

LAWS OF DELAWARE  
VOLUME 83  
CHAPTER 300  
151st GENERAL ASSEMBLY  
FORMERLY  
HOUSE BILL NO. 271

AN ACT TO AMEND TITLES 13 AND 29 OF THE DELAWARE CODE RELATING TO INDEPENDENT LIVING SERVICES FOR YOUNG ADULTS AGING OUT OF FOSTER CARE.

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

Section 1. Amend Chapter 25, Title 13 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 2521. Powers and duties of the DSCYF as custodian of the child.

Upon the Court granting custody to DSCYF, DSCYF shall be vested with the following powers and duties:

(1) To provide for appropriate placement of the child, within or outside of this State, unless otherwise ordered by Court or controlled by statute, with reasonable notice prior to any change in placement given to the child's attorney and Court Appointed Special Advocate volunteer;

(2) To consent to medical care for the child, including medical examination, medical treatment including surgical procedures and mental health treatment other than inpatient psychiatric hospitalization. DSCYF shall make reasonable efforts to obtain the consent of the parent, and to notify the child's attorney and Court Appointed Special Advocate volunteer, prior to obtaining medical care;

(3) To continue the child in the child's school of origin, or when not feasible or not in the child's best interests, to immediately enroll the child in school pursuant to § 202 of Title 14. The Court shall determine if the school placement is in the child's best interest;

(4) To consent to educational decisions, subject to applicable state and federal law, including disciplinary proceedings and consequences, and academic needs; and to request the appointment of an education decision maker under § 930 of Title 10 or an educational surrogate parent under § 3132 of Title 14 when appropriate. DSCYF shall make reasonable efforts to obtain the consent of the parent, and to notify the child's attorney and Court Appointed Special Advocate volunteer, prior to making any educational decisions on behalf of the child;

(5) To request a credit report for the child annually after the child reaches the age of 14 years old and to inspect the credit report for any potential identity theft as described in § 854 of Title 11, and, from ages 18 through ~~21~~ 23, to assist the youth who was previously in DSCYF's custody and continues to receive transitional and independent living services through a DSCYF-contracted provider in reviewing and repairing the youth's credit;

(6) To ensure, consistent with DSCYF case and placement planning responsibilities under federal and state law, that 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;

(8) To provide training and monitoring to all caregivers, regardless of whether they are required to meet the 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; and

(9) To maintain any other powers and duties as conferred by statute in the Delaware Code.

§ 2522. Rights of children in DSCYF custody.

(a) All dependent, neglected and abused children in DSCYF custody under this chapter shall have the following rights in accordance with their ages and developmental levels, unless prohibited by court order:

(1) To be informed of the reason they have been placed in DSCYF custody.

(2) To receive water, food, shelter, and clothing that is necessary and appropriate for their ages and individual needs.

(3) To be free from abuse or neglect.

(4) To have assistance in obtaining access to medical, vision, and dental treatment that is necessary and appropriate for their ages and individual needs; and to have assistance in obtaining access to necessary and appropriate mental health and substance abuse treatment if the need for such treatment is identified.

(5) To receive appropriate placement services.

(6) To contact and visit with their parents, siblings in DSCYF custody, and other individuals, including their own child in DSCYF custody. If such contact or visitation is inappropriate, the child has the right to be notified of the reason for that decision.

(7) To have assistance in obtaining access to an education, at their schools of origin when feasible, with minimal disruption to their education when they are placed in DSCYF custody.

(8) To participate in the formation and maintenance of their foster care service, transitional and independent living and transition plans, where applicable; and beginning at age 14:

a. To be actively engaged and consulted in the development and implementation of those services and plans, as well as in any revisions or additions to those services or plans; and

b. At the option of the child, to involve 2 individuals in case planning that are selected by the child and who are not a foster parent or caseworker for the child, except that DSCYF may reject an individual so selected by the child if DSCYF has good cause to believe the individual would not act in the best interests of the child, and 1 individual so selected by the child may be designated to be the child's advisor and, as necessary, advocate with respect to the application of the reasonable and prudent parent standard to the child.

(9) To have regular and meaningful access to and have confidential contact with their caseworkers and attorneys or court-appointed special advocates.

(10) To be notified, attend, and participate in court hearings and to speak to the judge regarding any decision that may have an impact on their lives.

(11) To have their confidentiality protected as required by state and federal law.

(12) To receive transitional and independent living services and supports beginning at age 16 if eligible and if resources are available.

(13) To have the opportunity to participate in age-appropriate or developmentally-appropriate activities and experiences to promote healthy development, and to have those opportunities explained to them in an age- and developmentally-appropriate manner, consistent with the reasonable and prudent parent standard.

(14) To report any violation of their rights or the violation of the rights of others without being punished or retaliated against for such reporting.

(15) To have these rights explained in an age-appropriate manner, and for youth age 14 and older to sign an acknowledgement that the rights have been explained, and to receive a copy of the rights set forth in this section.

(b) Any child aggrieved by a violation of this section may motion the court, through an attorney or court-appointed special advocate, for appropriate equitable relief.

Section 2. Amend Chapter 90, Title 29 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 9001. Intent and purpose.

(a) The General Assembly finds and declares that parents have the primary responsibility for meeting the needs of their children and the State has an obligation to help them discharge this responsibility or to assume this responsibility when parents are unable to do so; while the State has a basic obligation to promote family stability and preserve the family as a unit, and protect and safeguard the well-being of children through the provision of a comprehensive program of social services and facilities for children and their families who require care, guidance, control, protection, treatment, rehabilitation or confinement.

(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 transitional and independent living services from ages 14 to ~~21~~ 23 and that will assist youth with their successful transition into adulthood.

§ 9003. Powers, duties and functions.

(a) 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 and transitional living services;
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;

(14) To develop, administer, implement, and provide or contract a developmentally appropriate, comprehensive program that fully integrates transitional and independent living services such as financial stability, housing supports, medical, employment and training, education, and connection to resources and individuals, until age ~~24~~ 23 and that will assist youth with their successful transition to adulthood, subject to appropriation;

§ 9015. Budgeting and financing.

(f) The Department is authorized to provide funding for youth who have attained the age of 18 but are less than ~~24~~ 23 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 transitional and 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 May 3, 2022