Delaware's Implementation

13 Del. C. § 2514(3)

c. The child has been consulted in an age-appropriate manner about the opportunities of the child to participate in the activities



# Delaware's Implementation

13 Del. C. § 2521(6) and (7)

DSCYF duties shall include:

- (6) To ensure, consistent with DSCYF case and placement planning responsibilities under federal and state law, the child's service plan provides the opportunity to participate in age-appropriate or developmentally-appropriate activities and experiences to promote healthy child and adolescent development
- (7) To ensure standards and policies are in place, consistent with the reasonable and prudent parent standard



# Delaware's Implementation

13 Del. C. § 2521(8)

DSCYF duties shall include:

- (8) To provide training and monitoring to all caregivers, regardless of whether they are required to meet DSCYF licensing requirements on the reasonable and prudent parent standard. Training on the reasonable and prudent parent standard shall include parenting skills for children who have experienced trauma, healthy sexual development, and implementing the standard for children with special needs. Such training shall be provided annually to all licensed caregivers, and upon placement, to all nonlicensed caregivers



# Delaware's Implementation

13 Del. C. § 2523(a)

Caregivers of children in DSCYF custody have the responsibility and authority to exercise the reasonable and prudent parent standard to provide or withhold permission for children in their care to participate in and experience age-appropriate or developmentally-appropriate activities and experiences, including extracurricular, cultural, and social enrichment



# Delaware's Implementation

13 Del. C. § 2523(a)

The authority of a caregiver:

- (1) Must be exercised using the reasonable and prudent parent standard and his or her actions do not conflict with any applicable court order or service plan; and
- (2) May be exercised without the prior approval of DSCYF or the Court



# Delaware's Implementation

13 Del. C. § 2523(b)

In determining whether a decision of a caregiver is reasonable and prudent, the following is considered:

- (1) The child's age, maturity and developmental level to maintain the overall health and safety of the child
- (2) The potential risk factors to the child or to others and the appropriateness of the activity and experience for extracurricular, cultural, or social enrichment



# Delaware's Implementation

13 Del. C. § 2523(b)

- (3) The wishes of the child
- (4) The wishes of the parent
- (5) The best interests of the child based on the information known by the caregiver
- (6) The importance of encouraging the child's emotional and developmental growth



# Delaware's Implementation

13 Del. C. § 2523(b)

- (7) The importance of supporting the child in developing skills to successfully transition to adulthood, including guidance on healthy sexual development
- (8) The importance of providing the child with the most family-like living experience possible
- (9) Any special needs or accommodations the child may need to safely participate in the activity or experience



# Federal Legislation

- For children under age 16, the Act eliminates APPLA as a permanency option
- For children 16 and older with APPLA as a plan, the Act requires the court to make specific judicial findings at the permanency hearing or post-permanency review hearings



# Delaware's Implementation

13 Del. C. § 2514(2)

If the permanency plan is APPLA, the Court shall determine:

- a. Whether the child is at least 16 years of age
- b. Whether DSCYF has documented its intensive, ongoing, and as of the date of the hearing, unsuccessful efforts made by DSCYF to return the child home, or secure placement of the child with a fit and willing relative, including adult siblings, a legal guardian, or an adoptive parent, including through efforts that utilize search technology including social media, to find biological family members for the child



# Delaware's Implementation

13 Del. C. § 2514(2)

- c. What the child's desired permanency outcome is by asking the child, or where not feasible, the child's legal representative
- d. What are the compelling reasons that it continues to not be in the child's best interests to be returned home, adopted, placed with a legal guardian or with a fit and willing relative



# Federal Legislation

- Children in foster care who are age 14 and older must be involved in the development of their case plan.
- States must allow youth to invite two other members, identified by the youth, to be part of their case planning team.
- States must provide a “List of Rights” document to youth age 14 or older outlining their rights in care related to education, health care, visitation, court hearings, and the right to stay safe.
- States must document a signed acknowledgement from the youth indicating receipt of the “List of Rights” and the rights have been explained in an “age appropriate way”



# Delaware's Implementation

13 Del. C. § 2522

- Delaware's statute outlines the "Rights of Children" in DSCYF Custody
- Requires the rights to be explained in an age appropriate manner, and for youth age 14 and older, to sign an acknowledgement the rights have been explained, and to receive a copy of the rights



# Federal Legislation

- Youth exiting foster care because they have turned 18 and have spent at least 6 months in care must receive the following documents:

Birth certificate

Social security card

Health insurance information

Medical records

Driver's license or state identification card

