~~Indicates Matter Stricken~~

Indicates New Matter

COMMITTEE AMENDMENT ADOPTED

February 11, 2021

**S. 221**

Introduced by Senators Shealy, Alexander, Hutto, Jackson and Gustafson

S. Printed 2/11/21--S.

Read the first time January 12, 2021.

**A** **BILL**

TO AMEND CHAPTER 7, TITLE 63 OF THE 1976 CODE, RELATING TO CHILD PROTECTION AND PERMANENCY, BY ADDING ARTICLE 8, TO PROVIDE FOR EXTENDED FOSTER CARE FOR PERSONS EIGHTEEN TO TWENTY-ONE YEARS OLD, TO CREATE THE EXTENDED FOSTER CARE PROGRAM, TO PROVIDE FOR VOLUNTARY PLACEMENT, TO PROVIDE FOR THE REVIEW OF VOLUNTARY PLACEMENT AFTER AGE EIGHTEEN, TO PROVIDE FOR COURT-ORDERED FOSTER CARE PLACEMENT AFTER AGE EIGHTEEN, TO PROVIDE FOR ADMINISTRATIVE CASE REVIEW, TO PROVIDE FOR PERMANENCY PLANNING FOR PERSONS EIGHTEEN TO TWENTY-ONE YEARS OLD, TO PROVIDE FOR JUDICIAL REVIEW, TO PROVIDE FOR ADMINISTRATIVE APPEALS; TO AMEND SECTION 63-7-1700(H) OF THE 1976 CODE, RELATING TO PERMANENCY PLANNING, TO MAKE CONFORMING CHANGES; AND TO DEFINE NECESSARY TERMS.

Amend Title To Conform

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. The purpose of this act is to establish procedures for a person who is in the legal custody of the Department of Social Services on his eighteenth birthday and has not attained age twenty-one to receive services and support to promote emotional well-being, economic productivity, self-sufficiency, and connection to family and community, and to provide a successful transition to adulthood upon leaving the State’s foster care system.

SECTION 2. Chapter 7, Title 63 of the 1976 Code is amended by adding:

“ARTICLE 8

Extended Foster Care for Persons Eighteen to Twenty-One

Section 63-7-3000. For the purposes of this article:

(1) ‘Administrative case review’ means a review open to a child and, if the child consents, the child’s parents, conducted by a panel of appropriate persons. Employees of the department are appropriate persons and may participate as panelists. At least one member of the panel must be a person who is not responsible for the case management of or the delivery of services to the child or the child’s parents.

(2) ‘Child’ means a person who is or was in the legal custody of the department on the person’s eighteenth birthday, who has not attained age twenty‑one, and who meets at least one of the following requirements:

(a) is completing secondary education or a program leading to an equivalent credential;

(b) is enrolled in an institution that provides post‑secondary or vocational education;

(c) is participating in a program or activity designed to promote or remove barriers to employment;

(d) is employed for at least eighty hours a month; or

(e) is incapable of doing any of the above activities due to a physical, intellectual, emotional, or psychiatric condition that limits participation, and the presence of the condition is supported by regularly updated information in the transition plan.

(3) ‘Child care institution’ means a private child care institution, or a public child care institution that accommodates no more than twenty‑five children, that is licensed by the department. ‘Child care institution’ does not include wilderness camps or training schools, nor does it include any facility that exists primarily for the detention or correction of children.

(4) ‘Court’ means family court.

(5) ‘Department’ means the Department of Social Services.

(6) ‘Foster family home’ means the home of an individual or family licensed by the department that provides twenty‑four hour care for children.

(7) ‘Legal custody’ means physical custody, care, and control of a child; the right to determine where the child shall live; and the right and duty to provide protection, food, clothing, shelter, ordinary medical care, education, supervision, and discipline for the child and, in an emergency, to authorize surgery or other extraordinary care. A court may include in its order other rights and duties of the legal custodian.

(8) ‘Placement and care responsibility’ means the authority conveyed by a court through written authorization prior to a child’s eighteenth birthday or through a voluntary placement agreement to provide supervision of the child and the child’s placement.

(9) ‘Supervised independent living setting’ means any housing arrangement that is licensed or approved by the department and that makes support services for a successful transition to adulthood available to a child. Case management for the child must be provided by the department or a contracted provider. The child must reside in a setting voluntarily, and the setting may not include wilderness camps or training schools, nor does it include any facility that exists primarily for the detention or correction of children.

(10) ‘Transition plan’ means a written case plan that is personalized, as detailed as a child may elect, and that includes specific options on housing, health insurance, education, local opportunities for mentors and continuing support services, work force supports, and employment services. A transition plan must also include information about the importance of designating another individual to make health care treatment decisions on behalf of the child if the child becomes unable to participate in such decisions and the child does not have, or does not want, a relative who would otherwise be authorized to make such decisions and must provide the child with the option to execute a health care power of attorney or health care proxy.

(11) ‘Voluntary placement agreement’ means a written agreement, binding on the child and the department, that specifies, at a minimum, the legal status of the child, as well as the rights and obligations of the child and the department while the child is under the placement and care responsibility of the department. While the terms of the agreement are binding on the child and the department, the child may terminate the agreement at any time.

Section 63-7-3010. There is created within the department an extended foster care program for eligible children pursuant to Section 63-7-3000(2). An eligible child will be under the placement and care responsibility of the department while participating in the program. The department must provide placement in a foster family home, child care institution, or supervised independent living setting. The department shall promulgate rules and regulations as necessary to implement the extended foster care program.

Section 63-7-3020. (A) Before a child’s eighteenth birthday, the child may provide written authorization to remain under the placement and care responsibility of the department after the child attains the age of eighteen, and a court may conclude that it is in the child’s best interests to remain under the placement and care responsibility of the department after the child’s eighteenth birthday. In such cases, the court’s jurisdiction shall continue until the court issues an order terminating its jurisdiction, provided that jurisdiction must otherwise terminate on the child’s twenty-first birthday.

(B) Subject to eligibility criteria established by the department, after attaining age eighteen, a child may enter into a voluntary placement agreement with the department to remain under or return to the placement and care responsibility of the department. The department must develop a transition plan for a child who remains in or returns to the placement and care responsibility of the department.

(C) A voluntary placement agreement terminates within one hundred eighty days after it is executed unless a court determines that it is in the child’s best interests to remain under the placement and care responsibility of the department.

Section 63-7-3030. (A) Within thirty days of entering a voluntary placement agreement, the department shall initiate proceedings for the review of the agreement by filing in court a summons, petition, and supplemental report as provided in subsection (B). The summons, petition, and supplemental report shall be served on the child and shall include notice of the procedures to request counsel if the child desires representation at the proceedings. No responsive pleading is required.

(B) The supplemental report shall include the following:

(1) information necessary to support a determination that the child is eligible to remain under the placement and care responsibility of the department, that the child wants to remain under the placement and care responsibility of the department, and that remaining under the placement and care responsibility of the department is in the child’s best interests;

(2) a voluntary placement agreement; and

(3) a transition plan that states specific, measurable goals and objectives.

(C) The court shall conduct a hearing on the petition within sixty days of the filing of the petition. The department must provide written notice of the hearing to the child at least ten days before the hearing, and the child is entitled to be present for the hearing.

(D) The court shall include its findings and conclusions in a written order that addresses whether:

(1) the child wants to remain under the placement and care responsibility of the department;

(2) remaining under the placement and care responsibility of the department is in the best interests of the child;

(3) the services provided to the child improve placement;

(4) the services provided to the child further the child’s educational or vocational goals, as applicable; and

(5) the department has made reasonable efforts to support the child’s transition to living independently.

(E) A voluntary placement agreement shall not extend beyond a child’s twenty‑first birthday.

Section 63-7-3040. (A) Before a child’s eighteenth birthday, at a hearing held pursuant to Section 63‑7‑700, 63‑7‑1660, 63‑7‑1680, or 63‑7‑1700, a court must determine whether it is in the child’s best interests to remain under the placement and care responsibility of the department beyond the child’s eighteenth birthday due to a physical, intellectual, emotional, or psychiatric impairment and until the department has coordinated appropriate services for a successful transition to adulthood. The court shall continue to review the child’s status annually pursuant to Section 63‑7‑1700.

(B) A child who is in the legal custody of the department on the child’s eighteenth birthday and who, due to a physical, intellectual, emotional, or psychiatric impairment, cannot execute a voluntary placement agreement as prescribed in Section 63-7-3020(B) may remain in foster care beyond the child’s eighteenth birthday and until the department has coordinated appropriate services for a successful transition to adulthood.

(C) A child’s guardian ad litem shall continue to serve as prescribed in Section 63‑11‑510. If a child’s guardian ad litem cannot continue to serve, then the court shall appoint a guardian ad litem to represent the child pursuant to Section 63‑11‑510.

(D) The jurisdiction of a court continues until the court determines the department has coordinated appropriate transitional services, but jurisdiction cannot extend after a child’s twenty‑first birthday.

Section 67-3-3050. (A) The department shall establish a tailored, developmentally appropriate administrative process to review the cases of children who remain under the placement and care responsibility or in the legal custody of the department beyond the child’s eighteenth birthday pursuant to Sections 63‑7‑3020(B) or 63‑7‑3040.

(B) The department or a contracted provider must conduct an administrative case review no less frequently than once every six months to promote the development of a transition plan designed to help the child acquire the skills necessary to live independently or to promote the delivery of supportive services for the child who, due to physical, intellectual, emotional, or psychiatric impairment, cannot live independently.

(C) An administrative case review shall include the child and, if the child consents, the child’s parents, and any other supportive adult identified by the child.

(D) The panel conducting the administrative case review must present its findings and conclusions to all parties who are entitled to participate in the administrative case review in a written report on a form approved by the department.

Section 63-7-3060. (A) If a child remains in the legal custody of the department pursuant to Section 63‑7‑3040, then a permanency planning hearing must be held annually and in accordance with Section 63‑7‑1700. The court shall review the status of the child, the child’s transition plan, and the progress being made to coordinate supportive services for the child’s successful transition to adulthood.

(B) If a child is under the placement and care responsibility of the department as provided in Section 63‑7‑3020(B), then upon a motion filed by the department, the court must conduct a permanency planning hearing. A permanency planning hearing must be held on an annual basis for as long as the child remains under the placement and care responsibility of the department. The department shall attach a supplemental report to the motion for permanency planning that includes the transition plan and the report of the administrative case review conducted pursuant to Section 63‑7‑3050. The motion, supplemental report, and notice of the hearing must be served upon the child at least ten days before the permanency planning hearing, and the child is entitled to be present for the hearing. The notice of the hearing must inform the child of the procedures to request counsel if the child desires representation. No responsive pleading is required.

(C) The order issued as a result of a hearing pursuant to subsection (B) must make specific findings regarding progress being made toward the child’s successful transition from the placement and care responsibility of the department and achieving independence, including whether:

(1) the child wants to remain under the placement and care responsibility of the department pursuant to a voluntary placement agreement;

(2) there is a transition plan that contains specific, measurable goals;

(3) the services being provided are designed to support the child’s successful transition to living independently;

(4) the services being provided further the child’s placement, vocational, or educational goals;

(5) additional services are necessary to support the child’s successful transition to living independently; and

(6) the department has made reasonable efforts to support the child’s transition to living independently.

(D) A permanency planning hearing held pursuant to this section meets the requirements of the case review required by Section 63‑7‑3050.

Section 63-7-3070. Upon the motion of a child or the department at any time, a court may review the child’s case to address progress being made toward meeting the child’s goals as set forth in the transition plan. The child must receive notice at least ten days before a hearing held pursuant to this section, is entitled to be present, and shall receive notice of the procedures to request counsel if the child desires representation. No responsive pleading is required.

Section 63-7-3080. (A) If the department denies, disqualifies, terminates, or suspends a child from participation in the extended foster care program for young adults aged eighteen to twenty‑one, then the department shall notify the child in writing of his right to appeal the adverse decision through the department’s fair hearings procedures, unless there is a case pending before the family court that can dispose of the issue. Such notice shall be served by certified mail. The notice must explain the fair hearings procedures and must inform the child that his notice of intent to appeal must be submitted within thirty days of his receipt of the adverse decision.

(B) The child may seek judicial review of a final agency decision in the Administrative Law Court.”

SECTION 3. Section 63-7-1700(H) of the 1976 Code is amended to read:

“(H) If at the initial permanency planning hearing the court does not order return of the child pursuant to subsection (D), in addition to those findings supporting the selection of a different plan, the court shall specify in its order:

(1) what services have been provided to or offered to the parents to facilitate reunification;

(2) the compliance or lack of compliance by all parties to the plan approved pursuant to Section 63‑7‑1680;

(3) the extent to which the parents have visited or supported the child and any reasons why visitation or support has not occurred or has been infrequent;

(4) whether previous services should continue and whether additional services are needed to facilitate reunification, identifying the services, and specifying the expected date for completion, which must be no longer than eighteen months from the date the child was placed in foster care;

(5) whether return of the child can be expected and identification of the changes the parent must make in circumstances, conditions, or behavior to remedy the causes of the child's placement or retention in foster care;

(6) whether the child's foster care is to continue for a specified time and, if so, how long;

(7) if the child has attained the age of sixteen, the services needed to assist the child to make the transition to independent living;

(8) whether the child has provided written authorization to remain in foster care after the child’s eighteenth birthday and whether the court finds that it would be in the child’s best interests to remain in foster care after the child’s eighteenth birthday, for a period not to exceed the child’s twenty‑first birthday, pursuant to Article 8 of this chapter;

(9) whether the child's current placement is safe and appropriate;

~~(9)~~(10) whether the department has made reasonable efforts to assist the parents in remedying the causes of the child's placement or retention in foster care, unless the court has previously authorized the department to terminate or forego reasonable efforts pursuant to Section 63‑7‑1640; and

~~(10)~~(11) the steps the department is taking to promote and expedite the adoptive placement and to finalize the adoption of the child, including documentation of child specific recruitment efforts.”

SECTION 4. This act takes effect upon approval by the Governor.

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