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DELAWARE STATE SENATE
151st GENERAL ASSEMBLY

SENATE SUBSTITUTE NO. 1
FOR
SENATE BILL NO. 151

AN ACT TO AMEND TITLE 18, TITLE 21, AND TITLE 29 OF THE DELAWARE CODE RELATING TO PROVIDING FOR DRIVER EDUCATION TRAINING, A DRIVER'S LICENSE, OR MOTOR VEHICLE INSURANCE FOR A CHILD IN THE CUSTODY OF THE DEPARTMENT OF SERVICES FOR CHILDREN, YOUTH, AND THEIR FAMILIES OR AN INDIVIDUAL SUBJECT TO EXTENDED JURISDICTION.

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

1 Section 1. Amend Chapter 90A, Title 29 of the Delaware Code by making deletions as shown by strike through
2 and insertions as shown by underline as follows:

3 § 9011A. Driver education, driver's license, or motor vehicle insurance for a child in Department custody or an
4 individual subject to extended jurisdiction.

5 (a) The General Assembly finds as follows:

6 (1) The costs of driver education and obtaining a driver's license and motor vehicle insurance for a child in
7 the Department's custody and an individual under subsection (g) of this section do the following:

8 a. Serve as an additional barrier to gaining independence and engaging in normal, age-appropriate
9 activities.

10 b. Limit opportunities for obtaining employment and completing educational goals.

11 (2) The completion of an approved driver education course is necessary to develop safe driving skills.

12 (b) For purposes of this section, "child placing agency" means any agency granted a license by the Department to
13 provide adoption services in this State.

14 (c) The Office shall establish a program to pay the cost of driver education, costs incidental to licensure, and motor
15 vehicle insurance for a child in the Department's custody and an individual under subsection (g) of this section.

16 (d) The Office shall develop procedures for operating and administering the program established under subsection
17 (c) of this section, including for the following:

18 (1) Determining eligibility for the program.

(2) Developing necessary forms, including for application and payment.

(3) Notifying all of the following about the program: an eligible child in the Department's custody, individual under subsection (g) of this section, foster parent, caregiver, or child placing agency.

(4) Providing technical assistance to a child in the Department's custody, individual under subsection (g) of this section, foster parent, caregiver, child placing agency, or another state agency to support removing obstacles that prevent a child in the Department's custody or individual under subsection (g) of this section from driving.

(5) Providing incentives to a child in the Department's custody, individual under subsection (g) of this section, and a foster parent, caregiver, or child placing agency to participate in the program to encourage the greatest number of eligible children and individuals to obtain driver's licenses.

(e) If a foster parent, caregiver, or child placing agency adds a child in the Department's custody or individual under subsection (g) of this section to the foster parent's, caregiver's, or child placing agency's motor vehicle insurance policy, the Office may not pay to the foster parent, caregiver, or child placing agency an amount that exceeds the increase in cost attributable to the addition of the child or individual to the policy.

(f) The Office shall make payments under the program established under subsection (c) of this section in the order that it determines a child in the Department's custody, individual under subsection (g) of this section, foster parent, caregiver, or child placing agency eligible.

(g)(1) In addition to a child in the Department's custody, the Office may extend the program established under subsection (d) of this section to the following individuals:

a. A child in the Department's custody who reaches permanency status.

b. A child in the Department's custody who turns 18 years of age.

c. An individual who is subject to extended jurisdiction under § 929 of Title 10.

d. An individual who receives independent living services from the Department.

(2) The Office may extend eligibility for the program to individuals authorized under paragraph (g)(1)a. or (g)(1)b. of this section for an additional 1 year after they have reached the age of majority.

(3) An individual under paragraph (g)(1)c. of this section is eligible for the program if the individual demonstrates that the costs of driver education, costs incidental to licensure, or motor vehicle insurance create a barrier to the individual obtaining employment or completing educational goals.

(h) The Office may adopt regulations to implement this section.

(i)(1) The Office shall submit a report to the General Assembly containing all of the following information for the previous year:

a. The number of children in the Department's custody or individuals under subsection (g) of this section who were provided funds under this section.

b. The average amount of funds dispersed under this section on behalf of each child in the Department's custody or individual under subsection (g) of this section and the average amount of funds dispersed to pay the costs of driver education, costs incidental to licensure, and motor vehicle insurance.

c. The total amount of funds dispersed under this section and the total amount of funds dispersed to pay the costs of driver education, costs incidental to licensure, and motor vehicle insurance.

(2) The Office shall submit the report under paragraph (i)(1) of this section as follows:

a. For the report on the first year of the program established under subsection (c) of this section, 1 year from [the implementation date of this Act].

b. For the report on the second year of the program established under subsection (c) of this section, 2 years from [the implementation date of this Act].

(j)(1) The Insurance Commissioner shall work with the Office and the Department to overcome barriers to providing motor vehicle insurance to a child in the Department's custody and an individual under subsection (g) of this section.

(2) On or before September 1 of each year the Insurance Commissioner and Office shall submit a report to the General Assembly detailing progress on the task under paragraph (j)(1) of this section.

Section 2. Amend § 3919, Title 18 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 3919. Addition of minor children and foster children to existing motor vehicle policies.

(a) If requested by ~~the~~ an insured, an insurer is required to add the following individuals to the insured's existing policy as an additional driver:

(1) Any licensed minor child of the insured who resides with the insured.

(2) Any licensed foster child placed into the temporary care of the insured by the Department of Services for Children, Youth and Their Families or pursuant to a court order.

(b) Policies under which coverage is extended to licensed foster children ~~pursuant to~~ under this section ~~shall~~ must continue to be rated as personal, and not commercial, automobile policies.

(c) Insurers may not increase premium rates on policies under which coverage is extended ~~pursuant to~~ under this section solely because of the addition of the licensed minor child or licensed foster child as a named driver, unless the increase is actuarially justified.

(d) An insurer that issues an insurance policy on a private passenger motor vehicle to an insured who is a foster parent of a foster child may not charge an additional premium for coverage of the foster child while the child is operating the insured vehicle if the foster child has procured a separate policy through participation in the program established under § 9011A of Title 29.

Section 3. Amend Chapter 39, Title 18 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 3921. Youth in foster care status as a factor in automobile insurance rates.

(a) For purposes of this section, “youth in foster care” means any of the following:

(1) A child in the custody of the Department of Services for Children, Youth, and Their Families (“Department”).

(2) A child in the Department’s custody who reaches permanency status.

(3) A child in the Department’s custody who turns 18 years of age.

(4) An individual who is subject to extended jurisdiction under § 929 of Title 10.

(5) An individual who receives independent living services from the Department.

(b)(1) An insurer may not use any of the following as a factor in determining a youth in foster care’s new automobile insurance policy rate:

(1) A lapse in the youth in foster care’s automobile coverage if any of the following apply:

a. The lapse was due to the cancellation or nonrenewal of a policy because of the cancellation of the youth in foster care’s participation in the program established under § 9011A of Title 29.

b. The youth in foster care has used all resources available under the program established under § 9011A of Title 29 or otherwise becomes ineligible for the program.

(2) That the youth in foster care did not receive a Class D operator’s license through the youth in foster care’s participation in the level 1 learner’s permit process under § 2710 of Title 21.

(c) An insurer may require a youth in foster care to provide reasonable documentation to verify the youth in foster care’s change in eligibility for the program established under § 9011A of Title 29.

Section 4. Amend § 2710, Title 21 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 2710. Issuance of a Level 1 Learner’s Permit and Class D operator’s license to persons under 18 years of age.

(g) Duration and fees. —

(1) A Level 1 Learner's Permit expires 12 months after the date of issuance. If the applicant's learner's permit expires, the permit shall be void. The permit can be reissued when the applicant meets the permit requirements.

(2) The Except as provided under paragraph (g)(3) of this section, the applicant must pay the \$40 Class D license fee at the time of initial application.

(3) An applicant is not required to pay a license fee if the applicant is a child in the custody of the Department of Services for Children, Youth, and Their Families or meets the requirements under § 9011A(g) of Title 29.

Section 5. Amend § 2712, Title 21 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 2712. Application for temporary instruction permits and Class D operator's license for persons age 18 or older.

(a) A Class D temporary instruction permit may be issued to a person age 18 years or older. A temporary permit shall entitle the applicant to drive during a 6-month period only when the applicant is accompanied by a licensed operator over the age of 21 who is actually occupying a seat beside the driver and there are no more than 2 other persons in the vehicle.

(b) If for any reason the applicant fails to pass the required examination during the 6-month period granted by the permit, the permit shall be void, and the fee paid therefor shall be forfeited unless the applicant requests an extension thereof and pays the sum of \$5.00 therefor. Upon payment of the said sum, the Division shall immediately issue only 1 extension of the permit for an additional 6 months. If the applicant fails to pass the required examination within the additional 6-month period, the permit shall become void.

(c) The applicant must successfully pass a written examination before being issued a temporary instruction permit, and pass a practical road skills examination before being issued a Class D operator's license. Eye screening and medical examinations will be administered in accordance with Division policies.

(d) It is unlawful for the holder of a Class D temporary instruction permit to operate a motor vehicle when the applicant is not accompanied by a licensed operator over the age of 21 years who is seated beside the driver or if there are more than 2 other persons in the vehicle. Failure to comply with subsection (a) of this section restrictions constitutes operating a motor vehicle without a license under § 2701(a) of this title.

(e) Applicants who are receiving special education services under an active Individualized Education Program may waive the provisions of this section and obtain a Class D operator's license if the person meets the requirements of § 2710(d) of this title.

(f) An applicant is not required to pay a fee required by this section if the applicant is a child in the custody of the Department of Services for Children, Youth, and Their Families or meets the requirements under § 9011A(g) of Title 29.

Section 6. Amend § 2715, Title 21 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 2715. Driver license renewal cycle; fees; photograph.

(a) Upon receipt of the application and a fee of \$40 and after such examination as provided in this chapter, the Secretary may issue, at the Secretary's discretion, a motor vehicle driver's license which shall expire and be renewable on the eighth anniversary date of the birth of the applicant next following the date of its issuance unless the birth date is February 29, in which event the license shall expire and be renewable on February 28 every eighth year. A permanent resident foreign national may be issued a full 8-year driver's license. However, a driver's license issued to a temporary foreign national must be limited to the period of time that the temporary foreign national is authorized to be in the United States.

(b) Upon receipt of the application and a fee of \$20 and after such examination as provided in this chapter, the Secretary may issue, at the Secretary's discretion, a driving privilege card issued in accordance with § 2711 of this title, which shall expire and be renewable on the fourth anniversary date of the birth of the applicant next following the date of its issuance unless the birth date is February 29, in which event the driving privilege card shall expire and be renewable on February 28 every fourth year.

(c) On or near the date of expiration of a motor vehicle driver's license, each licensee shall appear at 1 of the Department's offices and be photographed by the Department of Transportation. Upon approval by the Director of the Division of Motor Vehicles, in the Director's discretion, the requirement for this appearance may be waived if circumstances prevent the licensee from appearing on or near the time of renewal.

(d) A late fee of \$10 shall be assessed in addition to the renewal fee for every person whose driver's license has expired.

(e) Notwithstanding subsections (a), (b), and (c) of this section, the Secretary may issue driver licenses for less than 8 years until December 12, 2016, so the number of renewals can be more evenly distributed over an 8-year period. If a driver license is issued for less than 8 years pursuant to this section, the fee shall be calculated at \$5.00 per year.

(f) Notwithstanding the length of issuance and fees as stated in this subsection, the length of issuance and fees for commercial motor vehicle driver's licenses as required in Chapter 26 of this title shall be as required in § 2611 of this title.

(g) An individual who presents a valid, unexpired, Delaware personal credential card, issued under § 8915 of Title 29, is exempt from any fee charged under this section for a replacement license.

(h) An applicant is not required to pay a fee required by this section if the applicant is a child in the custody of the Department of Services for Children, Youth, and Their Families or meets the requirements under § 9011A(g) of Title 29.

Section 7. Amend § 2720, Title 21 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 2720. Duplicate licenses; requirements; fee.

(a) In the event that any operator's license issued under this chapter is lost or destroyed the person to whom it was issued may apply to the Department for the issuance of a duplicate or substitute license upon executing such forms as may be required by the Department and upon furnishing proof satisfactory to the Department that such license has been lost or destroyed.

(b) Upon receipt of the application and the required fee, the Secretary of Transportation of this State may, at the Secretary's discretion, require an examination of such applicant in accordance with this chapter.

(c) Each application for the issuance of a duplicate license certificate shall be accompanied by a fee of \$20.

(d) An individual who presents a valid, unexpired, Delaware personal credential card, issued under § 8915 of Title 29, is exempt from any fee charged under this section for a replacement license.

(f) An applicant is not required to pay a fee required by this section if the applicant is a child in the custody of the Department of Services for Children, Youth, and Their Families or meets the requirements under § 9011A(g) of Title 29.

Section 8. Amend § 6104, Title 21 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 6104. Liability of parent, ~~guardian~~ guardian, or employer for negligence of minor.

~~(a)(1) Any negligence-Except as otherwise provided under paragraph (a)(2) of this section, any negligence of a minor under age 18 driving a motor vehicle upon-on a highway of this State, who has been licensed under § 2710 of this title, shall be-is imputed to any-a person who signed the license application on behalf of the minor, and that person shall-be is jointly and severally liable with the minor for any damages resulting from the minor's negligence-except that ease workers of the Division of Family Services, acting in accordance with § 2710 of this title, and on behalf of a child in the custody of the Department of Services for Children, Youth and their Families, shall be exempted from such liability.~~
negligence.

(2) The following are exempted from liability for negligence of a minor under paragraph (a)(1) of this section:

a. A foster parent of a minor who is in the custody of the Department of Services for Children, Youth and Their Families under Chapter 25 of Title 13. For purposes of this paragraph (a)(2)a., "foster parent" means as defined in § 2302 of Title 13.

b. A caregiver of a minor who is in the custody of the Department of Services for Children, Youth and Their Families under Chapter 25 of Title 13. For purposes of this paragraph (a)(2)b., “caregiver” means as defined in § 2502 of Title 13.

c. A case worker of the Division of Family Services, acting in accordance with § 2710 of this title, and on behalf of a child in the custody of the Department of Services for Children, Youth and their Families.

(b) The liability imposed ~~upon~~ on the person who signed the application of a minor under the age of 18 years, as ~~provided in~~ under subsection (a) of this section, ~~shall apply~~ section applies to the original license or permit granted to the minor or any renewal ~~thereof~~, of the license without the necessity of ~~such~~ the person signing the minor’s renewal application, unless ~~such~~ the person notifies the Department of Transportation in writing at least 30 days ~~prior to~~ before the date of ~~any such~~ the renewal of the original license or permit granted to the minor that the person does not consent to ~~such~~ the renewal.

Section 9. The General Assembly appropriates \$60,000 in Fiscal Year 2023 and in Fiscal Year 2024 to the Office of the Child Advocate (02-18-05) to implement this Act.

Section 10. This Act is effective immediately and is to be implemented after June 30, 2022, and on the earlier of the following:

(1) April 1, 2023.

(2) The date of publication in the Register of Regulations of a notice by the Child Advocate that the Act is to be implemented.

Section 11. This Act expires 2 years from the implementation date of this Act, unless otherwise provided by a subsequent act of the General Assembly.

SYNOPSIS

Acquiring a driver’s license is an important part of young adults in foster care achieving normalcy and eventual independence. Yet, youth in long term foster care face numerous unique barriers in this endeavor. Not only are there logistical challenges in the process of obtaining a license for teenagers not in parental care, but the automobile insurance industry’s rules can be unaccommodating and financially prohibitive. And, research shows that youth who leave foster care with a driver’s license are more likely to have a successful outcome, avoiding homelessness and incarceration, as reliable transportation is a crucial step to employment.

Like Senate Bill No. 151, this Substitute Act seeks to aid youth in foster care by doing the following:

(1) Establishing a pilot program within the Office of the Child Advocate (“Office”) that would pay the cost of driver education, licensure and other costs incidental to licensure, and motor vehicle insurance.

(2) Prohibiting automobile insurers from using certain factors in determining a foster child’s automobile insurance rates.

(3) Prohibiting the DMV from charging certain fees related to licensure for a foster child participating in the Office’s pilot program.

(4) Exempting certain individuals from liability for negligence of a foster child.

This Substitute differs from Senate Bill No. 151 as follows:

(1) By directing that the Act is to be implemented the earlier of April 1, 2023, or the date of publication in the Register of Regulations of a notice by the Child Advocate that the Act is to be implemented.

(2) By setting the date reports from the Office of the Child Advocate are due based on the implementation date of the Act.

(3) By directing the Act to expire, or sunset, 2 years from the implementation date of the Act.

Author: Senator S. McBride