

ACT 252

S.B. NO. 1340

A Bill for an Act Relating to Foster Care.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. The legislature finds that the Fostering Connections to Success and Increasing Adoptions Act of 2008 (P.L. 110-351) allows states to claim federal reimbursement for the costs of caring for and supervising Title IV-E eligible foster youth until their twenty-first birthday.

Compared to their peers, young people who have been in the foster care system are more likely to become homeless and unemployed when they age out of foster care. They are less likely to graduate from high school or attend post-secondary education. They are more likely to have physical, developmental, and mental health challenges. Unlike their peers, most foster care youths lose their support system when they reach the age of eighteen years and are discharged from state custody.

Evidence from several studies shows young people who continue to receive foster care services until age twenty-one have better outcomes when they leave foster care compared to those who left at age eighteen. These studies have shown an increase in positive outcomes in educational achievement and employment, contributing to a more stable workforce and increased lifetime earnings. Studies also show a decrease in negative outcomes, including homelessness, dependency on public assistance, drug dependency, and criminal activities.

The legislature finds that this is not surprising, considering that research shows the brain is not fully developed until the early to mid-twenties, suggesting that instead of immediate transition from adolescence to adulthood, a young person experiences gradual development during a longer phase called emerging adulthood. Transitioning youth need extra support as they accomplish developmental milestones and progress toward full-fledged adulthood.

The legislature further finds that extending independent living services, case and permanency planning, placement, and judicial oversight to age twenty-one benefits young people who urgently need continued support and services. Extended care can provide safe and stable housing for young people who have not achieved permanence by age eighteen and are not ready to be on their own.

Moreover, extended care provides young people with access to additional child welfare resources that can be used to help a young person continue to build a network of support and permanent relationships. To ensure young adults never leave care without a permanently committed, caring adult in their life, it is vital that permanency planning continue, with the young adult leading the effort. This ongoing permanency planning for non-minor dependents over the age of eighteen should also provide young people with access to competent legal advocates and meaningful court reviews.

Accordingly, the purpose of this Act is to add a new part to chapter 346, Hawaii Revised Statutes, to establish the young adult voluntary foster care program to care for and supervise eligible foster youth until their twenty-first birthday.

SECTION 2. Chapter 346, Hawaii Revised Statutes, is amended by adding a new part to be appropriately designated and to read as follows:

“PART . YOUNG ADULT VOLUNTARY FOSTER CARE PROGRAM

§346-A Purpose. The purpose of this part is to establish the young adult voluntary foster care program, to care for and assist eligible foster youth until their twenty-first birthday. The young adult voluntary foster care program will support former foster youth in the transition to adulthood and in becoming independent and self-sufficient.

§346-B Definitions. As used in this part, unless the context clearly indicates otherwise:

“Case plan” means a plan developed by the department, in consultation with the young adult, as developmentally appropriate, containing a written description of the programs and services that will help the young adult transition from foster care to independent living.

“Court” means one of the family courts established pursuant to chapter 571.

“Department” means the department of human services and its authorized representatives.

“Foster custody” means the legal status created when the department places a child outside of the family home with the agreement of the legal custodian or pursuant to court order as set forth in chapter 587A.

“Party” means the department or the young adult who is subject to a proceeding brought under this part and may include any other person whose participation the court finds is in the best interest of the young adult.

“Permanent custody” means the legal status created by order of the court after the termination of parental rights as set forth in chapter 587A.

“Young adult” means a person who has attained the age of eighteen or older, but is less than twenty-one years of age.

§346-C Rights of the young adult. (a) Young adults have a right to meaningful court reviews, including the right to:

- (1) Receive notice of any court hearings and reviews and any other case related proceedings and meetings;
- (2) Be involved in the development of a personalized case plan;
- (3) Be present at all court hearings and reviews and be able to address the court during those hearings; provided that young adults may waive their right to be present at the court hearings and reviews or may request to participate in the court hearings and reviews by phone; and
- (4) Request competent legal counsel.

(b) Nothing in this part shall be construed to abrogate any other rights that a person who has attained eighteen years of age, may have as an adult under state law.

§346-D Jurisdiction. The family courts established pursuant to chapter 571 shall have exclusive jurisdiction over proceedings brought under this part.

§346-E Eligibility. A young adult may continue to receive services under this part if the young adult meets the following criteria:

- (1) The young adult was:
 - (A) Under the permanent or foster custody of the department at the time the young adult attained the age of eighteen;
 - (B) A child who was placed in guardianship after attaining the age of sixteen; or
 - (C) A child who was adopted after attaining the age of sixteen;
- (2) The young adult voluntarily consents to participate in the young adult voluntary foster care program;
- (3) The court finds that exercising jurisdiction under this part is in the young adult's best interest; and
- (4) The young adult is:
 - (A) Completing secondary education or a program leading to an equivalent credential;
 - (B) Enrolled in an institution that provides post-secondary or vocational education;
 - (C) Participating in a program or activity designed to promote or remove barriers to employment;
 - (D) Employed for at least eighty hours per month; or
 - (E) Incapable of doing any of the activities described in subparagraphs (A) to (D) due to a medical condition, which incapability is supported by regularly updated information in the case plan of the young adult.

§346-F Voluntary care agreement. If a young adult is no longer under jurisdiction pursuant to chapter 587A but chooses to participate in the young adult voluntary foster care program and meets the eligibility criteria set forth in section 346-E, the department and the young adult shall enter into a voluntary care agreement that shall include, at a minimum, the following:

- (1) The obligation for the young adult to continue to meet the conditions for eligibility described in section 346-E for the duration of the voluntary care agreement;
- (2) The young adult's right to terminate the voluntary care agreement at any time; and
- (3) The voluntary nature of the young adult's participation in the young adult voluntary foster care program.

§346-G Provision of extended foster care services. As soon as the department determines that a young adult is eligible under section 346-E and the young adult signs the voluntary care agreement as described in section 346-F, prior to the filing of the petition invoking the jurisdiction of the court or the court's determination of jurisdiction pursuant to section 346-H, the department may provide extended foster care services to the young adult.

§346-H Petition; venue. (a) Within thirty days after the voluntary care agreement is signed, the department shall file with the court in the county where the young adult resides a petition invoking the jurisdiction of the court under this part, which shall contain:

- (1) The young adult's name, date of birth, and current address;
- (2) A statement of facts that supports the eligibility of the young adult for foster care services that includes the following:
 - (A) The reasonable efforts made to achieve permanency for the young adult; and

(B) The reasons why it is in the best interest of the young adult to extend foster care services; and

(3) A copy of the signed voluntary care agreement.

(b) Upon the filing of the petition, the court shall open a young adult voluntary foster care case for the purpose of determining whether extending foster care services is in the young adult's best interests. The court shall conduct a hearing and make its determination no later than fifteen days after the filing of the petition.

(c) The court shall set a periodic review to be held within one hundred eighty days after the signing of the voluntary care agreement.

§346-I Notice of hearings and reviews. Notice of hearings and reviews shall be provided to the parties; provided that no further notice is required for any party who was given actual notice of a hearing or review while present in court. Notice of hearings or reviews shall be served no less than forty-eight hours before the scheduled hearing, or as otherwise determined by the court.

§346-J Case plan; reports to be submitted by the department. (a) A case plan shall:

(1) Establish goals for the young adult, including those pertaining to education; health; therapy; counseling; a relationship with the young adult's birth family, including visits; cultural connections; independent living; and transition plans;

(2) Describe services needed to assist the young adult to achieve the goals set forth in paragraph (1); and

(3) Describe the methods for achieving the goals and services set forth in paragraphs (1) and (2).

(b) The department shall prepare a report to the court, developed in collaboration with the young adult as developmentally appropriate, describing:

(1) The young adult's progress toward achieving the goals of the case plan;

(2) Proposed revisions to the goals of the case plan and reasons for the revisions; and

(3) Proposed revisions to the methods for achieving the goals of the case plan and the reasons for the revisions.

(c) The report shall be submitted to the court seven days prior to a scheduled periodic review hearing date and a copy shall be provided to the young adult.

§346-K Court proceedings. (a) The court shall conduct all proceedings under this part without a jury.

(b) The general public shall be excluded from these proceedings. Only parties found by the court to have a direct interest in the case shall be admitted to the proceeding.

(c) Except with respect to the department or the young adult, the court may limit a party's right to participate in any proceeding if the court deems the limitation to be consistent with the best interests of the young adult.

(d) All documents, reports, and records under this part shall be confidential and shall not be released to any third party without the consent of the young adult or the consent of the court for good cause shown.

§346-L Court-appointed attorneys. The court may appoint an attorney sua sponte or at the request of any party to represent a young adult who is eligible under section 346-E and has signed the voluntary care agreement as de-

scribed in section 346-G if it is deemed by the court to be in the young adult's best interest. Attorneys who are appointed by the court to represent a qualifying young adult may be paid by the court, unless the young adult for whom counsel is appointed has an independent estate sufficient to pay fees and costs.

§346-M Periodic review. (a) Periodic judicial reviews shall occur not less than once every one hundred eighty days after the signing of the voluntary care agreement and may be conducted either by court hearing or court review.

- (b) At the periodic review, the court shall issue the following findings:
- (1) Whether the young adult continues to meet the eligibility requirements set forth in section 346-E;
 - (2) Whether the young adult continues to comply with the case plan developed in collaboration between the department and the young adult, and the appropriateness of the case plan; and
 - (3) The young adult's progress toward achieving independence.

§346-N Termination of jurisdiction. Jurisdiction under this part shall terminate when:

- (1) The young adult has reached the age of twenty-one years;
- (2) The young adult chooses to terminate the voluntary care agreement and stop receiving extended foster care services if the young adult:
 - (A) Has voluntarily signed a document attesting to the fact that the young adult no longer consents to the court's jurisdiction;
 - (B) Has been informed in writing of the effects of terminating voluntary foster care early; and
 - (C) Has been informed in writing of the option to reestablish jurisdiction before reaching age twenty-one and the procedures to do so; or
- (3) After a court finds that:
 - (A) The young adult no longer meets the eligibility requirements as set forth in section 346-E; or
 - (B) Despite the fact that the department has made ongoing reasonable efforts to provide the young adult with services, the young adult is in material noncompliance with the case plan.

§346-O Reestablishing jurisdiction. A young adult who was previously under the jurisdiction of the court under this part and who was terminated from the young adult voluntary foster care program may reestablish jurisdiction by signing a new voluntary foster care agreement at which time the department and the court shall proceed pursuant to section 346-H.

§346-P Liability of the department. The department or any of its employees who provide services under this part shall not be liable to a third person:

- (1) For any acts of the young adult; and
- (2) For injury to the young adult resulting from the negligence or act of a third person providing services or housing to the young adult.

§346-Q Reporting requirement. The department shall submit an annual report to the legislature, no later than twenty days prior to the convening of each regular session, on the status, efficacy, and any other relevant information regarding the young adult voluntary foster care program established by this part."

SECTION 3. In codifying the new sections added to chapter 346, Hawaii Revised Statutes, by section 2 of this Act, the revisor of statutes shall substitute

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appropriate section numbers for the letters used in the designations of, and references to, those new sections in this Act.

SECTION 4. This Act shall take effect on July 1, 2014.

(Approved July 1, 2013.)