The Fostering Connections to Success Act: An Invitation to States to Reverse the Sobering Outcomes of America’s Foster Youth

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INTRODUCTION

There are currently hundreds of thousands of children in foster care throughout the country who have been removed from their parents’ care and placed in the custody of the State.1 As the primary guardians of these children, States are responsible for ensuring that these children receive proper support and care.2 While thousands of foster children are returned to their parents each year or adopted by other families, a large number do not enjoy such outcomes. Rather, they remain in state care until emancipated. Unfortunately, States have failed an overwhelming proportion of these foster children.

Annually, over 25,000 youth age out of foster care largely unprepared for the sudden independence that comes with emancipation.3 From their entrance into care, foster youth’s lives are marked by trauma. They are removed from their parents’ homes because of abuse or neglect and usually placed with strangers or in group homes. Once in care, their lives are marked by incredible instability. They are forced to change schools and homes multiple times.4 Those moves interrupt foster youths’ schooling and limit their opportunities to develop reliable and supportive relationships with foster families, teachers, and peers. Growing up in such unstable environments,

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3 ABA COMM’N. ON YOUTH AT RISK, CHARTING A BETTER FUTURE FOR TRANSITIONING FOSTER YOUTH, at 3 (2011).
foster youth are forced to navigate the public system without much guidance in order to secure the educational, health, and financial resources to which they are entitled.

Foster youths’ exit from foster care is marked by similar trauma. While the average age of sustainable independence in this country is twenty-six years old, foster youth are prematurely focused into adulthood eight years too soon. They are abruptly evicted from state custody when their eligibility for foster care benefits terminates on their eighteenth birthday. Overnight, they are transformed into adults, and without even a minimal safety net, they are expected to meet their basic needs. Unfortunately, a staggering proportion of these youth lack the skills and resources to survive. A majority never completes high school. Without a high school diploma, most are pressed into poverty. Thousands of these youth quickly become and remain homeless and unemployed in the years following emancipation. In desperation, many turn to criminal activities and substance abuse, resulting in a relatively high incarceration rate for such youth within two years of emancipation. Those who become parents often lose their children to the foster care system. Sadly, when former foster youth falter, most often no one is there to save them.

Fortunately, the plight of youth aging out of foster care has not gone unnoticed. In response to the growing concern of the abysmal prospects of these youth, Congress enacted the Fostering Connections to Success and Increasing Adoptions Act (“Fostering Connections Act”) in 2008. Importantly, that legislation specifically seeks to stem the number of foster children joining the ranks of this country’s homeless, unemployed, and incarcerated populations in two ways: First, it

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8 Id. at 389.
demands that states provide educational stability to foster children. Second, and most importantly, it allows states to extend youths’ access to foster care benefits up until age twenty-one. States opting to amend their child welfare policies to incorporate this latter provision receive reimbursements from the federal government for a portion of the increased costs associated with extending foster care. Despite the incredible potential effects such extension of foster care can have on youth, states have not rapidly accepted Congress’ invitation to amend their child welfare statutes. Only sixteen states currently offer youth the opportunity to remain in foster care for some period of time beyond their eighteenth birthday.

This policy paper seeks to urge additional states to fulfill their obligations as the primary guardian of their foster children by extending access to foster care benefits to age twenty-one and giving these youth a real opportunity to succeed. This paper proceeds in three parts. Part I details the experiences of youth aging out of foster care. This paper then provides an overview of the Fostering Connections Act and outlines the various ways states have amended their child welfare statutes. It also discusses the benefits of extended foster care and provides a legislative model for expanding foster care. Finally, this paper concludes by providing several recommendations for making sure that the goals of these state plans are fully realized.

1. THE PLIGHT OF AMERICA’S “AGING OUT” FOSTER YOUTH

A. The Foster Care Experience

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11 Id.
Sam entered foster care during seventh grade. Placed in strangers’ homes and enrolled in a new school 50 miles from his parents, he struggled to adjust. Angry and depressed, he became agitated and confrontational. At the request of his foster parents, Sam was moved to a second and then third foster home and school. When the Department of Children Services failed to transfer his academic records, Sam was forced to repeat classes. Later, he was moved to an overcrowded group home. Without academic records, the local school refused to enroll him for a month. Within two years, Sam failed most classes and had insufficient credits to enter high school. After repeating eighth grade, he finally entered high school, but struggled to remain on track for graduation because he switched homes and schools multiple times. By the eleventh grade, Sam dropped out of school and never returned.

Sadly, Sam’s experience in foster care is not unordinary. There are currently over 400,000 children across the United States in foster care, which amounts to one percent of our country’s youth. These children are removed from their parents care usually against their wishes and without any notice because of abuse or neglect. While a majority of foster children are eventually reunited with their families or adopted, many stay in foster care until emancipation. When a child is removed from his parents’ care, he is often placed in unfamiliar settings such as foster homes, group homes, or institutions that are located miles from their homes and schools. Once in foster care, children cannot settle into these housing placements because they are repeatedly forced to move. Most foster children average one to two home placement changes per year, making them one of the

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13 These facts represent the story of a foster child who has recently aged out of the California foster care system. He is currently a client of the Alliance for Children’s Rights in Los Angeles, CA. His name has been changed to protect his privacy.


most mobile populations in the country. This rate increases each year the child remains in foster care.

This instability “reinforces a cycle of emotional trauma of abandonment and repeated separations from adults and friends.” Children are often given little warning, if any, that their placement is about to change, denying them the opportunity to smoothly transition from one environment to another. They do not get a chance to say goodbye to adults or peers they may have trusted. Rarely do personal belongings, which many rely on for a sense of comfort, travel with the children. With every move, the child is forced to quickly adjust to new expectations, varying schedules, and different house rules. Unsurprisingly, foster children fail to develop any sort of steady bonds with adults that they can rely on for support. They emotionally regress with each move.

This housing transiency has a devastating effect on children’s educational stability. Children in foster care often change schools when they are first removed from their parents’ care, and each subsequent move in placement usually results in further school transfers. An estimated two-thirds to three-quarters of children and youth who enter the foster care system must immediately change schools. On average, children in foster care transfer one to two times per year, which is three times the rate of their peers. This amounts to sixty-five percent of youth who have aged out of foster care attending more than five schools and nearly one-third switching schools ten or more

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16 Cara Chambers & Erika Palmer, Educational Stability for Children in Foster Care, 26 Touro L. Rev. 1103, 1105 (2011).
17 Id.
21 Id.; see also Reichbach & Spanjaard, supra note 6, at 105.
times while in foster care.\textsuperscript{22} A majority of these schooling changes occur mid-semester without any considerations of the impact of such moves on the child.

Unfortunately, these frequent transfers between schools seriously disrupt children’s academic achievement. A variety of studies have found that children lose between four and six months of educational progress each time they change schools.\textsuperscript{23} Each transfer poses numerous obstacles for the child. Often, students are not immediately enrolled in new schools when they are forced to change placements because their foster care caseworkers and schools do not ensure that their academic records are promptly transferred. Without such records, most schools refuse to enroll the foster child. Even when eventually admitted to the new school, schools rarely ensure that the children’s particular educational needs are addressed.\textsuperscript{24} Rather, they are often placed in the wrong grade, in classes they have already taken, or in courses that are too advanced, depending on the school’s availabilities. As a result, eighty-three percent of foster children are held back by third grade and seventy-five percent are behind grade level.\textsuperscript{25} Unsurprisingly, foster children often fail to obtain the credits and skills needed to stay on track for high school graduation.

Foster children’s housing and educational transience has a devastating cumulative effect. Children who spend a significant amount of their lives in foster care rarely spend enough time in any housing placement or school to forge lasting bonds with adults and peers. This mobility denies them the opportunity to secure substitute emotional and tangible support usually offered by families. Such support is critical especially for older foster children as they prepare to age out of foster care and are forced to wholly bear responsibility for every aspect of their lives—including,

\textsuperscript{22} NAT’L CONFERENCE OF STATE LEGISLATURES, supra note 19.
\textsuperscript{23} CASEY FAMILY PROGRAMS, IMPROVING EDUCATIONAL CONTINUITY AND SCHOOL STABILITY FOR CHILDREN IN OUT-OF-HOME CARE, at 17 (2009); WOLANIN, supra note 18.
\textsuperscript{24} Chambers & Palmer, supra note 16.
\textsuperscript{25} Transitional Age Youth-SF, supra note 9.
finances, housing, and health. Without such support, it is not surprising that the outcomes of youth who exit foster care are tragically poor.

**B. The Sobering Outcomes of “Aging Out” Foster Youth**

For a majority youth, their eighteenth birthday is not only a time for celebration, but also the start of a multi-year transition to adulthood. They gain the right to vote, enlist in the army, and for many, obtain their driver’s license. At the same time, many families begin allowing their children to take on more responsibilities so that they will be prepared to succeed as an independent adult. Until age twenty-six, a majority of youth slowly transition from high school to some type of higher education; from living at home to securing their own housing; and from relying on their parents for financial support to earning their own salaries.26 Most youth are able to make this gradual transition to adulthood with knowledge that they can rely on their families for support if they stumble upon any obstacle.

Every year, over 25,000 youth are released from foster care and abruptly pushed into adulthood without such a safety net.27 Despite traumatic and unstable childhoods, states expect youth aging out of foster care to be far more self-sufficient than their peers. At age eighteen, they are shut off from state benefits and expected to attain the financial and emotional independence that most youth do not achieve until they are in their mid to late twenties.28 Unfortunately, these youth are rarely prepared for this premature transition into adulthood. With generally no more than a garbage bag of belongings, foster youth are usually forced out of foster care without any significant connection to an adult because of their childhood housing and educational instability. They rarely are provided with guidance on how to secure the financial, housing, and educational resources

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26 Krinsky, supra note 5.
27 ABA COMM’N. ON YOUTH AT RISK, supra note 3.
needed to survive. Congressman Jim McDermott aptly summarized the aging out process in a 2007 congressional hearing when he stated that foster youth get “an eviction notice from the Government for doing nothing other than turning 18.” Without any safety net, youth who age out foster care are largely unprepared for adulthood.

The outcomes of these youth are shockingly tragic in large part because they perform far worst academically than almost any other cross-section of this country’s population. It is well documented that positive life outcomes are directly associated with educational achievement. Unfortunately, foster youth do not even complete the most basic levels of schooling because of their high education mobility rates, especially in their teenage years. A large proportion drops out because they are forced to unnecessarily repeat classes or placed in the wrong grade after each transfer and thus fail to accumulate enough credits to graduate high school with their peers. As a result, only five-four percent of former foster youth receives a high school diploma, which is significantly lower than the seventy-eight percent national graduation rate. Without that degree, college is impossibility for almost all foster children. While seventy percent aspire to attend college, only ten percent ever attend. Sadly, only one percent of those youth ever graduates and obtains a bachelor’s degree, which is significantly lower than the thirty percent national average.

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30 TIFFANY JULIAN & ROBERT KOMINSKI, U.S. CENSUS BUREAU, EDUCATION AND SYNTHETIC WORK-LIFE EARNINGS ESTIMATES (2011), available at http://www.census.gov/prod/2011pubs/acs-14.pdf (finding that education has greater effect on earnings than race or gender); see also LEONE & WEINBERG, supra note 14, at 5 (individuals with higher levels of education have indicia of positive life outcomes: lower rates of chronic illness, greater life expectancy, higher incomes, and lower unemployment rates).
31 Reichbach & Spanjaard, supra note 6, at 102
Without even a high school diploma, foster youth struggle to obtain and maintain stable employment. Multiple studies have shown that less than fifty percent of former foster youth are employed and over sixty percent do not remain in their jobs for more than a year.\(^{34}\) Even for the few fortunate youth who secure employment, they do not earn a salary sufficient to meet their basic needs. This is not surprising considering that most youth at eighteen years old are not expected to obtain jobs that provide self-sustainable salaries. Rather, there is an expectation that a majority of teenagers will attend some type of post-secondary education that will equip them with the skills needed to gain sustainable employment. Without such training, an overwhelming majority of former foster youth is quickly pressed into poverty. The number of foster youth living below the federal poverty line is three times greater than the national average.\(^{35}\) Specifically, more than three quarters of former foster youth earn less than $5,000 a year and ninety percent have incomes amounting to less than $10,000 a year.\(^{36}\) Consequently, over half receive welfare benefits.\(^{37}\)

Foster youths’ lack of education and employment exposes them to many risks, including homelessness and crime. Almost sixty-five percent of youth exit foster care without a place to live.\(^{38}\) They are usually dropped off at homeless shelters or forced to live on the streets. Without any source of reliable income, almost half of foster youth who age out of foster care are homeless within eighteen months.\(^{39}\) They are forced to live in homeless shelters or “couch surf” with their friends. These statistics do not drastically improve as time elapses. Rather, research shows that “a history of foster care correlates with becoming homeless at an earlier age and remaining homeless for a longer

\(^{34}\) Miriam A. Krinsky, Disrupting the Pathway from Foster Care to the Justice System, 48 FAM. CT. REV. 322 (2010).
\(^{35}\) Mark Cortney, et al., Chapin Hall Center for Children, Midwest Evaluation of the Adult Functioning of Foster Youth: Outcomes at Age 19 (2005).
\(^{36}\) Id.
\(^{37}\) Peter J. Pecora et al., Improving Family Foster Care: Findings from the Northwest Foster Care Alumni Study at 38 (2005).
\(^{38}\) Atkinson, supra note 4, at 200.
\(^{39}\) Shin, supra note 15, at 141.
period of time.” As a result, approximately three in ten homeless persons in this country have spent time in the foster care system. In some states, former foster children have even overtaken war veterans—which notoriously have one of the highest rates of homelessness—as the single largest population in homeless shelters.

With no education, employment, or housing, many foster youth that age out of foster care become desperate and turn to crime in order to survive. Studies have found that many former foster children obtain money through illegal means—twenty-four percent support themselves from dealing drugs and eleven percent engages in prostitution. Many others unknowingly commit crimes by writing bad checks because they do not know how to set up and properly manage their bank accounts. As a result of this desperation, many youth quickly cross over from to the juvenile justice system after aging out of foster care. Multiple reports estimate that an alarming forty percent of former foster youth have been arrested and over twenty-five percent have been incarcerated within the first two years of aging out of foster care. Statistically, former foster youth are ten times more likely to be arrested than their peers of the same age, race, and sex.

These sobering outcomes for youth aging out of foster care are inexcusable. When a state removes a child from his parents’ care, it becomes that child’s primary guardian and assumes legal and moral responsibility for ensuring at a minimum that the child is not harmed. However, states

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41 Transitional Age Youth-SF, supra note 9.
42 Shin, supra note 15, at 141.
43 Thom Reilly, Transition from Care: Status and Outcomes of Youth Who Age Out of Foster Care, 82 CHILD WELFARE 727, 735 (2003).
44 Keely A. Magyar, Betwixt and Between but Being Booted Nonetheless: A Developmental Perspective on Aging Out of Foster Care, 79 TEMP. L. REV. 557, 578 (2006)
47 See, e.g., DeShaney, 489 U.S. at 200.
have almost entirely failed to fulfill those obligations by failing to provide them with the educational stability needed to gain the skills needed to survive after aging out of foster care. Instead, they are pressed into poverty and exposed to the very real risks of homelessness, unemployment, and incarceration. These outcomes do not only represent lost opportunities for foster youth, but also a massive cost to society as a whole. Without a high school diploma, most former foster youth cannot productively contribute to our nation’s economy. Consequently, many rely on government for public assistance to survive or accrue costs through incarceration. These costs amount to millions of dollars per cohort of children that age out of foster care each year. Ultimately, the price of ignoring foster youth’s needs for stability and support is both morally, legally, and fiscally indefensible.

II. FOSTERING CONNECTIONS TO SUCCESS ACT: A SAFETY NET FOR OLDER FOSTER YOUTH

Fortunately, this country has not ignored foster youths’ tragic plight. In 2008, President George W. Bush signed into law the Fostering Connections to Success Act, which has been hailed as “the most significant and far-reaching reform to federal child welfare policy in more than ten years.” The Act amends Title IV of the Social Security Act and seeks to reverse the seemingly inevitable plunge of thousands of foster youth each year into homelessness, unemployment, and incarceration in two main ways: (1) requiring states to provide educational stability for foster children and (2) allowing states to extend youths’ eligibility for foster care benefits beyond age eighteen.

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The Fostering Connections to Success Act mandates that States receiving federal child welfare funds stabilize educational experiences of foster children. Specifically, it requires child welfare agencies to ensure that a child who enters foster care remains in the school he was initially attending prior to the removal from his parents’ home.\textsuperscript{51} To ensure attendance is feasible, the child welfare agency must provide transportation from the child’s foster home to his school.\textsuperscript{52} If remaining in that school is not in the child’s best interests, the child welfare agency and schools must work together so that the child is immediately enrolled in a new school and placed in the appropriate classes.\textsuperscript{53} The agencies and schools must promptly transfer the children’s academic records so that the new school can not only identify the children’s educational needs, but also ensure that the children remain on track for graduation.\textsuperscript{54}

Most dramatically, the Fostering Connections to Success Act allows states to extend foster care benefits to youth up to age twenty-one.\textsuperscript{55} The Act amended Title IV of the Social Security Act and allows states to receive and use federal funding to defray the additional costs incurred by providing foster care for older youth. In order for foster youth to remain eligible for continued benefits, they must be participating in one of the following activities: (1) completing high school or an equivalency program; (2) enrolled in a post-secondary or vocational education program; (3) involved in an activity to promote employment or remove employment barriers; or (4) employed for a minimum of eighty hours per month.\textsuperscript{56} If a youth does not satisfy one of these requirements, he may still remain eligible for extended foster care if there is documentation to show that a medical condition prevents him from undertaking such educational or employment activities.\textsuperscript{57}

\textsuperscript{51} Id. at § 204 (amending 42 U.S.C.A. § 675(1)(G)(ii)(I)).
\textsuperscript{52} Id. (amending § 675(4)(A)).
\textsuperscript{53} Id. (amending § 675(1)(G)(II)).
\textsuperscript{54} Id.
\textsuperscript{55} Id. at § 201 (amending § 675(8)(B)(III)(iii)).
\textsuperscript{56} Id. (amending § 675(8)(B)(III)(iv)).
\textsuperscript{57} Id. (amending § 675(8)(B)(III)(iv)(V)).
The Fostering Connections Act allows youth satisfying any of these requirements to remain eligible for a variety of services that previously terminated on their eighteenth birthday. It allows qualifying youth to receive funding for independent living activities, access education vouchers to cover post-secondary schooling expenses for both vocational and college education, and remain eligible for Medicaid.\footnote{Id. at § 101 (amending § 677(a), (b)(3), (i)(2)).} Besides extending eligibility for such services, the Act also requires child welfare agencies to prepare youth for their transition out of care. Ninety days before youth age out of care, child welfare agency must arrange transition-planning meetings that include any person youth want to invite.\footnote{Id. at § 202 (amending § 675(5)(H)).} At such meetings, personalized transition plans must be created that include specifics on housing, health insurance, education, mentoring, and employment services.\footnote{Id.}

A. Enacted State Legislation Extending Foster Care

Beyond the eligibility limitation and transition planning requirement, the Fostering Connections Act grants states a tremendous amount of leeway when decide whether and how to extend foster care beyond age eighteen. States opting to implement the Fostering Connections Act’s extended foster care provisions receive additional federal funding to help cover the increased expenses. Such funding will only be provided after the state submits an amended child welfare plan to the federal Administration for Children and Families. That amended plan must “outline applicable statutes, regulations, policies, and procedures” enacted by the state to ensure compliance with the requirements of the Fostering Connections Act.\footnote{Id. at § 101.}

Since 2008, less than half of the states have submitted such plans and enacted corresponding legislation.\footnote{See, e.g., ALASKA STAT. § 47.10.080 (2011); ARK. CODE ANN. § 9-28-114 (2011); CAL. WELF. & INST. CODE § 338 (WEST 2011); DEL. CODE ANN. TIT. 10 § 929 (2011); 20 ILL. COMP. STAT. 505/5(N)(1) (2010);} As this section highlights, the flexibility afforded by the Fostering Connections Act to
states extending foster care beyond age eighteen has resulted in great differentiation between states on key provisions regarding (1) the maximum age that youth may remain in foster care; (2) youths’ involvement in the decision to remain in care; (3) the ability for youth to re-enter foster care if they choose to leave; and (4) the type of services they are eligible for in extended foster care.

⇒ **Maximum Age:** One differentiating factor between these state legislations is the maximum age that states allow foster youth to remain in care. The Fostering Connections Act provides federal funding to states that extend youths’ access to foster care benefits until age twenty-one. Indeed, a majority of states that have enacted legislation under this Act allow youth to remain until that age. However, there are several states that set lower maximums. For example, Maine extends support to foster youth only until age twenty.\(^{63}\) In addition, New Mexico only extends access to foster care benefits until age nineteen.\(^{64}\)

⇒ **Consent and Request Requirement:** While most states automatically allow youth to remain in foster care beyond age twenty-one, some states require youth to expressly consent to or affirmatively request such continued care. Texas and Minnesota require youth to affirmatively petition for continued access to foster care benefits. In Texas, for instance, child welfare cases may remain open beyond age eighteen “at the young adult’s request” so long as the youth signs a Voluntary Extended Foster Care Agreement that outlines the youth’s rights and responsibilities.\(^{65}\) Furthermore, recently amended legislation in Minnesota allows youth to remain in foster care after


\(^{64}\) **Me. Rev. Stat. Ann** tit. 22, § 4037-A(1) (2011);


their eighteenth birthday “upon the request of the [youth], at any time, between the ages of 18 and 21.”

Similarly, Alaska, Illinois, Massachusetts require that youth consent to extended foster care. In Alaska, a court can extend state custody over foster youth so long as the youth “consents to it.” Under Illinois’ Foster Youth Successful Transition to Adulthood Act, youth remain eligible for foster care services only if they “consent[] to such services and ha[ve]n’t yet attained the age of 21.” The Massachusetts Department of Children and Family’s “continued responsibility for [youth older than eighteen years old] is contingent upon the express written consent of the person.”

⇒ **Reentry Access:** Youth do not always accept states’ invitations to remain in extended foster care or sometimes choose to leave foster care at some point after their eighteenth birthday. In many states, youth cannot gain access to foster care benefits after making such decisions. However, there are a handful of states that allow re-entry into extended foster care up until the maximum age limits. For example, Michigan’s Young Adult Voluntary Foster Care Act allows foster youth beyond age eighteen to regain access to foster care benefits *only if* the youth “previously had enrolled in extended foster care.” Other states do not place such a restriction on reentry into foster care. In Minnesota, “youth who left foster care while under state guardianship as dependent or neglected retain their ability to return to foster care for placement at any time between the ages of 18 and 21.” Similarly, Under the Tennessee Transitioning Youth Empowerment Act of 2010, former

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67 ALASKA STAT. § 47.10.080(c)(1)(B) (2011).
69 MASS. GEN. LAWS ch. 119, § 23(7)(f) (2010).
70 MICH. COMP. LAWS § 400.647 (2011).
71 See, e.g., CAL. WELF. & INST. CODE § 388 (West 2011); TENN. CODE ANN. § 37-2-417 (2011); 705 ILL. COMP. STAT. 405/2-33(2) (2010); MINN. STAT. § 260C.456 (2010); 20 ILL. COMP. STAT. 505/5 (2010);
foster youth over the age of eighteen who “refused services at the time of the person’s eighteenth birthday” may reenter the foster care system “if at any time the person seeks to regain services prior to the person’s twenty-first birthday.”

⇒ **Services Provided to Eligible Youth:** There is great variety among the breadth of services afforded to youth who remain in foster care beyond age eighteen. Of the states extending foster care, Oregon’s law is the most restrictive because it only provides for continued access to medical care. While medical care is indeed a necessity, their most immediate needs as they transition out of foster care usually involve finding employment, housing, and education. In addition to the transition-planning requirement laid out in the Fostering Connections Act, a majority of states simply provide for a continuation of foster care services until the maximum age limit. For example, Michigan’s recently enacted legislation provides that once a youth satisfies the eligibility requirements laid out in section 201 of the Fostering Connections Act, the Department of Human Services shall “provide extended foster care services.” Similarly, Washington’s extended foster care law simply states that “a youth who remains eligible...may continue to receive placement services and benefits until the youth reaches his or her twenty-first birthday.” Under such statutes, youth continue to have access to the housing, educational, and medical care services that they were entitled to before age eighteen.

There are several states that do not only extend youths’ access to previously provided services. Instead, they also provide additional services and benefits that specifically target the needs of foster youth as they age out of foster care. Youth are required to provide identification when they apply for college, medical services, jobs, and other services. However, most youth exit foster

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75 MICH. COMP. LAWS § 400.649(9) (2011).
76 WASH. REV. CODE § 74.13.031(10)(b).
care without any identification or guidance on how to obtain the required documents. To address this need, several states, including New Mexico, Iowa, and California, require child welfare agencies to provide social security cards, birth certificates, or state-issued identification cards to youth before they leave foster care. In some states, child welfare agencies are required to go a step further and help youth apply for employment, health insurance, and post-secondary education. For example, Arkansas’ “An Act to Create the Arkansas Foster Youth Transition Plan,” requires the Department of Human Services to help older youth complete applications for health insurance, housing, employment and other financial support, and post-secondary education and training. Similarly, California requires the Department of Children and Family Services to assist youth in applying for health insurance and post-secondary school admissions.

**B. The Benefits of Extended Foster Care**

Presently, more than half the states in this country have yet to accept the federal government’s invitation to extend foster care for older foster youth. There are two main reasons for states’ failure to enact legislation that assists foster youth after their eighteenth birthdays. First, there are no incentives built into the Fostering Connections Act for states to enact such legislation. Unlike the mandatory education stability provisions in section 204 of the Fostering Connections Act, states are not obligated to submit plans to the federal Administration for Children and Families or enact legislation that expands older youth’s access to foster care after age eighteen. The Act makes clear that it is “at the option of a State” to continue providing services to beyond that age.

Second, under the Fostering Connections Act, the federal government only provides a fraction of the costs states incur when providing for foster youth after their eighteenth birthdays.

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80 Fostering Connections Act, supra note 50, at § 201.
While this support may “soften the economic blow,” it does “not solve the problems of states that do not have the initial ability to fund the foster care extension provision.”\textsuperscript{81} The increased financial requirements are significant as it costs an estimated $19,000 per youth for each additional year of foster care.\textsuperscript{82} Since federal funds usually cover less than half of these costs, the rest must be born by state and county governments.\textsuperscript{83} Consequently, while the federal funds may “soften the economic blow” of expanded foster care, it will not “solve the problems of states that do not have the initial ability to fund the foster care extension provision.”\textsuperscript{84} Especially in times of economic recession, the costs of extended foster care may seem fiscally prohibitive.

Despite the non-mandatory nature of the extended foster care provisions of the Fostering Connections Act and the upstart costs associated implementing those provisions, states should still expand foster care for youth beyond age eighteen. As noted in Part I, the sobering outcomes of former foster youth are not only legally and moral indefensible, but are also financially inexcusable. When states place children in foster care, they become their primary guardian and assume legal and moral responsibility for ensuring, at a minimum, that youth have the tools to survive after aging out of foster care. Unfortunately, states have largely failed to fill those obligations as most former foster youth quickly join the ranks of this country’s homeless, unemployed, and incarcerated populations. These outcomes impose a huge financial burden on states because many rely on government for public assistance to survive or accrue costs through incarceration.

\textsuperscript{81} Shin, supra note 15, at 148.
\textsuperscript{82} CLARK M. PETERS, ET AL., CHAPIN HALL, THE BENEFITS AND COSTS OF EXTENDING FOSTER CARE TO AGE 21, at 23 (2009).
\textsuperscript{84} Shin, supra note 15, at 148-49.
By expanding foster care beyond age eighteen, states not only fulfill their moral and legal obligations, but also save millions of dollars in the long-term. Studies have demonstrated that youth who remain in foster care until age twenty-one are less likely to succumb to the tragic risks that most youth are exposed to when exiting foster care at age eighteen. There is a direct correlation between extended foster care and greater educational achievement. Remaining in care drastically increases the odds that youth will graduate from high school and at least doubles the chances that they will obtain a bachelor’s degree.\(^{85}\) Such increased educational attainment has significant financial returns because it greatly increases the employability of former foster youth, thereby driving down the rates of unemployment plaguing most youth exiting care.\(^{86}\) Recent studies project that former foster youth who remain in care until age twenty-one and obtain a four-year college degree earn between $196,000 to $481,000 more over their work lives than their peers who exit care on their eighteenth birthdays with at most a high school diploma.\(^{87}\) Such earnings amount to at least three times the initial investment made by states to keep a foster youth in care until age twenty-one.

While a significant amount of those earnings accrue to the former foster youth, states also reap the financial benefits because fewer youth are pressed into poverty. Youth who remain in care beyond age eighteen are almost three times less likely to be homeless after aging out of care.\(^{88}\) They are also less prone to involvement in criminal activity and incarceration.\(^{89}\) Furthermore, female youth are thirty-eight percent less likely to become pregnant before age twenty when they remain in extended foster care.\(^{90}\) The greatest savings to states come from the reduced reliance of former foster youth on public assistance and the increased amount of taxes states collect from former foster youth.

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\(^{85}\) Peters, supra note 84, at 11.

\(^{86}\) Jim Casey Youth Opportunities Initiative, Foster Care to 21: Doing it Right (2011).

\(^{87}\) Id.; Peters, supra note 84, at 12.

\(^{88}\) Jim Casey Youth Opportunities Initiative, supra note 87, at 2.


\(^{90}\) Jim Casey Youth Opportunities Initiative, supra note 87, at 2.
youth because of their increased earnings. Based on these outcomes, states should not evade their legal and moral responsibilities to youth in their foster care systems. While the initial costs of expanding foster care may seem prohibitive, in the long term benefits are undeniable. Allowing youth to remain in foster care beyond their eighteenth birthdays does not only significantly reduce the risks that foster youth currently face when exiting care but also saves states millions of dollars in the long-term.

C. A Proposed Legislative Model for Extended Foster Care

As more states accept the Fostering Connection Act’s invitation to extend foster care, they can adopt provisions from the legislations that have already been enacted by other states. In doing so, they can pick those provisions that maximize the potential benefits of extended foster care. This paper proposes that new state legislation should at minimum adopt four key provisions. First, states should extend foster care support up until age twenty-one. As the previous sections have highlighted, foster youth are currently significantly unprepared for adulthood at age eighteen. Extending foster care to twenty-one gives youth a real opportunity to smoothly transition out of foster care and into adulthood. Furthermore, states accrue more benefits for each year that they allow youth to remain in foster care beyond age eighteen. Second, states should replicate the consent requirements that have been developed by states such as Texas, Alaska, and Illinois. Such provisions force youth to proactively make decisions affecting their future because they must choose whether to cut themselves off from state custody or accept the obligations and rights of extended care.91

Third, states should include reentry provisions in newly adopted legislation. Many older youth underestimate the obligations of adulthood. Without real support and guidance, many foster youth may find it more difficult to survive on their own without government assistance than they

91 Shin, supra note 15, at 161.
initially thought. Reentry reduces the risk that youth will succumb to homelessness, unemployment, and crime before age twenty-one. It also provides them with the safety net and backstop provided to most youth by their families. Fourth, states should follow the lead of California, New Mexico, and Iowa by not only extending foster care benefits to older youth, but also provide additional services that specifically address the needs of youth as they transition into adulthood. Targeted benefits such as application assistance and the provision of identification documents ensure that youth have access to the services and tools needed to be self-sufficient once they exit foster care.

III. IMPLEMENTATION RECOMMENDATIONS

Enacting the education and extended foster care provisions of Fostering Connections Act into state law does not guarantee that foster youth outcomes will necessarily improve. Rather, the foster youth will only reap the benefits of the Fostering Connections Act if states wholly and effectively implement their new laws. To ensure that the promises of these new laws are fully realized, states should undertake the following recommendations:

A. Facilitating Cross-Agency Collaboration:

Currently, children are forced to change schools multiple times throughout their time in foster care. Usually, these transfers occur during the middle of the school year. Following these schooling changes, children are often not immediately enrolled in new schools because of the failure to transfer required records for registration. Upon enrollment, many foster children are not placed in the proper classes or grades. The Fostering Connections Act directly addresses these issues.

In order to ensure the effective implementation of the Act’s education provisions, states

92 Id. at 164.
should create “reciprocal mandates in education law” that require schools and other education agencies to coordinate and collaborate with child welfare agencies.\textsuperscript{93} Such laws should also delineate which agencies are responsible for implementing the different provisions. For example, states should make clear who is responsible for: (1) making the determination of whether children should remain in the school they were attending at the time of removal; (2) securing funding for transportation from foster homes to schools; and (3) gathering and transferring school records so that a child is immediately enrolled in a new school and placed in appropriate classes. Where these decisions and activities would be best accomplished through input by both agencies, states should also provide guidance and resources to collaborate across agencies.

**B. Training**

The Fostering Connections Act increases the rights of foster youth and concomitantly imposes new obligations on foster care agencies, education providers, courts, and lawyers. The greatest change for these stakeholders is the new population of foster children that many states now have to support—youth between ages eighteen and twenty one. In order to ensure that these stakeholders understand how to carry out their new responsibilities, the Fostering Connections Act provides states with short-term federal funding to develop implementation policies and training programs.\textsuperscript{94} States should use this funding to instruct these various stakeholders of the developmental needs of these older foster youth populations, develop best practices manuals for each stakeholder group, and train the various groups on how to work across agencies to fully meet the needs of foster youth.

**C. Providing Quality, Age-Appropriate Services**

\textsuperscript{93} Am. Bar Ass’n., \textit{Four Strategies to Implement the Fostering Connections Act’s Education Provision}, 28 No. 9 CHILD L. PRAC. 139, 139 (2009).

\textsuperscript{94} Fostering Connections Act, \textit{supra} note 50, at § 203.
While the extension of foster care to age twenty-one is an important step in supporting young people, it is only half the solution. States must also develop quality, age-appropriate services that target the needs of older foster youth. Youth will only make the decision to remain in foster care beyond age eighteen if the benefits facilitate their transitions into adulthood. States should particularly focus on providing age-appropriate housing, educational, and career training services. In terms of housing, states should create programs that allow youth to live in independent housing placements after age eighteen so that they can incrementally assume more responsibilities in their daily lives. States should also develop educational policies that support youths’ completion of high school and admission to post-secondary education. They should also make tutoring and college preparatory services available to older foster youth. States should also develop internship or job training programs that will ensure that youth have the skills required for employment. Such services will ensure that youth, and states alike, receive the maximum benefits of extended foster care.

D. Spreading Awareness

To ensure that youth understand the opportunities afforded to them by this new legislation, states should implement awareness campaigns that provide clear guidance to youth about their rights. Often youth learn about their rights too late and thus, cannot benefit. Caseworkers should be obligated to explain to youth their various rights before their eighteenth birthdays and courts should ensure that youth fully understand these rights before their cases are closed. Information should be made available through schools and on the Internet. States should also undertake similar awareness campaigns that target the various stakeholders to ensure that everyone understands youths’ rights. By doing so, states can ensure that a maximum number of youth can take advantage of these new

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95 PARTNERS FOR OUR CHILDREN, FOSTERING CONNECTIONS AFTER AGE 18: REPORT OF A CONVENING TO ADDRESS HOUSING, HEALTH CARE, EDUCATION AND OTHER TRANSITION TO ADULTHOOD ISSUES, at 12 (2008).
laws.

**CONCLUSION**

The Fostering Connections Act has brought much needed attention at both the federal and state levels to the incredibly sobering outcomes of foster youth. States who have not yet accepted the federal government’s invitation to extend foster care beyond age eighteen should do so in the near future. Extended foster care provides states with an incredible opportunity to reverse their failures to meet the basic needs of children in their foster care systems. As states mobilize to implement the educational and extended foster care provisions of the Fostering Connections Act, they should ensure that they at minimum follow the aforementioned recommendations. In doing so, they will allow youth to fully benefit from promises of the Fostering Connections Act.