

JAN 24 2013

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# A BILL FOR AN ACT

RELATING TO THE YOUNG ADULT VOLUNTARY FOSTER CARE ACT.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1           SECTION 1. The Fostering Connections to Success and  
2 Increasing Adoption Act of 2008 (Public Law 110-351) allows  
3 states to claim federal reimbursement for the costs of caring  
4 for and supervising title IV-E eligible foster youth until their  
5 twenty-first birthday.

6           Compared to their peers, young people who have experienced  
7 foster care are more likely to become homeless and unemployed  
8 when they age out of foster care. They also are less likely to  
9 complete high school or post-secondary education. They are also  
10 more likely to have physical, developmental and mental health  
11 challenges. Unlike their peers, most lose their support system  
12 when they reach age eighteen and are discharged from state  
13 custody.

14           There is evidence from several studies that young people  
15 who continue to receive services until age twenty-one have  
16 better outcomes in several areas when they leave foster care

1 than those who left at age eighteen. These studies have shown  
2 an increase in positive outcomes in educational achievement and  
3 employment, contributing to a more stable workforce and  
4 increased lifetime earnings. There are decreases in negative  
5 outcomes, including homelessness, dependency on public  
6 assistance, drug dependency, and criminal activities.

7 This is not surprising, considering the research showing  
8 that the brain is not fully developed until the early to mid-  
9 twenties. Rather than a young person going immediately from  
10 adolescence to adulthood, gradual development occurs during a  
11 longer phase called emerging adulthood. Transitioning youth  
12 need extra support as they accomplish developmental milestones  
13 and progress toward full-fledged adulthood.

14 Extending independent living services, case and permanency  
15 planning, placement, and judicial oversight to age twenty-one,  
16 in developmentally appropriate ways, benefits young people who  
17 urgently need continued support and services. Most directly,  
18 extended care can provide safe and stable housing for young  
19 people that have not achieved permanence by age eighteen and are  
20 not ready to be on their own.

21 Moreover, extended care provides young people with access  
22 to additional child welfare resources that can be used to help a  
23 young person continue to build a network of support and

1 permanent relationships. It is vitally important that  
2 permanency planning continue in earnest with the young adult  
3 leading the effort to ensure that they never leave care without  
4 a permanently committed, caring adult in their life. This on-  
5 going permanency planning for non-minor dependents (young people  
6 in care over the age of eighteen) should also provide young  
7 people with access to competent legal advocates and meaningful  
8 court reviews.

9 The purpose of this Act is to add a new part to chapter  
10 346, Hawaii Revised Statutes, to care for and supervise eligible  
11 foster youth until their twenty-first birthday.

12 SECTION 2. Chapter 346, Hawaii Revised Statutes, is  
13 amended by adding a new part to be appropriately designated and  
14 to read as follows:

15 "PART . YOUNG ADULT VOLUNTARY FOSTER CARE PROGRAM

16 §346-A Purpose. The purpose of this part is to establish  
17 a new program to be called the young adult voluntary foster care  
18 program, to care for and assist eligible foster youth until  
19 their twenty-first birthday. The young adult voluntary foster  
20 care program will support former foster youth in achieving  
21 permanency in the transition to adulthood and in becoming  
22 independent and self-sufficient.

1           **§346-B Definitions.** As used in this part, unless the  
2 context clearly indicates otherwise:

3           "Case plan" means a plan developed by the department, in  
4 consultation with the young adult as developmentally  
5 appropriate, containing a written description of the programs  
6 and services that will help a child or young adult transition  
7 from foster care to independent living.

8           "Court" means one of the family courts established pursuant  
9 to chapter 571.

10          "Department" means the department of human services and its  
11 authorized representatives.

12          "Foster custody" means the legal status created when the  
13 department places a child outside of the family home with the  
14 agreement of the legal custodian or pursuant to court order as  
15 set forth in chapter 587A.

16          "Party" means the department, the young adult who is  
17 subject to the proceeding under this chapter, and may include  
18 any other person, if the court finds that such person's  
19 participation is in the best interest of the young adult;  
20 provided that the court may limit that party's right to  
21 participate in any proceeding if the court deems such limitation  
22 to be consistent with the best interests of the young adult.

1 "Permanent custody" means the legal status created by order  
2 of the court after the termination of parental rights as set  
3 forth in chapter 587A.

4 "Young adult" means a person who has attained the age of  
5 eighteen or older, up to age twenty-one.

6 **§346-C Rights of the young adult.** (a) Nothing in this  
7 part shall be construed to abrogate any other rights that a  
8 person, who has attained eighteen years of age, may have as an  
9 adult under state law.

10 (b) Young adults have a right to:

11 (1) Receive notice of any court hearings and reviews and  
12 any other case related proceedings and meetings;

13 (2) Be involved in the development of a personalized case  
14 plan; and

15 (3) Be present at all court hearings and reviews and to  
16 address the court during those hearings.

17 **§346-D Jurisdiction.** The family courts established  
18 pursuant to chapter 571 shall have exclusive jurisdiction over  
19 proceedings brought under this part.

20 **§346-E Eligibility.** A young adult may continue to receive  
21 services under this part only if they meet the following  
22 criteria:

23 (1) The young adult was:

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- 1 (A) Under the permanent or foster custody of the  
2 department at the time the young adult attained  
3 the age of eighteen;
- 4 (B) A child who was placed in guardianship after  
5 attaining the age of sixteen; or
- 6 (C) A child who was adopted after attaining the age  
7 of sixteen;
- 8 (2) The young adult voluntarily consents to participate in  
9 the young adult voluntary foster care program;
- 10 (3) The court finds that exercising jurisdiction under  
11 this part is in the young adult's best interest; and
- 12 (4) The young adult is:
- 13 (A) Completing secondary education or a program  
14 leading to an equivalent credential;
- 15 (B) Enrolled in an institution which provides  
16 post-secondary or vocational education;
- 17 (C) Participating in a program or activity designed  
18 to promote or remove barriers to employment;
- 19 (D) Employed for at least eighty hours per month; or
- 20 (E) Incapable of doing any of the activities  
21 described in subparagraphs (A) to (D) due to a  
22 medical condition, which incapability is

1 supported by regularly updated information in the  
2 case plan of the young adult.

3 **§346-F Venue.** A petition under this part may be filed in  
4 the county in which the young adult resides when the petition is  
5 filed.

6 **§346-G Voluntary care agreement.** If a young adult is no  
7 longer under jurisdiction pursuant to chapter 587A, but chooses  
8 to participate in the young adult voluntary foster care program  
9 and meets the eligibility criteria set forth in section 346-E,  
10 the department and the young adult shall enter into a voluntary  
11 care agreement that shall include, at a minimum, the following:

- 12 (1) The obligation for the young adult to continue to meet  
13 the conditions for eligibility described in section  
14 346-E, for the duration of the voluntary care  
15 agreement;
- 16 (2) The young adult's right to terminate the voluntary  
17 care agreement at any time; and
- 18 (3) The voluntary nature of the young adult's  
19 participation in the young adult voluntary foster care  
20 program.

21 **§346-H Provision of extended foster care services.** As  
22 soon as the department determines that a young adult is eligible  
23 under section 346-E and the young adult signs the voluntary care

1 agreement as described in section 346-G, the department may  
2 provide extended foster care services to the young adult.

3       **§346-I Petition.** (a) Within thirty days after the  
4 voluntary care agreement is signed, the department shall file  
5 with the court in the county where the young adult resides a  
6 petition invoking the jurisdiction of the court under this part,  
7 which shall contain:

8           (1) The young adult's name, date of birth, and current  
9           address;

10          (2) A statement of facts that supports the voluntary  
11          foster care agreement and includes the following:

12           (A) The reasonable efforts made to achieve permanency  
13           for the young adult;

14           (B) The reasons why it is in the best interest of the  
15           young adult to extend foster care services; and

16          (3) A copy of the signed voluntary care agreement.

17          (b) Upon the filing of the petition, the court shall open  
18 a young adult voluntary foster care case for the purpose of  
19 determining whether extending foster care services is in the  
20 young adult's best interests. The court shall make this  
21 determination not later than thirty days after the filing of the  
22 petition.



1 (c) The court shall set a periodic review to be held  
2 within one hundred and eighty days of the order granting  
3 jurisdiction for a newly filed petition.

4 **§346-J Notice of hearings and reviews.** Notice of hearings  
5 and reviews shall be provided the parties; provided that no  
6 further notice is required for any party who was given actual  
7 notice of a hearing or review while present in court. Notice of  
8 hearings or reviews shall be served no less than forty-eight  
9 hours before the scheduled hearing, subject to a shortening of  
10 time as ordered by the court.

11 **§346-K Liability of the department.** The department or any  
12 of its employees who provide services under this part shall not  
13 be liable to a third person:

14 (1) For any acts of the young adult; and

15 (2) For injury to the young adult resulting from the  
16 negligence or act of a third person providing services  
17 or housing to the young adult.

18 **§346-L Reports to be submitted by the department.** The  
19 department shall prepare a report to the court, developed in  
20 collaboration with the young adult as developmentally  
21 appropriate, which addresses the young adult's progress in  
22 meeting the objectives of the proposed case plan including  
23 independent living and transition plans and any recommendations

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1 or modifications, if any, necessary to further the young adult's  
2 goals. The report is to be submitted to the court one week  
3 prior to the review date and a copy provided to the young adult.

4 **§346-M Court proceedings.** (a) The court shall conduct  
5 all proceedings under this part without a jury.

6 (b) The general public shall be excluded from these  
7 proceedings. Only parties found by the court to have a direct  
8 interest in the case shall be admitted to the hearing.

9 **§346-N Periodic review.** (a) Periodic judicial reviews  
10 shall occur not less than once every one hundred and eighty days  
11 after the signing of the voluntary care agreement and may be  
12 either by court hearing or court review.

13 (b) At the periodic review, the court shall issue the  
14 following findings:

- 15 (1) Whether the young adult continues to meet the  
16 eligibility requirements set forth in section 346-E;
- 17 (2) Whether the young adult continues to comply with the  
18 case plan developed in collaboration between the  
19 department and the young adult, and the  
20 appropriateness of the case plan; and
- 21 (3) The young adult's progress towards achieving  
22 independence.

1           §346-O Termination of jurisdiction. Jurisdiction under  
2 this part shall terminate when:

3           (1) The young adult has reached the young adult's twenty-  
4 first birthday;

5           (2) The young adult chooses to terminate the voluntary  
6 care agreement and stop receiving extended foster care  
7 services if the young adult:

8           (A) Has voluntarily signed a document attesting to  
9 the fact that the young adult no longer consents  
10 to the court's jurisdiction;

11           (B) Has been informed in writing of the effects of  
12 terminating voluntary foster care early; and

13           (C) Has been informed in writing of the option to  
14 reestablish jurisdiction before reaching age  
15 twenty-one and the procedures to do so; or

16           (3) After a court finds that:

17           (A) The young adult no longer meets the eligibility  
18 requirements as set forth in section 346-E; or

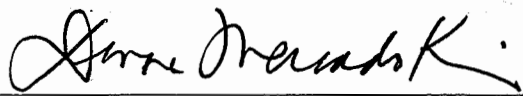
19           (B) Despite the fact that the department has made on-  
20 going reasonable efforts to provide the young  
21 adult with services, the young adult is in  
22 material non-compliance with the case plan.

23

1           §346-P Re-establishing jurisdiction. A young adult who  
2 was previously under the jurisdiction of the court under this  
3 part and who was terminated from the young adult voluntary  
4 foster care program, may re-establish jurisdiction by signing a  
5 new voluntary foster care agreement at which time the department  
6 and the court shall proceed pursuant to section 346-I."

7           SECTION 3. In codifying the new sections added to chapter  
8 346, Hawaii Revised Statutes, by section 2 of this Act, the  
9 revisor of statutes shall substitute appropriate section numbers  
10 for the letters used in the designations of, and references to,  
11 those new sections in this Act.

12           SECTION 4. This Act, upon its approval, shall take effect  
13 on January 1, 2014.

14  
15 INTRODUCED BY: 

16 BY REQUEST

**Report Title:**

Foster Care; Extend Age for Services

**Description:**

Sets the requirements for extending the age of foster care to age twenty-one.

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

JUSTIFICATION SHEET

DEPARTMENT: Human Services

TITLE: A BILL FOR AN ACT RELATING TO THE YOUNG ADULT VOLUNTARY FOSTER CARE ACT.

PURPOSE: To establish a statutory basis for the extension of foster care services to age twenty-one years for young adults formerly in foster care with the State of Hawaii, Department of Human Services.

MEANS: Add a new part to chapter 346, Hawaii Revised Statutes.

JUSTIFICATION: Extending age and developmentally appropriate foster care services up to age twenty-one will enable the Department of Human Services to continue to provide supportive services to enhance the likelihood of a successful transition of youth from foster care. The Department will be able to claim federal title IV-E reimbursements for eligible and claimable youth in this program.

Impact on the public: Increased support for transitioning youth will facilitate the youth's continued development and preparation for successful independence. Positive outcomes, like an increase in educational achievement and employment stability, will contribute to the social and economical well being of the State. Studies have shown that additional positive outcomes include decreases in homelessness, dependency on public welfare benefits, and drug dependency, and incarceration.

Impact on the department and other agencies: There will be an increase in the workload for the Department and the Judiciary, as well as the need for additional state funding for services.

GENERAL FUND:           HMS 301 \$556,433  
                              HMS 303 \$426,610

OTHER FUNDS:           Federal funds: HMS 301 \$401,133  
  HMS 303 \$551,079

PPBS PROGRAM  
DESIGNATION:           HMS 301 and HMS 303.

OTHER AFFECTED  
AGENCIES:             Judiciary.

EFFECTIVE DATE:       January 1, 2014.