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Youth Transitioning from Foster Care: Issues for Congress

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Summary

Recent research has demonstrated that compared to their peers current and former foster youth are more likely to experience negative outcomes in adulthood. This research, along with the efforts of policy makers and child welfare advocates, has brought greater attention to the challenges facing older youth in care and those transitioning from foster care. In response, Congress has sought to improve existing services and provide additional supports for this population through legislation. The 110th Congress passed the Fostering Connections to Success and Increasing Adoptions Act of 2008 (P.L. 110-351), which is arguably one of the most significant laws enacted in the past two decades that expands services and supports for older foster youth. The 113th Congress expanded on these efforts through the Preventing Sex Trafficking and Strengthening Families Act (P.L. 113-183), enacted on September 30, 2014. The law adds requirements (effective one year after enactment) that are intended to engage older youth in case planning and provide them with certain protections. This report discusses issues affecting older youth as they transition from foster care into adulthood, particularly those that pertain to implementation of the two laws.

P.L. 110-351 extended eligibility, beginning in FY2011, for federal foster care assistance to youth who remain in care after age 18 (at state option until 19, 20, or 21). The law additionally authorized this assistance on behalf of older youth eligible for federal foster care if they reside in an independent living setting (as well as foster family homes or other eligible settings). One possible challenge in extending care is that even with assistance from the federal government, states may be hesitant to extend care to older youth because of the cost. Further, child welfare stakeholders assert that states should ensure that youth who remain in care have opportunities to take on increasing responsibilities to prepare them for the transition from care.

Despite federal protections to ensure that child welfare agencies help youth as they enter adulthood, stakeholders have called for additional policies to improve this transition by encouraging strong, long-term connections to adults. For example, some policy makers have articulated that child welfare agencies should ensure that all children in foster care have a permanency goal of reunification or other more permanent outcomes, and not a case goal of another planned permanent living arrangement (APPLA). Policy makers assert that APPLA is often used as a default option when a permanent option has not been identified. P.L. 113-183 requires that beginning one year after enactment only youth age 16 and older may have a case goal of APPLA and that additional court oversight is required for these youth.

Another concern is that youth in foster care are vulnerable to child sex trafficking, which refers to adults sexually exploiting children under age 18 for commercial purposes. P.L. 113-183 requires, one year after enactment, that child welfare agencies have policies in place to serve child sex trafficking victims. Congress may wish to monitor how states are implementing these and related requirements, including how many victims have been reported by state child welfare agencies to the federal government and any best practices that have been identified for serving these victims. P.L. 113-183 further requires states to develop protocols for responding to children who run from foster care. This may prompt child welfare agencies to examine larger issues that may play a role in whether a child goes missing. A related consideration is how states define "missing" and whether to report all missing children to law enforcement.

For background information about older foster youth and the current federal policies and programs for this population, see CRS Report RL34499, *Youth Transitioning from Foster Care: Background and Federal Programs*, by Adrienne L. Fernandes-Alcantara.

Contents

Introduction 1
Background 2
The Share of Older Youth in Care Has Recently Declined 2
Youth in Care Face Challenges During the Transition to Adulthood 3
Federal Child Welfare Support for Youth 3
Option to Extend Federal Foster Care Payments for Youth Ages 18 to 21 7
Federal Program Instructions on Extended Care 8
Youth Eligibility for Extended Care 8
State Requirements Related to Providing Extended Care 10
Implementation of Extended Care 11
Outcomes of Youth in Extended Care 12
Potential Benefits and Costs 13
Establishing Criteria for Youth to Remain in Care 14
The Role of the Courts 15
Rethinking Extended Care 16
Older Youth Who Want to Return to Care 18
Supervised Independent Living Setting 18
Option to Extend Support for Youth Leaving Care for Permanent Homes After Reaching Age 16 19
Chafee Foster Care Independence Program 20
Transition Plan Requirement 22
Other Ongoing Issues 24
Permanent Relationships 24
Ways to Foster Permanency 25
Reconsidering APPLA as a Permanency Goal 25
Case Planning and Transition Planning 27
Adoption Opportunity Grants 27
Mentoring 28
Child Sex Trafficking 28
Children Missing From Foster Care 30
Normalcy for Youth in Foster Care 32
Housing 33
Employment and Education 34
Effectiveness of Services for Transitioning Youth 36
Evaluations of Independent Living 37
National Youth in Transition Database 38

Figures

Figure 1. Federal Requirements and Programs for Older Youth in Foster Care and Leaving Care 6

Contacts

Author Information..... 39

Introduction

Since the mid-1980s, Congress has passed legislation that is intended to support older youth in foster care who are expected to leave care without being reunited with their parents or having another permanent family placement. At the center of these policies is the Chafee Foster Care Independence Program (CFCIP), authorized in 1999 (P.L. 106-169) to provide services, including housing, for older foster youth.[1] With funding from the CFCIP and other sources, states have developed independent living programs that supplement youth's own efforts to attain self-sufficiency. Additionally, federal law directs child welfare agencies to develop policies, where appropriate, targeted to older youth that assist in their transition from care, such as written case plans outlining the services they will receive to prepare for independent living. Despite these services and supports, research has demonstrated that compared to their counterparts in the general population, current and former foster youth are more likely to have difficulty making the transition to adulthood. The limited research literature on this topic demonstrates that during their early adult years, former foster youth are much more likely than their peers to forego higher education, describe their general health as fair or poor, become homeless, and rely on public supports. This research, along with the efforts of policy makers and child welfare advocates, has brought greater attention to the challenges facing youth transitioning from care.

Congress has focused on efforts to ensure that youth have connections to caring adults and can continue to receive support from the state after they reach the legal age of majority—usually age 18—to help ease the challenges associated with the transition to adulthood. Asserting that most youth are not ready to live independently at age 18, federal policy makers have expressed special interest in providing a safety net for youth who are wards of the state. The 110th Congress conducted a series of hearings on child welfare reforms, some of which focused on older youth in care. These hearings culminated in the passage of the Fostering Connections to Success and Increasing Adoptions Act of 2008 (P.L. 110-351), an omnibus child welfare bill that addresses several aspects of the child welfare system.[2] P.L. 110-351 is arguably one of the most significant laws that pertain to older youth in foster care. More recently, the 113th Congress held hearings on child welfare topics that focus, in part, on older youth. Following these hearings and other efforts, Congress passed the Preventing Sex Trafficking and Strengthening Families Act (P.L. 113-183). President Obama signed the bill into law on September 30, 2014. The law specifies protections for older youth in care, seeks to promote "normalcy" among children in foster care so they can participate in age and developmentally-appropriate extracurricular and other activities, and requires child welfare agencies to respond to children who are victims of sex trafficking or may be at risk for such victimization.

This report presents issues affecting older youth as they transition from foster care into adulthood, particularly with regard to implementation of P.L. 110-351 and P.L. 113-183. Perhaps the most pressing implementation issue concerning P.L. 110-351 is the challenges states may face in extending foster care to older youth. As of FY2011, states may extend care after age 18 by authorizing partial reimbursement for the cost of that continued support.[3] One possible challenge in implementing this provision is that even with assistance from the federal government, states may be hesitant to extend care because of the cost. In addition, states are required to assist youth in developing a transition plan within 90 days of exiting care that identifies the supports and services available when they transition from care. In carrying out the plan, states can take a

[1] The CFCIP replaced the former Independent Living Program, originally established in 1985 (P.L. 99-272).

[2] For further information about the law, see CRS Report RL34704, *Child Welfare: The Fostering Connections to Success and Increasing Adoptions Act of 2008 (P.L. 110-351)*, by Emilie Stoltzfus.

[3] Through the federal foster care program authorized under Title IV-E of the Social Security Act.

variety of approaches, such as beginning the transition planning process well before the 90-day requirement and engaging adults who can have meaningful connections to the youth when they emancipate from care.

Even with the option to extend foster care, policy makers and advocates remain concerned that older foster youth and those who have aged out will continue to experience challenges during the transition to adulthood. Emancipated youth face particular obstacles in fostering permanent connections with caring adults, securing health insurance and housing, and staying connected to work and school. Further, little is known about youth as they transition from foster care, although a new national database will likely provide some insight into their outcomes across a number of areas, such as education, employment, and contact with social service and criminal justice systems. Another concern is that youth in foster care are vulnerable to child sex trafficking, which refers to adults sexually exploiting children under age of 18 for commercial purposes. P.L. 113-183 requires, one year after the law's enactment, that child welfare agencies have policies in place to serve these youth. Congress may wish to monitor how states are implementing these and related requirements, including how many victims have been reported by state child welfare agencies to the federal government and any best practices that have been identified for serving these victims.

After a brief background on federal child welfare policies concerning transitioning youth, this report will include discussions on implementation of select aspects of P.L. 110-351 and other ongoing issues.[4] The report is a companion to another report that provides context about older foster youth and related federal policy. See CRS Report RL34499, *Youth Transitioning from Foster Care: Background and Federal Programs*.

Background

The Share of Older Youth in Care Has Recently Declined

The overall number of children in foster care has been declining in the past decade or so. On any given day in FY2002, approximately 523,000 children were in foster care, while the corresponding figure for FY2012 was 397,122.[5] The share of older children in care also increased but then declined slightly over this period. Children ages 13 through 17 comprised about 29% of the caseload in FY2002, 35% in FY2010, and 34% in FY2012.[6] The share of older youth who exited care because they reached the state's legal age of majority followed this same trend. In FY2002, just over 20,000 children "aged out" of foster care, making up 7% of all children who exited care that year. These figures increased in each subsequent year through FY2010, when slightly more than 26,000 youth aged out, making up 11% of all children who exited that year.

[4] Policy organizations are tracking implementation of the legislation and providing related resources. See Jim Casey Youth Opportunities Initiative, "Success Beyond 18," http://jimcaseyyouth.org/success-beyond-18; and U.S. Department of Health and Human Resources, Administration for Children and Families, Child Welfare Information Gateway, "Fostering Connections to Success and Increasing Adoptions Act of 2008 (P.L. 110-351)," https://www.childwelfare.gov/fosteringconnections/.

[5] U.S. Department of Health and Human, Administration for Children and Families, Administration for Children, Youth and Families, Children's Bureau (HHS, ACF, ACYF, CB), *Adoption and Foster Care Analysis and Reporting System (AFCARS) Report #12 and #20*, http://www.acf.hhs.gov/programs/cb/research-data-technology/statistics-research/afcars.

[6] Congressional Research Service analysis of AFCARS data.

However, the number (and share) of youth emancipating reached a recent all-time low of 23,396 (10%) in FY2012.[7]

Youth in Care Face Challenges During the Transition to Adulthood[8]

A growing body of research on youth who spend some of their teenage years in foster care demonstrates that they tend to experience more negative outcomes in adulthood than their peers generally. A leading study of former foster youth—known as the Midwest Evaluation on the Adult Functioning of Former Foster Youth ("Midwest Evaluation")—is tracking outcomes of former foster youth in three states: Illinois, Iowa, and Wisconsin. All of the surveyed youth entered care prior to their 16th birthday. Surveyed youth responded to researcher questions about outcomes in four data collection waves: at wave 1, when they were ages 17 and 18, at which time most were in foster care; at wave 2 when they were ages 19 and 20, at which time some remained in care; at wave 3, when they were age 21 and no longer in care; wave 4, when they were ages 23 and 24; and wave 5, when youth were age 26.[9] These outcomes have been compared to outcomes of their peers in the general population.

The most recent results of the study, based on survey data of youth at age 26, found that former foster youth and youth generally shared some common characteristics, but that the former foster youth experienced more negative educational and employment outcomes, among other outcomes.[10] For example, former foster youth were less likely to have attained a four-year college degree compared to youth in general (2.5% versus 23.5%). Youth in the Midwest Evaluation who were not currently in school reported barriers to enrolling or staying in school, including that they could no longer afford school, became employed, needed to care for a child, or had no transportation, among other reasons. While youth formerly in care were almost as likely to report ever holding a job as youth in general (93.6% versus 98.2%), a smaller share were currently employed (48.3% versus 79.9%). Their mean annual income was about $13,000, compared to about $32,000 for their peers.

Federal Child Welfare Support for Youth

The state child welfare agency, with oversight by the court, is responsible for the care and placement of children who have been removed from their homes due to abuse, neglect, or for

[7] The number of youth who exited due to emancipation decreased from FY2009, when over 29,000 youth aged out. However, the same share of youth (11%) emancipated that year. HHS, ACF, ACYF, Children's Bureau, *AFCARS Report #12, #17, #18*, and *#20*. Child welfare researchers projected that the number of children expected to emancipate from foster care would decline and then stabilize, due to the decrease in the number of entries in foster care among children ages 10 through 17. This analysis was based on data from 2002 through 2008 on children in foster care in 15 states. Fred Wulczyn and Linda Collins, *A 5-Year Projection of the Number of Children Reaching Age 18 While in Foster Care*, University of Chicago, Chapin Hall Center for Children, 2010, http://chapinhall.org/research/report/5-year-projection-number-children-turning-age-18-while-foster-care.

[8] For further information, see CRS Report RL34499, *Youth Transitioning from Foster Care: Background and Federal Programs*, by Adrienne L. Fernandes-Alcantara.

[9] Of those who remained in care beyond age 18, all were in Illinois, the only state of the three that retains court jurisdiction of foster youth (with the youth's permission) until age 21. Iowa amended its child welfare statute in 2006 to create a program that provides continuing support to foster youth ages 18 to 21. The Iowa youth in the Midwest Evaluation were already too old to benefit from the program when it was implemented.

[10] Mark E. Courtney et al., Midwest *Evaluation of the Adult Functioning of Former Foster Youth: Outcomes at Age 26*, Chapin Hall, University of Chicago, 2011, http://www.chapinhall.org/research/report/midwest-evaluation-adult-functioning-former-foster-youth. (Hereinafter Mark E. Courtney et al., Midwest *Evaluation of the Adult Functioning of Former Foster Youth: Outcomes at Age 26*.)

some other reason that does not allow them to remain in their homes. The child welfare agency uses both federal and state funds to facilitate children reuniting successfully and safely with their parents, and when this is not possible, to find them a permanent and safe home. A primary federal source of funding is Title IV-E foster care, authorized under the Social Security Act. To be eligible to receive federal funds (under both the Title IV-E foster care program and related Title IV-B child welfare services program), states must agree to carry out activities that are intended to promote the safety, permanency, and well-being of all children in foster care. These include that a state has a written case plan detailing, among other things, where the child is placed and what services are to be provided to ensure that a permanent home is re-established for the child.[11] Further, for each child in foster care, this plan must be reviewed on a regular basis. The case review is to be conducted not less often than every 6 months by a judge or an administrative review panel, and at least once every 12 months by a judge who must consider the child's permanency plan.[12] As part of any permanency hearing, the court must consult "in an age appropriate" manner with the child.[13]

Specific case plan and case review procedures pertain to older youth in care, some of which go into effect one year after enactment of P.L. 113-183. For youth age 14 and older, the written case plan must include a description of the programs and services that will help the child prepare for a successful transition to adulthood.[14] Additionally, for any child in foster care at age 14 or older, the state child welfare agency is required to include in the child's case plan a document listing certain rights with respect to (1) education, health, visitation, and court participation; (2) provision of certain identification documents and information, if leaving foster care at age 18 or older; and (3) the right to be safe and avoid exploitation. The case plan also needs to include a signed acknowledgement by the child that he/she was given a copy of the list of rights and that they were explained.[15]

In addition, any child in foster care who is age 14 or older must be consulted in the development of, and about any revisions to, his/her case plan and permanency plan. The child may choose up to two members of the case planning and permanency planning teams (subject to state disapproval of any individual that it has good cause to believe would not act in the child's best interest).[16] One of the individuals selected by the child is permitted to be the child's advisor and advocate for applying what is referred to as "the reasonable and prudent parenting standard" for purposes of determining whether a foster child can participate in extracurricular activities.[17] As

[11] Section 475(1), Title IV-E of the Social Security Act.

[12] Section 475(5), Title IV-E of the Social Security Act.

[13] Section 475(5)(c)(iii), Title IV-E of the Social Security Act.

[14] Section 475(1)(D), Title IV-E of the Social Security Act. The Preventing Sex Trafficking and Strengthening Families Act (P.L. 113-183), enacted on September 30, 2014, changed this requirement from age 16 to age 14 and struck language that this provision would apply "where appropriate." The effective date for the change is one year after enactment.

[15] Section 475A(b) of the Social Security Act. This provision was added by the Preventing Sex Trafficking and Strengthening Families Act (P.L. 113-183). The effective date for the change is one year after enactment.

[16] Section 475(5)(C)(iii) and Section 475(1)(B) of the Social Security Act. These provisions were added by the Preventing Sex Trafficking and Strengthening Families Act (P.L. 113-183). The effective date for the changes is one year after enactment.

[17] The law seeks to ensure that children in foster care have the opportunity to participate in activities that are appropriate to their age and stage of development. State child welfare agencies are required to provide training to prospective foster parents on children's developmental stages and on how to apply the "reasonable and prudent parent standard." In addition, state child welfare agencies must have licensing standards for foster family homes and child care institutions (including any contract with a child care institution) to ensure that caregivers apply this standard (Section 471 (a)(10) and Section 471(a)(24) of the Social Security Act). "Reasonable and prudent parenting" means "the

discussed in a subsequent section, states must also assist youth in developing what is known as a transition plan, which addresses housing and other needs when they have emancipated from foster care.

For many children who enter foster care, returning to their parents is the way permanence is re-established. For some children, however, it is not safe or possible to reunite with their parents. In those cases, states must work to find adoptive parents or legal guardians who can provide a permanent home and family. Yet despite efforts to find a permanent home for older youth while they are in care, some age out upon reaching the state's legal age of majority. The Chafee Foster Care Independence Program is designed to provide services that will prepare these youth for when they are no longer under the custody and care of the state.

The 110th Congress held a series of hearings on reforms to the child welfare system, which culminated in the enactment of the Fostering Connections to Success and Increasing Adoptions Act (P.L. 110-351) on October 7, 2008. P.L. 110-351 addresses some of the concerns that were raised in the hearings, and it made significant changes to federal child welfare statutes. Several provisions pertained to older youth in foster care and those transitioning out of care. These provisions focus not on youth living independently, but rather on their connections to adults and the state as they transition to adulthood. Notably, states are authorized to extend foster care to youth age 18 and older, until age 19, 20, or 21 (at state option).

More recently, the 113th Congress has focused on the needs of older youth in foster care and child sex trafficking. Following hearings and roundtables on these topics, Congress passed the Preventing Sex Trafficking and Strengthening Families Act (P.L. 113-183), which was signed into law on September 30, 2014. The law specifies protections for older youth in care, seeks to promote "normalcy" among children in foster care so they can participate in age and developmentally-appropriate extracurricular and other activities, and requires child welfare agencies to respond to sex trafficking of children.

Figure 1 summarizes the provisions and programs in federal child welfare law that pertain specifically to older youth in care and those aging out. The following sections discuss these provisions, programs, and related issues.

standard characterized by careful and sensible parental decisions that maintain the health, safety, and best interests of a child while at the same time encouraging the emotional and developmental growth of the child," and, further, as the standard that a caregiver – the child's foster parent or a designated official at the child care institution where a child is placed – must use "when determining whether to allow a child in foster care under the responsibility of the state to participate in extracurricular, enrichment, cultural, and social activities" (Section 475(10)(A) and Section 475(10(B) of the Social Security Act).

Figure 1. Federal Requirements and Programs for Older Youth in Foster Care and Leaving Care

FEDERAL REQUIREMENTS

Case Plan and Permanency Plan

The state's **written case plan** for children age 14 and older must include a description of the **programs and services** that will help them **prepare for the transition to a successful adulthood** and a document **listing certain rights** with respect to – 1) education, health, visitation, and court participation; 2) provision of certain identification documents and information, if leaving foster care at age 18 or older (see below); and 3) the right to be safe and avoid exploitation. These **children must be consulted about** the development of, and any revisions, to the case plan (as well as their **permanency plan**, which establishes their permanency goal of returning home or other specified outcomes). Further, these children are allowed to **choose up to two members of the case and permanency planning teams** subject to state disapproval of any individual that it has good cause to believe would not act in their best interest (Section 475(1), Section 475(5)(C), and Section 475A(b)).

APPLA

No child under the age of 16 may have a permanency plan of another planned permanent living arrangement (APPLA). If a child is assigned a permanency plan of APPLA, the state must meet **additional requirements** for the child as part of the child's annual **permanency hearing** and, separately, as part of the **periodic review** (every six months) of a child's status in foster care. These requirements are designed to ensure that the state child **welfare agency continues to look for a permanent family for children with an APPLA designation**, that the court continues to revisit whether APPLA is an appropriate permanency plan for the child, and that the child is consulted about his/her desired permanency outcome and ability to participate in age or developmentally-appropriate activities (Section 475(5)(C) and Section 475A(a)).

Essential Documents

The state must provide a child age 14 or older with his or her **credit report on an annual basis** and free of charge, and assist them with interpreting and resolving any inaccuracies in the report (Section 475(5)(1)).

The state must review and update the **education and health care records** for each child in care (per Section 475(1)(C)) and **supply these records to the child** at no cost when the child leaves foster care if he or she ages out (Section 475(5)(D)). The state must also provide youth aging out with documents for which they are eligible, including a U.S. birth certificate, social security card, driver's license or state-issued identification card, health insurance information, and a copy of their medical records (Section 475(5)(I).

Transition Plan

For children who are within 90 days of aging out of care, the state must develop a **transition plan** that is **directed by the youth and includes specific options** on housing, health insurance, education, local opportunities for mentors, workforce supports, and employment services. It must also address the importance of designating another individual to make health care treatment decisions on behalf of the youth as needed (Section 475(5)(H)).

FEDERAL PROGRAMS

Extended Foster Care

States and tribes may elect to receive partial federal reimbursement for the cost of **extending foster care for a youth up to age 19, 20, or 21** who are Title IV-E eligible and (1) completing high school or a program leading to an equivalent credential; (2) enrolled in an institution that pro-

FEDERAL PROGRAMS *(CONTINUED)*

Extended Foster Care *(continued)*

vides post-secondary or vocational education; (3) participating in a program or activity designed to promote, or remove barriers to, employment; or (4) employed at least 80 hours per month. States and tribes may also seek reimbursement for an older youth's foster care if the youth has a documented medical condition that makes him or her incapable of participating in these activities. States may seek reimbursement for these youth to live in "independent living settings." (Section 472 and Section 475(8)).

Chafee Foster Care Independence Program

States and tribes receive formula grants to states (based on relative share of foster care population) for **services to assist youth in making a successful transition from foster care to adulthood**. The program is available for **children "likely to remain in foster care" until 18 years of age and former foster youth age 18 to 21**. This includes children who left care at age 16 or older because they were adopted or placed in a kinship guardianship arrangement. States must provide no less than 20% of the total program funding (Section 477).

Chafee Education and Training Vouchers Program

States and tribes receive formula grant funding (based on relative share of the foster care population) of post-secondary **education and training vouchers** to cover the cost of full-time or part-time **attendance at an institution of higher education**. The vouchers are available to eligible students; eligibility criteria are the same as for the general Chafee program. Students can receive up to $5,000 annually until age 23 (and only if they received an ETV at age 21). States must provide no less than 20% of the total program funding (Section 477(i)).

Source: Congressional Research Service, based on Title IV-E of the Social Security Act.
Note: Some of these provisions go into effect one year after enactment of the Preventing Sex Trafficking and Strengthening Families Act (P.L. 113-183), which was signed into law on September 30, 2014.

Option to Extend Federal Foster Care Payments for Youth Ages 18 to 21

Under Title IV-E of the Social Security Act, states and Indian tribes[18] may seek federal funds for partial reimbursement of the room and board costs needed to support eligible children who are in out-of-home foster care. Funding for the Title IV-E foster care program is appropriated out of the general treasury and is available on an open-ended entitlement basis. This means the federal government is obligated to reimburse states for every eligible expenditure made on behalf of an eligible child.[19] A child or youth is eligible for Title IV-E foster care if he or she is in the care and under the responsibility of the state and, among other things

- the child or youth is a citizen or qualified alien[20] and meets certain income/assets tests, age, and family structure/living arrangement rules in the home he/she was removed from;[21]
- a judge has determined that (1) the home the child was removed from was "contrary to the welfare" of the child; (2) the state made reasonable efforts to initially prevent the child's placement in a foster care setting; and (3) on a continuing basis, the state makes reasonable efforts to secure a permanent home for the child;[22] and
- the child is placed in an eligible licensed setting with an eligible provider.

The state or tribal child welfare agency must provide a "foster care maintenance payment" on behalf of every Title IV-E eligible child in foster care. This payment is made to the licensed foster family home or institution where the eligible child is placed to provide for his or her care and safety. A Title IV-E maintenance payment is defined as "payments to cover the cost of (and the cost of providing) food, clothing, shelter, daily supervision, school supplies, a child's personal incidentals, liability insurance with respect to a child, reasonable travel to the child's home for visitation, and reasonable travel for the child to remain in the school in which the child is enrolled at the time of placement."[23] Federal reimbursement of these costs may only be sought for children placed in a licensed child care institution or foster care home, except that eligible young people who remain in extended care may be placed in an independent living setting, as described in a

[18] P.L. 110-351 gave tribal entities the same authority that states have to seek federal reimbursement of a part of all their eligible Title IV-E foster care, adoption, and kinship guardianship assistance costs.

[19] States may also seek reimbursement for related costs of administration, child placement (e.g., case planning), training, and data collection.

[20] Pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (P.L. 104-193).

[21] The income and asset tests, as well as family structure/living arrangement rules, are identical to the federal/state rules that applied to the now-defunct cash aid program, Aid to Families with Dependent Children (AFDC), as they existed on July 16, 1996. Under the prior law AFDC program, states established specific AFDC income and asset rules (within some federal parameters). The federal AFDC asset limit was $1,000, however, P.L. 106-169 raised the allowable counted asset limit to $10,000 for purposes of determining Title IV-E eligibility. In addition to meeting the income/asset criteria in the home from which he/she was removed, a child must meet the AFDC family structure/living arrangement rules. Those rules granted eligibility primarily to children in single-parent families (parents are divorced, separated, or never-married and one spouse is not living with the child; or the parent is dead). In some cases a child in a two-parent family may be eligible if one parent meets certain unemployment criteria.

[22] Alternatively, the parent or legal guardian may voluntarily relinquish custody to the child welfare agency through a voluntary placement agreement with the agency.

[23] Section 475(4), Title IV-E of the Social Security Act.

subsequent section. States and tribes that receive federal child welfare funds must also carry out activities that are designed to promote the safety, permanency, and well-being of all youth in care, regardless of whether they are eligible for a federal maintenance payment.[24]

A child remains eligible for Title IV-E foster care maintenance payments until his or her 18th birthday, or 19th birthday if the child is still completing secondary school or equivalent training; however, beginning with FY2011, states and tribes may also provide these payments to youth until age 21. States may seek reimbursement for a youth age 18 or older who is Title IV-E eligible and (1) completing high school or a program leading to an equivalent credential; (2) enrolled in an institution that provides post-secondary or vocational education; (3) participating in a program or activity designed to promote, or remove barriers to, employment; or (4) employed at least 80 hours per month (i.e., at least part-time). States and tribes may also seek reimbursement for an older youth's foster care if the youth has a medical condition that makes him or her incapable of participating in the activity and this incapacity is supported by regularly updated information in the youth's case plan. The law does not describe programs that may help to remove barriers to employment, or what constitutes a medical condition that could preclude a youth from working or attending school.

States are permitted to seek federal foster care reimbursement for all eligible youth (including those who remain in care) who live in licensed foster homes or a licensed "child care institution." A child care institution is defined as a private child care institution or a public child care institution for no more than 25 children that is licensed by the state.[25] The definition excludes a detention facility, forestry camp, training school, or any other facility operated primarily to detain delinquent children and youth. As authorized by P.L. 110-351, and beginning with FY2011, states may also seek reimbursement for youth ages 18 or older who remain in foster care at state option and are placed in a "supervised setting in which the individual is living independently." The act directs HHS to establish in regulation what qualifies as such a setting.

Federal Program Instructions on Extended Care

In July 2010, HHS issued program instructions on certain provisions of P.L. 110-351, including extended care.[26] HHS encourages states and tribes to extend federal foster care assistance to eligible youth until age 21, and if they extend to a lower age (19 or 20), they must describe the "programmatic or practice rationale" rationale for doing so. The state or tribe is to submit this description as part of their Title IV-E plan, which describes how they administer or supervise the administration of programs under Title IV-E. Funding under Title IV-E is contingent upon an approved plan.

Youth Eligibility for Extended Care

According to the HHS guidance, states and tribes must establish the criteria they will use to determine whether young people meet the employment or education conditions and/or whether youth have a medical condition that renders them incapable of pursuing these options. States and tribes must also determine how they will verify or obtain assurances that the youth continues to

[24] Section 422, Title IV-B of the Social Security Act requires states to submit a plan that details how they will carry out their child welfare services for all children.

[25] Section 472(3)(c) of Title IV-E, Social Security Act.

[26] HHS, ACF, ACYF, CB, *Program Instruction: Guidance on Fostering Connections to Success and Increasing Adoptions Act of 2008*, ACYF-CB-PI-10-11, July 9, 2010, http://www.acf.hhs.gov/programs/cb/laws_policies/policy/pi/2010/pi1011.htm. (Hereinafter, HHS, ACF, ACYF, CB, *Program Instruction: Guidance on Fostering Connections to Success and Increasing Adoptions Act of 2008*.)

meet the conditions of remaining in care. The program instructions give examples of education or employment activities that youth in extended care can pursue, such as finishing high school; taking classes to prepare for the general equivalency diploma (GED) exam; enrolling in a college, university, or vocational or trade school; enrolling in a Job Corps program; attending interview and resume-writing classes; and working part-time or full-time. Students are considered enrolled in school even when they are on a summer or other break.

Notably, HHS advises that states and tribes may establish select requirements for extended foster care. For example, extended care could be provided only to those youth enrolled in post-secondary education. Still, the guidance advises that states and tribes should "consider how [they] can provide extended assistance to youth age 18 and older to the broadest population possible consistent with the law to ensure that there are ample supports for older youth."

Separately, the program instructions address issues related to four criteria pertaining to Title IV-E foster care eligibility. These instructions apply to young people who reach the state age of majority *and* either continue in care or seek to reenter care at some point before the age of 21. They also apply to youth who enter foster care for the first time at age 18 or older.[27]

- *AFDC Program Criteria:* To continue to be eligible for federal foster care, a youth who remains in care must have met the Title IV-E requirements pertaining to income, assets, and living arrangements at the time of removal from the home of their parents or legal guardians (or others).[28] States are not required to make redeterminations of AFDC eligibility for these youth. For a youth age 18 or older "entering or reentering care," eligibility is based on the youth without regard to the parents, legal guardians, or others in the home from which the youth was removed as a younger child.
- *Removal from Home:* Youth in extended care must also have entered care via a court order or voluntary placement agreement.[29] The program instructions state that for youth who came into care before age 18 and remain in care after age 18, the court ordered removal or the voluntary agreement that was in place before age 18 still stands. The instructions also address removal criteria for youth who are age 18 or older. The instructions specify that (1) a court can make a determination about whether the home from which the youth was removed is "contrary to the welfare" of the youth, to the extent that the court has the jurisdiction to do so;[30] or (2) the youth can sign a voluntary placement agreement as his or her own guardian, so long as it meets Title IV-E requirements for voluntary placement agreements. This provision is subject to the requirement that

[27] In the Child Welfare Policy Manual, HHS has specified that young adults can be eligible for Title IV-E foster care at age 18 or older without having previously been in foster care; however, states are not required to provide IV-E assistance to these youth. HHS, ACF, ACYF, CB, *Child Welfare Policy Manual,* Section 8.3A, Question 4.

[28] Section 472(a)(3), Title IV-E of the Social Security Act.

[29] Section 472(a)(2)(A), Title IV-E of the Social Security Act. Voluntary placement agreements for children under age 18 are entered into between a parent who voluntarily places the child with the child welfare agency. Youth age 18 or older may enter into voluntary placement agreements as their own guardians.

[30] The program instructions go on to state, "[s]uch judicial determinations may reflect the circumstances that are unique to a youth age 18 or older *returning* to foster care... For example, a contrary to the welfare judicial determination may state that it is in the best interests of the youth to be placed in foster care and a reasonable efforts to prevent removal finding may state that the title IV-E agency made reasonable efforts to meet the youth's needs prior to a foster care placement" (italics added for emphasis). Although the guidance points to those youth who are returning to care, it would appear that this also applies to youth who are seeking to enter care for the first time (per guidance in the *Child Welfare Policy Manual,* Section 8.3A, Question 4).

there be a judicial determination that remaining in care is in the child's best interest if Title IV-E payments extend beyond the first 180 days of the voluntary placement agreement.

- *Placement and Care:* The instructions also address the ways that state and tribal child welfare agencies can meet the placement and care rules[31] for older youth—that is, with written authorization by the youth prior to reaching age 18; or through a voluntary placement agreement or court order for youth who have already reached age 18.[32]
- *Placement Setting:* P.L. 110-351 permits youth in extended care to be placed in a supervised independent living setting or, like all younger children in care, in a licensed foster family home or child care institution. The program instructions state that HHS does not "at this time" have "forthcoming regulations" that describe the kinds of living arrangements considered to be independent living settings, how these settings should be supervised, or any other conditions for a young person to live independently. The instructions advise that states and tribes have the discretion to develop a range of supervised independent living settings that "can be reasonably interpreted as consistent with the law, including whether or not such settings need to be licensed and any safety protocols that may be needed." The instructions give examples of the types of settings that could be eligible for reimbursement, such as host homes, college dormitories, shared housing, and supervised apartments, among other settings. Child welfare agencies are to ensure that youth in supervised independent living settings have opportunities to form connections to caring adults, such as through guardianship arrangements, adoption, or living with caring adults.

According to the program instructions, Title IV-E foster care maintenance payments, which must otherwise be paid to the foster care provider (i.e., the foster parent or child care institution), can be paid directly to a young person who is living in an independent living setting.

State Requirements Related to Providing Extended Care

States and tribes are further advised that they must apply "in a developmentally appropriate manner" the same case planning and case review requirements to youth in extended care as they already do for children under age 18. The program instructions explain that case plan and case review requirements for youth age 18 and older should address a youth's needs. For example, the case plan is to be developed jointly with the youth and include benchmarks that indicate how the youth and child welfare agency "both know when independence can be achieved." Further, periodic reviews (every six months) are to involve youth and focus on whether the youth is safe in his or her placement. States and tribes are also to make reasonable efforts to finalize a permanency plan every 12 months for older youth who were removed through a court-ordered placement agreement. According to the guidance, the permanency plan may reflect the goal of emancipation or independence[33] and address the child welfare agency's efforts to prepare the

[31] Section 472(a)(2)(B), Title IV-E of the Social Security Act.

[32] It is unclear if this applies to youth who are returning to care and/or youth who are seeking to enter care for the first time.

[33] Under Section 475(5)(C), Title IV-E of the Social Security Act, states are directed to assign one or more permanency goals for a child or youth, none of which explicitly are emancipation. These goals are that the child or youth will be returned to his or her own home; placed for adoption; placed with a fit and willing relative or with a legal guardian; or placed in another planned permanent living arrangement (APPLA), which states sometimes use for children who are likely to age out of care.

young person for this goal. As allowed under law for children of any age in foster care, the court overseeing the child's case can make a determination regarding reasonable efforts to finalize a permanency plan without calling a court hearing, so long as an authorized member of the judiciary makes that determination.

The program guidance goes on to advise that states and tribes that choose to extend care to youth who are *ineligible* for federal foster care *are not required* to fulfill the IV-E requirements, including those related to case planning and case review and certain data collection and reporting requirements, for these youth (although they must continue to do so for all children under the age of 18, or age 19 for children completing school). Given that children in foster care who are IV-E eligible are also categorically eligible for Medicaid, the guidance states that this eligibility is to be extended to youth who remain in care after age 18 (up to the age the state or tribe elects) and receive federal foster care maintenance payments.

Implementation of Extended Care

As of May 2014, nearly half (21) of jurisdictions had amended their Title IV-E state plans with the intent to extend the maximum age of foster care and submitted these plans for HHS to review. HHS had approved plans for 18 states (Alabama, Arkansas, California, Illinois, Indiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Nebraska, New York, North Dakota, Oregon, Tennessee, Texas, Washington, and West Virginia) and the District of Columbia, and was reviewing plan amendments for two other states (Connecticut and Pennsylvania). All states with approved plan amendments, except for Indiana and Nebraska, extend care until age 21; Indiana extends care to age 20 and Nebraska extends care until age 19. Nebraska enacted legislation in 2013 to extend care to 21, and HHS is reviewing this change.[34]

Except for three states—Tennessee, Washington, and West Virginia—jurisdictions with approved plan amendments allow youth to remain in care under the four conditions listed previously and exempt youth from these conditions if a youth is incapable of meeting them for medical reasons. Tennessee allows youth to remain in care so long as youth are in school or participating in a program to address barriers to employment, or are incapable of performing these activities for medical reasons. Washington and West Virginia limit this care to otherwise eligible youth who are completing high school or completing a program leading to an equivalent credential.[35]

In taking up the option to extend care, other states (and tribes) likely need to consider a number of factors: (1) the outcomes of youth who remain in care; (2) potential costs and benefits; (3) which youth are permitted to stay in care; (4) the role of the courts in overseeing extended care; (5) rethinking extended care; (6) the extent to which older youth can return to care after they initially leave; (7) the extent to which older youth in general can be placed in foster care settings after age 18; (8) the type of placements that qualify as independent living settings.

[34] This information is based on correspondence with the U.S. Department of Health and Human Services, Administration on Children, Youth and Families, Administration for Children and Families, Children's Bureau, May 2014.

[35] For further information about earlier state policies for extending care, see Amy Dworsky and Judy Havlicek, *Review of State Policies and Programs to Support Young People Transitioning Out of Foster Care*, University of Chicago, Chapin Hall Center for Children, 2009, pp. 7-8. At http://www.wsipp.wa.gov/pub.asp?docid=08-12-3903. (Hereinafter referenced as Dworsky and Havlicek, *Review of State Policies and Programs to Support Young People Transitioning Out of Foster Care*.) Most states (43) reported that youth could remain in care beyond their 18th birthday.

Outcomes of Youth in Extended Care

The research literature on youth who emancipate from care—or stay in care beyond age 18—is scarce. The Midwest Evaluation is one of the few studies in this area. The study demonstrates that youth who remained in care as late as age 20 tended to have somewhat more positive outcomes, at least while they were still in care, than their counterparts who emancipated at age 18.[36] The study examined outcomes for former foster youth in three states: Illinois, Iowa, and Wisconsin. These three states offered a natural experiment for comparing youth outcomes. Iowa and Wisconsin emancipated nearly all of their foster youth in the study by age 18, while approximately three-fourths of foster youth in Illinois who reached age 18 in care remained under the custody of the state until age 21.[37] Remaining in care appeared to be associated with higher earnings and delayed pregnancy. The Midwest Evaluation found that while the young people in Illinois were less likely to be employed at age 21, likely due to being in school, each additional year in care after age 18 was associated with a $470 increase in average annual earnings. Average annual earnings for youth who remained in care longer increased by $924 after controlling for certain characteristics of the young adults (measured when they were age 17) that are likely to affect later earnings (e.g., work history, education attainment, mental health problems, and criminal behavior), as well as unobserved characteristics. Further, young people in Illinois were 38% less likely to become pregnant between ages 17 and 19. Although there was a reduction in the risk of pregnancy after age 19 for youth in care compared to their counterparts, this difference was not statistically significant. Youth in Illinois were also much more likely than their peers to have received a variety of transitional living services between ages 19 and 21, such as those services funded through the CFCIP.

Some of the benefits of remaining in care appear to have faded two years after the youth in Illinois aged out. While the study found that by age 23 these young people were more likely to have completed one year of college, they were no more likely than their peers to have earned a two- or four-year degree.[38] Researchers suggest that this could be because they lost access to the services and supports that made it possible for them to pursue their educational goals. In addition, these young people may have had to refocus their efforts on meeting their basic needs, like securing and maintaining housing. Further, even with assistance from the Chafee Education and Training Voucher (ETV) program and programs in some states that waive college tuition, these youth may not have necessarily received other support to help them in school, such as academic and social/emotional support.

[36] Mark E. Courtney, Amy Dworsky, and Harold Pollack, *When Should the State Cease Parenting? Evidence from the Midwest Study*, Chapin Hall Center for Children, University of Chicago, Issue Brief No. 115, December 2007, available at http://www.chapinhall.org/article_abstract.aspx?ar=1355.

[37] Iowa amended its child welfare statute in 2006 to create a program that provides foster care to foster youth ages 18 to 21. The Iowa youth in the Midwest study were already too old to benefit from the program when it was implemented.

[38] Amy Dworsky and Mark Courtney, *Does Extending Foster Care Beyond Age 18 Promote Postsecondary Educational Attainment?*, University of Chicago, Chapin Hall Center for Children, and University of Washington, Partners for Our Children, March 2010, http://www.partnersforourchildren.org/pocweb/userfiles/file/MW%20Wave%204%20Education%20issue%20brief.pdf. (Hereinafter, Amy Dworsky and Mark Courtney, *Does Extending Foster Care Beyond Age 18 Promote Postsecondary Educational Attainment?*) The researchers acknowledge that differences in the three states, such as social or educational policy, the characteristics of the child welfare populations, and socioeconomic conditions may influence youth outcomes.

Potential Benefits and Costs

States face significant challenges in extending care, given the current fiscal environment and competing budgetary considerations. As part of a Government Accountability Office (GAO) review of state policies on extending federal foster care in 2014, 17 states that did not extend care cited budget constraints as the major factor for not doing so.[39]

In considering whether to extend care, the Jim Casey Youth Opportunities Initiative, an organization that seeks to assist youth transition from foster care to adulthood, suggests that states can do the following: (1) convene a planning group of critical stakeholders such as state child welfare agency staff, service providers, legal advocates, young people in care, and others; (2) review federal requirements and options (transition planning requirement and option to extend care to age 18, 19, or 20, among other provisions); (3) consider existing supports and services and seek input from young people; (4) reach agreement on key design issues (e.g., which youth are eligible, the settings in which they can live, and what type of case management and court oversight will be needed); (5) project costs and revenues; and (6) consider next steps.[40]

The advantages of youth remaining in foster care after age 18 appear significant, as demonstrated by the Midwest Evaluation (at least for youth who stay in care until age 21) and a small number of studies that hypothesize about the benefits and costs of extending care. These studies posit that extending foster care or providing intensive transitional living services can offset the costs that individuals or society would incur, such as in the form of admissions to state prison and welfare payments, in the absence of these interventions.[41] One of these studies evaluated the cost to government and benefits to individual youth of extending foster care.[42] Researchers calculated the costs of extending care based on the experience of Illinois in providing care beyond age 18 (as reported in the Midwest Evaluation) and data on public assistance receipt in Illinois. Based on the average length of stay in care beyond age 18 in Illinois—until approximately age 20, or two years total—researchers estimated the cost to be about $20,800 annually, or about $19,000 if the costs of providing certain public assistance to youth (if they did not remain in care) were subtracted. The benefits (to youth) of remaining in care were evaluated only in the context of additional wages that the youth could earn because remaining in care would enable them to attend at least some college. Based on several factors,[43] the analysis found an average return of about $2 for every $1 spent on a youth remaining in care, which translates into an average of approximately $72,000 additionally earned over the course of the youth's lifetime.

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[39] U.S. Government Accountability Office, *Foster Care: HHS Needs to Improve Oversight of Fostering Connections Implementation*, GAO-14-347, May 2014, p. 43, http://www.gao.gov/assets/670/663655.pdf. (Hereinafter, U.S. Government Accountability Office, *Foster Care: HHS Needs to Improve Oversight of Fostering Connections Implementation*.)

[40] Barbara Hanson Langford and Margaret Flynn-Kahn, "Extending Foster Care: Getting Started," Jim Casey Youth Opportunities Initiative, August 2013.

[41] For further information, see Washington State Institute for Public Policy, *Extending Foster Care to 21: Measuring Costs and Benefits to Washington State*, January 2010; Thomas Packard et al., "A Cost-Benefit Analysis of Transitional Services for Emancipating Youth," *Children and Youth Services Review*, vol. 30, no. 11 (November 2008); Mark E. Courtney, Amy Dworsky, and Clark M. Peters, *California's Fostering Connections to Success Act and the Costs and Benefits of Extending Foster Care to 21*, University of Washington, Partners for Our Children, 2009; and Cutler Consulting, *Cost Avoidance: Bolstering the Economic Case for Investing in Youth Aging Out of Foster Care*, 2009.

[42] Clark M. Peters et al., *Extending Foster Care to Age 21: Weighing the Costs to Government Against the Benefits to Youth*, University of Chicago, Chapin Hall Issue Brief, June 2009, http://www.chapinhall.org/sites/default/files/publications/Issue_Brief%2006_23_09.pdf.

[43] These factors assumed variations in the baseline rate of bachelor's degree completion (with an average of 10.2%) and the estimated dollars earned among individuals with a bachelor's degree over the course of their work-life.

The analysis did not examine any cost to the state child welfare agencies or courts, such as the additional time caseworkers devote to these cases and hiring any additional child welfare and court personnel, among certain other cost considerations. In addition, the analysis did not examine the potential benefits to society of extending care, such as higher tax revenues and reductions in homelessness, as well as nonmarket benefits to former foster youth, such as improved personal and familial health choices.

The cost of providing foster care to eligible youth after age 18 is likely be a consideration for most states. Based on administrative data, just under half of children meet the criteria to be eligible for federal foster care maintenance payments (this share varies greatly by state).[44] With the exception of eligibility determination and certain data collection costs (both counted as administrative costs), state foster care expenditures may only be partially reimbursed by the federal government if incurred on behalf of Title IV-E eligible children and youth. As discussed in more detail above, a child or youth is eligible for Title IV-E if he or she (1) meets income/assets tests and family structure/living arrangement rules in the home he/she was removed from; (2) has specific judicial determinations made related to reasons for the removal and other aspects of his/her removal and placement; and (3) is placed in an eligible licensed setting with an eligible provider(s). Currently, the reimbursement rate for federal foster care maintenance payments is pegged to a state's Federal Medical Assistance Percentage (FMAP), which ranges from a low of 50% (for highest per capita income states) to as high as 73% (for lowest per capita income states).[45] The reimbursement rate for program administration costs, including child placement activities is 50%; and the reimbursement rate for training costs is 75%.

The federal government does not explicitly require that a state make foster care maintenance payments on behalf of children who are ineligible for federal foster care.[46] Given the expense, states that choose to extend care may decide to cover only youth who are IV-E eligible. States are expected to pay the full costs for children and youth who do not meet the Title IV-E eligibility criteria, either out of state or local treasuries or, if allowable, some other federal funding source. Although permissible under law, extending care only to certain youth who meet the eligibility criteria established in the law may raise equity concerns. States that extend care to all youth beyond their 18th birthday could in practice establish different levels of reimbursement for those youth who are Title IV-E eligible than for those who are not, and possibly different levels of services and supports.

Establishing Criteria for Youth to Remain in Care

Federal law specifies that eligible youth may remain in care after age 18 if they undertake certain activities, such as by attending school; working part-time or full-time; participating in a program or activity designed to promote, or remove barriers to, employment; or having a condition that would preclude them from these activities. As noted earlier, HHS advises that states and tribes can make remaining in care conditional upon whether youth pursue certain pathways. Three states

[44] U.S. Congress, House Committee on Ways and Means, *Green Book, Child Welfare Chapter*, committee print, 110th Cong., 2008, pp. 11-52.

[45] Each state's FMAP is determined annually by a specified formula. For further information, see CRS Report R43357, *Medicaid: An Overview*, coordinated by Alison Mitchell.

[46] Practically speaking, however, placing such a child in an out-of-home setting without providing some reimbursement for the cost of that child is difficult, and in many circumstances might be considered a questionable exercise of the state's responsibility for the child. Accordingly, all states are believed to provide payments on behalf of children who are placed out of the home and under the responsibility of the state, regardless of the child's Title IV-E eligibility status. Some states currently pay lesser amounts to relative guardians who provide foster care for non-Title IV-E eligible children.

that seek federal reimbursement to extend foster care restrict eligibility based on certain activities. This could raise equity concerns if states and tribes preclude youth who have pursued other opportunities specified under the law. These youth may decide that college is not the right choice for them, or they may decide to work now and pursue college later. If states were, for example, to make extended care available only to those youth in post-secondary education, they may be reinforcing that only some youth should have the opportunity to stay in care. Youth who attend college may already be at an advantage relative to other youth in care who could not get into college or chose to work instead.

The Role of the Courts

Federal child welfare law provides state courts (including tribal or other court of competent jurisdiction) an important role in overseeing the safety and appropriateness of the child's placement and ensuring that each child has an appropriate permanency goal—regardless of whether the child is IV-E eligible and whether entry to care was via involuntary removal or a voluntary placement made by the parent or guardians. As mentioned, a case review must be conducted no less often than every six months by a judge or an administrative review panel in order to review the safety and appropriateness of the child's placement and to address the extent to which progress has been made toward addressing the reasons the child entered care, among related requirements. In addition, no later than 12 months after a child is removed to foster care, a permanency plan must be established for each child in care. This plan must be determined at a permanency hearing held in a court of competent jurisdiction or by a court-appointed/court-approved administrative body. Subsequently, the court or court-appointed/approved body must review the continued appropriateness of the permanency plan no less often than every 12 months for the child's entire length of stay in care. The court must consult with the child about the permanency plan in an age appropriate manner.[47]

HHS stipulates in its program instructions that case review system protections apply *to all children under age 18 regardless of their IV-E eligibility and to those children in care age 18 and older who are IV-E eligible*. In other words, children who are ineligible for IV-E would not necessarily be subject to this same court oversight. This appears to be consistent with "long-standing Departmental policy" that permits states to exclude from case review and other protections any child who has reached the state's age of majority (typically age 18) and was not receiving a Title IV-E payment.[48] HHS program instructions also state that permanency hearings are not required for youth under a voluntary placement agreement; however, a case review must be conducted every six months.[49]

In states that choose to extend care to all youth beyond their 18th birthday, this could, in practice, establish different levels of services and supports, depending on whether the child is IV-E eligible. For example, the requirements for background checks of foster parents and monthly caseworker visits may not be enforced for non-IV-E eligible youth. In addition, these young people may not have the same level of state (child welfare agency and court) oversight and supervision as IV-E eligible youth. Little may be known about the young people who remain in

[47] Section 475(5)(C)(iii), Title IV-E of the Social Security Act.

[48] HHS, ACF, ACYF, CB, *Child Welfare Policy Manual*, Section 1.3, Question 2 (which relies on a 1995 policy interpretation document to define reporting populations for data collection, and *incidentally* references exclusion of youth who have reached the state's age of majority from certain child protections, including case review).

[49] HHS, ACF, ACYF, CB, *Program Instruction: Guidance on Fostering Connections to Success and Increasing Adoptions Act of 2008*.

care and are IV-E ineligible, which may in turn preclude policy makers and others from determining whether the needs of *all* young adults in extended care are being met.

A separate issue is whether juvenile courts have jurisdiction over cases involving children who legally become adults upon reaching age 18, and how hearings for older youth ought to be conducted. The American Bar Association (ABA), which represents the interests of legal professionals, has made recommendations to juvenile courts pertaining to older youth in care. The ABA recommends that states enact legislation to ensure that juvenile court involvement can continue beyond age 18, to ensure that the child welfare agency and others are accountable for carrying out the requirements of the law. The ABA also encourages courts to adopt procedures and modify hearings so that older youth in care are present and involved in their hearings. The ABA encourages young adults to be the "lead planner, and the central participant other than the judge, in their hearings."[50]

Rethinking Extended Care

Some child welfare stakeholders articulate that foster care for youth age 18 and older must provide a different set of supports than these youth received at a younger age. Stakeholders have urged states to reconceptualize their current models for older youth in care and those who remain in foster care at age 18 and older. As articulated by the Jim Casey Foundation, an organization that seeks to promote the well-being of children and youth in foster care and those aging out:

> On the one hand, foster youth are eager to leave a foster care system that has not met their needs, yet they also may have considerable anxiety about the dramatic changes that can occur when they reach 18. They typically are expected to shift from ... having little say in their lives and being given few opportunities to practice making decisions to ... being largely on their own.... Young people in foster care are not given the opportunity to grow up gradually; they suddenly age out of a system.... Simply extending traditional foster care will not provide them with the developmentally appropriate supports and services that they need to become healthy and productive adults.[51]

Further, child welfare stakeholders call for extended care to have particular features. One such feature is that it is developmentally appropriate. This means that extended care is geared toward young adults as opposed to children, accounts for the trauma and loss young people have faced, and enables them to be engaged in decisions about their lives.[52] Such an approach is based on emerging research about adolescent brain development, which shows that adolescents and young adults have a "second window" of neurological growth and development. This research suggests that young people take many years to transition to adulthood and need strong social supports as

[50] American Bar Association, Commission on Youth At Risk, *Charting a Better Future for Transitioning Foster Youth: Report from a National Summit on the Fostering Connections to Success Act, February 2011*, pp., 23-30, http://www.americanbar.org/content/dam/aba/publications/center_on_children_and_the_law/youth_at_risk/transitioning_foster_youth_executive_summary.authcheckdam.pdf. See also, American Bar Association, Center on Children and the Law, *Judicial Guide to Implementing the Fostering Connections Act of 2008*, pp. 16-21. http://www.nrcpfc.org/fostering_connections/download/Judicial_Guide_to_Fostering_Connections_2011.pdf.

[51] Jim Casey Youth Opportunities Initiative, "Success Beyond 18: A Better Path for Young People Transitioning from Foster Care to Adulthood," May 2013, http://jimcaseyyouth.org/sites/default/files/Success%20Beyond%2018%20paper%20EMBARGOED%20UNTIL%20MAY%206.pdf. (Hereinafter, Jim Casey Youth Opportunities Initiative, "Success Beyond 18: A Better Path for Young People Transitioning from Foster Care to Adulthood.")

[52] Jim Casey Youth Opportunities Initiative, "Foster Care to 21: Getting It Right," Issue Brief No. 1, no date, http://jimcaseyyouth.org/sites/default/files/documents/Issue%20Brief%20-%20FC%20to%2021.pdf.

they make the transition.[53] The research also emphasizes the need for youth to have opportunities to make and learn from mistakes and have meaningful opportunities to take on increasing responsibility. Another aspect of extended care is to assist young people in identifying and maintaining permanent connections while also developing the skills they need to have healthy relationships with family members, friends, and others.[54] This approach emphasizes that young people should be the drivers of who they want to connect with. Overall, extended care may involve graduated levels of supervision and supports for young people in care. It may also involve redesigning case planning for these youth. For example, young people can take on specific roles and responsibilities at an earlier age. In addition, the case planning team can work closely with the young person to identify and provide experiences that lead to increased autonomy for him or her. Further, the case planning team also focuses on supporting the youth in building their social networks.[55]

Other research focuses on the factors that help young people remain in extended care. In a study by the Chapin Hall Center for Children at the University of Chicago, researchers identified the reasons a significant share of youth in some parts of Illinois do not remain in care despite the state's policies to retain youth beyond age 18.[56] Child welfare services in the state are administered by the Department of Child and Family Services' (DCFS') four regional offices. In the Cook County region, which includes Chicago, over 81% of youth remain in care beyond age 18 (and nearly 60% until age 21), compared to the 54% of youth who are collectively retained in the three other regions (and about 15% to just over 40% until age 21, for each of the three regions).To determine the factors that influence whether some youth leave care before age 21, Chapin Hall evaluated administrative data, conducted a statewide survey of caseworkers, held focus groups with caregivers and youth, and interviewed court personnel across the state. The study identified five such factors: (1) some juvenile courts in the state play an active role in retaining youth by keeping their cases open, even with resistance from stakeholders—caseworkers, caregivers, youth, and court personnel—involved in the case; (2) stakeholders in the child welfare system did not have a uniform understanding of laws and DCFS policy that allow youth to remain in care until age 21; (3) in regions where caseworkers believed that there were few appropriate foster care placements for the oldest youth in care, youth tended not to stay in care after age 18;[57] (4) youth who had stable and supportive relationships with adults—foster parents, relatives, caseworkers, or other professionals—tended to remain in care longer; and (5) youth attitudes about staying in care beyond the age of majority was identified as a challenge in keeping them in care, and youth often request to leave or become uncooperative because of the restrictions imposed by their case worker. Though Illinois is not necessarily representative of all

[53] Jim Casey Youth Opportunities Initiative, "The Adolescent Brain: New Research and Its Implications for Young People Transitioning From Foster Care," 2011, http://jimcaseyyouth.org/sites/default/files/documents/The%20Adolescent%20Brain_prepress_proof%5B1%5D.pdf. (Hereinafter Jim Casey Youth Opportunities Initiative, "The Adolescent Brain: New Research and Its Implications for Young People Transitioning From Foster Care.")

[54] Jim Casey Youth Opportunities Initiative, "Social Capital: Building Quality Networks for Young People in Foster Care," Issue Brief No. 2, no date, http://jimcaseyyouth.org/social-capital-building-quality-networks-young-people-foster-care.

[55] Jim Casey Youth Opportunities Initiative, "Success Beyond 18: A Better Path for Young People Transitioning from Foster Care to Adulthood."

[56] Clark Peters et al., *Continuing in Foster Care Beyond Age 18: How Courts Can Help*, Chapin Hall Center for Children, University of Chicago, Issue Brief No. 116, July 2008, http://www.chapinhall.org/sites/default/files/publications/Beyond%2018%20Issue%20Brief%20redesign%2002-04-09.pdf.

[57] It is not clear from the study whether there were actually fewer foster care placements.

states, these factors may be relevant to other states, particularly those that currently do not extend care beyond age 18, and have not yet had to address these issues.

Older Youth Who Want to Return to Care

In states that extend foster care, youth age 18 or older who emancipate from foster care may later determine, prior to their state's optional older age, that they would like to return to care because of the challenges they face living on their own, or for other reasons. The July 2010 program instructions issued by HHS permit states and tribes to extend foster care assistance in a way that permits a youth to stay in care continuously or "leave care and return at some point after attaining age 18" (up to age 19, 20, or 21, depending on the state) so long as the original court order remains in effect and other IV-E eligibility criteria are satisfied. In a 2014 report on implementation of the Fostering Connections Act, the Government Accountability Office (GAO) examined the extent to which 19 states that elected to extend federal foster care enable young people to leave and re-enter care. All states reported having such policies. GAO further reported that in 12 of the 19 states, youth could stay in care under voluntary placement agreements.[58]

Supervised Independent Living Setting

Youth who remain in foster care at age 18 and older may live in "a supervised setting in which the individual is living independently" for youth who remain in care after age 18 in states that take up the extended care option. The law directs HHS to clarify this phrase through the rulemaking process; however, HHS signaled in the July 2010 instructions that it does not plan to issue a regulation "at this time" on independent living settings. The instructions do not provide guidance on what independent living settings entail or how they should be overseen.[59] Under such an arrangement, the child welfare agency continues to provide supervision. The parent or guardian is not the foster care provider to the youth and the youth has not been formally reunified. In the absence of further instructions on oversight of youth in these settings, states could establish very distinct protocols for supervising older youth in care. Regardless of setting, advocates and others have asserted that young adults in care should have the experience of learning "what it takes" to live as adults and manage their budget and other responsibilities, while still having the support of the state.[60]

States with foster youth in independent living settings would need to consider several issues: Should the child welfare agency purchase independent living units and/or contract with organizations that own such units? To what extent would the child welfare agency (or its contractor(s)) screen other youth and adults who live with youth in care? What share of the rent and utilities, if any, should youth cover? How often should case workers visit youth at the

[58] U.S. Government Accountability Office, *Foster Care: HHS Needs to Improve Oversight of Fostering Connections Implementation*.

[59] However, the guidance HHS's Child Welfare Policy Manual states that the state child welfare agency has discretion in determining that residing with a parent or guardian is an allowable supervised independent living setting. HHS, ACF, ACYF, CB, *Child Welfare Policy Manual*, Section 8.3A.8d, Question 1.

[60] Kate Hanley, *Fostering Connections: Extending Foster Care to 21*, webinar, National Resource Center for Youth Development, August 2010, http://www.nrcpfc.org/fostering_connections/082011/PPT%20for%20Teleconference%208-11%20KH.pdf.

See also, Fostering Connections Resource Center (no longer active), *State Approaches to Providing Foster Youth with Options for Supervised Independent Living*, webinar, April 12, 2012. (Hereinafter, Fostering Connections Resource Center, *State Approaches to Providing Foster Youth with Options for Supervised Independent Living*, webinar.)

independent living setting, and where would the case worker visit the youth?[61] To what extent would the youth be responsible if he or she violated the terms of a lease or damaged his or her placement? Can youth move to less or more restrictive independent living settings depending on their progress? Should the youth be directly provided with the maintenance payment to pay the landlord? For those youth who receive the maintenance payment, how should the state respond if the youth squanders the money? For youth who live in an independent supervised setting that is the home of their parent or guardian, what types of supports will be in place to help the youth with transitioning back into the home?

In a 2014 GAO survey of 19 states that had extended care, all but two reported providing supervised independent living settings. States also reported challenges with finding appropriate housing options for these youth.[62] States that extend care to youth age 18 and older have outlined which settings youth may live in. For example, in Minnesota youth can live in apartments, homes, dorms, and other settings. The state has explained that it is trying to determine how best to assist youth who pursue postsecondary education out of state, given that caseworkers must continue to meet with these youth at least once a month. Youth may live with roommates; the state does not allow youth to live with their parent(s) from whom they were removed or significant others. The state does not require independent living settings to be licensed, and each county is given discretion on how to handle background checks for roommates and any safety concerns at the independent living setting.[63]

Option to Extend Support for Youth Leaving Care for Permanent Homes After Reaching Age 16

Other provisions of the law address the connection of youth to caring adults, through adoption or placement with relatives. With limited exceptions, monthly federal (Title IV-E adoption and kinship guardianship) assistance has not generally been available for a child who has reached his or her 18th birthday and who left foster care for a permanent family via adoption or kinship guardianship.[64] However, as of FY2011, states and tribes that choose to provide adoption or kinship guardianship subsidies on behalf of eligible children who leave foster care after their 16th birthday, so long as those youth have not yet reached their 21st birthday and are enrolled in school, employed at least 80 hours a month, or participating in an activity designed to promote or remove barriers to employment.[65] States and tribes may also cover an older youth with a medical condition that makes him or her incapable of participating in the activity and this incapacity is supported by regularly updated information in the child's case plan. In addition, a state or tribe is allowed to continue this assistance up to the 21st birthday on behalf of any child, regardless of the age at which the child left foster care, if the state determines that "the child has a mental or

[61] Under federal law, states must establish standards for the content and frequency of caseworker visits of children in foster care which, at a minimum, are to ensure that children are visited on a monthly basis. Within a specified time frame, 90% of children in foster care must be visited at least monthly and most of these visits must occur in the place where the child lives. Section 422(b)(17) and Section 424(e)(1), Title IV-B of the Social Security Act.

[62] U.S. Government Accountability Office, *Foster Care: HHS Needs to Improve Oversight of Fostering Connections Implementation*.

[63] Fostering Connections Resource Center (no longer active), *State Approaches to Providing Foster Youth with Options for Supervised Independent Living*, webinar.

[64] P.L. 110-351 authorized, for the first time, payments for the relatives of children and youth who leave care for kinship guardianship.

[65] This change was made by adding a definition of "child" as it relates to eligible children and youth.

physical handicap that warrants the continuation of assistance." (This was and remains true with regard to adoption assistance; P.L. 110-351 extended this, as of FY2011, to kinship guardianship assistance.) With regard to kinship guardianship, the child must have been "residing for at least six consecutive months in the home of the prospective relative guardian," among other requirements.

HHS's July 2010 program instructions direct states that opt to extend foster care beyond age 18 to provide adoption and kinship guardianship subsidies to youth age 18 and older, up to the age the state has elected. The instructions advise that the term "relative" for purposes of kinship guardianship assistance can include biological and legal familial ties or refer more broadly to tribal kin, extended family and friends, or other "fictive" kin.[66] States and tribes are further advised that they may establish conditions under which a person may qualify to be a child's guardian or enter into a legal guardianship arrangement. For example, such conditions can include requiring a child to be in care for more than a six-month period, and targeting certain age groups for guardianship, such as children over age 12.

Chafee Foster Care Independence Program

The Chafee Foster Care Independence Program (CFCIP) funds services to assist youth who are expected to emancipate from foster care. As enacted by the Foster Care Independence Act of 1999 (P.L. 106-169), the purposes of the CFCIP are to identify youth who are likely to remain in foster care until age 18[67] and provide them with support services to help make the transition to self-sufficiency; assist these youth in obtaining employment and preparing for and entering postsecondary training and educational institutions; provide personal and emotional support to youth aging out of foster care through mentors and other dedicated adults; enhance the efforts of former foster youth ages 18 to 21 to achieve self-sufficiency through supports that connect them to employment, education, housing, and other services; and assure that these former foster youth recognize and accept personal responsibility for preparing for and then making the transition from adolescence to adulthood. P.L. 110-351 explicitly enables states and tribes to provide independent living services to youth who leave foster care after attaining age 16 for placement in an adoptive home or with a legal kinship guardian. The Preventing Sex Trafficking and Strengthening Families Act (P.L. 113-183), signed into law on September 30, 2014, added a purpose area to the Chafee program that is effective one year after the law's enactment—to ensure children who are likely to remain in foster care until 18 years of age have regular, ongoing opportunities to engage in age- or developmentally appropriate activities.

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[66] HHS has also issued other guidance on kinship guardianship arrangements. See HHS, ACF, ACYF, CB, *Program Instruction: Guidance on Fostering Connections to Success and Increasing Adoptions Act of 2008 Title IV-E Plan Amendment—Guardianship Assistance Program; Title IV-E Guardianship Demonstration Projects; Fostering Connections to Success and Increasing Adoptions Act of 2008*, ACYF-CB-PI-10-01, February 18, 2010, http://www.acf.hhs.gov/programs/cb/laws_policies/policy/pi/2010/pi1001.htm.

[67] HHS advises that states have broad discretion in determining which youth are "likely to remain in foster care until age 18," and that states may serve youth ages 18 to 21 who were formerly in foster care but did not age out. HHS, ACF, ACYF, CB, *Child Welfare Policy Manual*, Section 3.1B, Question 1. According to the National Foster Care Coalition, many states have developed indicators to help determine the likelihood that a child will remain in care until his or her 18th birthday. As a result, in some states, youth who are later reunified with their guardian(s), adopted, or placed with relative guardians, may receive CFCIP services. National Foster Care Coalition (formerly National Foster Care Awareness Project), *Frequently Asked Questions II: About the Foster Care Independence Act of 1999 and the John H. Chafee Foster Care Independence Program*, December 2000, p. 16, http://www.casey.org/NR/rdonlyres/E8E5EC9B-2C0B-496B-A165-5A55D2F793A5/194/ChafeeFAQII1.pdf.

The CFCIP is a capped entitlement with an annual ceiling set at $140 million.[68] States and tribes[69] are entitled to an amount based on their share of the nation's foster care population, in the most recent year for which information is available. However, no state may receive less than the greater of $500,000 or the amount received by the state in FY1998. States must provide a 20% match. With funding from the CFCIP and other sources, states have developed independent living programs consistent with the purposes of the law. These programs provide direct services to youth such as housing, career exploration, education services, preventative health activities, counseling, mentoring, training in financial management, and other services. To be eligible for CFCIP funds, states and tribes must describe in their five-year Child and Family Services Plan[70] how they will carry out their independent living program. Among other things, they must ensure statewide coverage (although not necessarily uniform) of the program and ensure that the program serves children of various ages and at various stages of achieving independence. States and tribes must also certify in their plans that they meet certain requirements pertaining to the youth served and how funding will be spent. For example, no more than 30% of program funds may be used for the room and board of youth ages 18 to 21.

Separately, the Chafee Education and Training Voucher Program (ETV) was authorized by the Promoting Safe and Stable Families Amendments of 2001 (P.L. 107-133) for children who have emancipated from care or were adopted from care at age 16 or older. P.L. 110-351 also permits youth who leave foster care for guardianship at age 16 or older to be eligible.[71] Congress authorized $60 million in discretionary funds for the program, which is allocated to states based on their relative share of the foster care population. Congress has appropriated approximately $45 million each year for the program. The program authorizes vouchers worth up to $5,000 annually per eligible youth for the cost of full-time or part-time attendance at an institution of higher education, as defined by the Higher Education Act of 1965. "Cost of attendance" refers to tuition, fees, books, supplies, equipment and materials, room and board, and related expenses. Students are eligible for the vouchers if they are in good academic standing and making progress toward completing their program or graduating, though states may have additional requirements. Only youth receiving a voucher at age 21 may continue to participate in the voucher program until age 23.

P.L. 110-351 explicitly authorizes states to provide independent living services to youth who have left foster care under a permanent arrangement before reaching age 18, either by adoption or kinship guardianship, in addition to the traditional CFCIP population of foster youth who age out without a permanent home. This means that independent living services—with their focus on connecting youth to school, work, and other resources—may be available to these youth until

[68] P.L. 113-183 increases the annual mandatory funding authorization for the program to $143 million beginning with FY2020.

[69] As of FY2010, an Indian tribe, tribal organization, or tribal consortium that receives Title IV-E funding, or enters into a cooperative agreement or contract with the state to provide foster care, can apply for and receive an allotment of CFCIP and ETV funds directly from HHS. Tribal entities also have the same authority that states have to seek federal reimbursement of a part of all their eligible Title IV-E foster care, adoption, and kinship guardianship assistance costs.

[70] The Child and Family Services Plan is a document submitted by states to HHS that describes how they will carry out activities and programs under Title IV-B of the Social Security Act, Child Abuse Prevention and Treatment Act (CAPTA) state grants, and the CFCIP, including the Education and Training Voucher (ETV) program. States are required to update the plan annually.

[71] Four states—Illinois, Iowa, Tennessee, and Virginia—received waivers (prior to the enactment of P.L. 110-351) to enable children who exited through guardianship and/or adoption at age 14, 15, or 16 (or older) to receive vouchers under the Chafee Education and Training Voucher (ETV) program. For further information, see U.S. Department of Health and Human Services, *Profiles of the Child Welfare Demonstration Projects*, James Bell Associates, May 2007, at http://www.acf.hhs.gov/programs/cb/programs_fund/cwwaiver/2007/profiles_demo2007.pdf.

they reach age 21. States currently provide CFCIP services to youth "likely to remain in foster care until age 18," and they have broad discretion in defining this term. Going forward, as states prioritize which youth to serve in the program, they may need to determine whether independent living programs have the capacity to serve any additional youth. In addition, states will need to determine how to fulfill the purpose that addresses youth participating in age- or developmentally appropriate activities. This purpose area will go into effect in FY2016, before new mandatory funding is available under the program (in FY2020).

Transition Plan Requirement[72]

Child welfare law, as amended by P.L. 110-351, requires that a youth's caseworker, and as appropriate, other representative(s) of the youth, assist and support him or her in developing a transition plan. The plan is to be directed by the youth, and is to include specific options on housing, health insurance, education, local opportunities for mentors, workforce supports, and employment services. The plan must be implemented 90 days prior to a youth's 18th birthday (or the 19th, 20th, or 21st birthdays of youth in states that take up the option to extend foster care), "whether during that period foster care maintenance payments are being made on the child's behalf or the child is receiving benefits or services under [the Chafee Foster Care Independence Program]." The Patient Protection and Affordable Care Act (PPACA, P.L. 111-148), added another element to the transition plan. The law requires that the plan must address the importance of designating another individual to make health care treatment decisions on behalf of the youth if he or she becomes unable to participate in these decisions *and* does not have a relative who would be authorized to make these decisions under state law, or he or she does not want a relative to make these decisions. In addition, the transition plan must provide the youth with the option to execute a health care power of attorney, health care proxy, or other similar document recognized under state law.

The *transition plan* is distinct from a *case plan*,[73] which is required for every child and youth in foster care, but the two would appear to be somewhat complementary. The *case plan* is implemented and modified as needed while the youth is in care. In the *case plan*, the child welfare agency must describe in a written document the youth's placement and a plan for ensuring the youth receives safe and proper care, among other items. For youth ages 16 or older, the *case plan* must also address the programs and services that will help the youth make a successful transition to adulthood "where appropriate."[74] In contrast, the *transition plan* is to include options about the services and supports that the youth may receive (presumably) when he or she is no longer in the custody of the state or receiving CFCIP-funded independent living services. Further, the *transition plan* requires that youth and other stakeholders identify specific options that will help youth live independently. For example, the plan must specify which type of housing options the youth will have (and presumably alternative options if housing is not available). The *transition plan* must also be directed by the youth in consultation with others, and can be as detailed as the youth would like.[75] Finally, the *case plan* is reviewed by a court as part

[72] For information about changes (or proposed changes) to state law concerning the transition plan requirement, see National Conference of State Legislatures, http://www.ncsl.org; and Fostering Connections Resource Center (no longer active), *Two Years Since Fostering Connections, Older Youth Provisions*, webinar, October 7, 2010.

[73] The case plan requirements are specified under Section 475(1), Title IV-E of the Social Security Act.

[74] Section 475(1)(D) of the Social Security Act.

[75] Some states have policies in place to ensure that youth participate in their case planning and the court review process. In addition, the CFCIP requires states to certify that they will ensure that youth participating in CFCIP-funded independent living programs "participate directly in designing their own program activities ... and that [they] accept personal responsibility for living up to their part of the program." See 477(3)(J).

of annual hearings to review the youth's (or child's) permanency goal(s). The *transition plan* is not reviewed by a court or other body.

The July 2010 program instructions issued by HHS on P.L. 110-351 provide additional guidance on the transition plan. The instructions encourage child welfare agencies to use transition planning to build on earlier efforts to assist young people in making the transition from foster care, including through the case planning process and permanency hearings. Child welfare agencies are encouraged to begin engaging youth in the transition plan process "well in advance" of the 90-day period.

The July 2010 program instructions state that the transition plan is *not required* for a youth who leaves foster care more than 90 days before his or her 18th birthday, or an older age in states that elect to extend care. This raises questions about those youth who emancipate at any earlier age. Thousands of youth emancipate from care at age 17,[76] raising the possibility that without a transition plan, they could leave care less prepared than their peers in care who are emancipated at ages 18 or older. (These youth might also be less likely to benefit from the Medicaid pathway for emancipated youth, who must have been in care on their 18th birthday to be eligible for this pathway, effective in 2014.) Similarly, states and tribes would not necessarily help develop transition plans for youth who remain in care beyond age 18 but leave at least 90 days before reaching age 19, 20, or 21 (depending on the state).

Those in the field of social work have begun to develop guidance on how to carry out a transition plan. This guidance emphasizes that the plan should engage youth and stakeholders in a process, and not serve solely a checklist of skills, and further that the transition planning process should focus on helping the youth achieve permanency with caring adults that will provide lifelong and possible legal relationships to youth. The guidance stresses that plans should be developed with the strengths of the young people in mind; be directed by the youth to ensure they actively participate in the process; and encourage service providers and those closest to the youth to share information and jointly help the youth in planning for their future; among other principles.[77]

In a 2014 report, GAO found that states have adopted policies to engage youth in the transition planning process and providing essential supports as part of the transition from foster care. For example, of 53 jurisdictions nearly all (49) require that youth input on the plan is documented and that the plan includes ensuring that youth have key documents (e.g., birth certificate). Further, 35 jurisdictions require that the transition plan is separate from other transition planning efforts, such as plans developed in connection with permanency hearings. Over half (28) of jurisdictions require a transition planning specialist or outreach worker to assist the youth with the plan. Nonetheless, several jurisdictions reported challenges with transition planning, including a lack of staff training or time to effectively engage youth in transition planning (21 jurisdictions), identifying and engaging supportive adults from the youth's life in the transition planning process (21), and identifying appropriate housing for youth transitioning from care (31).[78]

Some states, including Hawaii and Nebraska, have developed transition planning processes that provide detailed directives about engaging youth and others who are involved in these processes.

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[76] Based on data provided by HHS, ACF, ACYF, CB, 2013.

[77] Dianna Walters et al., *Transition Planning with Adolescents: A Review of Principles and Practices Across Systems*, National Resource Center for Youth Development and the University of Southern Maine, Muskie School of Public Service, June 2010, http://nytdcommunity.acf.hhs.gov/node/353. The publication includes examples of transition plan processes in six states.

[78] U.S. Government Accountability Office, *Foster Care: HHS Needs to Improve Oversight of Fostering Connections Implementation*, GAO-14-347, May 2014, p. 41.

In Hawaii, youth and others hold transition planning "circles" to celebrate the young person becoming an adult and assisting the youth plan for their future. These conferences are intended to be driven by the youth and to draw on the youth's support system to generate options and resources that help the youth make decisions about their future and meet their goals. They include specific options that are outlined in federal law, as well as options for transportation and spirituality.[79] Foster Club, an advocacy organization for youth in foster care, has developed a transition planning kit for older youth in Nebraska. It specifies the roles of the transition plan team and courts in oversight. It also includes a transition proposal checklist that is revisited six months after it is initially created, and again 90 days before the youth ages out. In addition, it includes what is referred to as a "permanency pact," whereby youth consider which individuals can assist them as they transition and the specific types of supports they may be able to provide (e.g., a place to spend the holidays, job search assistance, assistance with medical appointments, co-signer, emergency cash, inclusion in social circle/community activities).[80]

Other Ongoing Issues

Even with the passage of P.L. 110-351, policy makers and child welfare advocates remained concerned that older foster youth and those who have aged out face challenges as they transition to adulthood. The Midwest Evaluation and other research demonstrate that youth have difficulty in fostering permanent connections with caring adults, securing health insurance and housing, and staying connected to work and school. Further, little is known about youth as they transition from foster care and the effectiveness of the services they receive, although a new national database will likely provide some insight into their outcomes across a number of areas, such as education, employment, and contact with social service and criminal justice systems. Finally, a recent focus of Congress has been on increasing protections for children who are vulnerable to going missing from care, or may go missing, and responding to youth in foster care who may be vulnerable to sex trafficking or have been victims of sex trafficking. The Preventing Sex Trafficking and Strengthening Families Act (P.L. 113-183), enacted in September 2014, seeks to address some of these issues.

Permanent Relationships

The Midwest Evaluation shows that youth who aged out of foster care are less likely to have permanent, positive relationships with caring adults, and that youth continue to remain in close contact with their biological families after emancipating. Still, they also appear to be estranged from these family members. The Midwest Evaluation on the Adult Functioning of Former Foster Youth, a study that is tracking young people who emancipated from care in three states, shows that at age 26, these youth were more likely than their peers to be married (35.7% vs. 26.1%) and much less likely to live with their parents (3.9% vs. 17.2%).[81] Further, about half or less than half of alumni reported being "very close" or "somewhat close" to their biological mother (52.0%), biological father (30.8%), grandparents (46.2%), or "other relatives" (38.8%). (Comparable data were not reported for youth generally.) This suggests that a significant share of former foster

[79] EPIC 'Ohana, Inc., "E Makua Ana Youth Circle Transition Plan," http://jimcaseyyouth.org/sites/default/files/Hawaii.NEW%20Bird%20Tweety%20YC%20Transition%20Plan%20121009.pdf.

[80] Foster Club, "Transition Planning for Older Youth," http://jimcaseyyouth.org/sites/default/files/Nebraska.Older%20Youth%20flier%20v%202%20wApps.pdf.

[81] Mark E. Courtney et al., Midwest *Evaluation of the Adult Functioning of Former Foster Youth: Outcomes at Age 26*, Ibid, pp. 12-15.

youth in the study did not have strong relationships with at least some of their relatives after having been out of care for a few years.

Ways to Foster Permanency

Despite federal protections to ensure that child welfare agencies help youth plan for their futures, child welfare practitioners and young people in care continue to advocate for additional policies that improve the transition to adulthood by encouraging strong, long-term connections to caring adults.[82] They argue that these connections can help youth achieve more successful outcomes by providing emotional, financial, and other support. In some jurisdictions, the child welfare agency plays an active role to ensure permanent adult connections for youth aging out. According to practitioners, permanency can mean different types of relationships for a youth in foster care, but generally refers to a connection with at least one committed adult who provides a safe, stable, and secure relationship, unconditional commitment, and a legal relationship where possible.[83] Practitioners point out that relationships can be developed by (1) reconsidering whether youth can achieve permanency without resorting to the case goal of "another planned permanent living arrangement (APPLA); (2) helping youth identify permanent connections through the case planning and transition planning processes; (3) assisting youth, up to their early twenties, pursue adoptive relationships with adults; and (4) helping youth develop relationships with caring adults such as teachers or mentors.[84] Child welfare researchers advise that practitioners should be cautious in designing and implementing policies that help foster youth develop lasting connections with adults.[85] For example, young people in care have experienced failed relationships with adults who were supposed to care for them, and youth could be harmed if they form unsustainable relationships with other adults. Further, as the Midwest Evaluation and other studies have shown, youth who age out tend to have regular contact with their biological family. Little research has been conducted on how best to facilitate healthy relationships between foster youth and their family members.

Reconsidering APPLA as a Permanency Goal[86]

Advocates have urged policy makers and practitioners to require that permanency planning be initiated before a youth leaves care. This could be achieved through the case planning process. At a child's annual permanency hearing, the judge must determine the permanency plan (or goal) for the child, including, as appropriate, (1) returning home, (2) referral for adoption and termination of parental rights (TPR), (3) guardianship, or (4) placement with a "fit and willing" relative. If

[82] For additional information about the need for permanency for current and former older foster youth, see Gina Miranda Samuels, *A Reason, A Season, or A Lifetime: Relational Permanence Among Young Adults with Foster Care Backgrounds*, Chapin Hall Center for Children, University of Chicago, 2008, http://www.chapinhall.org/research/report/reason-season-or-lifetime.

[83] Mardith J. Louisell, *Model Programs for Youth Permanency*, California Permanency for Youth Project, 2004, available at http://www.cpyp.org/Files/ModelPrograms.pdf.

[84] National Governors Association, Center for Best Practices, *State Policies to Help Youth Transition Out of Foster Care*, Issue Brief, December 2007, pp. 4-7, http://www.nga.org/Files/pdf/0701YOUTH.PDF.

[85] Mark E. Courtney, "The Difficult Transition to Adulthood for Foster Youth in the U.S.: Implications for the State as Corporate Parent," *Social Policy Report*, vol. XXIII, no. 1 (2009), pp. 15-16. (Hereinafter referenced Mark E. Courtney, "The Difficult Transition to Adulthood for Foster Youth in the U.S.: Implications for the State as Corporate Parent.")

[86] For further information, see CRS Congressional Distribution Memorandum, "Another Planned Permanent Living Arrangement (APPLA) as a Permanency Goal for Children in Foster Care," February 17, 2012, by Adrienne Fernandes-Alcantara and Emilie Stoltzfus. Available to congressional clients upon request.

none of these goals is possible or appropriate, "another planned permanent living arrangement" (APPLA) may be selected. In selecting APPLA, states must document a "compelling reason" for determining that the other case permanency goals would not be in the child's best interests."[87]

APPLA was added to the statute as part of reforms enacted in the Adoption and Safe Families Act (ASFA) of 1997, in which advocates sought to address concerns that long term foster care (a previous placement option) is not stable and can lead to frequent moves for a child. Advocates envisioned APPLA as a permanent arrangement for a child and "not a catchall for whatever temporary plan is needed when none of the preferred permanency plans are practical."[88] According to advocates, a permanency plan with APPLA should involve a specific adult or couple, as opposed to an organization, who will care for the young person; likely live with him or her; and have a permanent and caring role in the child's life.[89] Since ASFA's enactment, concerns have been raised by child welfare advocates and others that APPLA has been used as a replacement for "foster care on a permanent or long term basis" and that APPLA has become a default permanency goal for some children in foster care. They caution that certain settings, such as group care, should not be pursued unless there is clear evidence that the young person would not be able to function in a family before reaching the age of emancipation.[90]

In December 2010, the Senate Caucus on Foster Youth, co-chaired by Senators Grassley and Landrieu, issued a white paper that drew on a series of meetings held with foster youth and other stakeholders to discuss policy and practice changes that could improve outcomes for children in foster care. The executive summary noted that while permanency is a goal for all children in foster care, "too often" the goal was not attained and, further, that youth reported not always understanding what permanency meant. Among a wide range of policy options, the white paper included two that were directly related to APPLA. These were to (1) eliminate APPLA as a case plan goal entirely, or (2) make APPLA available only to older teenagers in care but "only after efforts at intensive family finding have been undertaken, and only if APPLA is determined or re-determined necessary by the court at each permanency hearing held with regard to the youth."[91]

The Preventing Sex Trafficking and Strengthening Families Act (P.L. 113-183) incorporates some of the recommendations made in the white paper. The law stipulates that no child under the age of 16 may have a permanency plan of APPLA. Generally this requirement is effective one year after the bill's enactment, although for children in foster care who are under the responsibility of an Indian tribe the effective date is three years after the bill's enactment. The law requires that if a child is assigned a permanency plan of APPLA, the state must meet additional requirements for the child as part of the child's annual permanency hearing and, separately, as part of the periodic review (every six months) of a child's status in foster care. These requirements are designed to ensure that the state child welfare agency continues to look for a permanent family for children with an APPLA designation, that the court continues to revisit whether APPLA is an appropriate

[87] Section 475(5)(C) of the Social Security Act.

[88] Cecilia Fiermonte and Jennifer Renne, Making *It Permanent: Reasonable Efforts to Finalize Permanency Plans for Children,* pp. 79-93, American Bar Association Center on Children and the Law and National Child Welfare Resource Center on Legal and Judicial Issues, 2002, http://apps.americanbar.org/child/rclji/making_it_permanent.pdf"http://apps.americanbar.org/child/rclji/making_it_permanent.pdf.

[89] Ibid.

[90] Ibid.

[91] U.S. Senate Caucus on Foster Youth, "Call to Action," October 7, 2010, http://landrieu.senate.gov/mediacenter/upload/10062010CALLTOACTIONPRESS.pdf.

permanency plan for the child, and that the child is consulted about his/her desired permanency outcome and ability to participate in age- or developmentally appropriate activities.[92]

Case Planning and Transition Planning

The transition plan requirement may be one way to help ensure that youth are fostering permanent connections in adulthood. The requirement directs youth and other stakeholders to consider local opportunities for mentoring. This could mean that, at minimum, youth and others have a conversation about the relationships the youth can forge as they leave care.

Further, as proposed in previous Congresses, changes could be made to federal child welfare law to assist youth achieve permanency. For example, written case plan requirements could be amended to include the steps taken to ensure that a child has a permanent living arrangement if they emancipate, and for older youth, documentation of the permanent living arrangement the youth will enter after foster care. Further, the case plan requirements could include documentation of the steps the agency takes to find a permanent placement with a family or other adult connection for the youth, as well as a permanent living arrangement.

As part of its 2014 report on implementation of the Fostering Connections Act, GAO surveyed states about their transition planning process and found that 36 jurisdictions (including the District of Columbia) require that it includes intensive efforts to ensure young people have adult connections if these connections are not already established.[93] Some transition processes in particular focus heavily on permanent connections. During the transition process in Texas, youth receive assistance in determining which caring adults can provide them support when they leave care.[94] As part of the youth's case plan, a youth is asked to identify someone who is over age 18 and not necessarily a placement option, but will provide consistent and significant support and help the youth make important decisions and work through emergency situations. As mentioned, Foster Club's Permanency Pact is intended to help youth aging out connect with caring adults.[95] The pact is a tool that can be used to "define, substantiate, and verbalize" a lifelong commitment of an adult to a youth leaving care. The pact seeks to ensure that the young person leaving care has emotional and tangible supports.

Adoption Opportunity Grants

Other efforts to support permanency have focused on adoption for older youth. Beginning in 2005, HHS funded a five-year pilot demonstration project to support adoption for older youth, known as Adoption Opportunity Grants.[96] Two of the multiple purposes of the grants were to demonstrate effective strategies of open adoption for youth who prefer to maintain contact with their biological families, and to demonstrate effective implementation strategies for securing permanent connections for youth, particularly through adoption, open adoption, guardianship, and kinship care. The grants funded 10 projects throughout the country.

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[92] Section 475(5)(C) and Section 475A(a) of the Social Security Act.

[93] U.S. Government Accountability Office, *Foster Care: HHS Needs to Improve Oversight of Fostering Connections Implementation*, p. 40.

[94] State of Texas, Department of Family and Protective Services, *Child Protective Services Handbook,* Section 6437.4, https://www.dfps.state.tx.us/handbooks/CPS/.

[95] Foster Club, *Permanency Pact*, http://www.fosterclub.com/files/PermPact_0.pdf.

[96] U.S. Department of Health and Human Services, National Resource Center for Adoption, *Adoption Opportunities Grantees*, http://www.nrcadoption.org/youthpermanencycluster/intro.html.

Mentoring

Other changes could be made at the federal level to achieve permanency for current and former foster youth. For example, federal grants could be funded to provide mentoring. The Department of Justice has provided funding to a small number of grantees for mentoring teens in care.[97] Legislation has also been introduced in Congress that seek to permanently authorize funding for grants that provide mentoring to foster children. The bills have proposed to authorize grants to states and other entities to support, establish, and expand networks of public and private community entities to provide this mentoring.

Child Sex Trafficking

State and local child welfare agencies are responsible for carrying out child welfare policies that are intended to promote the safety, well-being, and permanency of all children. Child victims of sex trafficking[98] may come to the attention of the child welfare agency if they are reported to the agency's child protective services (CPS) hotline. In addition, children in foster care—who are typically placed out of their homes due to abuse or neglect by their parents or caregivers—may be vulnerable to trafficking. Youth who run away from foster care are perceived to be especially susceptible to this type of victimization. The capacity for state and local child welfare agencies to respond to the needs of sex trafficking victims is believed to be limited. This may be due, in part, to inadequate training, insufficient resources, high caseloads, and the perception that victims should be handled in the juvenile justice system.[99] In addition, states may not have mechanisms in place to "screen in" cases involving children who are sex trafficked because the perpetrator involved is not the child's parent or caregiver as these terms are defined under state law.[100] As part of its report on child sex trafficking, the National Academy of Sciences recommends, among other items, improving collaboration and information sharing across multiple sectors such as the federal government, state and local governments, academic and research institutions, foundations and nongovernmental organizations, and the commercial sector.[101]

In the 113th Congress, the House Ways and Means Subcommittee on Human Resources and the Senate Finance Committee held hearings about child sex trafficking and the opportunities and challenges for child welfare agencies to respond. Witnesses testified about how children become victimized and the strategies that selected child welfare agencies have taken to recognize and combat child sex trafficking.[102] These hearings and other efforts culminated in passage of the

[97] For further information about the Department of Justice mentoring program, see CRS Report RL34306, *Vulnerable Youth: Federal Mentoring Programs and Issues*, by Adrienne L. Fernandes-Alcantara.

[98] "Sex trafficking" is defined in §103(10) of the Trafficking Victims Protection Act as the recruitment, harboring, transportation, provision, or obtaining of a person for the purpose of a commercial sex act.

[99] Ellen Wright Clayton, Richard D. Krugman, and Patti Simon, eds., *Confronting Commercial Sexual Exploitation and Sex Trafficking of Minors in the United* States, National Academy of Sciences, pp. 186, 237-241.

[100] For further information, see CRS Report R41878, *Sex Trafficking of Children in the United States: Overview and Issues for Congress*, by Kristin Finklea, Adrienne L. Fernandes-Alcantara, and Alison Siskin.

[101] Ellen Wright Clayton, Richard D. Krugman, and Patti Simon, eds., *Confronting Commercial Sexual Exploitation and Sex Trafficking of Minors in the United* States, National Academy of Sciences, September 25, 2013, pp. 337-342, http://www.iom.edu/Reports/2013/Confronting-Commercial-Sexual-Exploitation-and-Sex-Trafficking-of-Minors-in-the-United-States.aspx.

[102] U.S. Congress, Senate Committee on Finance, *Sex Trafficking and Exploitation in America: Child Welfare's Role in Prevention and Intervention*, 113th Cong., 2nd sess., June 5, 2013; and U.S. Congress, House Committee on Ways and Means, Subcommittee on Human Resources, *Preventing and Addressing Sex Trafficking of Youth in Foster Care*, 113th Cong., 2nd sess., October 23, 2013.

Preventing Sex Trafficking and Strengthening Families Act (P.L. 113-183). The act amends the Title IV-E foster care program to require state child welfare agencies to develop and implement procedures to identify, document in agency records, and determine appropriate services for certain children or youth who are victims of sex trafficking, or at risk of being such victims as defined under the Trafficking Victims Protection Act.[103] The procedures must be developed in consultation with state and local law enforcement, juvenile justice systems, health care providers, education agencies, and organizations with experience in dealing with at-risk children and youth. The procedures must also ensure relevant training for caseworkers. The law provides that these procedures need to be developed within one year of the bill's enactment (on September 30, 2014) and implemented within two years of that date. Further, no later than two years after the enactment of P.L. 113-183, the law requires state child welfare agencies to report to law enforcement authorities immediately, or in no case later than 24 hours, after they receive information about child or youth victims of sex trafficking. Additionally, within three years of the law's enactment, state child welfare agencies are required to annually report to HHS the total number of children and youth who are sex trafficking victims.[104] HHS in turn is required, within four years of that date, to annually report to Congress and the public (via the HHS website) the total number of children and youth who are reported by state child welfare agencies as victims of sex trafficking.[105]

P.L. 113-183 also directs HHS to submit a written report to Congress, no later than two years after enactment of the bill, summarizing demographic information and discussing state efforts to provide specialized services, foster family homes, child care institutions, or other forms of placement for children who are victims of sex trafficking, and related requirements. Under the law, HHS must also establish the National Advisory Committee on Domestic Sex Trafficking and to appoint all members of the committee (in consultation with the Attorney General) within 180 days after the bill's enactment. The committee is charged with advising the HHS Secretary and the Attorney General on policies concerning improvements to the nation's response to domestic sex trafficking of minors from the child welfare system and developing recommended best practices for states to follow in combating the domestic sex trafficking of minors, among other responsibilities.[106]

Congress may wish to monitor how states implement these requirements when they go into effect one to four years after the law's enactment. Some considerations include (1) the type of guidance and technical assistance HHS provides states to make them aware of the child welfare agency's role in responding to child sex trafficking, (2) whether states are serving youth who are not or were not previously in foster care, (3) how many victims are reported by state child welfare agencies to the federal government, and (4) any best practices that have been identified for serving these victims. In addition, state child welfare agencies are required to serve only children and youth victims (or possible victims) who are already in the child welfare system, and not necessarily those who may come to the attention of the agency as a victim. As Congress examines implementation of the new law, it may wish to consider the extent to which state child welfare agencies should take on responsibilities to screen in victims (or possible victims). Pending

[103] Children and youth for whom the procedures must be developed are those in foster care, including those who have run away from care; or who are otherwise being served by the child welfare agency (i.e., children or youth being served by the agency in their own homes or as part of the Chafee Foster Care Independence Program). In addition, a state *may elect* to use these procedures to identify individuals up to the age of 26 who are victims, or at risk of becoming victims, of sex trafficking, without regard to whether the youth was ever in foster care.

[104] Section 471(a)(34) of the Social Security Act.

[105] Section 471(d) of the Social Security Act.

[106] Section 1114A of the Social Security Act.

legislation (including H.R. 5081, passed by the House in July 2014) would require state child welfare agencies to have procedures in place to identify and assess reports involving children who are sex trafficking victims, and train child protective services (CPS) workers to identify and assess child victims of sex trafficking, among other changes.

Children Missing From Foster Care

Children who are removed from their parents or guardians and placed in foster care homes because of abuse and neglect may go missing. Federal law and policy have generally provided limited guidance to states on serving children missing from care, and the focus of this guidance is exclusively on children who run away from their placements. Further, the federal Runaway and Homeless Youth program and the Missing and Exploited Children's program do not target services and supports specifically for children in foster care. Some child welfare stakeholders have sought a more uniform and robust response to children missing from care.[107] In an unpublished survey from 2004 conducted by the Child Welfare League of America (CWLA), a child welfare organization, many states reported that they had policies and procedures in place to prevent children from going missing from foster care or recovering them when they do.[108] Still, it is unclear the extent to which these states carry out the policies they have established and whether implementation differs across jurisdictions within states.

The recently enacted Preventing Sex Trafficking and Strengthening Families Act (P.L. 113-183) provides a directive to state child welfare agencies on children missing from care. It focuses on responding to children who go missing and directing the child welfare agency to involve other entities when a child goes missing. Specifically, the law requires the state child welfare agency (as part of its Title IV-E plan) to develop protocols for (1) expeditiously locating any child missing from foster care; (2) determining the primary factors contributing to the child running away or otherwise going missing from care and responding to those factors in the current and subsequent placements of the child; (3) learning about the child's experience while absent from care, including determining if the child is a possible victim of sex trafficking; and (4) reporting any related information as required by HHS. These protocols must be developed and implemented within one year of the law's enactment. P.L. 113-183 further requires state child welfare agencies to report information it receives on missing and abducted children or youth to the National Center on Missing and Exploited Children (NCMEC), a federally funded resource center on missing children, and to law enforcement authorities for inclusion in the Federal Bureau of Investigation's (FBI) National Crime Information Center (NCIC) database.[109]

Children missing from care raise several issues about the role of child welfare agencies and the federal government in responding to these cases. For example, child welfare agencies may need

[107] Child Welfare League of America, *CWLA Best Practice Guidelines: Children Missing From Care*, 2005, and National Center for Missing and Exploited Children, *Children Missing From Care: The Law-Enforcement Response*, 2005.

[108] Caren Kaplan, *Children Missing From Care*, Child Welfare League of America, 2004, http://www.cwla.org/programs/fostercare/childmiss.htm. In the survey, conducted by the Child Welfare League of America (CWLA), a child advocacy organization, states were asked about their policies to address children missing from foster care. Of the 24 states that responded, most reported that they lacked formal definitions of the terms "missing" and "runaway," but that they had policies or procedures for recording and tracking the status of these children.

[109] The NCIC is a computerized index of information on crimes and criminals that is maintained by the FBI. Federal law requires federal, state, and local law enforcement officials to enter records of missing children (including young adults ages 18 through 20) into the NCIC within two hours of that child being reported missing. 42 U.S.C. 5779 and 42 U.S.C. 5780.

to examine larger issues that may play a role in whether a child goes missing. Best practice guidelines issue by the Child Welfare League of America (CWLA) in 2005 recommend that state child welfare agencies have certain procedures and policies in place, such as (1) recruit, retain, and train a sufficient and competent workforce and maintain caseload standards that permit workers to perform the duties necessary to achieve successful outcomes; (2) include youth, birthparents, extended family, tribal members, and caregivers in all decision making as appropriate; (3) examine the structure and operation of foster and group homes, residential facilities, or agencies that display higher rates of runaways; and (4) implement remedial action if necessary to correct the structural and operational deficiencies that cause or contribute to running behavior of children in care.[110]

Another consideration is how states define missing, and whether to report all missing children to law enforcement agencies. For example, at least a couple of states define "missing" to include children whose whereabouts are known but are not at their foster care placements. This raises questions about whether children who are missing, including those whose whereabouts are known, ought to be reported to law enforcement. States could restrict reporting children who are missing from care to circumstances where law enforcement can be most helpful. This may be necessary because law enforcement agencies often have competing demands from other pressing public safety threats, and smaller law enforcement agencies may not have dedicated staff for missing persons cases. Further, law enforcement agencies may choose not to respond as vigorously to certain types of missing incidents such as frequent runaways, due to a variety of factors such as competing demands, the time it takes to process paperwork and transport juveniles, the frustration of runaway cases involving juveniles who do not want to return home, and the likelihood that juveniles will run again.[111] Nonetheless, even children and youth whose whereabouts are known may still be at risk of endangerment.

A related issue is the extent to which coordination between the child welfare agency and law enforcement and the courts can help prevent children from going missing. Federal child welfare policy provides some general requirements related to child welfare agency work and courts and law enforcement. None of these are provided necessarily in the context of children missing from care but they might be a starting point for any needed collaboration.[112] The CWLA Best Practices guidelines, and the guidelines written by NCMEC, encourage law enforcement agencies and child welfare agencies to delineate roles and share clear, consistent definitions of missing children.[113]

Finally, little is known about children missing from foster care. Currently, state child welfare agencies must report to HHS, via the reporting system known as AFCARS, on the number of children who run away from their foster care placement settings and have not returned as of the last day of the six-month reporting period, and children who remained in that runaway status

[110] Child Welfare League of America, *CWLA Best Practice Guidelines: Children Missing From Care*, 2005.

[111] Kelly Dedel, *Juvenile Runaways*, U.S. Department of Justice, Office of Community Oriented Policing Services, Problem Oriented Guides for Police Problem-Specific Guides Series, No. 37, February 2006.

[112] Under Title IV-B, Subpart 1 of the Social Security Act (Stephanie Tubbs Jones Child Welfare Services Program), state child welfare agencies must demonstrate "substantial, ongoing, and meaningful collaboration" with state courts in the implementation of their child welfare programs and under the Court Improvement Program, state highest courts are required to demonstrate this same meaningful and ongoing collaboration with state child welfare agencies. In addition, under the state grant program of the Child Abuse Prevention and Treatment Act (CAPTA), states must assure the cooperation of state law enforcement agencies, courts, and state human services agencies in the investigation, assessment, prosecution, and treatment of child abuse and neglect.

[113] *CWLA Best Practice Guidelines: Children Missing From Care*, Chapter 3, 2005; National Center for Missing and Exploited Children, CWLA, and U.S. Department of Justice, Office of Justice Programs, Office of Juvenile Justice and Delinquency Prevention, *Children Missing From Care: The Law-Enforcement Response*, 2005.

when they were discharged from foster care (i.e., exited care). AFCARS does not have a separate reporting category for children who may go missing for other reasons, such as abductions or negligence by the child welfare agency. To enable states to identify and work to locate children who are no longer living where they were placed by child welfare agencies, states may need to more completely track these children. For example, they might also need to identify and count those children who were abducted or are otherwise missing.

Normalcy for Youth in Foster Care[114]

Child welfare stakeholders have raised concerns that child welfare agencies may limit the opportunity for foster youth to participate in "normal," age-appropriate activities because of policies that prioritize safety above other considerations. At a House Ways and Means Subcommittee hearing on balancing safety with opportunities to let foster youth have normal experiences, witnesses testified about the restrictions foster youth face. For example, they may be prevented from having sleepovers at the homes of their friends, dating, using the phone, obtaining a driver's license, driving a vehicle, working, going on school trips, and participating in sports. Or youth may be able to participate in these activities only after friends' parents (or other adults such as chaperones and coaches) have been subject to background screenings. Witnesses asserted that youth naturally also want to take on more risk as they test out their independence, and their behaviors may put them at risk of injury.[115] One witness explained that changes in brain development during adolescence often mean that teenagers exhibit more risk taking behaviors: "[B]ecoming an adult and taking on adult responsibilities involves taking on risks ... [A] teenager's brain is literally primed for risk-taking since chemicals in the brain that act to link such action to pleasure are shifting during adolescences."[116]

Prior to the enactment of the Preventing Sex Trafficking and Strengthening Families Act (P.L. 113-183), few federal child welfare provisions specifically addressed efforts to promote normalcy for youth in foster care. P.L. 113-183 includes several such provisions, and Congress will likely be interested in monitoring how the law is implemented when the provisions generally go into effect one year after the law's enactment. For example, the law established a "reasonable and prudent parenting" standard under which foster parents and other caregivers apply knowledge and skills necessary to make decisions that enable children and youth in care to participate in age and developmentally-appropriate activities.[117] HHS must help states identify best practices for assisting foster parents in using the standard. The law also requires child welfare agencies to provide training to prospective foster parents on children's developmental stages and on how to apply the reasonable and prudent parent standard when determining whether a foster child's participation in school or other social, extracurricular, or cultural activities (e.g., sports teams, field trips, overnight events and related transportation) is age- or developmentally-appropriate.

[114] For further information, see CRS Congressional Distribution Memorandum, "Normalcy for Children in Foster Care," May 8, 2013, by Adrienne Fernandes-Alcantara and Emilie Stoltzfus. Available to congressional clients upon request.

[115] U.S. Congress, House Committee on Ways and Means, Subcommittee on Human Resources, *Letting Kids be Kids: Balancing Safety with Opportunity for Foster Youth*, 113th Cong., 1st sess., May 9, 2013.

[116] Ibid, testimony of Lynne Tiede, Jim Casey Youth Opportunities Initiative. See also, Casey Youth Opportunities Initiative, *The Adolescent Brain: New Research and Its Implications for Young People Transitioning From Foster Care*, 2011, pp. 4, 21-22.

[117] Section 475(10) and (11) of the Social Security Act.

States are further required to revise their licensing standards for foster family homes and child care institutions to reflect provisions around normalcy, among other related changes.

Housing

A major concern for youth aging out of foster care is the lack of adequate and affordable housing. Several studies have examined rates of homelessness among former foster youth, and the share of youth reported homeless varies from 11% to 36%. The studies were conducted using differing methodologies, localities, length of time since exit, and other variations. The Midwest Evaluation, which has examined outcomes of foster youth in three Midwestern states, found that 24% of 23-year-olds reported being homeless at least once since exiting care.[118] Some youth have also couch surfed, wherein they do not have permanent housing and stay at the homes of family and friends. Estimates of emancipated youth who couch surf range from one-quarter to one-half.[119] The housing status of former foster youth is often affected by individual characteristics (e.g., their lack of financial supports and ties to family members and other caring adults, early parenthood, and involvement with the juvenile justice system); their involvement with the child welfare system (e.g., lack of preparation in making the transition to adulthood and lack of coordination with other systems that may be able to assist young people in securing housing); and the housing market (e.g., ability to secure affordable housing). Youth who lack housing may have difficulty staying in school and/or maintaining employment.[120]

Although the CFCIP authorizes states to spend up to 30% of their allotment on room and board for youth ages 18 to 21 who emancipate from care, child welfare researchers point out that these funds alone cannot adequately cover the cost of housing for many former foster youth.[121] Nonetheless, former foster youth may have access to housing programs operated by nonprofit organizations, sometimes in combination with a housing developer or property management agency. In a review of nearly 60 housing programs for former foster youth in 21 states and the District of Columbia, researchers found that these programs provide housing options that include single-site locations (e.g., apartments in one building), scattered-site locations (e.g., housing provided by different landlords throughout a community), and host homes (e.g., homes hosted by a foster family or other adults). Most of the programs focused on providing independent living supports to former foster youth and required the youth to be working or in school. None of the programs have been rigorously evaluated to determine if they prevent homelessness or reduce housing stability, or otherwise have helped young people achieve positive outcomes such as attainment of a high school diploma.[122] In addition, youth who live in states that take up the extended foster care option under P.L. 110-351 can be housed in a foster home or independent

[118] Mark E. Courtney et al., *Midwest Evaluation of the Adult Functioning of Former Foster Youth: Outcomes at Age 23*, p. 10. In the follow-up study of these youth at age 26, 15% reported having been homeless at least once since age 23. Mark E. Courtney et al., *Midwest Evaluation of the Adult Functioning of Former Foster Youth: Outcomes at Age 26.*

[119] Amy Dworsky et al., *Housing for Youth Aging Out of Foster Care: A Review of the Literature and Program Typology*, Mathematica Policy Research for the U.S. Department of Housing and Urban Development, April 2012, pp. 4-7, http://www.huduser.org/publications/pdf/housingfostercare_literaturereview_0412_v2.pdf. (Hereinafter Amy Dworsky et al., *Housing for Youth Aging Out of Foster Care: A Review of the Literature and Program Typology*.)

[120] Ibid.

[121] Mark E. Courtney and Darcy Hughes Heuring. "The Transition to Adulthood for Youth "Aging Out" of the Foster Care System" in Osgood et al., eds., *On Your Own Without a Net*, 2005, p. 54.

[122] Amy Dworsky et al., *Housing for Youth Aging Out of Foster Care: A Review of the Literature and Program Typology.*

living setting. Still, states that extended care report challenges with finding appropriate housing options.[123]

Another housing issue concerns current and former foster youth in college who are unable to stay with family or friends over school breaks, when college facilities are often closed. Some states require public universities to provide housing for these youth. For example, California law requires that the California State University system and the community college system, "review housing issues for those emancipated foster youth living in college dormitories to ensure basic housing during the regular academic school year, including vacations and holidays other than summer break."[124]

The Higher Education Act (HEA), as amended, seeks to address some of these housing concerns by authorizing services specifically for youth in foster care or recently emancipated youth, including housing services, among other related changes. The law authorizes services for these youth (and homeless youth) through Student Support Services—a program intended to improve the retention and graduation rates of disadvantaged college students—that can include temporary housing during breaks in the academic year. HEA further allows additional uses of funds through the Fund for the Improvement of Postsecondary Education to establish demonstration projects that provide comprehensive support services for students who were in foster care (or homeless) any time before age 13. As specified in the law, the projects can provide housing to the youth when housing at an educational institution is closed or unavailable to other students. Nevertheless, authority to fund housing during breaks does not mean that universities and colleges will necessarily use funds from the two programs for this purpose.

Separately, federal law enables owners of properties financed in part with Low-Income Housing Tax Credits (LIHTC) to claim as low-income units those units occupied by low-income students who were in foster care. Owners of LIHTC properties are required to maintain a certain percentage of their units for occupancy by low-income households; students (with some exceptions) are not generally considered low-income households for this purpose. The law does not specify the length of time these students must have spent in foster care nor require that youth are eligible only if they emancipated.

Employment and Education

In its February 2008 report on disconnected youth, the U.S. Government Accountability Office defined this population as individuals ages 14 to 24 who are not in school and not working, or lack family or other support networks.[125] As identified in the report, youth in care and certain other groups of youth are at greater risk of becoming disconnected from employment and education.

Young people who have aged out of care tend to have low rates of employment and low earnings. One study of youth who emancipated in three states—California, Minnesota, and North Carolina—linked child welfare, Unemployment Insurance (UI), and public assistance

[123] U.S. Government Accountability Office, *Foster Care: HHS Needs to Improve Oversight of Fostering Connections Implementation*.

[124] California Education Code Section 89342.

[125] U.S. Government Accountability Office, Disconnected Youth: Federal Action Could Address Some of the Challenges Faced by Local Programs That Reconnect Youth to Education and Employment, GAO-08-313, February 2008.

administrative data to determine the employment outcomes of these young people.[126] At age 24, about three out of five youth who aged out in the three states were working, a rate lower than that of youth nationally and youth from low-income families. These young people were also less likely to earn as much as their counterparts. The average monthly earnings for emancipated youth in all three states were substantially lower than earnings for youth nationally, who earned $1,535 a month on average.

On the education front, young people in care or who have aged out face numerous challenges. While in care, youth tend to experience multiple school placements, delays in enrollment, loss of academic credit, and lack of a consistent education advocate who is knowledgeable about their needs in the special education process, among other challenges.[127] Foster care alumni, even those who remain in care beyond age 18, are far less likely to attend college. The Midwest Evaluation demonstrates that by age 26, only about 7% of youth who aged out of care in three states attained an associate's degree or bachelor's degree. About one-third of the general youth population had the same.[128] This suggests that young foster care alumni may need additional supports to facilitate completing their education. For example, they may benefit from academic, social/emotional, and logistical support, including year-round housing.

Federal child welfare law addresses the educational needs of youth who are in or were in foster care.[129] State child welfare agencies are required to also give assurances in each child's written case plan that when selecting a child's placement in foster care, the agency had taken into account the setting's proximity to the school in which the child was enrolled at the time of placement in foster care.[130] The law also stipulates that a state child welfare agency must include certain education-related records in the child's case plan (i.e., names and addresses of educational providers, grade level performance, and school and immunizations records).[131] Further, state child welfare agencies must work with relevant state and local education authorities to ensure that a child remains in the same school in which he or she is enrolled at the time of foster care placement, or, if this is not in the best interests of the child, to ensure immediate and appropriate enrollment for the child in a new school. To help support this requirement, the law permits states to claim federal funding for the cost of transporting children to their "school of origin" at the same reimbursement rate that is provided for foster care maintenance payments. Separately (under the Title IV-E plan), the law requires states to assure that children who have reached the minimum age for mandatory school attendance in their state, and who are receiving federal foster care maintenance payments, adoption assistance, or kinship guardianship assistance, are enrolled in school or have completed high school. Finally, educational records must be reviewed, updated, and supplied to a child's foster care parent (or other foster care provider) at the time of each foster care placement.[132]

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[126] Jennifer Ehrle McComber et al., *Coming of Age: Employment Outcomes for Youth Who Age Out of Foster Care Through Their Middle Twenties*, Urban Institute, April 1, 2008, http://www.urban.org/publications/1001174.html.

[127] Casey Family Programs, *A Roadmap for Learning: Improving the Educational Outcomes in Foster Care*, 2007, http://www.casey.org/Resources/Publications/RoadMapForLearning.htm.

[128] Amy Dworsky and Mark Courtney, *Does Extending Foster Care Beyond Age 18 Promote Postsecondary Educational Attainment?*

[129] For information about the education and workforce programs currently available for current and former foster youth, see CRS Report RL34499, *Youth Transitioning from Foster Care: Background and Federal Programs*, by Adrienne L. Fernandes-Alcantara.

[130] Section 475(1)(G) of the Social Security Act.

[131] Section 475(1)(C) of the Social Security Act.

[132] Section 475(5)(D).

Federal agencies are collaborating to address the multiple needs of vulnerable youth populations, including the education needs of current foster youth. The U.S. Departments of Health and Human Services and Education convened a summit in November 2011 that brought together state teams representing education and child welfare agencies, along with the judicial branch, to discuss how best to promote educational stability and improve educational outcomes for children in foster care. Teams were charged with creating a plan for collaborating across systems that were to be implemented following the conference.[133]

Despite this collaboration, federal education law does not address the educational needs of children in foster care. Recent legislation seeks to improve access to education for children and youth in foster care via federal education statute. For example, S. 1094 (a bill reported by the Senate Committee on Health, Education, Labor, and Pensions (HELP) to reauthorize the Elementary and Secondary Education Act in the 113th Congress) would amend federal education law to reflect related provisions in child welfare law. The bill would require state education agencies (SEAs) to ensure that a child in foster care remain in the same school in which he or she is enrolled at the time of foster care placement, or, if this is not in the best interests of the child, to ensure immediate and appropriate enrollment for the child in a new school. The bill would also require SEAs to have policies in place to ensure that a child in care who is changing schools can transfer school credits and receive partial credit.

Federal education law does, however, address the postsecondary educational needs of current and former foster youth. The Higher Education Act includes provisions that authorize supportive educational services for foster youth. The law stipulates that youth in foster care (including youth who have left foster care after reaching age 16) and homeless children and youth are eligible for what are collectively called the federal Trio programs.[134] The law directs the Department of Education to require applicants seeking Trio funds to identify and make available services, including mentoring, tutoring, and other services, to these youth. The Trio programs are designed to identify potential post-secondary students from disadvantaged backgrounds, prepare these students for higher education, provide certain support services to them while they are in college, and train individuals who provide these services. The programs are known individually as Talent Search, Upward Bound, Student Support Services, and Educational Opportunity Centers.

Finally, the FY2014 appropriations law (P.L. 113-76) directs the Department of Education (ED) to modify the FAFSA form so that it includes a box for applicants to identify whether they are or were in foster care, and to require ED to provide these applicants with information about federal educational resources that may be available to them. At the time of this writing, it does not appear that ED has issued guidance on this modification.

Effectiveness of Services for Transitioning Youth

The Chafee Foster Care Independence Program is a major source of funding for independent living services for youth who are in care or have aged out. Yet little is known about the effectiveness of these services or the outcomes of foster youth after they leave care.[135] The few

[133] For further information, see National Resource Center for Permanency and Family Connections, Child Welfare, Education and the Courts: A Collaboration to Strengthen Educational Successes of Children and Youth in Foster Care, http://www.nrcpfc.org/education_summit/additional_resources.html.

[134] P.L. 110-315 authorizes that services provided under each of the four Trio programs could specifically target current and former foster youth, homeless children and youth, as well as other youth defined as "disconnected" under the act. HEOA does not define the term "disconnected."

[135] Mark E. Courtney, "The Difficult Transition to Adulthood for Foster Youth in the U.S.: Implications for the State as Corporate Parent."

studies of independent living programs and other interventions have not been rigorous, or have shown that the interventions have not been effective at improving outcomes for youth. Further, no studies have provided a national picture of how well former foster youth make the transition to adulthood. The Midwest Evaluation and other studies have focused on the transition for youth in select regions of the country. Though a new national database—known as the National Youth in Transition Database (NYTD)—will provide insight into the lives of youth when they leave care, full implementation of the database will likely take several years.

Evaluations of Independent Living

The Chafee Foster Care Independence Program is the only dedicated source of funding for independent living services for transition-age young people in and recently emancipated from foster care. An annual appropriation of $140 million for the program is distributed to states based on their relative share of children in care. States must provide a 20% match in order to receive the funds. Nearly all states routinely draw down their maximum amount of CFCIP dollars.[136] Based on a 2008 survey of 45 states by the University of Chicago's Chapin Hall Center for Children, 31 of the states (68.9%) spend additional funds—beyond the 20% match—to provide independent living services and supports to eligible youth.[137] This suggests that federal funding alone is not likely enough for states to carry out their independent living programs.

Given that funding for independent living services is somewhat limited, states can likely benefit from learning about which services are the most effective. The research literature on independent living programs is scarce. However, pursuant to the law that established the CFCIP,[138] HHS was required to conduct evaluations of independent living programs funded by the CFCIP deemed to be innovative or of national significance. HHS contracted with the Urban Institute and its partners to conduct an evaluation known as the Multi-Site Evaluation of Foster Youth Programs. The goal of the evaluation was to determine the effects of independent living programs funded by P.L. 106-169 in achieving key outcomes, including increased educational attainment, higher employment rates and stability, greater interpersonal and relationship skills, reduced non-marital pregnancy and births, and reduced delinquency and crime rates.

The evaluation involved randomly assigning 1,400 eligible foster youth to four programs in California and Massachusetts—an employment services program in Kern County, CA; a one-on-one intensive, individualized life skills program in Massachusetts; and a classroom-based life skills training program and tutoring/mentoring program, both in Los Angeles County, CA.[139] The 1,400 youth participating in the evaluation at the four sites were assigned to intervention and control groups and were surveyed at three points: baseline, one year after baseline, and two years after baseline. The researchers also conducted in-person interviews with the youth, program administrators, community advocates, and directors of community provider agencies. Further, the evaluation team held focus groups with youth, independent living program staff, and other agency

[136] See CRS Report RL34499, *Youth Transitioning from Foster Care: Background and Federal Programs*, by Adrienne L. Fernandes-Alcantara.

[137] Dworsky and Havlicek, *Review of State Policies and Programs to Support Young People Transitioning Out of Foster Care.*

[138] The Foster Care Independence Act (P.L. 106-169) directs HHS to conduct evaluations of independent living programs funded by the CFCIP deemed to be innovative or of national significance. The law reserves 1.5% ($2.1 million) of total CFCIP funding annually for these evaluations, as well as CFCIP-related technical assistance, performance measurement, and data collection.

[139] For further information, see U.S. Department of Health and Human Services, *Multi-Site Evaluation of Foster Youth Programs*, http://www.acf.hhs.gov/programs/opre/abuse_neglect/chafee/.

staff responsible for referring youth to the programs. The team used extracts of state administrative data to determine child and family demographics, child welfare placement history, physical and mental health status, and delinquency history.

In short, the evaluation of the Los Angeles and Kern County programs found no statistically significant impacts as a result of the interventions; however, the life skills program in Massachusetts showed impacts for some of the education outcomes that were measured. The program is known as the Massachusetts Adolescent Outreach Program for Youth in Intensive Foster Care, or Outreach. The program assists youth who enroll voluntarily with preparing to live independently and with having permanent connections to caring adults upon exiting care. Outreach is intended to help youth achieve a range of outcomes, including receiving a high school diploma, continuing their education, avoiding non-marital childbirth and high-risk behaviors, and gaining employment, among other outcomes. The program provides services that are tailored to each youth and it emphasizes a youth development approach, which emphasizes that youth can be empowered to make positive decisions about their lives. A core feature of the Outreach model is that the social workers in the program oversee a small caseload (approximately 15 youth each) and have regular (approximately once a week) interactions with the youth. The workers seek to develop a close relationship with the youth, with the goal of the youth viewing the worker as his or her advocate. Caseworkers assist youth with tasks like obtaining their driver's licenses, applying for college, and gaining employment. Caseworkers may also refer youth to service providers as needed.

The evaluation examined educational, employment, and other outcomes that can reflect how well a young person is transitioning to adulthood. Outreach youth were more likely than their counterparts in the control group to report having ever enrolled in college, and they were more likely to stay enrolled. Outreach youth were also more likely to experience outcomes that were not a focus of the evaluation: youth were more likely to remain in foster care and to report receiving more help in some areas of educational assistance, employment assistance, money management, and financial assistance for housing. According to the study, remaining in care and enrolling and persisting in college appear to be strongly interrelated. In short, the Outreach youth may have been less successful on the educational front if they had not stayed in care. Youth in the program reported similar outcomes as the control group for multiple other measures. For example, Outreach youth did not report better outcomes in employment, economic well-being, housing, delinquency, pregnancy, or preparedness for various tasks associated with living on one's own.

This evaluation raises questions about the efficacy of independent living programs, and whether classroom-based instruction is effective in helping youth make the transition to independent living. The Outreach program, which assigns case workers to a small number of transitioning youth, appears promising; however, as discussed above, youth in this program did not fare any better than similarly situated foster youth in areas other than education and remaining in foster care.

National Youth in Transition Database

The National Youth in Transition Database (NYTD), authorized by the Chafee Foster Care Independence Act (P.L. 106-169), is intended to track demographic and outcome information of current and former foster youth. This database is beginning to provide insight into the outcomes of foster youth throughout the country, and may help to identify promising approaches to serving these youth; however, states have reported information to the database.

P.L. 106-169 required that HHS consult with state and local public officials responsible for administering independent living and other child welfare programs, child welfare advocates, Members of Congress, youth service providers, and researchers to (1) "develop outcome measures (including measures of educational attainment, high school diploma, avoidance of dependency, homelessness, non-marital childbirth, incarceration, and high-risk behaviors) that can be used to assess the performance of States in operating independent living programs;" (2) identify the data needed to track the number and characteristics of children receiving independent living services, the type and quantity of services provided, and state performance on the measures; and (3) develop and implement a plan to collect this information beginning with the second fiscal year after the passage of P.L. 106-169.

The final rule establishing the NYTD became effective April 28, 2008, 60 days after publication.[140] The rule required states to begin collecting data on youth in FY2011. HHS is using NYTD to engage in two data collection and reporting activities.[141] First, states (as of FY2011) collect and report information twice each fiscal year on eligible youth who currently receive independent living services (provided or funded by the state). Information will include whether they continue to remain in foster care, were in foster care in another state, or received child welfare services through an Indian tribe or privately operated foster care program. Second, states collect data on the outcomes of current and former foster youth on or about their 17th birthday, two years later on or about their 19th birthday, and again on or about their 21st birthday. These youth are tracked regardless of whether they receive independent living services at ages 17, 19, and 21. States have the option of tracking a sample of youth who participated in the outcomes collection at age 17 to reduce the data collection burden. The rule imposes financial penalties on states that do not meet data and data submission requirements.

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[140] U.S. Department of Health and Human Services, "Chafee National Youth in Transition Database," 73 *Federal Register* 10338, February 26, 2008.

[141] For a detailed overview of the database and issues related to its implementation, see CRS Memorandum, *The Chafee Foster Care Independence Act National Youth in Transition Database*, by Adrienne L. Fernandes-Alcantara. Available to congressional clients upon request.

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