

CHAPTER 185  
FORMERLY  
HOUSE BILL NO. 163

AN ACT TO AMEND TITLES 10 AND 29 OF THE DELAWARE CODE RELATING TO YOUTH AGING OUT OF FOSTER CARE.

WHEREAS, youth who have experienced foster care have identified extending foster care services and programs as a way to support youth in transitioning to adulthood, finishing school, and achieving independence while having the stability of a family and/or other community supports;

WHEREAS, youth who have experienced foster care indicate that they do not receive formal independent living services until age 16, that they struggle to become fully independent in two years, and that they are unable to truly integrate and practice independent living skills until after they reach age 18;

WHEREAS, youth who age out of foster care face significant hardships compared to the general population, including, but not limited to securing and maintaining housing, employment, and medical coverage, as well as attaining an education;

WHEREAS, approximately 100 youth age out of Delaware's foster care system annually;

WHEREAS, research studies on the national population of those aging out of foster care indicate that, compared to the general population, youth who age out of foster care without appropriate family and community supports are at higher risk for being arrested (82% of males reported having been arrested by age 21), becoming homeless (22% reported having been homeless for at least one day after aging out), not completing their education, and suffering with emotional and mental-health challenges including a reported lifetime prevalence of Post-Traumatic-Stress Disorder similar to that of many U.S. war veterans.

WHEREAS, while some assistance exists for youth past the age of 18 when they exit the foster care system, a developmentally appropriate, comprehensive program that fully integrates independent living services with housing, is needed to serve all youth who wish to receive assistance as set forth in the final report of House Joint Resolution 18 entitled Beyond 18: Ready by 21 Services for Delaware's Youth Who Have Experienced Foster Care;

WHEREAS, at least 28 other states have now adopted some form of extension of foster care to the age 21, and Delaware youth have decided to create their own unique support system;

WHEREAS, studies have shown that youth who have experienced foster care have better outcomes when extended and appropriate services and programs are provided to them through age 21, such as that embraced by the federal John Chafee Independence Act and the 2008 Fostering Connections to Success and Increasing Adoptions Act. According to the Midwest Evaluation, young people who remained in care to age 21 fared far better than those who had to leave care at 18:

- (1) Those required to leave care at age 18 were 2.7 times more likely to have been homeless;
- (2) Remaining in care more than doubled the odds that young people would be working or in school at age 19;
- (3) Those remaining in care were twice as likely to have completed at least one year of college by age 21;
- (4) Young women remaining in care experienced a 38% reduction in the incidence of pregnancy before age 20;
- (5) Those remaining in care were more likely to access independent living services;

WHEREAS, the State of Delaware also recognizes the benefits of providing supportive services to help youth who have been in the State's care in becoming independent and responsible adults through age 21; and

WHEREAS, youth who have experienced foster care, including the equal leadership of Delaware's Youth Advisory Council, have proposed a developmentally appropriate program to age 21 which will assist with their successful transition into adulthood;

WHEREAS, the leadership of the State of Delaware, has supported the national Jim Casey Youth Opportunities Initiative Success Beyond 18 Campaign and its goals of providing developmentally appropriate supports and services for young people beyond age 18, ensuring that all young people in foster care have a say when decisions are made about their lives, and quality oversight and accountability of all agencies and states courts to ensure that developmentally appropriate supports and services lead to positive life outcomes for all young people in foster care.

NOW, THEREFORE:

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend § 929, Title 10 of the Delaware Code by making insertions as shown by underlining and deletions as shown by strike through as follows:

§ 929. Extended jurisdiction -- Child abuse, dependency and neglect.

(a) Upon motion filed by DSCYF, the youth, or the youth's attorney or former guardian ad litem, the Court may enter an order to extend jurisdiction over a youth who was an abused, dependent or neglected child in DSCYF custody at the time the youth attained 18 years of age. The motion seeking extended jurisdiction shall be filed not later than 6 months prior to the youth's twenty-first birthday.

(b) The purpose of extended jurisdiction is to enable youth who are provided developmentally appropriate, comprehensive independent living services from age 14 to 21 to assist with their successful transition into adulthood under the John H. Chafee Independence Act [P.L. 106-169] or the Fostering Connections to Success and Increasing Adoptions Act of 2008 [P.L. 110-351] to have a legal mechanism for Family Court review of the appropriateness of such services. Extended jurisdiction may continue until the youth attains 21 years of age. Notwithstanding extended jurisdiction, the youth shall attain the age of majority at age 18, and DSCYF custody shall terminate at that time by operation of law.

(c) The reasonableness of the services to be offered and coordinated by the DSCYF to the youth, including financial, housing, medical, employment, training, education and other appropriate services, shall be contingent upon the limits of the appropriations made to or by the State for this purpose. If funding for a particular service has not been appropriated, or has been exhausted, there shall be no requirement that DSCYF provide the service. The DSCYF Secretary, or the Secretary's designee, shall certify to the Court by affidavit the availability of funding for the particular youth.

(d) Where the Court has extended jurisdiction over a youth, the Court may conduct ~~hearings~~ reviews upon motion of any party, or sua sponte, and prior to termination of the order extending jurisdiction; however, reviews must occur at least annually. The appointment of the youth's attorney or Court Appointed Special Advocate shall also be extended, and the representation of the youth shall be client-directed. At each ~~hearing~~, review, notice shall be provided by DSCYF to any contracted providers serving the youth. At each review, the Court shall, at a minimum, evaluate the youth's independent living services, and make findings, where applicable, regarding:

(1) financial stability;

(2) housing;

(3) medical benefits, including access to health care and other public benefits;

(4) employment and training;

(5) education; and

(6) community and individual connections to help support the youth.

(e) An order for extended jurisdiction terminates by operation of law when the youth attains 21 years of age. An order for extended jurisdiction may be terminated sooner upon a finding that:

(1) The youth no longer consents to the Court's extended jurisdiction;

(2) The youth no longer consents to the continued assistance of DSCYF;

(3) The youth has failed to cooperate with DSCYF; or

(4) For other good cause shown.

(f) Nothing herein shall be construed to require DSCYF to provide foster care board extension payments or stipends to the youth. However, where a youth meets the DSCYF requirements for a foster care board extension payment or stipend, the provisions of this section shall apply.

Section 2. Amend § 9001(b), Title 29 of the Delaware Code by making insertions as shown by underlining as follows:

(b) The General Assembly hereby declares that the purpose of this chapter and the policy of the State is to achieve the consolidation of services to children, youth and their families within the jurisdiction of a single agency in order to avoid fragmentation and duplication of services and to increase accountability for the delivery and

administration of these services; to plan, develop, and administer a comprehensive and unified service delivery system to abused, neglected, dependent, delinquent and mentally ill or emotionally disturbed children and youth within a continuum of care, which shall include the involvement of their family, within the least restrictive environment possible but consistent with the child's health and safety; to emphasize preventive services to children, youth and their families, in order to avoid the costs to the State of individual and family instability; and to create and maintain a developmentally appropriate, comprehensive program that fully integrates independent living services from ages 14 to 21 and that will assist youth with their successful transition into adulthood.

Section 3. Amend § 9003, Title 29 of the Delaware Code by making insertions as shown by underlining and deletions as shown by strike through as follows:

§ 9003. Powers, duties and functions.

The Department of Services for Children, Youth and Their Families shall have the following powers, duties and functions:

(1) To provide to children, youth and their families a comprehensive and effective statewide program of services for children and youth who have been committed to the Department or placed in the care of the Department by the Court, referred to the Department by parents, agencies or other individuals, or who have otherwise voluntarily applied to the Department for services;

(2) To provide services to children, youth and their families to prevent children and youth from becoming abused, neglected, dependent and delinquent, as defined under existing law, and to prevent mental illness and emotional disorders among children and youth;

(3) a. To provide for a variety of facilities and services to children, youth and their families which shall include, but not be limited to the following:

1. Protective services;
2. Preplacement, preventive services and reunification services;
3. Home-based services;
4. Mental health outpatient services;
5. Drug and alcohol outpatient services;
6. Residential and institutional facilities;
7. Probation, aftercare and follow-up services;
8. Adoption and permanent placement services;
9. Evaluation, diagnostic and treatment services;
10. Foster care services;
11. Independent living services;

~~11. 12.~~ A continuum of residential mental health services, which shall include, but not be limited to, inpatient psychiatric hospitalization for all children requiring such care, mental health residential treatment centers and specialized mental health treatment services in other group-care facilities and foster homes;

b. The Division of Family Services will provide family preservation services to those families whose children are at imminent risk of out-of-home placement when it has determined that out-of-home placement can be avoided; provided, however, that the Division's highest priority in cases of abuse and neglect where an investigation is required pursuant to § 906 of Title 16 shall be the health and safety of the child and nothing herein will prevent the Division from removing a child from the child's home when it has determined that the child's safety and well-being may be jeopardized by remaining in the family home;

(4) To prepare and maintain a written case plan for each child under its supervision or custody, which shall include but not be limited to a description of the child's problems, the care and treatment of the child, and any other services to be provided to the child and the child's family; each case plan must be designed to achieve any placement of the child outside of the child's home in the least restrictive setting available and in close proximity to the child's home, consistent with the best interests and special needs of the child;

(5) To conduct a written review at least every 6 months of the case plan for each child under its supervision or custody for the purpose of determining whether the plan is appropriate;

(6) To develop a central case management system which will provide coordinated information on client progress, including the client's entry and exit from the system, assessment of the client's needs, development and review of the case plan, and evaluation and monitoring of the client's progress;

(7) To license, register, and monitor all residential and nonresidential child care facilities, including but not limited to institutions, child placement and adoption agencies, daycare centers, family day care homes, group day care homes, group homes and foster homes unless otherwise exempted by law; provided however, that no license for a residential or nonresidential child care facility to be operated within the corporate limits of the City of Wilmington shall be granted until the applicant has provided the Department with verification of licensure by the City of Wilmington to operate a childcare facility;

(8) To supervise the provision of education in all facilities operated by the Department;

(9) To monitor and evaluate all aspects of its service delivery system and document the need for or degree of compliance with standards, policies and procedures adopted by the Department;

(10) To administer the Interstate Compact on Juveniles and the Interstate Compact on Child Placement;

(11) To establish, implement, and follow procedures and standards compatible with due process of law with respect to the removal of a child from the child's home, a change in the placement of a child who is under the supervision or custody of the Department, and any other actions by the Department that may affect the legal rights of a child and the child's family;

(12) To provide or contract with public and private agencies in this State and other states for facilities and services necessary to achieve the purposes of this chapter;

(13) To provide or contract for services designed to maintain or provide permanent homes for children who are in out-of-home care, through the provision of adoption services or, whenever feasible, reunification services for children and their families;

(14) To develop, administer, implement, and provide or contract a developmentally appropriate, comprehensive program that fully integrates independent living services such as financial stability, housing supports, medical, employment and training, education, and connection to resources and individuals, until age 21 and that will assist youth with their successful transition to adulthood, subject to appropriation.

~~(14)~~(15) To develop and implement rules, regulations, standards, and policies governing the internal operation and administration of the Department and provision of services;

~~(15)~~(16) To exercise the authority and power to administer protective, mental health, correctional, and probation services to children presently delegated by law to the Department of Health and Social Services, Division of Mental Health; Department of Correction, Bureau of Juvenile Correction; Family Court; and previously delegated by law to the Department of Health and Social Services, Division of Child Protective Services;

~~(16)~~(17) To certify annually on January 31 to the Governor and the General Assembly that the mixing of adjudicated and nonadjudicated youths shall not take place in the Ferris School.

~~(17)~~(18) To exercise all other powers necessary and proper for the discharge of its duties.

Section 4. Amend § 9015, Title 29 of the Delaware Code by making insertions as shown by underlining as follows:

§ 9015. Budgeting and financing.

(a) The Secretary, in cooperation with the Department directors and office administrators, shall prepare a proposed budget for the operation of the Department to be submitted for the consideration of the Governor and the General Assembly. The Department shall be operated within the limitation of the annual appropriation and any other funds appropriated by the General Assembly.

(b) Each fiscal year, pursuant to established methodology, the Secretary and the Office of Management and Budget shall review projections on the number of child abuse and neglect cases and the number of child care facilities to be licensed and monitored for the next fiscal year. Based on these projections, the General Assembly shall fund, subject to a specific appropriation, funds and positions for the next fiscal year, beginning each July 1, to the Division of Family Services to provide:

(1) An adequate number of child protection investigation workers so that regional caseloads do not exceed 11 cases per fully functioning worker;

(2) An adequate number of child protection treatment workers so that regional caseloads do not exceed 18 cases per fully functioning worker;

(3) An adequate number of Family Service supervisors so that there is 1 supervisor for every 5 workers;

(4) An adequate number of training positions, but not less than 15, to ensure that fully trained staff are always available to fill vacancies;

(5) An adequate number of licensing specialists for child care centers and family child care homes so that caseloads do not exceed 150 per specialist;

(6) An adequate number of licensing specialists for 24-hour residential child care facilities so that caseloads do not exceed 30 per specialist; and

(7) An adequate number of licensing supervisors so that there is 1 supervisor for every 5 workers.

In the event that regional caseloads exceed the above set standards during any fiscal year, the Office of Management and Budget shall, to the extent monies are available, authorize the use of casual seasonal positions as a temporary mechanism to ensure that caseloads remain within Delaware standards. Fully functioning workers are workers that are employed and working full-time, and do not include workers on extended medical leave, trainees who have not completed training or workers with restricted caseloads.

(c) In order to ensure the standards set forth in subsection (b) of this section are maintained, the Secretary shall submit a quarterly report to the Governor, the Controller General and the Director of the Office of Management and Budget, with copies to the Chairpersons of the House of Representatives Committee on Health and Human Development, the Senate Committee on Children, Youth and Their Families, and the Child Protection Accountability Commission that details the above information both statewide and on a regional basis.

(d) For the purpose of retaining and attracting experienced investigation and treatment workers in the Division of Family Services, the Division may competitively recruit for Family Crisis Therapists in their investigation and treatment units. Current Division employees who successfully apply for these positions shall have their position reclassified to Family Crisis Therapist. Such reclassifications or reclassifications of vacant positions to Family Crisis Therapist shall be effective upon the approval of the Director of the Office of Management and Budget and the Controller General. The Division is authorized to transfer positions between budget units in order to adjust its complement to ensure the correct number of fully functioning employees are in each functional unit of the Division. The Division shall submit a quarterly report to the Director of the Office of Management and Budget and the Controller General detailing any adjustments to the complement, the number of Family Crisis Therapists hired and retention statistics.

(e) Special funds may be used in accordance with approved programs, grants and appropriations.

(f) The Department is authorized to provide funding for youth who have attained the age of 18 but are less than 21 years of age, by payment of foster care supports specifically related to housing, by direct youth stipends and/or to other public or private agencies to provide independent living services to youth. The Department shall establish policies for eligibility for direct youth stipends that shall require youth accountability, financial literacy, and attainment of self-sufficiency benchmarks. Funds appropriated for the purpose of supporting youth who are eligible for independent living services shall be used to support those youth.

Approved September 18, 2013