

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Children, Families, and Elder Affairs Committee

BILL: CS/SB 1902

INTRODUCER: Children, Families, and Elder Affairs Committee and Senator Rich

SUBJECT: Independent Living

DATE: March 28, 2011 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Preston	Walsh	CF	Fav/CS
2.			BC	
3.				
4.				
5.				
6.				

Please see Section VIII. for Additional Information:

A. COMMITTEE SUBSTITUTE..... Statement of Substantial Changes

B. AMENDMENTS..... Technical amendments were recommended

Amendments were recommended

Significant amendments were recommended

I. Summary:

The bill provides protections for children in care who are in middle and high school to enable them to receive a quality education and participate in extracurricular and enrichment activities. The bill includes provisions relating to school stability, transfers, transportation, attendance, and identification of an education advocate. The bill also specifies requirements for the Department of Children and Family Services (DCF or department), its community-based care (CBC) providers, and caregivers relating to the education of children in care, including those with disabilities, and requires the development of a transition plan.

The bill restructures the Road-to-Independence Program; providing for the creation of the Foundations First Program for young adults who wish to remain in care after their 18th birthday, and the College Bound Program for young adults who have graduated from high school and been accepted into a college or university. The bill provides for emergency funding and for an appeals process.

The bill enables young adults receiving transition services to continue in existing services until their eligibility for that benefit program expires; requires accountability from the CBC lead agencies; requires the department to develop a request for proposal for the creation of an

education advocacy system; and requires the department to contract with a national nonprofit organization to administer the Road-to-Independence Program.

The bill substantially amends, ss. 39.013, 39.6012, 39.701, 409.1451, 409.903 and creates s. 39.6015 of the Florida Statutes.

II. Present Situation:

Independent Living Services

Background

Each year thousands of children leave state dependency care systems because they reach the age of 18 and are no longer eligible for care. Since the early 1980's, research and anecdotal evidence have indicated that many of these young adults experience numerous difficulties in their attempts to achieve self-sufficiency. When compared to young adults with no exposure to the child welfare system, young adults who were formerly in care are less likely to earn a high school diploma or GED and subsequently, have lower rates of college attendance.¹ They suffer more from mental health problems; have a higher rate of involvement with the criminal justice system; are more likely to have a difficult time achieving financial independence, thus increasing their reliance on public assistance; and experience high rates of housing instability and homelessness.²

Federal Law

John H. Chafee Foster Care Independence Program

The federal government responded to the needs of children who age out of care by enacting the Foster Care Independence Act of 1999 (known as the CFCIP or the Chafee Act).³ The Chafee Act provides states with flexible funding that enables programs to be designed and conducted to:

- Identify and assist children who are likely to remain in foster care until 18 years of age;
- Provide education, training, and services necessary to obtain employment for those children;
- Prepare those children to enter postsecondary training and education institutions; and
- Provide support through mentors and the promotion of interactions with dedicated adults.⁴

Age restrictions were also eliminated, allowing states to offer independent living services to children earlier than age 16.⁵ The Chafee Act grants wide discretion to the states, allowing them to set their own criteria for children in care to receive services.⁶ However, states must use

¹ Courtney, M.A. and Hearing, D.H. (2005). The Transition to Adulthood for Youth "Aging Out" of the Foster Care System. In Osgood, D.W., Foster, E.M., Flanagan, C. & Ruth G.R. (Eds.), *On Your Own Without a Net: The Transition to Adulthood for Vulnerable Populations*. (pp. 33-34). Chicago, Illinois: The University of Chicago Press

² *Id.* (pp.36-40).

³ Public Law No. 106-169, 113 Stat. 1822 (1999). Federal funds for independent living initiatives were first made available under the Consolidated Omnibus Budget Reconciliation Act of 1985.

⁴ 42 U.S.C. § 677(2002).

⁵ 42 U.S.C. § 677(b)(2)(C) (2002).

⁶ 42 U.S.C. § 677(b)(2).

objective criteria for determining eligibility for benefits and services under the programs and for ensuring fair and equitable treatment of benefit recipients.⁷

Education and Training Vouchers

The Educational and Training Vouchers Program (ETV) for children aging out of care was added to the CFCIP in 2002. ETV provides resources specifically to meet the education and training needs of youth aging out of care. Funding is provided for post secondary educational and training vouchers for children and young adults likely to experience difficulty as they transition to adulthood after reaching 18 years of age. The program makes available vouchers of up to \$5,000 per year per young adult.⁸

Florida Law

With the enactment of federal legislation and increased available funding, the 2002 Florida Legislature established a new framework for the state’s independent living transition services to be provided to older children in care and young adults who were formerly in care.⁹ Those service categories include:¹⁰

PROGRAM COMPONENTS AND TYPES OF SERVICES	SERVICES PROVIDED	AGE GROUP SERVED
PRE-INDEPENDENT LIVING	Life skills training, educational field trips and conferences.	13 to 15
LIFE SKILLS	Independent living skills training, including training to develop banking and budgeting skills, interviewing skills, parenting skills, and time management or organizational skills, educational support, employment training, and counseling.	15 to 18
SUBSIDIZED INDEPENDENT LIVING (SIL)	Financial assistance for living arrangements that allow the child to live independently of the daily care and supervision of an adult.	16 to 18
AFTERCARE SUPPORT	Housing, electric, water, gas, sewer service, food, mentoring, tutoring, mental health services, substance abuse counseling, life skills classes, parenting classes, job and career skills training, counselor consultations, temporary financial assistance, and financial literacy skills training.	18 to 23
ROAD-TO-INDEPENDENCE PROGRAM	Financial assistance for education.	18 to 23

⁷ 42 U.S.C. § 677(b)(2)(E).

⁸ U.S. Department of Health and Human Services, Administration for Children and Families, *The John H. Chafee Foster Care Independence Program*. Available at: http://www.acf.hhs.gov/programs/cb/programs_fund/state_tribal/jh_chafee.htm (Last visited March 18, 2011).

⁹ The department provided independent living services to older youth in foster care prior to the creation of s. 409.1451, F.S., with provisions for those services appearing in a number of sections of Florida Statutes, including s. 409.145, F.S., relating to care of children (2001), and 409.165, F.S., relating to alternative care of children (2001).

¹⁰ s. 409.1451, F.S.

TRANSITIONAL SUPPORT	Financial, housing, counseling, employment, education, mental health, disability, and other services.	18 to 23
---------------------------------	-------------------------------------------------------------------------------------------------------------	----------

Fostering Connections to Success and Increasing Adoptions Act

The Fostering Connections to Success and Increasing Adoptions Act¹¹ enacted in 2008, was designed to improve outcomes for children in care by promoting permanent families for them through relative guardianship and adoption and improving education and health care. Specifically, the Act:

- Promotes permanent families for children in care with relatives by providing notice to relatives when a child enters care, providing subsidized guardianship payments for relatives, and waiving certain licensing standards for relatives;
- Promotes permanent families for children with adoptive families by increasing opportunities for more children with special needs to receive federally-supported adoption assistance; and
- Improves outcomes for children in care by:
 - Allowing children who turn 18 in care without permanent families to remain in care, at state option, to age 19, 20, or 21 with continued federal support to increase their opportunities for success as they transition to adulthood;
 - Helping children in care achieve their educational goals by requiring that states ensure that they attend school and, when placed in care, they remain in their same school where appropriate, or, when a move is necessary, get help transferring promptly to a new school; and
 - Helping improve health care for children in care by requiring the state child welfare agency to work with the state Medicaid agency to create a plan to better coordinate health care for these children in order to ensure appropriate screenings and assessments and follow-up treatment and to assure sharing of critical information with appropriate providers and oversight of prescription medications.¹²

Education and Children in Care

Children in care lag behind their peers in school. Research over the past three decades has shown that, compared to the general school population, the half-million children in care in the United States:

- Have poorer attendance rates,
- Are less likely to perform at grade level,
- Are more likely to have behavior and discipline problems,
- Are more likely to be assigned to special education classes, and
- Are less likely to attend college.¹³

¹¹ Public Law 110-351.

¹² Center for Law and Social Policy. *Fostering Connections To Success And Increasing Adoptions Act*. Available at: <http://www.clasp.org/admin/site/publications/files/FINAL-FCSAIAAct1-pager.pdf>. (Last visited March 17, 2011).

¹³ Marni Finkelstein, Mark Wamsley, and Doreen Miranda, *What Keeps Children in Foster Care From Succeeding in School? Views of Early Adolescents and the Adults in Their Lives*. Vera Institute of Justice, June 2002.

A 2001 study found that children in care often repeat a grade and are twice as likely as the rest of the school population to drop out before graduation. And among all students who drop out of school, fewer children in care eventually earn their GED than dropouts who were not in care.¹⁴ Children in care are faced with numerous obstacles to achieving educational success including:

- Lack of continuity in education;
- Requirements of the child welfare system;
- Lack of emphasis on education;
- Low expectations;
- An absence of an advocate; and
- The gap between the systems.¹⁵

Interagency agreements

The department was required in 2004 to enter into an agreement with the Department of Education (DOE) relating to the education and related care of children who are in care or in shelter.¹⁶ The agreement was required to be designed to:

- Provide educational access to children in care for the purpose of facilitating the delivery of services or programs to those children;
- Avoid duplication of services or programs and provide for combining resources to maximize the availability or delivery of services or programs; and
- Require the DOE to access the department's Florida Safe Families Network (FSFN) to obtain information about children known to the department, consistent with the Family Educational Rights and Privacy Act (FERPA).

The department was also required to enter into agreements with district school boards or other local educational entities regarding education and related services for children in care who are of school age and children in care who are younger than school age but who would otherwise qualify for services from the district school board. Such agreements shall include, but are not limited to:

- Requirements that the department enroll children in care in school, with the goal of avoiding disruption of education; provide the school with contact information for children in care; establish a protocol for the department to share information about a child in care with the school district, that requires the district school boards or other local educational entities to access the department's FSFN to obtain information about children in care; and notify the school district of the department's case planning for a child in care, both at the time of plan development and plan review.
- Requirements that the school district school board provide the department with a listing of the services and information available from the district school board to facilitate educational access for a child in care; identify all educational and other services provided by the school and school district which the school district believes are reasonably

¹⁴ How You Can Create a Positive Educational Experience for the Foster Child. Vera Institute of Justice. Available at: http://www.ytfg.org/documents/241_452.pdf. (Last visited March 18, 2011).

¹⁵ *Id.*

¹⁶ s. 39.0016, F.S.

- necessary to meet the educational needs of a child in care; determine whether transportation is available for a child in care when such transportation will avoid a change in school assignment due to a change in residential placement; and provide individualized student intervention or an individual educational plan when a determination has been that intervention services are required.
- Requirement that the department and the district school board cooperate in accessing the services and supports needed for a child in care who has or is suspected of having a disability in order to receive an appropriate education consistent with the Individuals with Disabilities Education Act and state implementing laws, rules, and assurances and coordination of services for a child in care who has or is suspected of having a disability.¹⁷

Outcomes in Florida

While attention to the needs of children in care and young adults formerly in care has increased significantly over the past decade, the services intended to help prepare them to live independently upon aging out of the system appear to remain limited and fragmented.¹⁸ Concerns continue to be raised as to whether those services are adequate to prepare children in care to live independently as adults, whether all eligible children and young adults are being served, and whether the direction and oversight of community-based care lead agencies and providers are sufficient to ensure that the goals of the program are being met.¹⁹

In a recent audit of the DCF independent living transition services program conducted by the Auditor General, preliminary and tentative audit findings revealed the following:

- The department and community-based care (CBC) lead agencies did not require that actual living and educational expenses be utilized as a basis for determining the amounts of the Road-to-Independence (RTI) awards made to high school students. Additionally, for post-secondary students, the department and CBCs were unable to provide documentation supporting the appropriateness of the amounts of the RTI awards;
- DCF rules and guidelines did not specifically address the type of documentation that would be sufficient to demonstrate appropriate progress by students in GED programs;
- The department and CBCs made payments for Aftercare Support Services to young adults in the same month during which the young adult received both RTI and Transitional Support Services payments. These payments in total were sometimes significant in amount, and in some cases, made to meet the same identified need. In

¹⁷ *Id.* These services may include screening referrals, sharing of evaluations between the school district and the department where appropriate, provision of education and related services appropriate for the needs and abilities of a child in care, appointment of a surrogate parent, consistent with the Individuals with Disabilities Education Act for educational purposes for a child in care who qualifies, and for each child in care 14 years of age and older, transition planning by the department and all providers, including the department's independent living program staff, to meet the requirements of the local school district for educational purposes.

¹⁸ *Report of Independent Living Services for Florida's Foster Youth* (2008). Independent Living Services Advisory Council. (p. 6). Available at <http://www.dcf.state.fl.us/indliving/docs/AdvisoryCouncil/2008%20ILSAC%20Report.pdf>. (Last visited March 15, 2011); *Improved Fiscal and Quality Oversight Is Needed for the Independent Living Program*, Office of Program Policy Analysis and Government Accountability, Report No. 07-11. February 2007; and *The Independent Living Transitional Services Critical Checklist* (2008). A joint project by the Independent Living Services Advisory Council, the Community-Based Care lead agencies, and the Department of Children and Family Services. Available at: http://www.dcf.state.fl.us/indliving/docs/ILSurveyChartbook20090105_AdvanceCopy.pdf. (Last visited March 15, 2011).

¹⁹ *Id.*

addition, the department and CBCs did not always ensure that only eligible young adults received Aftercare and Transitional Support Services and that the payments for those services were documented by applications and properly coded;

- Federal funds totaling \$641,913 from the CFCIP and ETV Programs were paid to ineligible young adults. In addition, administrative and support services costs were not properly allocated to State General Revenue and Chafee Program funds. CBCs also did not properly code payments for young adult services to the correct funding source;
- ETV Program, RTI, and Subsidized Independent Living (SIL) payments were made to young adults and adolescents in excess of established spending caps;
- Specific to adolescents in SIL, the Department and CBCs were unable to provide documentation to support the required number of services worker visitations. In addition, the Department and applicable CBCs were unable to provide documentation showing that staffings, assessments, and judicial reviews had been completed;
- The department and CBCs did not properly conduct or provide supporting documentation showing that staffings, assessments, and case plans for adolescents ages 13 to 17 had been completed;
- DCF did not require CBCs to fully utilize the functionality of FSN specific to the independent living (IL) program; and
- Department monitoring efforts were not sufficient to ensure IL program compliance.²⁰

An operational audit of the independent living transition services program performed by the Auditor General in 2005 reported almost identical findings.²¹

III. Effect of Proposed Changes:

The bill creates provisions designed to enable children in care who are 13 to 17 years of age to graduate from high school and live successfully as independent adults. Specifically, the bill provides for the following:

Children in middle school and high school

- **School stability** – provides that if a child’s living arrangement changes, the child must be allowed to remain in the school of origin if it’s in his or her best interests; requires that transportation be provided if necessary to maintain school placement;
- **School transitions** – provides that if a child must change schools, the transition must be as least disruptive if possible; provides safeguards for children who must change schools, including those relating to participation in athletics;
- **Attendance** – requires children in care to attend school like any other child; requires that appointments be scheduled to allow the child to miss as little time in school as possible; provides same penalties for caregivers as for parents who fail or refuse to have a child in care attend school; and

²⁰ Office of the Auditor General. *Preliminary And Tentative Audit Findings. Department Of Children And Family Services. Independent Living Transition Services Program.* March 3, 2011.

²¹ Office of the Auditor General. *Operational Audit. Department Of Children And Family Services. Independent Living Transition Services Program.* Report No. 2005-119. February, 2005.

- **Education advocacy** – stresses the importance of an education advocate for every child in care; requires the CBC to document in the case plan that an education advocate has been designated or that a surrogate parent has been appointed in the case of a child with a disability.

Children in middle school

- Provides that in addition, to the courses required to be promoted from middle school, attention should be focused on the course in career and education planning that is already required of every child in 7th or 8th grade. The class requires that :
 - Each child complete an electronic personal academic and career plan;
 - The plan inform students of high school graduation requirements, high school assessment and college entrance test requirements, Florida Bright Futures Scholarship Program requirements, state university and Florida college admission requirements, and programs through which a high school student can earn college credit, including Advanced Placement, International Baccalaureate, Advanced International Certificate of Education, dual enrollment, career academy opportunities, and courses that lead to national industry certification;
 - Caregivers are required to attend school meeting to inform parents about the class and its requirements;
 - A diploma decision is to be made for students with disabilities and the child, caregiver and other designated education advocate must be included in all IEP meetings;
 - All children be provided information on Road-to-Independence Program;
 - Caregivers access school resources available to enable children in care to achieve academic success; and
 - CBCs partner with school districts to deliver a curriculum designed to enable children in care to advocate for themselves.

Children in high school

- Details diploma choices available to high school students;
- Reiterates that children with disabilities may remain in school until age 22, under certain circumstances;
- Requires that academic planning and guidance in high school shall build on decisions and accomplishments made in middle school;
- Requires the CBCs to document academic progress in the case plan on a regular basis;
- Requires exposure to workforce readiness activities, particularly for students who plan to work after high school;
- Requires every child to be provided with opportunities to participate in enrichment activities, volunteer and service learning opportunities, and services provided by AWI; and
- Requires the development of a transition plan.

Road-to-Independence Program

The bill restructures the RTI program to include the following:

- Creates the FOUNDATIONS FIRST PROGRAM for young adults who have decided to remain in care for a period of time after reaching the age of 18. Young adults must be:
 - Completing high school or its equivalent;
 - Enrolled in post-secondary or vocational education;
 - Employed at least 80 hours per month;
 - Participating in a program designed to promote employment; or
 - Unable to participate in the above due to a disability.
- Provides criteria for eligibility, termination from, and re-entry to the program;
- Provides for a needs assessment;
- Requires a young adult may not be terminated without a judicial review;
- Provides the court may issue a show cause order to the department or CBC for failure to meet their obligations under the case plan;
- Provides for the development of a transition plan within the 180 day period before the young adult leaves care;
- Provides for a stipend and a needs assessment;
- Specifies documentation that must be provided to the young adult before leaving care; and
- Provides for periodic judicial reviews while the young adult is in care;
- Creates the COLLEGE BOUND PROGRAM for young adults who have graduated from high school and have been accepted into a college or university and need financial resources in order to attend:
- Provides criteria for eligibility, termination, and re-entry;
- Provides for a stipend and a needs assessment; and
- Provides for portability of services if a young adult moves to another county or another state.

In addition, the bill:

- Requires that all children in care be encouraged to participate in extracurricular and social activities and that transportation be provided;
- Requires the development of a transition plan during the 180 day period before a child leaves care (if not remaining in extended care);
- Provides requirements for the transition plan and requires that the child be provided with specified documentation;
- Requires that a child be informed of the option of remaining in care for an extended period of time;
- Provides for an appeals process;
- Provides for funding for emergency situations;
- Amends provisions relating to judicial review to incorporate changes made by the amendment;
- Specifies data that CBCs are required to submit to the department annually; the department must then submit that data to the legislature;
- Provides for a transition period to allow young adults in the current RTI program to continue until their eligibility has ended – young adults entering after the effective date of the bill will be governed by the new requirements;

- Requires the department to develop an RFP for the purpose of establishing and operating an educational advocacy system; and
- Requires the department to contract with a national nonprofit organization to administer the RTI program.

The bill makes no substantive changes to provisions related to the Independent Living Services Advisory Council, property acquired on behalf of clients in the program, or enrollment in Kidcare.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The fiscal impact to the private sector is unknown.

C. Government Sector Impact:

The fiscal impact to government is unknown. The department has not yet provided an analysis of the bill.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

- A. **Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Children, Families, and Elder Affairs on March 28, 2011:

Makes a number of changes to the bill, including:

- Adding a provision requiring any transportation arrangement to follow a route that is as direct and expedient for the child as possible;
- Adding a provision relating to school transfers that is specific to continued participation in athletics;
- Adding a requirement for regular staffings and timelines;
- Changing the timeframe for development of a transition plan from 90 to 180 days before a child or young adult leaves care;
- For young adults in the Foundations First Program, changing eligibility to include young adults who were not in licensed placements, changing process for reentry to allow for one automatic reentry, providing for a stipend and a needs assessment, specifying housing options, and specifying how stipend will be paid;
- For young adults in the College Bound Program, changing eligibility to include young adults who were not in licensed placements and providing for a stipend and a needs assessment;
- Requiring that a case plan must contain procedures for older children to manage their personal allowance from the department;
- Providing for emergency assistance;
- Providing for an appeals process for young adults; and
- Removing the statewide infrastructure provision from the RFP section and specifying that DCF may award more than one contract.

- B. **Amendments:**

None.