

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2015

FILED SENATE  
Mar 25, 2015  
S.B. 424  
PRINCIPAL CLERK

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SENATE DRS35153-LUa-57 (02/11)

Short Title: Fostering Success.

(Public)

Sponsors: Senators Barringer, Harrington, and Tucker (Primary Sponsors).

Referred to:

A BILL TO BE ENTITLED

AN ACT TO EXTEND THE PROVISION OF FOSTER CARE TO THE AGE OF 19 YEARS AND MAKE VARIOUS CONFORMING STATUTORY CHANGES; AUTHORIZE THE SOCIAL SERVICES COMMISSION TO ADOPT RULES IMPLEMENTING THE EXPANSION OF FOSTER CARE THROUGH AGE 19; PROVIDE FOR THE EXTENSION OF GUARDIANSHIP SERVICES THROUGH AGE 19; REQUIRE THE SUBMISSION OF A STATE PLAN AMENDMENT TO DRAW-DOWN FEDERAL IV-E FUNDS FOR THE EXPANSION OF FOSTER CARE THROUGH AGE 19; 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 educational 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.~~ The Department may continue to provide benefits pursuant to this section to an individual who has attained the age of 18 years and chosen to continue receiving foster care services to 19 years of age if the individual is (i)



1 completing secondary education or a program leading to an equivalent credential, (ii) enrolled  
 2 in an institution that provides postsecondary or vocational education, (iii) participating in a  
 3 program or activity designed to promote, or remove barriers to, employment, (iv) employed for  
 4 at least 80 hours per month, or (v) incapable of completing the educational or employment  
 5 requirements of this subsection due to a medical condition or disability."

6 **SECTION 2.** G.S. 108A-49.1 reads as rewritten:

7 **"§ 108A-49.1. Foster care and adoption assistance payment rates.**

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

10 (1) \$475.00 per child per month for children from birth through five years of  
 11 age.

12 (2) \$581.00 per child per month for children six through 12 years of age.

13 (3) \$634.00 per child per month for children 13 through ~~18-19~~ years of age.

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

16 (1) \$475.00 per child per month for children from birth through five years of  
 17 age.

18 (2) \$581.00 per child per month for children six through 12 years of age.

19 (3) \$634.00 per child per month for children 13 through ~~18-19~~ years of age.

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

22 (1) \$800.00 per child per month with indeterminate HIV status.

23 (2) \$1,000 per child per month with confirmed HIV infection, asymptomatic.

24 (3) \$1,200 per child per month with confirmed HIV infection, symptomatic.

25 (4) \$1,600 per child per month when the child is terminally ill with complex  
 26 care needs.

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

30 (d) The State and a county participating in foster care and adoption assistance shall each  
 31 contribute fifty percent (50%) of the nonfederal share of the cost of care for a child placed by a  
 32 county department of social services or child-placing agency in a family foster home or  
 33 residential child care facility. A county shall be held harmless from contributing fifty percent  
 34 (50%) of the nonfederal share of the cost for a child placed in a family foster home or  
 35 residential child care facility under an agreement with that provider as of October 31, 2008,  
 36 until the child leaves foster care ~~or care~~, experiences a placement ~~change~~, or, if after  
 37 attaining the age of 18 years, the child chooses to continue receiving foster care or guardianship  
 38 services to age 19 years as provided by law."

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

40 **"§ 131D-10.2. Definitions.**

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

42 ...

43 (3) "Child" means an individual less than ~~18-19~~ years of age, who has not been  
 44 emancipated under the provisions of Article 35 of Chapter 7B of the General  
 45 Statutes.

46 ...

47 (9a) "Foster Parent" means any individual who is ~~18-19~~ years of age or older who  
 48 is licensed by the State to provide foster care.

49 ...."

50 **SECTION 4.** Part 1 of Article 1A of Chapter 131D of the General Statutes is  
 51 amended by adding a new section to read:

1 **"§ 131D-10.2A. Foster care through 19 years of age.**

2 (a) A child placed in foster care who has attained the age of 18 years may continue  
3 receiving foster care services to age 19 years as provided by law. A child who initially chooses  
4 to opt out of foster care upon attaining the age of 18 years may opt to receive foster care  
5 services at a later date up to 19 years of age.

6 (b) A child who has attained the age of 18 years and chosen to continue receiving foster  
7 care services to 19 years of age may continue to receive benefits pursuant to Part 4 of Article 2  
8 of Chapter 108A of the General Statutes upon meeting the requirements under  
9 G.S. 108A-48(b)."

10 **SECTION 5.** G.S. 131D-10.5 is amended by adding a new subdivision to read:

11 **"§ 131D-10.5. Powers and duties of the Commission.**

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

- 14 (1) Adopt, amend and repeal rules consistent with the laws of this State and the  
15 laws and regulations of the federal government to implement the provisions  
16 and purposes of this ~~Article;~~Article.
- 17 (2) Issue declaratory rulings as may be needed to implement the provisions and  
18 purposes of this ~~Article;~~Article.
- 19 (3) Adopt rules governing procedures to appeal Department decisions pursuant  
20 to this Article granting, denying, suspending or revoking ~~licenses;~~licenses.
- 21 (4) Adopt criteria for waiver of licensing rules adopted pursuant to this  
22 ~~Article;~~Article.
- 23 (5) Adopt rules on documenting the use of physical restraint in residential  
24 child-care ~~facilities;~~facilities.
- 25 (6) Adopt rules establishing personnel and training requirements related to the  
26 use of physical restraints and time-out for staff employed in residential  
27 child-care ~~facilities;~~and facilities.
- 28 (7) Adopt rules establishing educational requirements, minimum age, relevant  
29 experience, and criminal record status for executive directors and staff  
30 employed by child placing agencies and residential child care facilities.
- 31 (8) Adopt any rules necessary for the expansion of foster care for individuals  
32 who have attained the age of 18 years and chosen to continue receiving  
33 foster care services to 19 years of age in accordance with G.S. 131D-10.2A."

34 **SECTION 6.(a)** The Department of Health and Human Services, Division of  
35 Social Services, (Division) shall develop a plan for the expansion of foster care services for  
36 individuals who have attained the age of 18 years and opt to continue receiving foster care  
37 services to 19 years of age. The Division shall report on the plan to the Joint Legislative  
38 Oversight Committee on Health and Human Services and the Fiscal Research Division by  
39 October 1, 2015. The Division shall report on the plan as implemented to the Joint Legislative  
40 Oversight Committee on Health and Human Services and the Fiscal Research Division by  
41 November 1, 2016.

42 **SECTION 6.(b)** No later than 60 days after the Department implements the plan  
43 for the expansion of foster care services as required under subsection (a) of this section, the  
44 Division shall submit a state plan amendment to the U.S. Department of Health and Human  
45 Services Administration for Children and Families to make federal payments for foster care and  
46 adoption assistance, as applicable, under Title IV-E, available to a person meeting the  
47 requirements of G.S. 108A-48(b), as enacted in Section 1 of this act.

48 **SECTION 7.** Regarding the provision of foster care services, the Department of  
49 Health and Human Services, Division of Social Services, may provide for the financial support  
50 of children who are deemed to be (i) in a permanent family placement setting, (ii) eligible for  
51 legal guardianship, and (iii) otherwise unlikely to receive permanency. The Division of Social

1 Services shall design the Guardianship Assistance Program (GAP) to include provisions for  
2 extending guardianship services for individuals who have attained the age of 18 years and opt  
3 to continue to receive guardianship services to age 19 years if the individual is (i) completing  
4 secondary education or a program leading to an equivalent credential, (ii) enrolled in an  
5 institution that provides postsecondary or vocational education, (iii) participating in a program  
6 or activity designed to promote, or remove barriers to, employment, (iv) employed for at least  
7 80 hours per month, or (v) incapable of completing the educational or employment  
8 requirements of this section due to a medical condition or disability. The Guardianship  
9 Assistance Program rates shall reimburse the legal guardian for room and board and be set at  
10 the same rate as the foster care room and board rates in accordance with rates established under  
11 G.S. 108A-49.1. The Social Services Board shall adopt rules establishing a Guardianship  
12 Assistance Program to implement this section, including defining the phrase "legal guardian" as  
13 used in this section.

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

18 **SECTION 9.** There is appropriated from the General Fund to the Department of  
19 Health and Human Services, Division of Social Services, the sum of one million three hundred  
20 twenty-eight thousand four hundred ninety-nine dollars (\$1,328,499) for the 2016-2017 fiscal  
21 year to implement the plan developed pursuant to Section 6 of this act.

22 **SECTION 10.** Section 8 of this act becomes effective October 1, 2015. Section 9  
23 of this act becomes effective July 1, 2016. The remainder of this act becomes effective August  
24 1, 2016.