

CHAPTER 385  
FORMERLY  
SENATE BILL NO. 113

AN ACT TO AMEND TITLES 10, 29 AND 31 OF THE DELAWARE CODE RELATING TO EXTENDING THE JURISDICTION OF THE FAMILY COURT FOR ABUSED, DEPENDENT AND NEGLECTED CHILDREN.

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

WHEREAS, it is necessary to support the State of Delaware's efforts to implement the expectations of the Federal John H. Chafee Foster Care Independence Act ("Chafee") which, in part, directs that States should provide financial, housing, medical, employment, training, education and other appropriate services to youth between the ages of 18 and 21 exiting foster care to complement the youth's own efforts to achieve self-sufficiency and to assure the youth's ability to accept personal responsibility for transitioning to adulthood; and

WHEREAS, it is necessary to support any efforts the State of Delaware makes to implement the Fostering Connections and Increasing Adoptions Act of 2008 ("Fostering Connections") which in part provides federal support for housing, educational stability and health care coordination for youth who have aged out of foster care to increase their opportunities to successfully transition to adulthood; and

WHEREAS, Family Court jurisdiction and custody by the Department of Services for Children, Youth and Their Families ends upon the youth's 18th birthday; and

WHEREAS, youth who are experiencing difficulty with services provided under Chafee and/or Fostering Connections by the State have no legal mechanism for Court review of the appropriateness of such services; and

WHEREAS, at least sixteen other states have adopted some form of extended jurisdiction to provide oversight and transitional assistance to this population of youth; and

WHEREAS, the American Bar Association, the University of Chicago's Chapin Hall Center for Children, the National Association of Counsel for Children and a number of other national organizations have recommended enactment of such legislation;

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

Section 1. Amend Section 928 of Title 10 of the Delaware Code by inserting the phrase "-Juvenile Delinquency" after the title "Extended Jurisdiction."

Section 2. Amend Chapter 9, Title 10 of the Delaware Code by adding a new section 929 to read as follows:

"§ 929. Extended Jurisdiction - Child Abuse, Dependency and Neglect.

(a) Upon motion filed by DSCYF, the youth, or the 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 21st birthday.

(b) The purpose of extended jurisdiction is to enable youth who are provided services under the John H. Chafee Independence Act or the Fostering Connections and Increasing Adoptions Act of 2008 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 of Delaware 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 her or his 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 upon motion of any party, or sua sponte, and prior to termination of the order extending jurisdiction. At each hearing, notice shall be provided by DSCYF to any contracted providers serving 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 to the youth. However, where a youth meets the DSCYF requirements for a foster care board extension payment, the provisions of this Section shall apply."

Section 3. Amend Chapter 90A of Title 29 of the Delaware Code by adding a new section 9009A to read as follows:

"§ 9009A. Extended Jurisdiction - Child Abuse, Dependency and Neglect.

Notwithstanding any provision in this chapter to the contrary, the Office of the Child Advocate is authorized to provide representation under this chapter to youth for whom jurisdiction has been extended under Section 929 of Title 10."

Section 4. Amend Chapter 36 of Title 31 of the Delaware Code by adding a new section 3613 to read as follows:

"§ 3613. Extended Jurisdiction - Child Abuse, Dependency and Neglect.

Notwithstanding any provision in this chapter to the contrary, the Court Appointed Special Advocate program is authorized to provide representation under this chapter to youth for whom jurisdiction has been extended under Section 929 of Title 10."

Section 5. If any of the provisions of this Act or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

Section 6. This Act shall become effective the date after it is enacted and shall apply to abused, dependent and neglected youth in DSCYF custody who attain 18 years of age on or after the effective date of this Act.

Approved July 14, 2010