

The Florida Senate
PROFESSIONAL STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

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

Prepared By: Judiciary Committee

BILL: CS/SB 2114

INTRODUCER: Judiciary Committee, Senator Rich and others

SUBJECT: Independent Living Transition Services

DATE: April 12, 2007 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Toman	Jameson	CF	Fav/1 amendment
2.	Cibula	Maclure	JU	Fav/CS
3.			HA	
4.				
5.				
6.				

I. Summary:

This bill makes a number of changes to the laws pertaining to foster care. Specifically, the bill:

- Permits a caseworker at an agency at which a minor has been placed in foster care to sign the minor’s application for a learner’s driver’s license without assuming liability damages caused by the minor driver;
- Permits the caseworker at the agency at which a minor has been placed in foster care to sign a driver’s license application pursuant to a court-approved transition plan without assuming personal liability for damages caused by the minor driver;
- Provides that foster parents or caregivers who develop a written plan of goals for a transitioning child will not have their licensure status jeopardized as a result of the actions of the child pursuant to the plan;
- Makes young adults who finish high school before they age out of foster care eligible for the Road to Independence Program;
- Makes young adults who are placed with a court-approved dependency guardian or adopted from foster care after reaching age 16 eligible for independent living transition services, specifically for the Road to Independence Program;
- Mandates that youth between the ages of 16 and 18 be formally evaluated for subsidized independent living services under certain circumstances; and
- Allows certain foster children to contract for financial services despite being minors.

The bill substantially amends the following sections of the Florida Statutes: 322.09, 409.1451, and 409.903. The bill also creates section 743.044, Florida Statutes.

II. Present Situation:

Independent Living Transition Services

According to the Office of Program Policy Analysis and Government Accountability (OPPAGA):

Independent living transition services are designed to help foster youth and young adults formerly in foster care obtain life skills and education so that they can live independently. Adolescence is a time of growth, learning, and developing independence, and most youth, with the support of their family, make a successful transition to adulthood. However, youth in the foster care system often lack the guidance, support, and training to learn the skills necessary to function independently when they leave the system.

To improve the success of foster youth, Congress passed the Foster Care Independence Act of 1999 (Public Law 106-169) which provides funding to states to improve services and expand eligibility for independent living services. This act also mandates reporting requirements and provides flexibility for state programs. In 2002, the Legislature created s. 409.1451, *Florida Statutes*, which established a framework for Florida's independent living program.¹

Florida law provides a variety of independent living transition services to enable older children from age 13 to 17 inclusive who are currently in foster care to develop the skills necessary for successful transition to adulthood and self-sufficiency.² Florida also provides a category of services for young adults from age 18 to 23 who were in foster care on their 18th birthdays. Young adults must meet additional eligibility requirements specified for particular services.³ Based on the availability of funds, these services include aftercare support services, the Road to Independence Program (RTI), and transitional support services.⁴

Florida's Independent Living Transition Services are summarized as follows:⁵

¹ OFFICE OF PROGRAM POLICY ANALYSIS AND GOVERNMENT ACCOUNTABILITY, REPORT NO. 04-78, INDEPENDENT LIVING MINIMUM STANDARDS RECOMMENDED FOR CHILDREN IN FOSTER CARE 1-2 (November 2004), *available at* <http://www.oppaga.state.fl.us/reports/health/r04-78s.html>.

² *Id.* at 2.

³ Section 409.1451(2)(b), F.S.

⁴ Section 409.1451(5), F.S.

⁵ OFFICE OF PROGRAM POLICY ANALYSIS AND GOVERNMENT ACCOUNTABILITY, *supra* note 1, at 2-3; s. 409.1451, F.S.

Service	Eligibility	Description
Pre-independent living services	All 13-14-year-olds in foster care	<ul style="list-style-type: none"> • Life skills training • Educational field trips • Conferences
Life skills services	All 15-17-year-olds in foster care	<ul style="list-style-type: none"> • Banking and budgeting skills • Interviewing skills • Parenting skills • Educational support • Employment training • Counseling
Subsidized independent living services	Some 16 and 17-year-olds chosen by the department as being able to demonstrate independent living skills	Arrangements that allow a child to live independently of the daily care and supervision of an adult.
Aftercare support services	Youth aged 18-22, inclusively, who were in foster care and who apply for services after leaving foster care at age 18 but before reaching age 23. Temporary assistance provided to prevent homelessness. The amount provided is based on funds available.	<p>Services to assist young adults who were formerly in foster care to continue to develop the skills and abilities necessary for independent living.</p> <ul style="list-style-type: none"> • Mentoring and tutoring • Mental health services and substance abuse counseling • Life skills classes, including credit management and preventative health activities • Parenting classes • Job skills training • Counselor consultations • Temporary financial assistance
Road to Independence Program	Youth aged 18-20 (initial award) and under age 23 (renewal awards) who were dependent and living in foster care at the time of 18th birthday.	Financial assistance to help former foster children to receive the educational and vocational training needed to achieve independence.
	Must meet one of the following criteria: (1) earned a high school diploma or its equivalent and has been admitted for full-time enrollment in an eligible postsecondary education institution; (2) enrolled full time in an accredited high school; or (3) is enrolled full time in an accredited adult education program designed to provide the student with a high school diploma or its equivalent.	Amount of award based on the living and educational needs of the young adult and may be up to, but shall not exceed, the amount of earnings that the student would have been eligible to earn working a 40-hour-a-week federal minimum wage job.
Transitional Support Services	Youth aged 18-22, inclusively who were in foster care at the time of their 18th birthday.	Other appropriate short-term services, which may include:
	Must demonstrate that the services are critical to the young adult's own efforts to develop a personal support system and achieve self-sufficiency.	<ul style="list-style-type: none"> • Financial • Housing • Counseling • Employment • Education • Mental health • Disability • Other services, if the young adult demonstrates that the services are "critical" to achieve self-sufficiency

Florida's RTI program is intended to help former foster children receive the educational and vocational training needed to achieve independence. In order to receive RTI benefits, a recipient must be a former dependent child, who was living in foster care at the time of his or her 18th birthday, and who has earned a standard high school diploma or its equivalent and is enrolled full-time in an eligible postsecondary education institution, or who is enrolled in an accredited high school or adult education program.⁶ Former foster youth are exempt from paying tuition at state universities, so the RTI funds are often used to support their housing and expenses. Under current law, a child must exit foster care at age 18 in order to be eligible for the RTI program. However, a young adult who is otherwise eligible for the RTI program may continue to reside with his or her foster family.⁷

Young adults who leave foster care at age 18 but request services prior to age 23 may be eligible to receive aftercare support services. Aftercare services include, but are not limited to, mentoring and tutoring, mental health services and substance abuse counseling, life skills classes, parenting classes, job skills training, and temporary financial assistance.⁸

These young adults may also receive other short-term, transitional support services, which can include financial assistance, housing, counseling, employment, education, mental health, disability, and other services. Eligibility for transitional support services includes a specific requirement that the young adult was living in foster care or subsidized independent living at the time of his or her 18th birthday.⁹

Obtaining adequate health care coverage is one of the biggest challenges for foster children transitioning to adulthood. Former foster youth who participate in the RTI program are automatically eligible to receive Medicaid coverage, but other former foster children are not.¹⁰ Section 409.1451(9), F.S., directs the Department of Children and Family Services to enroll eligible young adults in the KidCare program.

Ability to Contract

Minors are not able to enter into enforceable contracts. This inability has been reported to be a barrier to foster children achieving independence, as they cannot open checking or savings accounts. As a result, many foster children have no experience managing money when their foster child status ends on their 18th birthday.

Florida law currently provides for the removal of the disability of nonage for a number of specific purposes, including executing residential leases,¹¹ borrowing money for educational

⁶ Section 409.1451(5)(b), F.S.

⁷ *Id.*

⁸ Section 409.1451 (5)(a), F.S.

⁹ Section 409.1451(5)(c), F.S.

¹⁰ *See s.* 409.903(4), F.S.

¹¹ Section 743.045, F.S.

purposes,¹² blood donation without parental consent,¹³ and receiving emergency care or treatment without parental consent.¹⁴

Driver's Licenses

Section 322.09(1)(a), F.S., requires that when a person under the age of 18 applies for a driver's license, the application must be signed by a parent, guardian or other responsible adult. Section 322.09(2), F.S., provides that the negligence or willful misconduct of a minor driver is imputed to the adult who signs the application, and that the adult and the minor are jointly and severally liable for any damages caused by the negligence or willful misconduct of the minor. Pursuant to s. 322.09(4), F.S., however, a foster parent or a representative of a residential group home who signs a minor's application for a learner's permit is exempt from liability based on the signature.

Nevertheless, the owner of a vehicle may be liable for the damages caused by a foster child who drives the vehicle. "The dangerous instrumentality doctrine 'imposes strict vicarious liability upon the owner of a motor vehicle who voluntarily entrusts that motor vehicle to an individual whose negligent operation causes damage to another.'"¹⁵

III. Effect of Proposed Changes:

This bill amends s. 322.09, F.S., by exempting a caseworker who signs a learner's driver's license application on behalf of a minor driver from liability for the negligence or willful misconduct of the minor driver. The bill also permits the caseworker at the agency at which a minor in foster care has been placed to sign a driver's license application pursuant to a court approved transition plan without assuming personal liability for damages caused by the minor driver.

The bill amends s. 409.1451(2)(b), F.S., adding a category of young adults to those eligible for independent living transition services. The bill includes as eligible those young adults who were placed with a court-approved dependency guardian or adopted from foster care after reaching age 16 and who spent at least 6 months in foster care within the 12 months preceding the adoption or placement. Under current law, this category of children is not eligible for independent living transition services due to the requirement that a child be living in foster care on his or her 18th birthday.

The bill also makes this category of young adults specifically eligible for the Road to Independence Program (RTI).¹⁶ Eligibility for the RTI program is further expanded to include young adults who otherwise meet the eligibility requirements (are now age 18 to 23 and were dependent children), but exited the foster care system due to an adoption after age 16 or

¹² Section 743.05, F.S.

¹³ Section 743.06, F.S.

¹⁴ Section 743.064, F.S.

¹⁵ *Toombs v. Alamo Rent-A-Car, Inc.*, 833 So. 2d 109, 110 n.2 (Fla. 2002) (quoting *Aurbach v. Gallina*, 753 So. 2d 60, 62 (Fla. 2000)).

¹⁶ Section 409.1451(5)(b), F.S.

placement with a court-approved dependency guardian. The RTI program will additionally include young adults who are currently living in foster care or subsidized independent living. Also amending s. 409.1451(3)(a), F.S., the bill provides that a foster parent or a caregiver who participates in the development of a written plan outlining age-appropriate independent living activities for a transitioning child cannot have his or her licensure status jeopardized as a result of the actions of the child in accordance with the plan.

Section 409.1451(4)(c), F.S., already makes a child who has reached age 16 eligible for subsidized independent living services, but the bill adds the requirement that a child who has reached age 16 to be formally evaluated for a subsidized independent living arrangement. The bill also amends s. 409.1451(5)(b)2., F.S., to make young adults who finish high school before they age out of foster care eligible for the Road to Independence Program.

The bill amends s. 409.903, F.S., to extend Medicaid eligibility from age 20 to age 21 for young adults formerly in foster care and who are eligible for other transition assistance services.

The bill removes the disability of nonage for certain minors for the purposes of securing depository financial services such as checking and savings accounts. The bill limits the exception to minors who:

- Have reached age 16;
- Have been adjudicated dependent;
- Are residing in an out-of-home placement; and
- Have completed a financial literacy class.

The bill requires the minor to obtain and present a court order, authorizes the minor to make and execute all documents necessary to obtain depository financial services, and provides that the execution of the documents will have the same effect as if they had been executed by an adult.

The bill provides an effective date of July 1, 2007.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

As described in section 409.903(4), F.S., eligibility for Medicaid includes all young adults eligible for services described in section 409.1451(5), F.S. If the population eligible for services under section 409.1451(5), F.S., is expanded, the population eligible for Medicaid benefits will also expand. In addition, the bill provides for one additional year of Medicaid coverage, up to age 21, for the eligible population. Both of these additions will increase the cost of Medicaid.

According to the Agency for Healthcare Administration, the fiscal impact of this bill requires additional funding for Medicaid coverage for an estimated 682 recipients at an amount of \$4,110,987 per fiscal year. The Medicaid services affected by this bill will be financed 43.09 percent General Revenue and 56.91 percent Medical Care Trust Fund.

The Department of Children and Family Services estimates the fiscal impact of the bill to the department to be \$1,201,676 for FY 2007-2008 and \$1,201,676 for FY 2008-2009, with the cost broken down as follows:

Case Coordinator¹⁷

Projected # of eligible clients for services	276
Projected # of Case Coordinators (desired ratio is 1:25)	11
Cost per FTE (based on prior year CBC Survey)	<u>\$62,500</u>
Case Coordinator's cost (at 60 percent based on IL LBR need)	\$414,000

¹⁷According to the Department of Children and Family Services, young adults age 18 to 23, especially those participating in the RTI program which requires periodic needs assessments and monitoring, need a significant amount of support provided by case coordinators. Due to the growth of this program, it is not possible for existing dependency case management staff to absorb the anticipated workload. Case coordination tasks require staff to assist young adults with assessing options, choices, making decisions, living with the consequences of those decisions, and applying lessons learned to the next life task. The desired caseload is 25:1.

Direct Services¹⁸

Projected # of eligible clients for services	276
Annual amount per client (based on IL LBR need)	<u>\$9,513</u>
Direct services need (at 60 percent based on IL LBR need and attrition)	\$787,676

Total Need **\$1,201,676**

Note: The fiscal impact above is based on historical data. During FY 2005-2006, 82 children were placed for adoption at age 16 or 17. Additionally, 194 children who were placed with guardians after age of 16 reached age 18 after spending at least 6 months in licensed care. The funding estimate above includes costs for case coordination (staff costs) and direct services (payments to young adults to attend school) for the estimated total of 276 children.

VI. Technical Deficiencies:

The terminology and exemption from liability in proposed subsection (5) of s. 322.09, F.S., is inconsistent with the terminology and exemption from liability in subsection (4). As such, the Legislature may wish to amend proposed subsection (5) of s. 322.09, F.S., to provide that a caseworker must verify a minor's driver's license application. Additionally, the Legislature may wish to clarify that the caseworker is exempt from liability for damages caused by the negligence of the minor driver.

VII. Related Issues:

None.

This Senate Professional Staff Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

¹⁸According to the Department of Children and Family Services, the amount of an RTI award is based on the living and educational needs of the young adult and may be up to, but may not exceed, the amount of earnings that the student would have been eligible to earn working a 40-hour-a-week federal minimum wage job. This maximum is calculated as \$892 per month (\$10,704 annually).

VIII. Summary of Amendments:

None.

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