

SENATE BILL REPORT

2SHB 1128

As Reported by Senate Committee On:
Human Services & Corrections, March 24, 2011

Title: An act relating to extended foster care services.

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).

Brief History: Passed House: 3/02/11, 75-22.

Committee Activity: Human Services & Corrections: 3/15/11, 3/24/11 [DPA].

SENATE COMMITTEE ON HUMAN SERVICES & CORRECTIONS

Majority Report: Do pass as amended.

Signed by Senators Hargrove, Chair; Regala, Vice Chair; Baxter, Carrell, Harper and McAuliffe.

Staff: Jennifer Strus (786-7316)

Background: Foster Care to 21. For at least the past two decades, the Legislature has authorized the Department of Social and Health Services (DSHS) to provide continued foster care or group care for youth between the ages of 18 and 21 years to support the youths' completion of high school or vocational school programs. In 2005 the Legislature authorized 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.

The enacting legislation for Washington's Foster Care to 21 Program provides that, beginning in 2006, 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 were authorized to enter the program in 2007 and 2008. In 2010 there were 83 slots available. As of January 2011, 66 youth are enrolled in the program.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

The Fostering Connections to Success and Increasing Adoptions Act of 2008. In October 2008 the federal Fostering Connections to Success and Increasing Adoptions Act of 2008 (Act) was passed. 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 monies;
- 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.

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 draw down Title IVE dollars as a match to state dollars used 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 the Legislature passed Engrossed Second Substitute House Bill 1961 and clarified the Foster Care to 21 statute to allow continued enrollment in the program, subject to the availability of funding. Under that bill, eligibility to remain in foster care or group care continued until the youth turned 21 years old if the youth 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. 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, 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 of Bill (Recommended Amendments): To facilitate the delivery of extended foster care services, a dependency court must postpone the dismissal of a dependency petition for six months after a child in foster care turns 18. This six month postponement

allows a youth eligible for extended foster care services some time within which to request those services after turning 18. At the end of the six month period, if the youth has not made the request, the court must dismiss the dependency. After the youth turns 18 and before the youth requests DSHS to provide extended foster care services, DSHS need not supervise the youth's dependency.

Extended foster care services are defined as residential and other support services DSHS is authorized to provide to foster children which 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.

A youth receiving extended foster care services is a party to the dependency; the youth's parents or guardian are to be dismissed from the dependency action once the youth turns 18. The youth is under the care and placement authority of DSHS as long as the youth continues to agree to participate in extended foster care services.

The requirement to conduct six month review hearings on the case plan for and 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 is also to 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 dismiss the dependency at the request of the youth or when the youth is no longer eligible to receive extended foster care services.

DSHS has the authority, within amounts appropriated for this specific purpose, to provide continued foster care to youths aged 18-21, under both the current Foster Care to 21 Program and the new federal Fostering Connections Program, who are:

- enrolled in a secondary education program or a secondary education equivalency program;
- enrolled and participating in a post-secondary or vocational educational program;
- participating in a program or activity designed to promote or remove barriers to employment;
- engaged in employment for 80 hours or more per month; or
- incapable of engaging in any of the above activities due to a medical condition.

The court must appoint counsel to represent only the youth who continue in a dependency after his or her eighteenth birthday.

EFFECT OF CHANGES MADE BY HUMAN SERVICES & CORRECTIONS COMMITTEE (Recommended Amendments): Clarifies that youth enrolled in a secondary education program or its equivalent are eligible for both the current Foster Care to

21 Program as well as the federal Fostering Connections Program into which the state is opting by virtue of this bill. Clarifies that the right to appointment of counsel is only for those youth who continue on in a dependency after their eighteenth birthday.

Appropriation: None.

Fiscal Note: Available.

Committee/Commission/Task Force Created: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony on Second Substitute House Bill: PRO: At age 18, youth age out of foster care and a number of former foster youth were unsuccessful on their own because they did not have the skills to succeed. Although the federal law allows states to go farther than this bill goes, it is not possible at this time because of the current fiscal issues facing the state. The focus in this bill is on education because it is one area that could really help the youth become gainfully employed. The fastest growing population experiencing homelessness is youth aging out of foster care. Although the federal bill is pretty complicated, all this bill is trying to do is maintain a current level of services for a small number of youth. This bill allows the state to recoup federal money for services it is already providing. By this bill, Washington is following the lead of other states that have already opted into the federal act. This bill will do three important things: (1) it will continue the practice of providing safe housing to youth so they can obtain their high school diploma or GED; (2) allows the state to capture IVE match for 19 and 20 year olds; and (3) allows Washington to opt into the federal act. Studies have shown that there is a benefit to youth who have safe housing. Some of those benefits include delay in parenting, reduction in criminal behavior, and an increase in academic and career development.

Persons Testifying: PRO: Representative Roberts, prime sponsor; Georgina Ramirez, Jim Theofelis, Mockingbird Society; Casey Trupin, Columbia Legal Services; Seth Dawson, Washington State Coalition for the Homeless, Washington State Coalition for Children in Care; Ian Grant, former foster child.