



Ohio Legislative Service Commission

Bill Analysis

Brian D. Malachowsky

H.B. 50

131st General Assembly
(As Introduced)

Reps. Pelanda and Grossman, Sears, Driehaus, Stinziano, Rogers, Fedor, Rezabek, Blessing, Maag, Lepore-Hagan, LaTourette, Amstutz, Boyd, Kuhns

BILL SUMMARY

- Requires the Director of Job and Family services to submit an amendment to the state's plan for child welfare services to expand foster care and adoption assistance in order to make payments to persons up to age 21.
- Establishes qualification standards and various other procedures and requirements for receiving payments under the foster care and adoption assistance expansion.
- Requires the Department of Job and Family Services to adopt rules to implement the foster care and adoption assistance expansion, including a rule to create an advisory council to evaluate and make recommendations regarding the bill's statewide implementation.
- Makes an appropriation to provide for the planning for, and the expansion of, the foster care and adoption assistance payments.
- Establishes the "bill of rights of a ward."
- Requires the probate court to furnish appointed guardians with an Ohio guardianship guide that includes the "bill of rights of a ward."

* Corrects the first heading under **CONTENT AND OPERATION** to include a reference to adoption assistance.

CONTENT AND OPERATION

Extension of foster care and adoption assistance payments up to age 21

The bill requires the Director of Job and Family Services, by May 1, 2016, to submit an amendment to the state's plan for child welfare services to the United States Secretary of Health and Human Services to expand federal Title IV-E foster care and adoption assistance payments. The plan would permit payments to persons up to age 21 in accordance with federal law, as generally proposed to be adopted as Ohio law by the bill (described below).¹ The Department of Job and Family Services (ODJFS) is required to pay the full nonfederal share of the payments required under the bill. No public children services agency (PCSA) is to be responsible for those costs.²

Qualifications for payments

To qualify for the payments as provided in the bill, a person must:

- (1) Have reached age 18, but not yet reached age 21;
- (2) Sign a voluntary placement agreement;
- (3) Have either been in the custody of a PCSA upon reaching age 18, or have been in the custody of a PCSA at age 16 or 17, and then adopted;³ and
- (4) Who is:
 - (a) Completing secondary education or a program leading to an equivalent credential;
 - (b) Enrolled in an institution that provides post-secondary or vocational education;
 - (c) Participating in a program or activity designed to promote, or remove barriers to, employment;
 - (d) Employed for at least 80 hours per month; or

¹ R.C. 5101.141 and 5101.1411.

² R.C. 5101.1412.

³ R.C. 5101.1411(A)(1) to (3).



(e) Incapable of doing any of the activities described in (a) to (d) above because of a medical condition, which incapability is supported by regularly updated information in the case plan of the child.⁴

Application, termination, and resumption of payments

The bill provides that any person who qualifies may apply for payments under the bill and may make the appropriate application at any time. Any person receiving payments under the bill may refuse them at any time, but must reapply if the person seeks to receive the payments again at a later date. The bill also provides that if ODJFS terminates foster care and adoption assistance payments, that determination is subject to adjudication under the Administrative Procedure Act (R.C. Chapter 119.).⁵

Other services

The bill provides that a person receiving payments as provided in the bill is eligible for services set forth in the federal Fostering Connections to Success and Increasing Adoptions Act of 2008 (P.L. 110-351, 122 Stat. 3949).⁶

Rules

The bill requires ODJFS to adopt rules necessary to carry out the provisions of the bill, including rules that do the following:

- Allow a person receiving payments to maintain eligibility while transitioning between qualified employment or educational activities;
- Require a 30-day notice to a person determined to be ineligible for payments before termination of the payments.⁷

Advisory council

In addition to the rules described above, the bill requires ODJFS to create an advisory council to evaluate and make recommendations for statewide implementation of the bill's provisions.⁸

⁴ R.C. 5101.1411(A)(4); 42 U.S.C. 675(8)(B)(iv).

⁵ R.C. 5101.1411(B), (C), and (E).

⁶ R.C. 5101.1411(D).

⁷ R.C. 5101.1413(A) and (B).

⁸ R.C. 5101.1413(C).



Appropriation

The bill contains an appropriation to implement the planning for, and the actual expansion of, services to age 21.⁹

Background

Generally, foster care maintenance and adoption assistance payments for a child terminate at age 18 because funding is unavailable after the end of the month of the child's 18th birthday. In Ohio, foster care and adoption assistance funding is a combination of state and federal funds. To be eligible for federal funds, Ohio must have a state plan in place that complies with the requirements and conditions of Title IV-E of the Social Security Act. One requirement is that any child under age 18 be eligible for foster care maintenance or adoption assistance payments.¹⁰

Federal Fostering Connections to Success and Increasing Adoptions Act

While eligibility until age 18 continues to be a requirement under federal law, Congress enacted the federal Fostering Connections to Success and Increasing Adoptions Act of 2008 (P.L. 110-351, 122 Stat. 3949) which gives states the option to extend foster care maintenance and adoption assistance payment eligibility for a child who has not yet attained 19, 20, or 21 years of age and who meets the criteria described in (4)(a) to (e) above under "**Qualifications for payments.**"

Ohio guardianship guide

The bill requires the clerk of the probate court to furnish to a guardian the Ohio guardianship guide. The guide must include the "bill of rights of a ward," which are enumerated in the bill and listed below under "**Bill of rights of a ward.**" For purposes of the bill, a "guardian" is, generally, a person or entity appointed by a probate court to care and manage the person, estate, or both of an incompetent or minor. A "ward" is a person for whom a guardian or the probate court is acting as provided in Ohio's guardianship law.¹¹

⁹ Sections 3 and 4.

¹⁰ 42 U.S.C. 671, 672(a)(1)(B) and (a)(3), 673, and 674; 45 C.F.R. 233.90(b); R.C. 5101.141; and O.A.C. 5101:2-47-12(E), 5101:2-49-02, and 5101:2-49-04.

¹¹ R.C. 2111.01(A) and (B), not in the bill.



The guide must be furnished upon the appointment of the guardian or, if the guardian was appointed prior to the bill's effective date, upon the first filing by the guardian with the probate court of either of the following:¹²

- A guardian's account, other than a final account, that is generally required to be filed biennially under current law;
- A report of a guardian of an incompetent person that is generally required to be filed biennially under current law.

The probate court must fulfill the requirements imposed by the bill, as described above, only if the Attorney General has prepared an Ohio guardianship guide. But the bill does not directly authorize or require that the Attorney General do so. The current Attorney General, however, has created a guide that meets the requirements of the bill.¹³

If a guide has been made available by the Attorney General, the clerk of the probate court must furnish the most recent version of the guide to a guardian upon the guardian's appointment after the most recent version of the guide is prepared or, if the guardian was appointed prior to the date of the most recent version of the guide, upon the first filing by the guardian with the probate court of the guardian's account or report described above after that date.¹⁴

Form acknowledging receipt of guardianship guide

The bill requires the probate court to establish a form for a guardian to sign acknowledging that the guardian received the following:¹⁵

- The Ohio guardianship guide;
- The bill of rights of a ward.

The guardian must sign the form upon receiving the Ohio guardianship guide with a ward's bill of rights.¹⁶

¹² R.C. 2111.011(A).

¹³ See, [http://www.ohioattorneygeneral.gov/Files/Publications/Publications-for-Consumers/Ohio-Guardianship-Guide-\(1\)](http://www.ohioattorneygeneral.gov/Files/Publications/Publications-for-Consumers/Ohio-Guardianship-Guide-(1)) (last visited February 23, 2015).

¹⁴ R.C. 2111.011(B).

¹⁵ R.C. 2111.011(C).

¹⁶ R.C. 2111.011(D).

Bill of rights of a ward

The bill states that a ward is entitled to certain rights that the guardian cannot change and continues to have these rights after a guardianship is established. These rights are as follows:¹⁷

- (1) To be treated with dignity and respect;
- (2) To exercise control over all aspects of life that the court has not delegated to the guardian;
- (3) To appropriate services suited to the ward's needs and conditions, including mental health services;
- (4) To have the guardian consider the ward's personal desires, preferences, and opinions;
- (5) To safe, sanitary, and humane living conditions within the least restrictive environment that meets the ward's needs;
- (6) To marry, if legally able;
- (7) To equal treatment under the law, regardless of race, religion, creed, sex, age, marital status, sexual orientation, or political affiliation;
- (8) To have explanations of any medical procedures or treatment;
- (9) To have personal information kept confidential;
- (10) To review personal records, including medical, financial, and treatment records;
- (11) To speak privately with an attorney, ombudsman, or other advocate;
- (12) To an attorney and independent expert evaluator, and to have these professionals paid by the court if the ward is indigent;
- (13) To petition the court to modify or terminate the guardianship;
- (14) To bring a grievance against the guardian, request the court to review the guardian's actions, request removal and replacement of the guardian, or request that the

¹⁷ R.C. 2111.011(E).



court restore the ward's rights if it can be shown that the ward has regained the capacity to make some or all decisions;

(15) To request a hearing to review the continued need for the guardianship at least once a year;

(16) To drive, if legally able.

HISTORY

ACTION	DATE
Introduced	02-10-15

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