

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015

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SENATE BILL 424
Judiciary I Committee Substitute Adopted 6/2/15

Short Title: Fostering Success.

(Public)

Sponsors:

Referred to:

March 26, 2015

A BILL TO BE ENTITLED

AN ACT TO EXTEND THE PROVISION OF FOSTER CARE TO THE AGE OF TWENTY-ONE YEARS AND MAKE VARIOUS CONFORMING STATUTORY CHANGES; AUTHORIZE THE SOCIAL SERVICES COMMISSION TO ADOPT RULES IMPLEMENTING THE EXPANSION OF FOSTER CARE UNTIL AGE TWENTY-ONE; PROVIDE FOR THE EXTENSION OF GUARDIANSHIP SERVICES UNTIL AGE TWENTY-ONE; REQUIRE THE SUBMISSION OF A STATE PLAN AMENDMENT TO DRAW DOWN FEDERAL IV-E FUNDS FOR THE EXPANSION OF FOSTER CARE UNTIL AGE TWENTY-ONE; AND APPROPRIATE FUNDS TO IMPLEMENT THE PURPOSES OF THIS ACT.

Whereas, national research documents the long-term benefits to youth of completing high school, including decreased unemployment rates, decreased reliance on public assistance, decreased rates of incarceration, increased lifetime earnings, improved health choices, and better education outcomes of subsequent generations; and

Whereas, these benefits increase even more with any postsecondary education attainment; and

Whereas, national research has demonstrated that the increase in postsecondary education attainment associated with allowing foster youth to remain in care until they are 21 years old, and the resulting increase in lifetime earnings associated with postsecondary education, mean an estimated two-dollar increase in lifetime earnings for every dollar spent on keeping foster youth in care beyond age 18; Now, therefore, The General Assembly of North Carolina enacts:

SECTION 1. G.S. 108A-48 reads as rewritten:

"§ 108A-48. State Foster Care Benefits Program.

(a) The Department is authorized to establish a State Foster Care Benefits Program with appropriations by the General Assembly for the purpose of providing assistance to children who are placed in foster care facilities by county departments of social services in accordance with the rules and regulations of the Social Services Commission. Such appropriations, together with county contributions for this purpose, shall be expended to provide for the costs of keeping children in foster care facilities.

~~(b) No benefits provided by this section shall be granted to any individual who has passed his eighteenth birthday unless he is less than 21 years of age and is a full-time student or has been accepted for enrollment as a full-time student for the next school term pursuing a high school diploma or its equivalent; a course of study at the college level; or a course of vocational or technical training designed to fit him for gainful employment.~~



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1 (c) The Department may continue to provide benefits pursuant to this section to an
2 individual who has attained the age of 18 years and chosen to continue receiving foster care
3 services until reaching 21 years of age if the individual is (i) completing secondary education or
4 a program leading to an equivalent credential, (ii) enrolled in an institution that provides
5 postsecondary or vocational education, (iii) participating in a program or activity designed to
6 promote, or remove barriers to, employment, (iv) employed for at least 80 hours per month, or
7 (v) incapable of completing the educational or employment requirements of this subsection due
8 to a medical condition or disability.

9 (d) With monthly supervision and oversight by the director of the county department of
10 social services or a supervising agency, an individual receiving benefits pursuant to subsection
11 (c) of this section may reside outside a foster care facility in a college or university dormitory
12 or other semisupervised housing arrangement approved by the director of the county
13 department of social services and continue to receive benefits pursuant to this section."

14 **SECTION 2.** G.S. 108A-49 is amended by adding a new subsection to read:

15 "(e) If all other eligibility criteria are met, adoption assistance payments may continue
16 until the beneficiary reaches the age of 21 if the beneficiary was adopted after reaching the age
17 of 16 but prior to reaching the age of 18."

18 **SECTION 3.** G.S. 108A-49.1 reads as rewritten:

19 "**§ 108A-49.1. Foster care and adoption assistance payment rates.**

20 (a) The maximum rates for State participation in the foster care assistance program are
21 established on a graduated scale as follows:

- 22 (1) \$475.00 per child per month for children from birth through five years of
23 age.
24 (2) \$581.00 per child per month for children six through 12 years of age.
25 (3) \$634.00 per child per month for children at least 13 through 18 but less than
26 21 years of age.

27 (b) The maximum rates for the State adoption assistance program are established
28 consistent with the foster care rates as follows:

- 29 (1) \$475.00 per child per month for children from birth through five years of
30 age.
31 (2) \$581.00 per child per month for children six through 12 years of age.
32 (3) \$634.00 per child per month for children at least 13 through 18 but less than
33 21 years of age.

34 (c) The maximum rates for the State participation in human immunodeficiency virus
35 (HIV) foster care and adoption assistance are established on a graduated scale as follows:

- 36 (1) \$800.00 per child per month with indeterminate HIV status.
37 (2) \$1,000 per child per month with confirmed HIV infection, asymptomatic.
38 (3) \$1,200 per child per month with confirmed HIV infection, symptomatic.
39 (4) \$1,600 per child per month when the child is terminally ill with complex
40 care needs.

41 In addition to providing board payments to foster and adoptive families of HIV-infected
42 children, any additional funds remaining that are appropriated for purposes described in this
43 subsection shall be used to provide medical training in avoiding HIV transmission in the home.

44 (d) The State and a county participating in foster care and adoption assistance shall each
45 contribute fifty percent (50%) of the nonfederal share of the cost of care for a child placed by a
46 county department of social services or child-placing agency in a family foster home or
47 residential child care facility. A county shall be held harmless from contributing fifty percent
48 (50%) of the nonfederal share of the cost for a child placed in a family foster home or
49 residential child care facility under an agreement with that provider as of October 31, 2008,
50 until the child leaves foster care or experiences a placement change.

1 (e) A county shall be held harmless from contributing fifty percent (50%) of the
2 nonfederal share of the cost for an individual receiving benefits pursuant to G.S. 108A-48(c)."

3 **SECTION 4.** G.S. 131D-10.2 reads as rewritten:

4 **"§ 131D-10.2. Definitions.**

5 For purposes of this Article, unless the context clearly implies otherwise:

6 ...

7 (3) "Child" means an individual less than ~~18~~21 years of age, who has not been
8 emancipated under the provisions of Article 35 of Chapter 7B of the General
9 Statutes.

10 ...

11 (9a) "Foster Parent" means any individual who is ~~18~~21 years of age or older who
12 is licensed by the State to provide foster care.

13"

14 **SECTION 5.** Part 1 of Article 1A of Chapter 131D of the General Statutes is
15 amended by adding a new section to read:

16 **"§ 131D-10.2A. Foster care until 21 years of age.**

17 (a) A child placed in foster care who has attained the age of 18 years may continue
18 receiving foster care services until reaching 21 years of age as provided by law. A child who
19 initially chooses to opt out of foster care upon attaining the age of 18 years may opt to receive
20 foster care services at a later date until reaching 21 years of age.

21 (b) A child who has attained the age of 18 years and chosen to continue receiving foster
22 care services until reaching 21 years of age may continue to receive benefits pursuant to Part 4
23 of Article 2 of Chapter 108A of the General Statutes upon meeting the requirements under
24 G.S. 108A-48(c)."

25 **SECTION 6.** G.S. 131D-10.5 reads as rewritten:

26 **"§ 131D-10.5. Powers and duties of the Commission.**

27 In addition to other powers and duties prescribed by law, the Commission shall exercise the
28 following powers and duties:

29 (1) Adopt, amend and repeal rules consistent with the laws of this State and the
30 laws and regulations of the federal government to implement the provisions
31 and purposes of this ~~Article;~~Article.

32 (2) Issue declaratory rulings as may be needed to implement the provisions and
33 purposes of this ~~Article;~~Article.

34 (3) Adopt rules governing procedures to appeal Department decisions pursuant
35 to this Article granting, denying, suspending or revoking ~~licenses;~~licenses.

36 (4) Adopt criteria for waiver of licensing rules adopted pursuant to this
37 ~~Article;~~Article.

38 (5) Adopt rules on documenting the use of physical restraint in residential
39 child-care ~~facilities;~~facilities.

40 (6) Adopt rules establishing personnel and training requirements related to the
41 use of physical restraints and time-out for staff employed in residential
42 child-care ~~facilities;~~ and facilities.

43 (7) Adopt rules establishing educational requirements, minimum age, relevant
44 experience, and criminal record status for executive directors and staff
45 employed by child placing agencies and residential child care facilities.

46 (8) Adopt any rules necessary for the expansion of foster care for individuals
47 who have attained the age of 18 years and chosen to continue receiving
48 foster care services to 21 years of age in accordance with G.S. 131D-10.2A."

49 **SECTION 7.(a)** Article 9 of Chapter 7B of the General Statutes is amended by
50 adding a new section to read:

51 **"§ 7B-910.1. Review of voluntary foster care placements with young adults.**

1 (a) The court shall review the placement of a young adult in foster care authorized by
2 G.S. 108A-48(c) when the director of social services and a young adult who was in foster care
3 as a juvenile enter into a voluntary placement agreement. The review hearing shall be held not
4 more than 90 days from the date the agreement was executed, and the court shall make findings
5 from evidence presented at this review hearing with regard to all of the following:

6 (1) Whether the placement is in the best interest of the young adult in foster
7 care.

8 (2) The services that have been or should be provided to the young adult in
9 foster care to improve the placement.

10 (3) The services that have been or should be provided to the young adult in
11 foster care to further the young adult's educational or vocational ambitions, if
12 relevant.

13 (b) Upon written request of the young adult or the director of social services, the court
14 may schedule additional hearings to monitor the placement and progress toward the young
15 adult's educational or vocational ambitions.

16 (c) No guardian ad litem under G.S. 7B-601 will be appointed to represent the young
17 adult in the initial or any subsequent hearing.

18 (d) The clerk shall give written notice of the initial and any subsequent review hearings
19 to the young adult in foster care and the director of social services at least 15 days prior to the
20 date of the hearing."

21 **SECTION 7.(b)** G.S. 7B-401.1 is amended by adding a new subsection to read:

22 "(i) Young Adult in Foster Care. – In proceedings held pursuant to G.S. 7B-910.1, the
23 young adult in foster care and the director of the department of social services are parties."

24 **SECTION 8.(a)** The Department of Health and Human Services, Division of
25 Social Services (Division), shall develop a plan for the expansion of foster care services for
26 individuals who have attained the age of 18 years and opt to continue receiving foster care
27 services until reaching 21 years of age. The Division shall report on the plan to the Joint
28 Legislative Oversight Committee on Health and Human Services and the Fiscal Research
29 Division by October 1, 2015. The Division shall report on the plan as implemented to the Joint
30 Legislative Oversight Committee on Health and Human Services and the Fiscal Research
31 Division by November 1, 2016.

32 **SECTION 8.(b)** No later than 60 days after the Department implements the plan
33 for the expansion of foster care services as required under subsection (a) of this section, the
34 Division shall submit a state plan amendment to the U.S. Department of Health and Human
35 Services Administration for Children and Families to make federal payments for foster care and
36 adoption assistance, as applicable, under Title IV-E, available to a person meeting the
37 requirements of G.S. 108A-48(c), as enacted in Section 1 of this act.

38 **SECTION 9.** Regarding the provision of foster care services, the Department of
39 Health and Human Services, Division of Social Services, may provide for the financial support
40 of children who are deemed to be (i) in a permanent family placement setting, (ii) eligible for
41 legal guardianship, and (iii) otherwise unlikely to receive permanency. The Division of Social
42 Services shall design the Guardianship Assistance Program (GAP) to include provisions for
43 extending guardianship services for individuals who have attained the age of 18 years and opt
44 to continue to receive guardianship services until reaching 21 years of age if the individual is (i)
45 completing secondary education or a program leading to an equivalent credential, (ii) enrolled
46 in an institution that provides postsecondary or vocational education, (iii) participating in a
47 program or activity designed to promote, or remove barriers to, employment, (iv) employed for
48 at least 80 hours per month, or (v) incapable of completing the educational or employment
49 requirements of this section due to a medical condition or disability. The Guardianship
50 Assistance Program rates shall reimburse the legal guardian for room and board and be set at
51 the same rate as the foster care room and board rates in accordance with rates established under

1 G.S. 108A-49.1. The Social Services Board shall adopt rules establishing a Guardianship
2 Assistance Program to implement this section, including defining the phrase "legal guardian" as
3 used in this section.

4 **SECTION 10.** There is appropriated from the General Fund to the Department of
5 Health and Human Services, Division of Social Services, the sum of fifty-six thousand
6 forty-two dollars (\$56,042) for the 2015-2016 fiscal year to develop the plan for the expansion
7 of foster care services as authorized under Section 8 of this act.

8 **SECTION 11.** There is appropriated from the General Fund to the Department of
9 Health and Human Services, Division of Social Services, the sum of one million three hundred
10 twenty-eight thousand four hundred ninety-nine dollars (\$1,328,499) for the 2016-2017 fiscal
11 year to implement the plan developed pursuant to Section 8 of this act.

12 **SECTION 12.** Any agreement entered into pursuant to G.S. 108A-48(b) prior to
13 the effective date of Section 1 of this act shall remain in full force and effect, and no provision
14 of this act shall be construed to affect or alter such an agreement.

15 **SECTION 13.** Section 1 of this act becomes effective August 1, 2016, and applies
16 to agreements entered into on or after that date. Sections 8 and 12 of this act are effective when
17 they become law. Section 10 of this act becomes effective October 1, 2015. Section 11 of this
18 act becomes effective July 1, 2016. The remainder of this act becomes effective August 1,
19 2016.