

Implementing the “Normalcy” Provisions in the Preventing Sex Trafficking and Strengthening Families Act (P.L. 113-183): A Guide for Court Stakeholders

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Introduction

In September 2014, Congress passed *The Preventing Sex Trafficking and Strengthening Families Act* (the Strengthening Families Act, or SFA). Many of the bill’s provisions were developed to address concerns expressed in Congressional hearings by former and current foster youth that highlighted the unnecessary barriers in the child welfare system that prevent youth from having “normal” childhood and adolescent experiences.

This document provides an overview of the provisions in the Strengthening Families Act designed to promote normalcy among children and youth in foster care – promoting opportunities for youth to engage in age and developmentally appropriate activities that their peers may take for granted, and encouraging youth to take a more active role in their case planning. Although the provisions in the SFA represent significant progress for the field, they will mean little to children and youth unless they are effectively implemented at the state and local levels – across state and county agencies, in everyday practice, and in the courts. Juvenile court stakeholders have a critical role to play in the implementation of these provisions.

Section 111: Supporting Normalcy for Children in Foster Care

Overview: Section 111 requires states to implement a “reasonable and prudent parent standard” for decisions made by a foster parent or a designated official for a child care institution. This standard allows caregivers to make parental decisions that maintain the health, safety, and best interest of the youth, as well as decisions about the child’s participation in extracurricular, cultural, and social activities. The provision also ensures liability for caregivers who appropriately use the reasonable and prudent parent standard in decisions about

the child. States must revise their licensing rules to incorporate the standard and provide training to foster parents on the new standard.

Rationale: While attempting to keep children safe from harm, some foster care policies and practices unnecessarily create barriers for youth to live typical childhood and adolescent experiences similar to their peers. For example, many current and former foster youth cite rules that make it hard for them to participate in sports, stay over at a friend’s house, get a driver’s license, or hold down a part-time job. While these policies are usually intended to ensure the youth’s safety, they can also isolate foster youth and impede healthy development. Research findings shed light on the generally poor outcomes of youth aging out of foster care, as well as the value of participation in extracurricular and social activities in changing the course for many of these youth and preparing them for a successful transition to adulthood and independence.

Considerations for Court Stakeholders:

- To ensure the effective implementation of this provision, it is essential that judges ask about the child’s extracurricular, enrichment, social, and cultural activities in order to ensure that youth in foster care are given the opportunity to engage in age and developmentally appropriate activities.
- The law’s new focus on normalcy applies to foster family homes, kinship foster homes, and child care institutions (group homes and other congregate care settings).
- This provisions applies to all foster parents and placements, including those who are *currently* caring for children in foster care (i.e., no caregiver will be “grandfathered” in).
- The “reasonable and prudent parent standard” is defined in the Act as: *“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 in foster care under the responsibility of the state to participate in extracurricular, enrichment, cultural, and social activities.”*

Questions to Ask from the Bench:

- What extracurricular activities is the youth involved in?
- What opportunities has the youth had to socialize with his or her peers?
- Has the child traveled at all?
- Does the young person have a job?
- What activities does the child wish to participate in?
- What barriers has the caregiver experienced in connecting the youth to extracurricular and social activities?
- Is the youth participating in all of the activities he/she would like to participate in? If not, why not?

Section 113: Supporting Normalcy for Children in Foster Care

Overview: The SFA requires that youth age 14 and older be consulted in the development of their case plan and directs states to allow youth to invite two other members of their choosing (other than a foster parent or his/her caseworker) to be a part of the case planning team. State agencies are permitted to reject an individual selected by the youth if the state has “good cause” to believe that they would not act in the best interest of the child. The bill also requires states to provide a written “list of rights” document to youth 14 or older

outlining their rights in care related to education, health care, visitations, court hearings/participation, and safety, and requires a documented, signed acknowledgement from the youth that they received their list of rights and those rights were explained “in an age-appropriate way.” Agencies must also provide youth 14 and older with a free annual credit report and help resolve any inaccuracies on the report.

Rationale: Previously, federal law required youth ages 16 and older to be consulted in the development of their case plan; the age was lowered to 14 and older due to a recognition that young people should be included in this important process and that youth as young as 14 can have an informed perspective that can lead to better permanency outcomes and compliance with the case plan. Involving the youth in their case planning and providing them critical information on their rights also strengthens their self-sufficiency and helps prepare them for a successful transition out of foster care and into adulthood.

Considerations for Court Stakeholders:

- Federal law defines the case plan as a written document that includes a description of where the child will be placed, what services the child and his/her parents and foster parents will receive, the health and education records of the child, steps the agency is taking in finding the child an adoptive family, a transition plan for youth over 16 from foster care to independent living, and a plan for educational stability and explanations as to why a child cannot be reunified with his/her family if kinship care is determined to be the permanent placement.
- All court stakeholders should inquire about the youth’s involvement in developing his/her case plan to ensure he/she has been fully engaged and had the opportunity to include two individuals of his/her choosing in the process.
- The law does not define “good cause,” but states are encouraged to document the reasons for rejecting an individual chosen by the child.

Questions to Ask from the Bench:

- Is the youth involved in the development of his/her case plan?
- Which individuals did the youth choose to be part of his/her case planning team? If the state rejected an individual selected by the youth, what were the reasons for rejecting that individual?
- Has the youth received a copy of his/her rights? Does the youth have any questions about these rights?
- Has the agency conducted a credit report for the youth? Were there any inaccuracies in the report? If so, were they resolved? How?

Section 114: Supporting Normalcy for Children in Foster Care

Overview: The bill requires that youth exiting foster care at age 18 or older and have spent at least six months in care must receive the following documents: a birth certificate, Social Security card, health insurance information, medical records, and a driver’s license or state identification card.

Rationale: Youth in foster care are often not provided with these important materials, which are critical to ensuring that youth aging out of care have the documentation they need to secure housing, apply to school or for work, get appropriate health and mental health care, or access other forms of assistance.

Considerations for Court Stakeholders:

- The courts play a key role in ensuring that agencies comply with this requirement, and judges must ask the child and caseworkers about whether the child has been provided with these documents.
- The law does not define what should be included in the medical records nor what time frame it should span.
- Depending on the unique needs or circumstances of the child, other documents may also be appropriate for the child welfare agency to provide.

Questions to Ask from the Bench:

- Has the youth been provided with his/her birth certificate? Social Security card? Health insurance information? Medical records? State-issued ID?
- If the youth has not been provided with one or more of these documents, what steps is the agency taking to secure the documents and provide them?
- What other documents does the youth need for a successful transition out of foster care?



The First Focus State Policy Advocacy and Reform Center (SPARC), an initiative funded by the Annie E. Casey Foundation, Jim Casey Youth Opportunities Initiative, and Walter S. Johnson Foundations, aims to improve outcomes for children and families involved with the child welfare system by building the capacity of and connections between state child welfare advocates. You can visit us online at www.childwelfaresparc.org or on Twitter at [@ChildWelfareHub](https://twitter.com/ChildWelfareHub).