

Youth Transitioning From Foster Care

In 2002 the American Bar Association House of Delegates urged Congress and state and territorial legislatures to enact laws that provide youth in foster care full access, up to 21, to independent and transitional living services and health care, and we also urged state and territorial legislatures to permit the extension of jurisdiction of dependency courts over youth transitioning from foster care until age 21, when appropriate, to ensure that youth have access to the court, and to legal and social services through the court. We further encouraged states to fully implement the provisions of the federal Foster Care Independence Act, including implementation of the Medicaid expansion option, and the ABA pledged to work to ensure that youth transitioning out of foster care have access to competent counsel who can advocate for necessary services and safeguards.

In 2006, an invitational conference held to help ABA President Karen Mathis plan for her ABA Youth At Risk Initiative determined that one of the initiative's focus areas would be assisting youth who are "aging out" of foster care. At age 18, many youth are forced out of their foster homes, and the assistance of child welfare agencies may stop. Far more needs to be done to help 18 to 21 year olds get the support they need to establish themselves as productive and responsible adults. Lawyers should work to help them get needed support to establish themselves as productive and responsible adults through examining law reform, changes in juvenile and family court jurisdiction and practice, improved educational opportunities, and enhanced legal advocacy for them.

As a first step in the American Bar Association becoming more active in the area of youth transitioning from foster care, the director of the ABA Center on Children and the Law has conducted research on innovative law and policy related to this issue.

The following link is to a Center paper that addresses the issue of post-18 juvenile court jurisdiction over youth in foster care. Traditionally, juvenile courts lost jurisdiction over cases when a young person reached their 18th birthday. However, many states have amended their laws to explicitly provide for continuing court jurisdiction over a youth age 18 and older if they remain in the child welfare system's care.

[Continue Court Jurisdiction \(doc\)](#)

Additional Center on Children and the Law research on post-18 court involvement of transitioning youth is also included in the following Power Point presentation.

[Post-18 Jurisdiction Law Policy \(ppt\)](#)

A 151-page 2004 publication specifically for lawyers and judges, entitled "Improving Outcomes for Older Youth," developed by Center on Children and the Law attorneys Kathleen McNaught and Lauren Onkeles, is available from the National Resource Center for Youth Development for free download (or, call 918/660-3700 to receive a bound copy for \$15.00 plus shipping and handling).

Improving Outcomes for Older Youth

The ABA Youth At Risk Initiative staff is also examining ideas for new ABA policy related to youth aging out of foster care.

Some of the ideas we're considering...

1. Expansion of Chafee Act into new areas (e.g., prevention of homelessness of aged-out youth)
2. Expansion of other federal laws dealing with education, housing, health care, and employment/job training
3. Encouraging laws that either mandate or clearly authorize child welfare agencies to provide post-18 services, including foster care through age 21 where needed, and which allow youth post-18 who exited foster care to re-enter the system (opt back in)
4. Possibly supporting amending IV-E to allow post-19 federal reimbursement
5. Not allowing juvenile courts to close cases of youth at age 18 or later without a "discharge review hearing" with judicial findings that certain required elements of a transition plan have been put into place
6. Requiring an educational and vocational/job manager for all post-18 youth
7. Mandating agency requirements to help preserve every youth's Social Security Act entitlements for use directly by youth (a federal law remedy to the U.S. Supreme Court's Keffeler decision)

Clearinghouse Review Article on Implementation of the Foster Care Independence Act of 1999

[Enhancing Youth Access to Health Care.pdf](#)

To give us input, e-mail the Center on Children and the Law at ctrchildlaw@abanet.org