Legislative Analysis

Mitchell Bean, Director
Phone: (517) 373-8080
http://www.house.mi.gov/hfa

FOSTER CARE INDEPENDENCE ACT

House Bill 5590 as introduced
Sponsor: Rep. Brenda Clack
Committee: Family and Children Services
First Analysis (8-4-04)

BRIEF SUMMARY: The bill would create the Foster Care Independence Act to require the Family Independence Agency to provide independent living services to young adults aging out of the foster care system.

FISCAL IMPACT: The legislation follows federal requirements and current FIA policy closely. However, due to the fact that the bill requires, instead of allows, FIA to provide each of the listed services identified in Section 4, it appears the legislation could require an increase in state spending. The potential increase is indeterminate at this time.

THE APPARENT PROBLEM:

In 1985, with nearly one-half of the approximately 275,000 children in foster care nationwide in their teens, Congress established an independent living initiative to meet the specific needs of these children with the enactment of P.L. 99-272, the Consolidated Omnibus Budget Reconciliation Act of 1985. That act, and subsequent reauthorizations, provided $70 million annually to states in proportion to the number of children in the state receiving foster care maintenance payments under Title IV-E of the federal Social Security Act. Funds were used to assist states and localities establish programs to help foster children make the transition from foster care to independent living and self-sufficiency. Children eligible for assistance under the program had to be at least 16 years of age and receive foster care maintenance payments under Title IV-E. In addition, states could, at their discretion, also provide assistance to other foster children under the state's responsibility and former foster children who had yet attained 21 years of age. Funds were to be used by states to (1) help adolescents obtain a high school diploma, or equivalent education; (2) provide training in daily living skills, budgeting, housing, and career planning; (3) provide each participant with a written independent living plan; and (4) and provide other services to improve the transition to independent living. Funds, however, were not to be used to provide room and board.

While the independent living initiative was successful in increasing the awareness of the hardships many older foster children face and helping these children successfully make the transition to independent living, child advocates still criticized the law as being rather limiting and restrictive in terms of eligible program beneficiaries and state program development. In 1999, Congress overhauled the independent living initiative through the enactment of P.L. 106-169, the Foster Care Independence Act of 1999. That act established the John H. Chafee Foster Care Independence Program, which roughly doubled the amount of federal funding and provided states with greater flexibility in developing independent living programs.

The Chafee program (codified at 42 USC 677) provides states with significant flexibility in determining how to best meet the following goals of the program: (1) identify children who are expected to be in foster care until 18 years of age, and help them make the transition toward self-sufficiency by providing them with assistance in obtaining a high school diploma, career exploration, job placement and retention, training in daily living skills and financial management skills, substance abuse prevention, and preventive health activities; (2) assist children expected to remain in foster care until 18 years of age receive the education and training necessary to obtain employment; (3) assist children expected to remain in foster care until 18 years of age prepare for and enter post-secondary training and educational institutions; (4) provide personal and emotional support to children aging out of foster care; and (5) provide financial, housing, counseling, employment, education, and other services to former foster care recipients between 18 and 21 years of age to complement their own efforts to strive toward self-sufficiency, and help them accept the personal responsibility to prepare for the transition between adolescence and adulthood.

While the Family Independence Agency has already established a state plan necessary to receive federal funding under the program, it is believed that the state's efforts can be enhanced through the enactment of a state statute similar to the federal law and explicitly requiring the FIA to provided certain independent living services.

THE CONTENT OF THE BILL:

The bill would create a new act to be known as the Foster Care Independence Act, which would require the Family Independence Agency (FIA) to establish a foster care independence program that offers education, training, employment, and financial support for young adults (i.e., individuals between 14 and 21 years of age) leaving foster care.

The program would include the following: (1) identifying young adults who are likely to remain in foster care until 18 years of age and assisting them in making the transition to self-sufficiency, receiving the education, training, and services necessary to find employment, and preparing and entering postsecondary training and educational institutions; (2) providing personal and emotional support to young adults aging out of foster care; and (3) providing financial, housing, counseling, employment, education, and other appropriate support and services to individuals ages 18 to 21 years of age formerly in foster care to assist them in making the transition from adolescence to adulthood and self-sufficiency.

The FIA would be <u>required</u> to provide the following goods and services to eligible young adults in the program: (1) services unavailable via other funding sources or agencies for young adults in or out of foster care; (2) educational support; (3) classes on interpersonal communication, relationship building, and independent living skills; and (4) stipends to cover the cost of utility deposits, security deposits, and first month's rent to individuals between 18 and 21 years of age who are leaving or who have left foster care. In addition, the FIA could also provide other goods and services allowed under federal law or that the department deems appropriate.

A young adult would be eligible for services under the bill if he or she is or has been in a foster care placement through the state because of child abuse or neglect on or after his or her 14th birthday. A young adult would not be eligible for services if (1) he or she was in an out-of-home placement solely as an adjudicated delinquent (unless he or she was eligible prior the adjudication, in which case services could be provided after the delinquency case closes); (2) he or she was never in an out-of-home placement because of child abuse or neglect; or (3) he or she is in a detention facility or other state-operated facility.

BACKGROUND INFORMATION:

John H. Chafee Foster Care Independence Program

The John H. Chafee Foster Care Independence Program, named after the late U.S. Senate from Rhode Island, is a federal program designed to expand and enhance independent living programs nationwide. To receive federal funding, each state is required to provide 20 percent matching funds. [Under the prior law, states were not required to provide a match on the first $45 million disbursed among the states, but were required to provide a 50 percent match on the remaining $25 million disbursed.] Funding is based on the total number of children in foster care, as a proportion to the total number of children in foster care nationally, during the most recent fiscal year. Each state receives at least $500,000 or the amount of its 1998 allotment under the former Independent Living Initiative, whichever is greater. Whereas the former Independent Living Initiative prohibited the use of funds to provide room and board, the Chafee program permits a state to use up to 30 percent of its allotment for room and board for youth between 18 and 21 years of age who have left the foster care system. Also, funds cannot be used to substitute or supplant funds used for the same purpose in the state. Funds provided for a fiscal year are required to be expended by the state in that fiscal year or in the subsequent fiscal year.

A state may apply for funds from the program for a period of five consecutive fiscal years. When applying, the state must submit a plan to the Department of Health and Human Services. The plan must describe how the state intends do the following:

- Design and deliver programs to achieve the purposes of the program.

- Ensure that the program serves all political subdivisions in the state, though not necessarily in a uniform manner.

- Involve the public and private sectors in helping adolescents in foster care achieve independence.

- Ensure that the programs serve children of various ages and at various stages of achieving independence.

- Use objective criteria in determining the eligibility for benefits and services, and ensuring fair and equitable treatment of beneficiaries.

- Cooperate in national evaluations of the effects of the programs in achieving purposes of the Chafee program.

- In addition to the state plan, the governor must certify the following:

- The state will provide assistance to those children who have left foster care because they have reached 18 years of age, but have not yet reached 21 years of age.

- Not more than 30 percent of the amount allotted to the state will be expended for room and board.

- None of the state's allotment will be expended for the room and board of a child yet to reach 18 years of age.

- The state will use federal funds provided for foster care and adoption assistance to provide training to help foster parents, adoptive parents, workers in group homes, and case managers understand and address the issues facing adolescents preparing for independent living.

- The state will make every effort to coordinate the state programs receiving funding from the Chafee program and other federal and state programs for youth (especially transitional living youth projects funded pursuant to the Juvenile Justice and Delinquency Prevention Act of 1974), abstinence education programs, local housing programs, programs for disabled youth (especially sheltered workshops), and school-to-work programs.

- Each Native-American tribe in the state has been consulted about the plan, and benefits and other services will be available to tribal children in the state on the same basis as other children in the state.

- The state will ensure that adolescents participating in the program will participate directly in designing their own program activities that prepare them for independent living.

- The state has established and will enforce standards and procedures to prevent fraud and abuse in the state's Chafee programs.

Michigan's Plan for the Chafee Program

The Family Independence Agency has already established a plan following the criteria of the Chafee program, and provides services through its Youth in Transition program. Independent living services are provided to all youth entering the foster care system between ages 14 and 20. (FIA Foster Care policy manual, 722-7) A Treatment Plan and Services Agreement, which documents what services will be provided and what is expected of the persons involved in the life of a foster child, is completed for each youth that is at least 14 years of age and must contain a written description of the programs and services that will help the youth make the transition from foster care to independence. This includes goals related to education, employment, adult interaction, relationship skills, living skills, sexual responsibility, parenting, and housing. Independent living skills are assessed, and services are provided based upon identified needs. The FIA also provides independent living services to eligible youths between 18 and 21 years of age who were in foster care after their 14th birthday, and are no longer under the supervision of the FIA.

The FIA Foster Care Policy Manual specifically includes a list of allowable (but not required) independent living goods and services provided with Youth in Transition funds. This list includes the following:

- Services not available from funding sources other than Youth in Transition funds or not available from other agencies.

- Educational supports, such as special tuition or books, transportation, and access to PELL Grants, the Tuition Incentive Program, student loans, and scholarships.

- Employment supports, such as access to job training programs, uniforms, tools, transportation, apprentice fees, safety clothing, and equipment.

- Classes or groups on interpersonal communications, relationship building, and independent living skills.

- Providing stipends for utility deposits, security deposits, and first month's rent.

- Purchasing household goods, supplies, and personal items as a one-time only to purchase to provide start-up assistance to youth entering independent living. This includes purchasing, food, clothing, personal hygiene products, household cleaning supplies, and household furniture, among others.

- Providing individual or group counseling for youth receiving closed case services.

- Providing membership in community organizations that support the transition to independent living, such as the YMCA and Junior Achievement.

- Establishing a coalition of organizations within the community to coordinate existing independent living programs.

- Day care costs not covered by Family Independence Program (FIP) assistance (and not denied because of noncompliance) for working teen parents and/or teen parents in educational/vocational programs.

- Parenting classes.

- Costs for medical appointments, counseling, and driver’s training.

ARGUMENTS:

For:

Each year, approximately 400 of 19,500 foster care children in Michigan “age out” of the foster care system without being adopted or reunited with their parents. Research has shown that these young adults face significant hardships in making the transition from foster care to independent living and self-sufficiency, and have high rates of homelessness, non-marital child bearing, poverty, and delinquent and criminal behavior. Many young adults also fail to obtain a high school diploma or equivalent education. All of these factors greatly hinder the ability of these young adults to successfully transition to independent living and self-sufficiency.

That being said, the bill, while largely copying existing federal law and FIA policy, is intended to ensure state compliance with the Chafee program and improve support systems and services for youth leaving foster care. The bill places existing federal language into state statute, which is intended to better ensure the state’s compliance with the Chafee program and ensure that services will be provided, even if the federal program is no longer in effect. In addition, the bill specifically requires the state’s independent living program to provide certain services. Current FIA policy includes a list of services that may be provided, including educational services, classes on independent living skills, and stipends to cover start-up costs. The bill requires that such services be provided in order to ensure that eligible youths receive them.

Against:

It is not entirely clear why the bill is necessary. First, Public Act 18 of 2004 (enrolled House Bill 5183) specifically requires the Family Independence Agency to establish and administer a state plan for foster care according to the provisions of Part E of Title IV of the federal Social Security Act (42 USC 670 to 679b), of which the Chafee Foster Care Independence Program, codified at 42 USC 677, is a part. Second, the state has long administered an independent living program, first under the federal Independent Living Initiative created by P.L. 99-272, and now under the Foster Care Independence Act of 1999. Finally, the bill largely copies existing federal law (42 USC 677) and current FIA Foster Care Policy regarding the intent of the independent living program, the goods and services that may be provided, and program eligibility criteria. This bill, then, mirrors what the FIA is already doing.

In addition, the FIA needs additional staff, more than anything, if the state's foster care and independent living programs are to adequately provide services to young adults in need. The *Detroit Free Press* recently reported that the FIA turned down more than $1.2 million of the $2.2 million the state was allotted through the Chafee program for education and training for 2003-2005. [Michigan and Utah were the only two states that failed to take all of the federal funds allotted to them.] According to the article, the FIA citied the staffing shortage due, in part, to recent "early out" retirement plans as the reason why the full amount allotted to the state was used.

POSITIONS:

The Family Independence Agency supports the bill. (7-14-04)

Michigan's Children supports the bill. (7-20-04)

The Jim Casey Youth Opportunities Initiative supports the bill. (7-20-04)

Legislative Analyst: Mark Wolf
Fiscal Analyst: Erin Black