

# HOUSE BILL REPORT

## HB 1961

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**As Reported by House Committee On:**  
Early Learning & Children's Services  
Ways & Means

**Title:** An act relating to implementing the federal fostering connections to success and increasing adoptions act of 2008.

**Brief Description:** Implementing the federal fostering connections to success and increasing adoptions act of 2008.

**Sponsors:** Representatives Roberts, Haler, Pettigrew, Kagi, Carlyle, Pedersen and Wood.

**Brief History:**

**Committee Activity:**

Early Learning & Children's Services: 2/13/09, 2/20/09 [DPS];  
Ways & Means: 2/24/09, 2/27/09 [DP2S(w/o sub ELCS)].

**Brief Summary of Second Substitute Bill**

- Clarifies the authority of the Department of Social and Health Services (DSHS) to provide continuing foster care placement services under voluntary agreements with youth ages 18 - 21 enrolled in post-secondary education programs.
- Expands the dependency guardianship program to allow for subsidies to relative guardians according to the eligibility criteria established under federal law.
- Authorizes the DSHS, beginning October 1, 2010, to provide placement services for youth aging out of foster care, adoption support, and subsidized guardianships who are engaged in qualified activities as permitted for use of federal funding

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### HOUSE COMMITTEE ON EARLY LEARNING & CHILDREN'S SERVICES

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass.  
Signed by 7 members: Representatives Kagi, Chair; Roberts, Vice Chair; Haler, Ranking

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

Minority Member; Walsh, Assistant Ranking Minority Member; Angel, Goodman and Seaquist.

**Staff:** Sydney Forrester (786-7120)

**Background:**

Foster Care to 21.

For at least the past two decades, the Department of Social and Health Services (DSHS), has been authorized to provide continued foster care or group care for youth between the ages of 18 and 21 in order to support the youths' completion of high school or vocational school programs. More recently, in 2005, the Legislature authorized the DSHS to provide continuing foster care or group care for youth between the ages of 18 and 21 who are enrolled in post-secondary education or training programs. The practice of providing continuing foster care past age 18 for post-secondary and related purposes is commonly referred to as *Foster Care to 21*.

The enacting legislation for Washington's Foster Care to 21 program provides that, beginning in 2006, the DSHS is authorized to allow 50 youth to remain in foster care after reaching age 18. In addition to the first 50, an additional 50 youth could also enter the program in 2007 and 2008. The lack of clarity in this statute has resulted in confusion recently about whether this authority to provide Foster Care to 21 expired at the end of 2008. The DSHS is not processing new enrollments at this time, but approximately 79 youth are still participating in the program from previous years' enrollments.

Guardianships.

Children who are dependent and have been in out-of-home care for at least six months with little likelihood of a successful reunification may be cared for under dependency guardianships which are intended to be long-term and stable placement options for children in foster care when the court finds that a guardianship rather than termination of parental rights is in the child's best interests. Dependency guardians may be, but are not required to be, relatives. Guardians for a dependent child also may be licensed foster parents, and those who remain licensed may receive foster care payments. Dependency guardians who are not licensed do not receive foster care payments. The dependency guardianship order establishes the rights and responsibilities of the guardian, but does not result in dismissal of the dependency. Depending on the circumstances of the child's case, there typically is less agency and court involvement in a dependency guardianship as compared to a foster care placement.

The Fostering Connections to Success and Increasing Adoptions Act of 2008.

In October 2008 Congress approved and the President signed the Fostering Connections to Success and Increasing Adoptions Act of 2008 (Act). The legislation includes a variety of provisions, both mandatory and permissive, intended to reform aspects of child welfare programs. Some of the changes took effect immediately and others will be phased in over a period of years. The mandatory provisions in the Act include the following:

- developing health care oversight and coordination plans for children in foster care;
- requiring due diligence in identifying and notifying adult relatives of children placed in foster care;

- ensuring school-age children in foster care are enrolled in school and requiring school stability issues to be addressed in children's case plans;
- negotiating in good faith with Indian tribes seeking to develop their own foster care program using federal moneys;
- notifying prospective adoptive parents of federal adoption tax credits; and
- requiring children's case plans to include a transition plan for youth aging out of foster care.

The DSHS has determined it can, for the time being, implement the mandatory provisions without a change in state law.

One of the key changes permitted by the Act includes allowing states to use foster care funds to provide Foster Care to 21 placement services to youth engaged in a broader array of qualifying activities. The federal funding attached to this provision becomes available October 1, 2010.

An additional element of the Act allows for the use of federal funds to provide subsidy payments to relatives serving as guardians for dependent children. To be eligible, the relative must be licensed by the DSHS as a foster parent and have the child placed in the relative's home for a period of six consecutive months prior to establishment of the guardianship. Following entry of the guardianship order, the relative may continue to receive the subsidy without having to continue being a licensed foster parent. Funding attached to this provision of the Act is available now.

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### **Summary of Substitute Bill:**

#### Foster Care to 21 and Other Transitional Supports.

The current Foster Care to 21 statute is clarified to allow for continued enrollment in the program, subject to the availability of appropriated funding. Eligibility to remain in foster care or group care continues up to the youth's 21st birthday if the youth adheres to program rules and remains enrolled in a post-secondary program.

Beginning October 1, 2010, the type of activities in which a youth must be engaged to qualify for Foster Care to 21 is expanded to reflect the activities eligible for use of federal funds. The DSHS is authorized to provide continued foster care or group care up to age 21 for youth who are:

- enrolled and participating in a post-secondary program;
- participating in a program to promote, or reduce barriers, to employment;
- working 80 or more hours per month; or
- incapable of participating in school, work, or other activities due to a medical condition supported with regularly updated information.

In lieu of Foster Care to 21 placement services, the DSHS also may provide adoption support benefits or subsidized relative guardianship benefits on behalf of youth who achieved permanency through adoption or a guardianship after age 16 and who are engaged in one of

the activities listed above. Eligibility for continued support or subsidy payments continues until the youth reaches age 21.

#### Subsidized Relative Guardianships.

A statement is added to the guardianship chapter declaring legislative intent to make subsidized relative guardianships available in Washington consistent with federal law and regulations. The term "foster care payment" in the dependency guardianship chapter is replaced with "guardianship subsidy." A dependency guardian, including a relative guardian, who is a licensed foster parent and with whom the child has been placed for at-least six consecutive months prior to the guardianship being established is eligible for a guardianship subsidy. After entry of the guardianship order, the guardian may, but is not required, to remain licensed as a foster parent. A relative guardianship is declared to be a permissible permanency plan for dependent children. The DSHS is directed to conduct routine and cost-efficient outreach regarding the relative guardianship program. The relative guardianship agreements must be designed to promote long-term permanency for children and support stability of the guardianship.

#### **Substitute Bill Compared to Original Bill:**

The substitute bill makes the following changes to the original bill:

1. clarifies that eligibility for adoption support and guardianship subsidies beyond age 18 is limited to youth who achieved permanency in those outcomes at age 16 or older, consistent with limitations on the use of federal funds for support or subsidies for youth between ages 18 and 21;
2. clarifies that the subsidized relative guardianship program shall be implemented according to eligibility for the use of federal funds and that to be an eligible relative guardian, the relative must be a licensed foster parent with whom the child was placed for six consecutive months prior to the establishment of the guardianship and that the child must be Title IV-eligible as required for the use of federal funds to pay subsidies; and
3. specifies that the DSHS may adopt rules for the relative guardianship program consistent with federal regulations.

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**Appropriation:** None.

**Fiscal Note:** Available. New fiscal note requested on February 20, 2009.

**Effective Date of Substitute Bill:** The bill takes effect 90 days after adjournment of the session in which the bill is passed, except for section 2, relating to authorizing foster care to 21 placement services based on eligibility established in federal law for use of federal funds, which takes effect October 1, 2010.

#### **Staff Summary of Public Testimony:**

(In support) This bill represents an opportunity for the state to preserve the current and limited Foster Care to 21 program and to prepare for the opportunity to expand the number

youth who can be served when the federal money becomes available. During the 2008 interim, stakeholders selected specific elements from the Fostering Connections to Success and Increasing Adoptions Act, and agreed on the priority of being ready to expand the Foster Care to 21 program when the federal funds are available.

This bill represents hope and promise. The hope is found in the expressions from foster youth who are voicing their desire to launch their adult life on equal footing with youth from intact families. The promise is expressed by telling foster youth that when you endure abuse or neglect, separation from your parents and siblings, and multiple placements in foster care, then the state and the community are going to be there to help you out with the transition to independence. As it is now, the majority of youth age out of foster care high and dry, sometimes with nothing but a black plastic garbage bag full of their belongings. Some return to their abusive homes because they have nowhere else to go, but many simply become homeless. Sending youth from foster care to homelessness should not be an option.

Science tells us there is still a lot of brain development occurring between the ages of 18 to 21. There is a tremendous amount of maturation also occurring during this time. The majority of American youth are not fully independent until reaching age 25. Youth exiting the foster care system don't have a family they can rely on during the transition years and this makes it highly unlikely they can finish college and become contributing members of society. Many youth exiting care become homeless even while they are trying to stay in college or work. The Midwest Study illustrates that when youth leave foster care and are provided access to safe housing for an additional few years, they have much better adult outcomes. Every dollar invested saves money down the road.

The federal law allowing for Foster Care to 21 placement services was modeled after Washington's program started in 2006. Safe housing for former foster youth during their transition to full independence is a hand up, not a hand-out. It is cost effective and morally right. As part of the Braam lawsuit settlement agreement the state made a number of binding commitments to provide services to youth to assist with the transition from foster care. House Bill 2002 helped to begin fulfilling those commitments but we know there are numerous foster youth who still need housing assistance so they can attend to other matters such as education and working. This bill will help the state more completely fulfill its commitments under Braam.

Without this bill, once a foster youth graduates high school or completes a General Education Development (GED) program, the youth no longer has access to housing. They become ineligible for foster care housing on the same day they turn 18, graduate high school, or pass the GED. Without this bill, the message to foster youth is that underachieving is the only way they can have access to safe housing past age 18.

This bill also represents an opportunity for the many grandparents and other relatives raising family members. Subsidized guardianships don't require that the parents' rights be terminated and for many families this is the preferred option. Grandparents raising grandchildren often want to continue being the grandparent and not be forced to become the legal parent. A relative guardianship is a means to do this and would provide a significant opportunity for many children in the state to achieve permanency by providing support to relatives who can care for them.

(Opposed) None.

**Persons Testifying:** Representative Roberts, prime sponsor; Jim Theofelis, Crystal Sharp, Christina Koshney, Robert Taylor, and Ian Grant, Mockingbird Society; Yolanda Kilgore, YouthCare; Erin Shea McCann, Columbia Legal Services; Helen Richardson, Community Youth Services; Lynn Urvina, Kinship Navigator; Allie White, Youth N Action; Tiffany McPherson, Region 5 Pierce County Alliance; Edith Owen, Pierce County Relatives Raising Children; and Joseph Myers, Pierce County Alliance.

**Persons Signed In To Testify But Not Testifying:** None.

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## HOUSE COMMITTEE ON WAYS & MEANS

**Majority Report:** The second substitute bill be substituted therefor and the second substitute bill do pass and do not pass the substitute bill by Committee on Early Learning & Children's Services. Signed by 15 members: Representatives Linville, Chair; Ericks, Vice Chair; Cody, Conway, Darneille, Haigh, Hunt, Hunter, Kagi, Kenney, Kessler, Pettigrew, Priest, Seaquist and Sullivan.

**Minority Report:** Do not pass. Signed by 7 members: Representatives Alexander, Ranking Minority Member; Bailey, Assistant Ranking Minority Member; Dammeier, Assistant Ranking Minority Member; Chandler, Hinkle, Ross and Schmick.

**Staff:** Melissa Palmer (786-7388)

### **Summary of Recommendation of Committee On Ways & Means Compared to Recommendation of Committee On Early Learning & Children's Services:**

In the second substitute bill, language is added to link the authority to provide continuing adoption support benefits or relative guardianship benefits, beginning October 1, 2010, to the eligibility criteria established in federal law for the youth between the ages of 18 to 21. The second substitute bill also makes a technical correction to an internal reference.

**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date of Second Substitute Bill:** The bill takes effect 90 days after adjournment of the session in which the bill is passed, except for section 2, relating to authorizing foster care to 21 placement services based on eligibility established in federal law for use of federal funds, which takes effect October 1, 2010.

### **Staff Summary of Public Testimony:**

(In support) For this bill, the Foster Care to 21 program (program) is where there is the biggest decision to make. The current number of young people who are in Foster Care to 21 is about 80. When the program was established, it was thought that 50 were going to enter

each year and continue to expand. It was not considered that these young people might change direction and decide to live on their own. This program has never served more than 80. In 2008, 529 youth aged out of foster care; it is like falling off a cliff or hitting a wall. It is like being handed a bag with all of your possessions, given a hug, a pat, and a kick out the door. If this were any other time I would be talking about expanding the program. At least those youth that are in the program should be maintained until the federal funding comes forth. The federal legislation does help us continue to provide services.

The number one issue for foster care youth is housing. Substitute House Bill 1961 provides hope and promise for youth that exit care. These children were removed from their home and separated from family, siblings, and community. They might have engaged in street behaviors as a result of trauma from all of the change in their life. They may have endured multiple placements. These young people go on to earn a diploma and General Education Degree (GED). The party and reward for youth in foster care for earning a high school diploma is to have their belongings put in a garbage bag and sent to the street. The Foster Care Alumni Association of America calls the Hefty garbage bag the official luggage of the foster care system. Foster kids are coached not to earn a GED because they will be homeless if they do. Research demonstrates that when 18 to 21 year olds receive safe housing, they have some of the same outcomes as children not in the foster care system. In Washington DC when the federal legislation was pending in the Congress, we spoke with delegation and provided input. Our input was: don't pass the bill if you don't send us money. The money is here, pass the bill.

(Comments) The state has the option as it pertains to Child Protective Services of rejecting the funds from Social Security. Social Security is in danger of depletion. Child Protective services should be broken down. Court proceedings should be in superior court. The laws target poor people and Child Protective Services need to be back under the police. Being a grandparent is permanent, but it is looked at as equal by the system.

(Opposed) None.

**Persons Testifying:** (In support) Representative Roberts, prime sponsor; Edith Owen, Relatives Raising Children; and Jim Theofelis, Mockingbird Society.

(Comments) Jan Smith.

**Persons Signed In To Testify But Not Testifying:** None.