

**AMERICAN BAR ASSOCIATION
YOUNG LAWYERS DIVISION**

**CHILDREN AND THE LAW COMMITTEE
SECTION OF FAMILY LAW
STEERING COMMITTEE ON THE UNMET LEGAL NEEDS OF CHILDREN
CENTER ON CHILDREN AND THE LAW**

**RECOMMENDATION AND REPORT TO THE
ASSEMBLY OF THE YOUNG LAWYERS DIVISION**

RECOMMENDATION

RESOLVED, that the American Bar Association urges Congress and state and territorial legislatures to enact laws that provide youth in foster care full access, up to age 21, to independent and transitional living services and health care, and

FURTHER RESOLVED, that the American Bar Association urges state and territorial legislatures to extend the jurisdiction of dependency courts over youth transitioning from foster care until age 21, and to fully implement the provisions of the federal Foster Care Independence Act, including implementation of the Medicaid expansion option, and

FURTHER RESOLVED, that the American Bar Association work to ensure that youth transitioning out of foster care have access to competent counsel who can advocate for necessary services and safeguards.

REPORT

After I aged out of foster care, I went homeless, and I mean completely homeless. I was sleeping outside, I was sleeping behind McDonald's, I was sleeping in laundry rooms, I was sleeping at Metro stations, and then I started to sleep in hospitals because they were safe and they were warm.

....

But I would simply like to say that every kid in foster care and who graduates out at 18 deserves to have Medicaid, deserves to have permanency, and deserves to have reasonable housing.

Excerpts from testimony of Terry Harrak before
Subcommittee on Health Care of the Senate
Committee on Finance¹

The Plight of Youth Exiting the Foster Care System²

To help teenagers in foster care become healthy, self-sufficient adults, we must create opportunities for them to participate in meaningful independent living programs while in foster care and provide concrete health care and transitional living assistance to those youth exiting foster care subsequent to their 18th or 21st birthday. As of the end of Fiscal Year (FY) 1995, approximately 483,000 children were placed in the nation's foster care system with an estimated increase to 502,000 in FY 1996,³ and in FY 1997 to 509,300.⁴ Based on reporting from 25

¹ *Health Needs of Children in the Foster Care System: Hearing on S. 1327 Before the Subcommittee on Health Care of the Senate Committee on Finance, 106th Cong. 17-18 (1999)*(statement of Terry Harrak, former foster care child, Annandale, Va.).

² The full report is based in part on previously published work authored by ABA members Kathi Grasso and Abigail English, including Abigail English & Kathi Grasso, *The Foster Care Independence Act of 1999: Enhancing Youth Access to Health Care*, 34 CLEARINGHOUSE REV.: JOURNAL OF POVERTY LAW AND POLICY 217 (July-August 2000); Kathi Grasso, *Litigating the Independent Living Case*, 18 ABA CHILD L. PRAC. 65 (July 1999); and Abigail English & Kathi Grasso, *When Foster Care Ends, Health Care Shouldn't*, 19 ABA CHILD L. PRAC. 140 (November 2000).

³ U.S. HOUSE OF REPRESENTATIVES, COMMITTEE ON WAYS AND MEANS, 1998 GREEN BOOK: BACKGROUND MATERIAL AND DATA ON PROGRAMS WITHIN THE JURISDICTION OF THE COMMITTEE ON WAYS AND MEANS 777 (1998)(citing Voluntary Cooperative Information System data collected by American Public Welfare Association, now known as American Public Human Services Association).

⁴ U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES, ADOPTION AND FOSTER CARE ANALYSIS AND REPORTING SYSTEMS (AFCARS)(Table 01-C: Age Distribution for Children in Foster Care on September 30, 1997) (November 24, 1998)(visited December 21, 2000)<<http://www.acf.dhhs.gov/programs/cb/stats/afcars/adnos97b.htm>>.

states, including states with the largest populations, the District of Columbia, and Puerto Rico, available data indicate that older children and adolescents (aged 11- 19+) comprise 41 percent of these jurisdictions' foster care populations.⁵ An estimated 20,000 youth ages 18 through 21 are terminated from foster care services each year.⁶ As exemplified by Terry HARRAK's story, lacking familial, governmental, and other support, many young people exiting foster care are ill equipped for the transition to adulthood.

Negative Adult Outcomes

The few outcome studies of these populations reflect the difficulties encountered by former foster care youth. According to Westat's 1990-1991 study of 810 ex-foster care youth in eight states, including New York, California, and Illinois, reporting on their experiences 2.5 to 4 years after exiting care, 46 percent did not have a high school diploma, 51 percent were unemployed, 40 percent were "a cost to the community," 30 percent had difficulty accessing health care due to inadequate finances and insurance, 60 percent of females had given birth, and 25 percent had experienced "problems with the law," the primary cause (51 percent) being drug and alcohol abuse.⁷ The study's authors concluded that "[w]ith respect to education completion, young parenthood, and the use of public assistance, discharged foster care youth more closely resembled those 18 to 24 year olds living below the poverty level than they [did] 18 to 24 year olds in [the] general population."⁸ They added that "[t]hese findings verify the need for services to help improve the outcomes for youth after discharge from foster care."⁹

Similarly, a more recent study of 113 ex-foster children in Wisconsin, 12 to 18 months after they left foster care, revealed that 37 percent had not graduated from high school, 40 percent of females and 23 percent of males had received public assistance, 12 percent had experienced homelessness at least once, and 27 percent of males and 10 percent of females had been imprisoned at least once.¹⁰

⁵ *Id.*

⁶ U.S. GENERAL ACCOUNTING OFFICE, FOSTER CARE: EFFECTIVENESS OF INDEPENDENT LIVING SERVICES UNKNOWN (GAO/HEHS-00-13) 4 (November 1999).

⁷ RONNA J. COOK ET AL., A NATIONAL EVALUATION OF TITLE IV-E FOSTER CARE INDEPENDENT LIVING PROGRAMS FOR YOUTH, PHASE 2, FINAL REPORT, VOLUME ONE xiv-xvi, 4-24-25 (1992) (available from Westat, Inc., Rockville, MD).

⁸ *Id.* at xiv.

⁹ *Id.*

¹⁰ Mark E. Courtney & Irving Piliavin, University of Wisconsin, *Foster Youth Transitions to Adulthood: Outcomes 12 to 18 Months After Leaving Out-of-Home Care* 1-16 (1998)(visited December 21, 2000) <<http://polyglot.lss.wisc.edu/socwork/foster/index.html>>.

Lack of Access to Health Care

Regarding access to health care, 44 percent had encountered problems obtaining health care "most or all of the time," with 51 percent stating the reason as lack of insurance coverage and 38 percent pointing to the cost of care.¹¹ Over 28 percent were unable to obtain dental care with 90 percent citing lack of insurance or cost of care being a barrier to these services.¹² Regarding mental health care, this study found that "although the receipt of mental health services decreased dramatically over time, there is no evidence that the young adults' need for services decreased."¹³ Other studies depict similar findings regarding educational, employment, housing stability, economic self-sufficiency, health care access, and incarceration rates.¹⁴

Many transitioning youth have serious unmet physical and mental health needs. Although most foster children have Medicaid coverage while in foster care, their access to health care is far more limited once foster care is terminated. Unfortunately serious barriers, including lack of adult support, poverty, ineligibility for public health insurance, and inadequate information regarding available services, impedes former foster care youth's access to transitional living and health care services that promote health and well being. Young people who are aging out of foster care fall into the group—18 to 24 years old—that is uninsured at the highest rate among all age groups.¹⁵

It is imperative that transitioning youth have access to a wide range of health care services, including:

- comprehensive health assessments and general dental examinations;
- general preventive services (e.g., nutrition and exercise counseling; anticipatory guidance);
- teen pregnancy prevention and family planning services;

¹¹ *Id.* at 7-8.

¹² *Id.* at 8.

¹³ *Id.* at 9.

¹⁴ See Nan P. Roman & Phyllis B. Wolfe, *The Relationship Between Foster Care and Homelessness* 55(1) PUBLIC WELFARE 4 (January 1997); *Section 2: Outcome Studies of Foster Youths*, PREPARING FOSTER YOUTHS FOR ADULT LIVING: PROCEEDINGS OF AN INVITATIONAL RESEARCH CONFERENCE 7-26 (Edmund V. Mech and Joan R. Rycraft eds., 1995) (available from Child Welfare League of America, Washington, DC); Curtis McMillen & Jayne Tucker, *The Status of Older Adolescents At Exit From Out-of-Home Care*, 78 CHILD WELFARE 339 (May/June 1999); Richard P. Barth, *On Their Own: The Experiences of Youth After Foster Care* 7 CHILD AND ADOLESCENT SOCIAL WORK 419, 426 (October 1990).

¹⁵ In 1998, 30% of all individuals, 18–24, were without health insurance, and 46.7% of individuals in that age group living below the federal poverty level were uninsured. U.S. Census Bureau, *Health Insurance Coverage: Consumer Income*, 1998 CURRENT POPULATION REPORTS 3, tbl. 1 (October 1998).

- HIV/AIDS/STD prevention services;
- other reproductive health care;
- mental health and substance abuse services;
- treatment for acute and chronic health problems; and
- case management.

Health insurance coverage is a key element in access to health care for transitioning youth. Studies have found that health insurance coverage can make a difference both in access to health care and in health outcomes.¹⁶ Medicaid coverage, in particular, has the potential to be especially important for youth making the transition out of foster care because of the breadth of the Medicaid benefit package; it will be helpful in addressing their multiple and often serious health problems.¹⁷

Lack of Adequate Transitional Living Services

Many teens in state custody are denied access to adequate transitional living services to help them transition to young adulthood and self-sufficiency. In the first phase of the previously cited study, Westat determined that nearly half (40 percent) of the sample foster care population (34,600) did not receive “some [sic] type of independent living service training” prior to exiting foster care, 69 percent had not participated in an independent living program, and 64 percent had not received skills training relevant to health.¹⁸ Although the study did not attempt to examine the comprehensiveness or quality of identified services and programs, its authors did find that skills training in specific areas could make a positive difference in outcomes, such as obtaining health care and employment.¹⁹

¹⁶ See, e.g., Alliance for Health Reform, *Health Coverage: How Much Does Insurance Matter?* (May 2000) (visited May 12, 2000) <http://www.allhealth.org/pub/pdf/05-00_HowMuch.pdf> (citing numerous studies).

¹⁷ For a more extensive discussion of meeting the health care needs of young people through the Medicaid program, see ABIGAIL ENGLISH ET AL., *ADOLESCENTS IN PUBLIC HEALTH INSURANCE PROGRAMS: MEDICAID AND CHIP* (1999)(available from the Center for Adolescent Health & the Law upon request by sending an e-mail message to info@adolescenthealthlaw.org.)

¹⁸ RONNA J. COOK ET AL., *A NATIONAL EVALUATION OF TITLE IV-E FOSTER CARE INDEPENDENT LIVING PROGRAMS FOR YOUTH, PHASE 1, FINAL REPORT, VOLUME ONE vi-vii* (1990) (available from Westat, Inc., Rockville, MD).

¹⁹ Cook et al., *supra* note 7, at 5-4. Also see Ronna J. Cook, *Are We Helping Foster Care Youth Prepare For Their Future?* 2 *CHILD WELFARE RESEARCH REVIEW* 201 (1997); Edmund V. Mech et al., *Life Skills Knowledge: A Survey of Foster Adolescents in Three Placement Settings*, 16 *CHILDREN AND YOUTH SERVICES REVIEW* 181 (1994); *Challenges Confronting Children Older Children Leaving Foster*

Similarly, the earlier noted Wisconsin study discovered that "only a minority of young adults reported that they received concrete assistance in preparing for a variety of life skills prior to discharge."²⁰ Only 18 percent reported job training, 12 percent help in obtaining housing, 15 percent assistance in obtaining personal health records, 11 percent help in getting health insurance, and 11 percent help in obtaining public assistance.²¹ Moreover, only 46 percent of youths stated that they had at least \$250 in their possession at the time of their discharge from foster care.²² Voicing their concerns regarding health care services for these young people, including preventive services, this study's authors asserted that "[t]he long-term effect of accessibility of such care may contribute to more serious difficulties if ongoing problems remain untreated and new ones go undetected."²³

The Federal Foster Care Independence Act

In the late 1980's, the federal *Adoption Assistance and Child Welfare Act of 1980* (AACWA) was amended to require a finding by the court regarding specific services needed for any child 16 and over making the transition from foster care to independent living.²⁴ In addition, a youth's case plan must include a written description of these programs and services.²⁵ The amendment's intent was to eliminate case plans that had too few specifics for implementation, and get child welfare agencies and others to plan early for a young person's transition to adulthood.

The federal *Adoption and Safe Families Act of 1997* (ASFA) and the *Foster Care Independence Act of 1999* do not change the AACWA's above-cited provisions. The ASFA mandates earlier and more frequent reviews to evaluate agency progress toward implementing children and youth's permanency plans.²⁶ These permanency hearings provide an appropriate forum for advocates to challenge inappropriate permanency plans and inadequate case plans.

Care: Hearing Before the Subcomm. On Human Resources of the House Ways and Means Committee 106th Cong. (1999) (testimony of Child Welfare League of America)
<<http://www.igc.apc.org/cwla/publicpolicy/independentlivingtestimony.html>>.

²⁰ Courtney & Piliavin, *supra* note 10, at 4-5.

²¹ *Id.* at 5.

²² *Id.* at 6.

²³ *Id.* at 15.

²⁴ 42 U.S.C. § 675(5)(C).

²⁵ 42 U.S.C. § 675(1)(D).

²⁶ 42 U.S.C. § 675(5)(C)(amended by Section 302 of ASFA).

The Foster Care Independence Act,²⁷ signed into law on December 14, 1999, offers an opportunity for states to address the unmet health care needs of young people aging out of foster care. If fully implemented, the Act will enhance the provision of transitional living services, including health care benefits, to young people moving out of foster care. It increases annual appropriations to the states for services, such as housing, education, and employment assistance, from \$70 million to \$140 million.²⁸ In addition, the Act gives states the option of expanding Medicaid coverage to transitioning foster care youth ages 18 to 21.²⁹

The enactment of the Foster Care Independence Act is an important first step toward increasing youth access to transitional living and related services. However, much work remains to be done to implement the Act, as well as addressing its inadequacies. Even though many teenagers in foster care will benefit from the Act, many will still be denied access to services to help them transition to young adulthood and self-sufficiency. Reasons include:

- lack of or inadequate independent living programs/services;
- rigid standards for entry into existing programs;
- variance in caseworker competence (e.g., some lack knowledge of adolescent development and needs);
- lack of uniformity in how programs are administered or operated;
- limited financial resources for these programs (even with increased appropriations under the Foster Care Independence Act);³⁰
- premature termination of foster care services prior to 18;
- some states not opting to extend Medicaid benefits to youth who have exited foster care;
- limits on courts' jurisdiction to preside over cases of youth up to age 21; and
- lack of youth access to competent counsel to advocate for services.

Federal and state governments will be making decisions regarding the Act's implementation that will influence whether youth exiting foster care have access to a full array of independent living services and Medicaid coverage. For those youth who have already exited foster care and are not yet 21, issues will arise as to their eligibility for independent living benefits under the Act, their right to notice of possible benefits, their options should they be denied benefits, and the court's

²⁷ Foster Care Independence Act of 1999, Pub. L. No. 106-169 (H.R. 3443), 113 Stat. 1822 (1999).

²⁸ For a more general discussion of the Foster Care Independence Act's legislative history and its provisions, see Allen, Mary Lee & Robin Nixon, *The Foster Care Independence Act and John H. Chafee Foster Care Independence Program: New Catalysts for Reform for Young People Aging Out of Foster Care*, 34 CLEARINGHOUSE REV.: JOURNAL OF POVERTY LAW AND POLICY 197 (July-August 2000).

²⁹ Foster Care Independence Act § 121, 113 Stat. 1822, 1829-30.

³⁰ Although the Act increases appropriations to the states for independent living services, it merely doubles the yearly allocation that was initially allocated to the states in the mid-1980's. Since that time, there have been significant increases in the nation's foster care populations.

role in monitoring the provision of services. Eventually, federal and state legislation may be proposed to address increased appropriations for services and the above identified problems.

In addition, because the Act does not mandate that states extend Medicaid benefits to youth aged 18 to 21 exiting foster care, states will decide whether they will expand Medicaid coverage to this population, and if so, the extent of that coverage. Medicaid coverage, in particular, has the potential to be especially important for youth transitioning out of foster care because of the breadth of the Medicaid benefit package, which could be helpful in addressing their multiple and often serious health problems. Specifically, Medicaid includes the Early and Periodic Screening, Diagnosis, and Treatment (EPSDT) requirements for Medicaid recipients who are under the age of 21.³¹ EPSDT requires that states make available to these children and adolescents periodic comprehensive assessments of their health, interperiodic screens, and follow up diagnosis and treatment.³²

The Role of the Courts and the Organized Bar

Judges, lawyers, policy makers and others can be instrumental in influencing the implementation of the Foster Care Independence Act in their communities. They can improve youth access to the courts by supporting the extension of dependency court jurisdiction in the cases of foster care youth up to age 21, enhancing youth access to competent legal counsel, and advocating for them in legislative, court, and administrative forums.

In many states, the court's authority to rule on a youth's case can be maintained until the youth turns 21. For example, in Maryland, the juvenile court's jurisdiction continues until a person turns 21, unless the court expressly terminates the jurisdiction earlier.³³ In others, court jurisdiction is terminated at 18 or 19 years of age.

Because judges can monitor the provision of services to youth, including ensuring that agency services are not prematurely terminated, it is imperative that youth have access to dependency courts until they turn 21. Especially in light of their potential eligibility for services under the Foster Care Independence Act, this access should allow youth who have prematurely exited foster care (either before or after their eighteenth birthdays) to consent to the reestablishment of juvenile court jurisdiction in their cases. Extension of dependency court jurisdiction to age 21 also increases the likelihood that transitioning youth have access to lawyers. The court appointment of an attorney for a child usually continues until court jurisdiction is terminated, unless the court orders otherwise.

³¹ 42 U.S.C. §§ 1396a(a)(10) and (43), 1396d(a)(4)(B), 1396d(r); 42 C.F.R. § 441.50-441.62. *See also* 58 Fed. Reg. 51288 (1993) (proposed regulations); Health Care Financing Admin., U.S. Dep't Health & Human Services, State Medicaid Manual, Part 5, §§ 5010-5360.

³² 42 U.S.C. § 1396d(r)(1)-(5).

³³ MD. CODE ANN., CTS. & JUD. PROC. § 3-806(a)(1999).

The case of *L.Y. and Melody v. Department of Health and Rehab. Servs.*³⁴ reflects a court's frustration with a statutory scheme terminating juvenile court jurisdiction at age 18. Judge Barbara Pariente, in a concurring special opinion, voiced concern regarding Florida's statute terminating court jurisdiction over dependent youth at age 18. She asserted that juvenile court jurisdiction should coextend with the child welfare agency's obligation to provide services to individuals who have been previously placed in foster care.³⁵ She acknowledged the trial judge's serious concerns regarding the lack of effective or independent oversight of the cases of young people older than 18 who are eligible for agency services.³⁶

In this case, Judge Birken, the trial court judge, was forced to dismiss the case of L.Y. who was over 18 years old and still a recipient of child welfare services, because of the court's jurisdictional limitations. Judge Birken was very concerned about L.Y. Her guardian ad litem (GAL) had reported to him that she was a child who "could be slipping through the system" and who had indicated to the GAL that "I guess I can live in a dumpster . . . if I can't make it here."³⁷ The GAL also conveyed to the court that the child had been assigned multiple case workers, two of whom she had never met, that she needed to be tested for learning disabilities, and had an unstable housing situation.³⁸ Judge Birken asserted:

This Court is extremely concerned that if the Department's own auditors cite case after case where the Department has not met its mandated responsibilities toward children in care where there has been judicial oversight, what will happen to children when there is no judicial oversight? Will the Department be governed by budgetary matters and look for ways to force these children out of the system? What guarantees or safeguards will be implemented to see that this does not occur? These questions were generally raised during argument on the motion and no satisfactory answer has been provided.

. . . .

With these budgetary cuts in mind, are the children over eighteen, regardless of how well they may or may not be doing, the next targets? This Court fears that they are, and that a large number of children are going to be cut loose with no resources other than to resort to public assistance, crime, prostitution, and other degrading acts in order to survive. Did the people who may be cutting them loose adequately fulfill their responsibility to prepare these people for independence?

³⁴ 696 So. 2d 430 (Fla. Dist. Ct. App. 1997).

³⁵ *Id.* at 432.

³⁶ *Id.* at 432-435.

³⁷ *Id.* at 434.

³⁸ *Id.*

This Judge has been on the bench since 1982. This Judge has signed many Orders which disturbed him. This Judge has never been asked to render an opinion which has upset him more than this Order. This Judge has sworn to follow the law whether he agrees with it or not.³⁹

Although some might argue that extending dependency court jurisdiction to 21 will result in an increased work load for judges, this should not be a reason not to extend court authority to rule on the cases of young people transitioning out of foster care. The number of cases involving transitioning youth would be relatively limited in contrast to the entire juvenile court population. Advocates should be mindful of Judge Birken's experience and support increased appropriations to allow for improved court services so that all youth potentially eligible for child welfare services can gain access to the courts. In light of negative adult outcomes for former foster care youth, court intervention in the early stages of young adulthood might diminish foster care youth's involvement with legal systems in the future (e.g., criminal cases, dependency cases involving their own children), thereby diminishing other types of caseloads.

In addition to advocating for extension of juvenile court jurisdiction, the organized bar should establish pro bono legal assistance programs for former foster care youth up to age 21 who may be potentially eligible for health and other services under the Foster Care Independence Act. Lawyers should work directly with current and former foster care youth to educate them about their rights with respect to independent living services and health care access, including their eligibility for Medicaid if available to them. They should support youth in seeking out forums in which their voices can be heard on the implementation of the FCIA. Such forums would include formal meetings with their assigned caseworkers to develop their own independent living plans⁴⁰ and participation on state youth advisory boards. They should also work to produce state specific brochures that educate youth on their rights.

The ABA's Historical Commitment to Children and Youth in Foster Care and Health Care Access

The American Bar Association has been in the forefront in advocating for the needs of children and youth involved with child welfare and juvenile justice systems in legislative and administrative forums. Its House of Delegates has approved numerous resolutions that aim to enhance the quality of life for young people in foster care. These resolutions address topics, such as the prevention and treatment of child abuse and neglect,⁴¹ legal system reform to help assure

³⁹ *Id.* at 434-435.

⁴⁰ On independent living plans, the Foster Care Independence Act § 101 (b), 113 Stat. 1822, 1826, *codified at* 42 U.S.C. § 677(b)(3)(H), provides that the chief executive officer certify in the state plan implementing the Act "that the State will ensure that adolescents participating in the program under this section participate directly in designing their own program activities that prepare them for independent living and that the adolescents accept personal responsibility for living up to their part of the program."

⁴¹ Approved by the ABA House of Delegates (February 1997).

safe and permanent homes for abused and neglected,⁴² standards for the legal representation of abuse and neglected children,⁴³ treatment of child victims of abuse and domestic violence,⁴⁴ and unified family courts.⁴⁵ In August 1995, the House of Delegates passed a resolution supportive of the Resource Guidelines of the National Council of Juvenile and Family Court Judges; these guidelines address the court's role in ensuring that a plan is developed "to prepare the child for independent living...."⁴⁶

Regarding access to health care, the ABA has formally recognized that people's inability to pay for health care services is a major impediment to the receipt of those services. In 1990 and 1994, its House of Delegates approved resolutions stating that "the American Bar Association reaffirms its support of legislation that would provide for every American to have access to quality health care regardless of the person's income" with certain specifications.⁴⁷ More specific to the implementation of universal health care coverage, in 1990, the ABA adopted the following resolution:

Congress should provide Medicaid coverage for all parents (mothers and fathers) and children in households earning less than 200% of federal poverty levels. State legislatures should also allocate additional funds to support their portion of health costs for children and families."⁴⁸

Likewise, in 1997, the ABA House of Delegates further refined ABA policy with the approval of the resolution that "the ABA supports legislation which ensures the provision of comprehensive health care for children 18 years of age and younger and for prenatal care for pregnant women."⁴⁹

⁴² Approved by the ABA House of Delegates (February 1997).

⁴³ Approved by the ABA House of Delegates (February 1996).

⁴⁴ Approved by the ABA House of Delegates (August 1996).

⁴⁵ Approved by the ABA House of Delegates (August 1994).

⁴⁶ NATIONAL COUNCIL OF JUVENILE AND FAMILY COURT JUDGES, PUBLICATION DEVELOPMENT COMMITTEE, VICTIMS OF CHILD ABUSE PROJECT, HONORABLE DAVID E. GROSSMAN, CHAIRMAN, RESOURCE GUIDELINES: IMPROVING COURT PRACTICE IN CHILD ABUSE AND NEGLECT CASES 83 (1995).

⁴⁷ Approved by the ABA House of Delegates (February 1990 and February 1994).

⁴⁸ *Id.* at 37.

⁴⁹ Approved by the ABA House of Delegates at the ABA Annual Meeting (August 1997).

Summary

The recommended resolutions will enable the ABA to continue its long tradition of supporting the legal rights of children and youth. They will help to facilitate current and former foster care youth's access to independent living services and health care, including enhancing their access to the courts and competent legal counsel.

Respectfully submitted,

ABA/YLD Children and the Law Committee
February 2002

**ABA/YLD RECOMMENDATION
GENERAL INFORMATION FORM**

Submitting Entity: ABA/YLD Committee on Children and the Law

Submitted By: Paige Berntson, Chair
ABA/YLD Committee on Children and the Law

1. Summary of Recommendations:

The ABA supports full implementation of the 1999 Foster Care Independence Act through appropriate state legislation in order to provide youth up to age 21 transitioning out of the foster care system full access to all necessary services. The ABA supports access to competent counsel for youth transitioning out of foster care.

2. Date of Approval by Submitting Entity:

Approved August 14, 2001 by Executive Committee of YLD Committee on Children and the Law.

3. Has this or a similar recommendation been submitted to the Assembly or ABA previously?

Yes, a similar, but materially different, recommendation was submitted in February 2001 to the YLD Assembly. This recommendation encompasses older youth in foster care and youth transitioning out of foster care.

4. Are there any Division or ABA policies that are relevant to this recommendation and, if so, would they be affected by its adoption?

In 1995, the House of Delegates passed a resolution supportive of the Resource Guidelines of the National Council of Juvenile and Family Court Judges. In 1990 and 1994, the House of Delegates approved resolutions reaffirming its support of legislation that would provide for every American to have access to quality health care, regardless of income. In 1997, the House of Delegates approved a resolution supporting legislation that ensures the provision of comprehensive health care for children 18 years of age and younger. The recommended resolution does not conflict with the aforementioned policies of the ABA.

5. Does this recommendation require immediate action at the next Assembly? If so, why?

Due to the recent enactment of the Foster Care Independence Act, this is a unique window of opportunity for the ABA to take a position in support of states adopting the tenets of this legislation in their own statutory schemes and for the ABA to continue at the forefront of supporting the legal rights and interests of children.

6. Status of Legislation (if applicable):

The recommendation supports full implementation of the Foster Care Independence Act, including the extension of Medicaid benefits to youth leaving the foster care system through age 21.

7. Cost to the Association:

None.

8. Disclosure of Conflict of Interest (if applicable):

None.

9. Referrals:

Referred to the following (12/01):

Center on Children and the Law - supportive
Steering Committee on the Unmet Legal Needs of Children - supportive
Coalition for Justice
Commission on Homelessness and Poverty
Commission on Domestic Violence
Commission on Legal Services and the Public
Commission on Mental and Physical Disability Law
Judicial Division
Section on Family Law
Section on Criminal Justice
Section on Tort and Insurance Practice
Section on Litigation
Section on Criminal Law
Section on Individual Rights and Responsibilities

10. Contact Person (Prior to the meeting):

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11. Contact Person (Who will present the report to the Executive Council and/or Assembly)

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