

**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: SB 1902

INTRODUCER: Senator Rich

SUBJECT: Independent Living

DATE: March 18, 2011                      REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Preston	Walsh	CF	<b>Pre-meeting</b>
2.			BC	
3.				
4.				
5.				
6.				

**I. Summary:**

This bill makes significant changes to the Department of Children and Family Services independent living transition services program for children and young adults.

The bill removes the provision allowing a young adult to petition the court for continued jurisdiction for a period of time, not to exceed one year, after the young adult reached 18 years of age and provides that a young adult who is approved for Foundations for Success services will continue under court jurisdiction until he or she reaches 21 years of age or is terminated from the program. Court jurisdiction is extended for the purpose of reviewing the young adult’s transition and permanency plans and the status of the services being provided.

The bill makes changes to, and restructures, the provisions relating to the delivery of services to children in care between the ages of 13 and 17 years and young adults who were formerly in care between the ages of 18 and 22 years. The bill creates the Pathways to Success, Foundations for Success, and Jumpstart to Success Programs.

The bill creates definitions for the terms “child,” “Foundations for Success,” “Jumpstart to Success,” “needs assessment,” “Pathways to Success,” “qualifying residential facility,” and “young adult.”

The bill substantially amends, ss. 39.013 and 409.903, and creates ss. 39.605, 39.911 and 39.922, of the Florida Statutes.

## II. Present Situation:

### Independent Living Services

#### *Background*

Each year thousands of children leave state foster care systems because they reach the age of 18 and are no longer eligible for out-of-home 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, former foster youth are less likely to earn a high school diploma or GED and subsequently, have lower rates of college attendance.<sup>1</sup> 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.<sup>2</sup>

#### *Federal Law*

##### *John H. Chafee Foster Care Independence Program*

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

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

Age restrictions were also eliminated, allowing states to offer independent living services to youth earlier than age 16.<sup>5</sup> The Chafee Act grants wide discretion to the states, allowing them to set their own criteria for foster care children to receive services.<sup>6</sup> However, states must use objective criteria for determining eligibility for benefits and services under the programs and for ensuring fair and equitable treatment of benefit recipients.<sup>7</sup>

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<sup>1</sup> 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

<sup>2</sup> *Id.* (pp.36-40).

<sup>3</sup> 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.

<sup>4</sup> 42 U.S.C. § 677(2002).

<sup>5</sup> 42 U.S.C. § 677(b)(2)(C) (2002).

<sup>6</sup> 42 U.S.C. § 677(b)(2).

<sup>7</sup> 42 U.S.C. § 677(b)(2)(E).

## *Education and Training Vouchers*

The Educational and Training Vouchers Program (ETV) for children aging out of foster care was added to the CFCIP in 2002. ETV provides resources specifically to meet the education and training needs of youth aging out of foster 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.<sup>8</sup>

## *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 youth in foster care and young adults who were formerly in foster care.<sup>9</sup> Those service categories include:<sup>10</sup>

<b>CATEGORIES OF SERVICES</b>	<b>SERVICES INCLUDED</b>	<b>ELIGIBILITY</b>
<b>PRE-INDEPENDENT LIVING SERVICES</b>	Life skills training, educational field trips and conferences.	13 and 14 year olds in foster care.
<b>LIFE SKILLS SERVICES</b>	Training to develop banking and budgeting skills, parenting skills, and time management and organizational skills, educational support, employment training, and counseling.	15,16, and 17 year olds in foster care.
<b>SUBSIDIZED INDEPENDENT LIVING SERVICES</b>	Living arrangements that allow the child to live independently of the daily care and supervision of an adult in a setting that is not required to be licensed under s. 409.175, F.S.	16 and 17 year olds demonstrating independent living skills.
<b>AFTERCARE SUPPORT SERVICES</b>	Mentoring and tutoring, mental health services and substance abuse counseling, life skills classes, including credit management and preventive health activities, parenting classes, job and career skills training, counselor consultations, temporary financial assistance, and financial literacy skills training.	18 – 22 year olds
<b>ROAD-TO-INDEPENDENCE PROGRAM</b>	Stipend based on a needs assessment.	18 – 22 year olds who have or have to finished high school and want further education.
<b>TRANSITIONAL SUPPORT SERVICES</b>	Funding and services, which may include financial, housing, counseling, employment, education, mental health, and disability services.	18 – 22 year olds.

<sup>8</sup> 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](http://www.acf.hhs.gov/programs/cb/programs_fund/state_tribal/jh_chafee.htm) (Last visited March 18, 2011).

<sup>9</sup> 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).

<sup>10</sup> s. 409.1451, F.S.

### ***Fostering Connections to Success and Increasing Adoptions Act***

The Fostering Connections to Success and Increasing Adoptions Act<sup>11</sup> enacted in 2008, was designed to improve outcomes for children in foster 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 child 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 foster 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.<sup>12</sup>

### ***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.<sup>13</sup> Concerns continue to be raised as to whether those services are adequate to prepare foster youth to live independently as adults, whether all eligible youth are being served, and whether the

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<sup>11</sup> Public Law 110-351.

<sup>12</sup> 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).

<sup>13</sup> *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](http://www.dcf.state.fl.us/indliving/docs/ILSurveyChartbook20090105_AdvanceCopy.pdf). (Last visited March 15, 2011).

direction and oversight of community-based care lead agencies and providers are sufficient to ensure that the goals of the program are being met.<sup>14</sup>

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 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 the Florida Safe Families Network specific to the independent living (IL) program; and
- Department monitoring efforts were not sufficient to ensure IL program compliance.<sup>15</sup>

### III. Effect of Proposed Changes:

The bill amends s. 39.013, F.S., to remove the provision allowing a young adult to petition the court for continued jurisdiction for a period of time not to exceed one year after the young adult reached 18 years of age and provides that a young adult who is approved for Foundations for Success services may continue under court jurisdiction until he or she reaches 21 years of age or

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<sup>14</sup> *Id.*

<sup>15</sup> Preliminary And Tentative Audit Findings. Department Of Children And Family Services. Independent Living Transition Services Program. Office of the Auditor General. March 3, 2011.

is terminated from the program.<sup>16</sup> Court jurisdiction is extended for the purpose of reviewing the young adult's transition and permanency plans and the status of the services being provided. The court may not review the amount of the stipend provided to the young adult.

The bill creates s. 39.605, F.S., which restructures the current system for providing independent transition services to children under 18 years of age, including the following:

- Combining the categories of “preindependent living services” that provides services to children are 13 and 14 years of age, and “life skills services” that provides services to children who are 15-17 years of age, into one broader category that includes children who are 13-17 years of age.
- Creating provisions relating to “quality parenting services” to provide caregivers the training, support, and services needed to teach children in out-of-home care the necessary life skills and to assist the children to build a transition to independent, self-sufficient adulthood;
- Requiring the development of a transition plan during the 90-day period before the child turns 18 years of age. The transition plan must be included as part of the judicial review;
- Renaming the “subsidized independent living services” program as the “early entry into the Foundations for Success” program; and
- Providing rulemaking authority to the department to administer the section.

The bill creates s. 39.911, F.S., that provides definitions for the following terms:

- “Child” which means an individual younger than 21 years of age for purposes of participation in the Foundations for Success program;
- “Foundations for Success” which means a program of services for children who reach 18 years of age and opt to remain in out-of-home care for an extended period of time. These services include case work, support services, housing, and an annual judicial review;
- “Jumpstart to Success” which means a temporary support system that serves young adults between the ages of 18 and 20 who decide not to participate in the Foundations for Success program or do not meet the eligibility requirements for other services. Services under this program include limited cash assistance, access to an independent living counselor, and other supportive services;
- “Needs assessment” which means an assessment of the child's or young adult's need for cash assistance through any one of the independent living services programs;
- “Pathways to Success” which means an education program for eligible young adults between the ages of 18 and 22 who are fulltime students at a postsecondary institutions approved by the department;
- “Qualifying residential facility” which means a juvenile residential commitment or secure detention facility or an adult correctional facility; and
- “Young adult” which means an individual who is at least 21 years of age but not more than 23 years of age.

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<sup>16</sup> The ability for states to receive federal funding to extend foster care beyond 18 years of age is an option under the Fostering Connections Act.

The bill creates s. 39.912, F.S., that specifies the provisions of the Pathways to Success, Foundations for Success, and Jumpstart to Success programs.<sup>17</sup>

### **Pathways to Success**

This program appears to replace the Road-to-Independence Program and is intended to help eligible students who are former foster children receive the educational and vocational training needed to achieve independence. A young adult who has earned a standard high school diploma or its equivalent and who is attending a postsecondary or vocational school approved by the department full-time is eligible for the program. Young adults with a disability may be eligible to attend part-time. A stipend is provided based on a needs assessment which includes consideration of other grants, scholarships, waivers and earnings of the young adult. The young adult must meet certain specified progress requirements for continued eligibility.

### **Foundations for Success**

This program is for eligible young adults who decide to voluntarily remain in out-of-home care up to their 21<sup>st</sup> birthday. The program provides:

- Two levels of services; one providing greater supervision and financial direction:
  - Basic services are provided to a young adult who has not completed high school;
  - More advanced services are provided to a young adult who decides to remain in the program after completing high school;
- Cash assistance paid directly to the child, with the amount to be determined by a needs assessment;
- Eligibility requirements which require the young adult to be engaged in the following activities to equal a full-time or 40-hour week:
  - Working to complete secondary education or a program leading to an equivalent credential, including high school or preparation for a general equivalency diploma exam;
  - Full-time enrollment in a university, college, or vocational or trade school that provides postsecondary or vocational education;
  - Part-time enrollment in an institution that provides postsecondary or vocational education or a program designed to promote or remove barriers to employment and part-time employment at one or more places of employment; or
  - Participation in a full-time program or activity designated to promote or remove barriers to employment;
- For an annual judicial review;
- For renewal of services and cash assistance and termination for cause.

### **Jumpstart to Success**

This program is for young adults who have not yet reached 21 years of age, and benefits are limited to a total of 12 cumulative months between the ages of 18 and 21. The age and number

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<sup>17</sup> This section and these programs restructure and replace the provisions of s. 409.1451, F.S., related to the Road-to-Independence Program.

of months for benefits may be extended in extenuating circumstances. Entry into the program requires development of a transition plan.

The bill provides for an appeals process for a child or young adult who is the subject of an adverse eligibility determination for services or termination of services made by the department. The bill requires the department to develop outcome and other performance measures for the independent living program. The bill provides for a transition period for young adults currently receiving services under s. 409.1451, F.S.

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:

None.

C. Government Sector Impact:

The department has reported that the provisions of the bill will be revenue neutral.

#### **VI. Technical Deficiencies:**

None.



**VII. Related Issues:**

There are a number of inconsistencies in the bill including, but not limited to:

- On lines 412-443, the bill creates a new paragraph titled, “Quality parenting services.” Only one subparagraph contains provisions related to training for caregivers, while the other two subparagraphs are related to the department conducting assessments;
- The newly created definitions for the terms “Foundations for Success,” “Jumpstart to Success,” and “Pathways to Success,” contain substantive law which should not be included in a definition. The definition of the term, “needs assessment” contains rulemaking authority for the department which should not appear in a definition. Also, while there is a definition for the term, “qualifying residential facility”, the term is not used in the bill;
- On lines 682-684, the bill provides rulemaking authority to the department to define what constitutes full-time enrollment. It is unclear why the department would be making that determination;
- On lines 731-759, the bill refers to two levels of services in the Foundations for Success program, but the bill does not provide any information about what services are included in each level;
- On lines 830-832, the bill refers to “an eligible child may voluntarily opt into the Jumpstart program,” but the bill does not specify the criteria that would make a child eligible.

**VIII. Additional Information:**

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

None.

- B. **Amendments:**

None.