



Ohio Legislative Service Commission

Final Analysis

Amy L. Archer

Sub. H.B. 50

131st General Assembly
(As Passed by the General Assembly)

- Reps.** Pelanda and Grossman, Sears, Driehaus, Stinziano, Rogers, Fedor, Rezabek, Blessing, Maag, Lepore-Hagan, LaTourette, Amstutz, Boyd, Kuhns, Anielski, Antonio, Arndt, Ashford, Barnes, Boccieri, Boose, Brown, Burkley, Celebrezze, Craig, DeVitis, Duffey, Green, Hayes, Howse, Kunze, M. O'Brien, S. O'Brien, Patterson, Phillips, Reece, Ruhl, Scherer, Schuring, Sheehy, Slesnick, K. Smith, R. Smith, Strahorn, Sweeney, Rosenberger
- Sens.** Coley, Gardner, Skindell, Tavares, Hughes, Balderson, Brown, Burke, Eklund, Hackett, Hite, Hottinger, Jones, Lehner, Manning, Oelslager, Patton, Peterson, Sawyer, Schiavoni, Seitz, Thomas, Uecker, Yuko

Effective date: September 13, 2016

ACT SUMMARY

- Requires the Director of Job and Family Services to submit amendments to the state's plan for child welfare services to expand foster care and adoption assistance for 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 act's statewide implementation; and
 - Rules establishing the scope of practice and training for foster care workers and their supervisors.
- Requires the probate court to furnish appointed guardians with a guardianship guide, if such a guide has been prepared either by the Attorney General with the approval of the Ohio Judicial Conference or by the Ohio Judicial Conference.

- Adds minimum age limits for children determined to be abused, neglected, or dependent to be placed in planned permanent living arrangements.
- Makes changes regarding the provision of independent living services by a public children services agency or private child placing agency.

CONTENT AND OPERATION

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

The act requires the Director of Job and Family Services, not later than nine months after the act's effective date, to submit two amendments to the state's plan for child welfare services to the U.S. Secretary of Health and Human Services. The first amendment is to expand federal Title IV-E foster care payments. The second is to expand adoption assistance. With the first amendment (Title IV-E payments), the plan would permit payments directly to, or on behalf of, persons up to age 21. The second amendment (adoption assistance payments) would permit payments to the adoptive parents with respect to an adopted person up to age 21. All payments are to be made in accordance with federal law, as generally proposed to be adopted as Ohio law by the act (described below).¹ The Department of Job and Family Services (ODJFS) must pay the full nonfederal share of the payments. No public children services agency (PCSA) is to be responsible for those costs.²

Qualifications for foster care payments

To qualify for the foster care payments as provided in the act, a person must:

- (1) Have reached age 18, but not yet reached age 21;
- (2) Sign a voluntary participation agreement;
- (3) Have been in the custody of a PCSA upon reaching age 18;³ and
- (4) Meet at least one of the following criteria:

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

¹ R.C. 5101.141 and 5101.1411.

² R.C. 5101.1413.

³ R.C. 5101.1411(A)(1).



(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 80 hours per month;

(e) Is 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

Qualifications for adoption assistance payments

To qualify for the adoption assistance payments as provided in the act, an adoptive parent must meet all the following requirements:

(1) Have adopted a person while the adopted person was 16 or 17 years old and the adopted person had been in the custody of a PCSA or the parent enters into an adoption assistance agreement under the federal Adoption and Guardianship Assistance Program;

(2) The adopted person reached age 18, but not yet reached age 21;

(3) The parent maintains parental responsibility to that adopted person;⁵

(4) The adopted person meets at least one of the following criteria:

(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 80 hours per month;

⁴ R.C. 5101.1411(A)(1) and (C); 42 U.S.C. 675(8)(B)(iv).

⁵ R.C. 5101.1411(B)(1).



(e) Is 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.⁶

Application, termination, and resumption of payments

The act provides that any person who qualifies may apply for foster care payments and may make the appropriate application at any time. An adoptive parent applying for adoption assistance payments may request an extension of adoption assistance payments at any time before the adopted person reaches age 21. Any person receiving foster care payments, or on whose behalf the payments are received, or any adoptive parent receiving adoption assistance payments, may refuse them at any time, but must reapply if the person or adoptive parent seeks to receive the payments again later. If ODJFS terminates foster care and adoption assistance payments, that determination is subject to a state hearing by ODJFS.⁷

Other services

The act provides that a person who is directly receiving foster care payments, or on whose behalf the payments are received, or an adoptive parent receiving adoption assistance payments and the adopted person, as provided in the act, are eligible for services set forth in the federal Fostering Connections to Success and Increasing Adoptions Act of 2008.⁸

Additionally, a person who is receiving foster care payments, or on whose behalf the payments are received, may be eligible to reside in a supervised independent living setting, including apartment living, room and board arrangements, college or university dormitories, host homes, and shared roommate settings.⁹

Voluntary participation agreements

The act provides that a child who receives foster care payments, or on whose behalf payments are received, may enter into a voluntary participation agreement with ODJFS or its designee for the child's care and placement. A voluntary participation agreement expires after 180 days and may not be renewed without court approval. ODJFS or its designee must seek approval from the court to extend the care and

⁶ R.C. 5101.1411(C).

⁷ R.C. 5101.1411(A)(2), (B)(2), (D), and (F).

⁸ R.C. 5101.1411(E)(1).

⁹ R.C. 5101.1411(E)(2).



placement with ODJFS or its designee prior to the agreement's expiration if the extension is in the child's best interest.¹⁰ The act provides that the court retains jurisdiction over a person who is qualified for foster care payments and who is subject to a voluntary participation agreement that is in effect.¹¹

Rules

The act requires ODJFS to adopt rules, not later than nine months after the act's effective date, necessary to carry out its provisions, including rules that:

- Allow a person who is directly receiving foster care payments, or on whose behalf the payments are received, or a person whose adoptive parents are receiving adoption assistance payments, to maintain eligibility while transitioning between qualified employment or educational activities;
- Require a 30-day notice to a person determined to be ineligible before termination of payments.¹²

Foster care worker and supervisor training and oversight

ODJFS rules must also establish the scope of practice and training necessary for foster care workers and their supervisors who care for persons receiving foster care payments, or on whose behalf the payments are received.¹³ The training required by rule must be provided by the Ohio Child Welfare Training Program.¹⁴

Advisory council

The act requires ODJFS to create an advisory council, not later than one month after the act's effective date, to evaluate and make recommendations for statewide implementation of the act's provisions.¹⁵

¹⁰ R.C. 5101.1412.

¹¹ R.C. 2151.353(F)(1).

¹² R.C. 5101.1414(A) and (B).

¹³ R.C. 5101.1414(D).

¹⁴ R.C. 5103.30(F).

¹⁵ R.C. 5101.1414(B).



Implementation of amended state plan

The state plan amendments must be implemented beginning 15 months after the act's effective date, if both of the following apply: (1) the plan as amended is approved by the Secretary of Health and Human Services, and (2) the General Assembly has appropriated sufficient funds to operate the program required under the plan as amended.¹⁶

Oversight of ODJFS duties under amended state plan

The act permits ODJFS to contract with another person to carry out the act's new duties under the amended plan for foster care and adoption assistance, to the extent permitted by federal law.¹⁷

Guardianship guide

The act requires the clerk of the probate court to furnish to a guardian a guardianship guide, created either by the Attorney General with the approval of the Ohio Judicial Conference or by the Ohio Judicial Conference.¹⁸ For purposes of the act, a "guardian" is, generally, a person or entity appointed by a probate court to care for 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.¹⁹

A guide must be furnished upon the guardian's appointment or, if the guardian was appointed prior to the act's effective date, upon the guardian's first filing with the probate court of either:

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

¹⁶ R.C. 5101.141 (B)(2)(a).

¹⁷ R.C. 5101.141(B)(2)(b).

¹⁸ R.C. 2111.011(A) and (B).

¹⁹ R.C. 2111.01(A) and (B), not in the act.



The probate court must fulfill the requirements imposed by the act, as described above. But those requirements can only be fulfilled if the Attorney General or the Ohio Judicial Conference prepares a guardianship guide.²⁰

The act does not explicitly require the Attorney General to create a guardianship guide. The current Attorney General, however, has created a guide that meets the act's requirements.²¹ It includes a list of the "rights of a ward." The act requires the Attorney General to include the rights of a ward as are then current in the Revised Code in subsequent updates to the guide, if the guide is updated. The act does not specify what those rights are.

The clerk of the probate court must furnish the most recent version of the Attorney General's guardianship guide to a guardian upon the guardian's appointment after the most recent version is prepared or, if the guardian was appointed prior to the date of the most recent version, upon the first filing by the guardian with the probate court of the guardian's account or report described above after that date.²²

Alternatively, the act permits the Ohio Judicial Conference to create an alternative to the Attorney General's guardianship guide, at the Conference's own cost. The alternative guide is to be distributed in the same manner as the Attorney General's guide must be distributed.²³

Form acknowledging receipt of guardianship guide

The act requires the probate court to establish a form for a guardian to sign acknowledging that the guardian received a guardianship guide.²⁴ The guardian must sign the form upon receiving the guide. The signed form must be kept permanently in the guardianship file of the probate court.²⁵

Planned permanent living arrangements

The act makes changes regarding the age at which a child may be placed in a "planned permanent living arrangement." Prior statute permitted court placement of a

²⁰ R.C. 2111.011(A).

²¹ [www.ohioattorneygeneral.gov/Files/Publications-Files/Publications-for-Consumers/Ohio-Guardianship-Guide-\(PDF\)](http://www.ohioattorneygeneral.gov/Files/Publications-Files/Publications-for-Consumers/Ohio-Guardianship-Guide-(PDF)).

²² R.C. 2111.011(B)(1).

²³ R.C. 2111.011(B)(2).

²⁴ R.C. 2111.011(C).

²⁵ R.C. 2111.011(D).

child under age 16 in a planned permanent living arrangement in some situations, but not others. The act applies this minimum age in all situations in which statutes authorize a court to place a child in a planned permanent living arrangement.

Specifically, the situations for which prior statute did not impose the age 16 minimum, but the act now does, are:

(1) The child has been adjudicated to be an abused, neglected, or dependent child and (a) is unable to function in a family-like setting due to physical, mental, or psychological problems or needs and (b) must remain in residential or institutional care.²⁶

(2) The child is in temporary custody, a planned permanent living arrangement dispositional order is requested on termination of temporary custody, and one of the following applies:

(a) The child is unable to function in a family-like setting due to physical, mental, or psychological problems or needs, and must remain in residential or institutional care;

(b) The child's parents have significant physical, mental, or psychological problems, adoption is not in the child's best interest, and the child retains a significant and positive relationship with a parent or relative.²⁷

A "planned permanent living arrangement" is a juvenile court order giving legal custody of a child to a PCSA or private child placing agency (PCPA) without terminating parental rights. The order must permit the PCSA or PCPA to place the child with a foster care provider or another person or agency.²⁸

Independent living services

The act requires a PCSA or PCPA that has temporary or permanent custody of, or is providing care in a planned permanent living arrangement to, a child who is at least 14 years old, to provide independent living services to the child. Prior law only applied that requirement to 16- and 17-year olds. It is not clear what the new age requirement means, with respect to planned permanent living arrangements, because it appears that a child must be 16 years old to be placed in such an arrangement, as of the act's effective date. It is possible, however, that the provision recognizes that children

²⁶ R.C. 2151.353(A)(5).

²⁷ R.C. 2151.415(C)(1).

²⁸ R.C. 2151.011.

who are 14 or 15 years old may be in such a placement on the act's effective date. Thus, it may be transition language.

If housing is provided as part of the independent living services and the child is 16 or 17 years old, the housing must be supervised or semi-supervised by an adult. The act does not impose the same supervision requirement for 14 and 15 year olds. Under prior law, there was no age provision regarding the supervision requirement.²⁹

HISTORY

ACTION	DATE
Introduced	02-10-15
Reported, H. Community & Family Advancement	04-29-15
Re-referred to H. Rules and Reference	04-29-15
Reported by H. Rules and Reference	05-05-15
Re-referred to H. Finance	05-05-15
Reported, H. Finance	05-06-15
Re-referred to H. Rules & Reference	11-16-15
Reported, H. Rules & Reference	11-16-15
Passed House (92-2)	12-01-15
Reported, S. Finance	05-25-16
Passed Senate (33-0)	05-25-16
House concurred in Senate amendments (89-7)	05-25-16

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²⁹ R.C. 2151.82.

