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HOUSE OF REPRESENTATIVES
151st GENERAL ASSEMBLY

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:

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

3 § 2521. Powers and duties of the DSCYF as custodian of the child.

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

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

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

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

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

20 (5) To request a credit report for the child annually after the child reaches the age of 14 years old and to
21 inspect the credit report for any potential identity theft as described in § 854 of Title 11, and, from ages 18 through 21
22 23, to assist the youth who was previously in DSCYF's custody and continues to receive transitional and independent
23 living services through a DSCYF-contracted provider in reviewing and repairing the youth's credit;

24 (6) To ensure, consistent with DSCYF case and placement planning responsibilities under federal and state
25 law, that the child's service plan provides the opportunity to participate in age-appropriate or developmentally-
26 appropriate activities and experiences to promote healthy child and adolescent development;

27 (7) To ensure standards and policies are in place, consistent with the reasonable and prudent parent standard;

28 (8) To provide training and monitoring to all caregivers, regardless of whether they are required to meet the
29 DSCYF licensing requirements, on the reasonable and prudent parent standard. Training on the reasonable and prudent
30 parent standard shall include parenting skills for children who have experienced trauma, healthy sexual development,
31 and implementing the standard for children with special needs. Such training shall be provided annually to all licensed
32 caregivers, and upon placement, to all nonlicensed caregivers; and

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

34 § 2522. Rights of children in DSCYF custody.

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

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

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

40 (3) To be free from abuse or neglect.

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

44 (5) To receive appropriate placement services.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

77 § 9001. Intent and purpose.

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

84 (b) The General Assembly hereby declares that the purpose of this chapter and the policy of the State is to achieve
85 the consolidation of services to children, youth and their families within the jurisdiction of a single agency in order to avoid
86 fragmentation and duplication of services and to increase accountability for the delivery and administration of these
87 services; to plan, develop, and administer a comprehensive and unified service delivery system to abused, neglected,
88 dependent, delinquent and mentally ill or emotionally disturbed children and youth within a continuum of care, which shall
89 include the involvement of their family, within the least restrictive environment possible but consistent with the child's
90 health and safety; to emphasize preventive services to children, youth and their families, in order to avoid the costs to the
91 State of individual and family instability; and to create and maintain a developmentally appropriate, comprehensive
92 program that fully integrates transitional and independent living services from ages 14 to ~~24~~ 23 and that will assist youth
93 with their successful transition into adulthood.

94 § 9003. Powers, duties and functions.

95 (a) The Department of Services for Children, Youth and Their Families shall have the following powers, duties
96 and functions:

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

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

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

- 106 1. Protective services;
- 107 2. Preplacement, preventive services and reunification services;
- 108 3. Home-based services;
- 109 4. Mental health outpatient services;
- 110 5. Drug and alcohol outpatient services;
- 111 6. Residential and institutional facilities;
- 112 7. Probation, aftercare and follow-up services;
- 113 8. Adoption and permanent placement services;
- 114 9. Evaluation, diagnostic and treatment services;
- 115 10. Foster care services;
- 116 11. Independent and transitional living services;
- 117 12. A continuum of residential mental health services, which shall include, but not be limited to,
- 118 inpatient psychiatric hospitalization for all children requiring such care, mental health residential treatment
- 119 centers and specialized mental health treatment services in other group-care facilities and foster homes;

120 b. The Division of Family Services will provide family preservation services to those families whose

121 children are at imminent risk of out-of-home placement when it has determined that out-of-home placement can be

122 avoided; provided, however, that the Division's highest priority in cases of abuse and neglect where an

123 investigation is required pursuant to § 906 of Title 16 shall be the health and safety of the child and nothing herein

124 will prevent the Division from removing a child from the child's home when it has determined that the child's

125 safety and well-being may be jeopardized by remaining in the family home;

126 (14) To develop, administer, implement, and provide or contract a developmentally appropriate,

127 comprehensive program that fully integrates transitional and independent living services such as financial stability,

128 housing supports, medical, employment and training, education, and connection to resources and individuals, until age

129 ~~24~~ 23 and that will assist youth with their successful transition to adulthood, subject to appropriation;

130 § 9015. Budgeting and financing.

131 (f) The Department is authorized to provide funding for youth who have attained the age of 18 but are less than ~~24~~

132 23 years of age, by payment of foster care supports specifically related to housing, by direct youth stipends and/or to other

133 public or private agencies to provide transitional and independent living services to youth. The Department shall establish

134 policies for eligibility for direct youth stipends that shall require youth accountability, financial literacy, and attainment of

135 self-sufficiency benchmarks. Funds appropriated for the purpose of supporting youth who are eligible for independent
136 living services shall be used to support those youth.

SYNOPSIS

The Department of Services for Children, Youth and Their Families (DSCYF) is charged with providing transitional and independent living services for youth ages 14 to 21. The Division of Family Services (DFS) contracts for case management services for youth ages 16 to 21, with services designed to promote self-sufficiency and responsible living for young adults who are aging out of foster care. Participants receive life skills training and personal development, mentoring, tuition assistance, and support with transitional housing. Participants may also qualify to receive needs-based stipends through ASSIST (Achieving Self Sufficiency & Independence through Supported Transition) to help with living expenses. DFS recently changed the name of the Independent Living Program to the “Transitional and Independent Living Program” to better reflect the comprehensive nature of services offered to youth. This bill updates references to the program to include “transitional” and independent living services.

During the COVID-19 pandemic, the federal government provided additional funding to support young adults who were eligible for independent living services until age 27. The intent was to provide additional support for youth and mitigate the impact of the pandemic on their housing and employment status. DFS exercised this additional funding authority via a mandatory directive from the DFS Director. While the mandatory directive provision expanding services expired in October 2021, DFS decided it would continue providing independent living services for youth until age 23 because of the success observed on behalf of youth. This mandatory directive provision will expire in September 2022, and this bill will grant DFS the statutory authority to continue providing transitional and independent living services for youth until age 23. Expanding independent and transitional living services from age 21 to age 23 better aligns with case management requirements of housing assistance programs, will support youth with transitioning from post-secondary education programs into the workforce, and will help maintain a longer connection to youth required to complete federal reporting for DFS.