

# FINAL BILL REPORT

## 2SHB 1128

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Synopsis as Enacted

**Brief Description:** Providing support for eligible foster youth up to age twenty-one.

**Sponsors:** House Committee on Ways & Means (originally sponsored by Representatives Roberts, Carlyle, Kagi, Walsh, Orwall, Goodman, Reykdal, Kenney, Maxwell, Appleton, Hunt and Pettigrew).

**House Committee on Early Learning & Human Services**  
**House Committee on Ways & Means**  
**Senate Committee on Human Services & Corrections**

### **Background:**

#### Title IV-E Funding.

Title IV-E of the Social Security Act authorizes federal funds for states to provide foster care for children under an approved state plan. To be eligible for Title IV-E funding, a child must meet the eligibility requirements, including requirements regarding age, whether there has been a deprivation of parental support or care, and whether there has been a judicial determination that remaining in the home would be contrary to the child's welfare. Federal funding is provided for foster children who are enrolled in high school or a GED program until age 19.

#### Definition of Juveniles.

For purposes of juvenile court, the terms "juvenile," "youth," and "child" are synonymous under Washington law. With some exceptions, a juvenile is any individual under the age of 18 years.

#### Foster Care to 21.

For at least the past two decades, the Department of Social and Health Services (DSHS), has been authorized to provide continued foster care or group care for youth between the ages of 18 and 21 years in order to support the youths' completion of high school or vocational school programs. In 2005 legislation was enacted authorizing the DSHS to provide continuing foster care or group care for youth between the ages of 18 and 21 years who are enrolled in post-secondary education or training programs. The practice of providing continuing foster care past age 18 for post-secondary and related purposes is commonly referred to as Foster Care to 21.

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The enacting legislation for Washington's Foster Care to 21 program provides that, beginning in 2006, the DSHS is authorized to allow 50 youth to remain in foster care after reaching age 18. In addition to the first 50 youth, an additional 50 youth could also enter the program in 2007 and 2008. In 2010 there were 83 slots available. As of January 2011, 66 youth were enrolled in the program.

#### The Fostering Connections to Success and Increasing Adoptions Act of 2008.

In October 2008 the U.S. Congress approved, and the President signed, the Fostering Connections to Success and Increasing Adoptions Act of 2008 (Act). The legislation includes a variety of provisions, both mandatory and permissive, intended to reform aspects of child welfare programs. Some of the changes took effect immediately and others are phased in over a period of years. The mandatory provisions in the Act include the following:

- developing health care oversight and coordination plans for children in foster care;
- requiring due diligence in identifying and notifying adult relatives of children placed in foster care;
- ensuring school-age children in foster care are enrolled in school and requiring school stability issues to be addressed in children's case plans;
- negotiating in good faith with Indian tribes seeking to develop their own foster care program using federal moneys;
- notifying prospective adoptive parents of federal adoption tax credits; and
- requiring children's case plans to include a transition plan for youth aging out of foster care.

The DSHS has determined it can, for the time being, implement the mandatory provisions without a change in state law. One of the key changes permitted by the Act includes allowing states to use foster care funds to provide Foster Care to 21 placement services to youth engaged in a broader array of qualifying activities. The federal funding attached to this provision became available October 1, 2010.

#### Foster Care to 21 and Other Transitional Supports.

In 2009 Engrossed Second Substitute House Bill 1961 was enacted clarifying the Foster Care to 21 statute to allow continued enrollment in the program, subject to the availability of appropriated funding. Under that bill, eligibility to remain in foster care or group care continued until the youth turned 21 years old if he or she adhered to program rules and remained enrolled in a post-secondary program.

Beginning October 1, 2010, the type of activities necessary to qualify for Foster Care to 21 was expanded to reflect the activities eligible for use of federal funds. The DSHS is authorized to provide continued foster care or group care up to age 21, within amounts appropriated for this specific purpose, for youth who are:

- enrolled and participating in a post-secondary program;
- participating in a program to promote, or reduce barriers, to employment;
- working 80 or more hours per month; or
- incapable of participating in school, work, or other activities due to a medical condition supported with regularly updated information.

In lieu of Foster Care to 21 placement services and within amounts appropriated for this specific purpose, the DSHS may provide adoption support or relative guardianship benefits on behalf of youth who achieved permanency through adoption or a guardianship after age 16 and who are engaged in one of the activities listed above. Eligibility for continued support or subsidy payments continues until the youth reaches age 21.

### **Summary:**

#### Definition of Juveniles.

In addition to individuals under 18 years of age, a juvenile, child, or youth is an individual age 18 to 21 who is eligible to receive extended foster care services. Once the youth turns 21, he or she is no longer eligible to receive extended foster care services. Those who are determined to be a "juvenile," "child," or "youth" as a result of receiving extended foster care services are not considered to be a "child" under any other statute or for any other purpose.

#### Extended Foster Care Services/Court Jurisdiction.

Extended foster care services are defined as residential and other support services that the DSHS is authorized to provide to foster children. They include the following: placement in licensed, relative or otherwise approved care; supervised independent living settings; assistance in meeting basic needs; independent living services; medical assistance; and counseling or treatment.

When a child or youth in foster care reaches age 18, his or her parent or guardian is dismissed from the dependency proceeding. The dependency court must postpone the dismissal of the dependency petition in its entirety for six months after a child in foster care turns 18. This six month postponement allows the youth who is eligible for extended foster care services time to request those services after turning 18. At the end of the six-month period, if the youth has not requested extended foster care services, the court must dismiss the dependency. After the youth turns 18 and before the youth requests the DSHS to provide extended foster care services, the DSHS is not required to supervise the youth's dependency. As long as the youth continues to agree to participate in extended foster care services, he or she is under the care and placement authority of the DSHS. The court must dismiss the dependency at the request of the youth who has turned 18 or when the youth is no longer eligible to receive extended foster care services.

The requirement to conduct six month review hearings on the case plan for and the delivery of services applies to youth receiving extended foster care services and should be applied in a developmentally appropriate manner. At the hearing, the court must also consider the following:

- whether the youth is safe in his or her placement;
- whether the youth continues to be eligible for extended foster care services;
- whether the current placement is developmentally appropriate for the youth;
- whether the youth is developing independent living skills; and
- whether the youth is making progress towards transitioning to full independence and the projected date for achieving such transition.

The court must appoint counsel to represent youth who continue in a dependency after his or her 18th birthday.

Foster Care to 21.

The statutory provisions regarding the Foster Care to 21 program are recodified into a separate section, distinct from the statutory provisions regarding extended foster care services.

**Votes on Final Passage:**

House	75	22	
Senate	46	0	(Senate amended)
House	79	17	(House concurred)

**Effective:** July 22, 2011