

A Voice Heard: Keys to Independence



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Florida Statewide Guardian ad Litem Office
Alan F. Abramowitz, Executive Director

I am pleased to provide you with this report, *A Voice Heard: Keys to Independence*. Jane Soltis, long-time Chair of the Florida Independent Living Services Advisory Council and former Vice President for Programs of the Eckerd Family Foundation conducted research and wrote this report for the Guardian ad Litem Program. In doing so, she interviewed almost 100 individuals, including many youth in foster care, as well as many who had aged out of care, legislative staff, community based care experts, providers, and national authorities at reputable child welfare research programs. Our thanks go out to her for her commitment, inspiration and unwavering devotion to creating a better future for Florida's youth in foster care.

During the 2013 Legislative Session, the Florida Legislature passed House Bill 215, known fondly among advocates as the "Let Kids be Kids" bill, or the normalcy bill. When Governor Rick Scott signed the bill into law, Florida moved to the forefront of states promoting full participation by foster youth in extracurricular, social and recreational opportunities that their peers take for granted.

However, there is still a barrier to full participation...driving. *A Voice Heard: Keys to Independence* recognizes that a young adult cannot be fully independent without a driver's license. This enables him or her to have a job, go to school, engage socially, and contribute to their community.

No other state has fully solved this multifaceted problem. Obstacles surround all aspects of the driving dilemma. These include:

- Ensuring that foster youth have driver's education classes;
- How to get a learner's permit;
- Insurance and liability obstacles for foster teens and the caregivers who support them in their efforts to get a driver's license; and
- Legislation that may be necessary in order to protect the teens, their caregivers and the public.

A Voice Heard: Keys to Independence provides recommendations to serve as a roadmap in overcoming this last barrier to full independence and productivity for Florida foster youth. It is intended as a guide for the State's advocates and policymakers who support these youth in their efforts to become strong, self-supporting citizens who will share in Florida's future growth and development. We look forward to working with all of those who have an interest in this issue.

Thank you in advance for working with the Florida Guardian ad Litem Program in advocating for the best interest of children.

Sincerely,

A handwritten signature in cursive script, appearing to read "Alan Abramowitz".

Alan Abramowitz

Introduction

Florida passed House Bill 215, known by advocates as the “Let Kids be Kids” bill during the 2013 Legislative Session¹. The new law attempts to equalize the balance between safety and opportunity for foster children, and promotes age-appropriate, normal activities, including the opportunity to participate in driver’s education courses to obtain a driver’s license.

While this statute supports the concept of teens learning to drive and obtaining a driver’s license, there remain barriers to this normal adolescent rite of passage.

Background

Florida Senator Nancy C. Detert testified in Washington, DC on May 9, 2013, before the Subcommittee on Human Resource of the US House of Representatives Committee on Ways and Means. At this Subcommittee hearing, which focused on Letting Kids be Kids: Balancing Safety with Opportunity for Foster Youth, Senator Detert made the following statement:

The foster care system has historically been focused on safety and concerns about liability and this has often created huge barriers to the normalcy of a child’s experience growing up. Liability issues are particularly acute in Florida because we have privatized the provision of foster care and other related services. As a result of the emphasis on safety and those liability concerns, children in care typically miss many rites of passage common to their peers. While their friends are getting their driver’s licenses, most children in care are not because they generally have no one to teach them to drive or lack the money for insurance or driver’s education, let alone access to a car.

On any given day there are approximately 3,300 thirteen (13) - through 17-year-old youth residing in out-of-home care in Florida and more than 2,700 young adults between the ages of 18 and 22 who receive Road to Independence benefits.²

The Florida Department of Children and Families (DCF) has implemented two surveys to capture data related to independent living services and outcomes. The *My Services Survey* captures information from youth 13-17 years of age and the *Florida National Youth in Transition Database (NYTD)* Survey captures data and tracks outcomes on young adults 18 to 22 years of age.

¹ Representative Ben Albritton sponsored House Bill 215, and Senator Nancy Detert sponsored the companion Senate Bill. Both legislators worked tirelessly for this cause and the bills passed unanimously at all committee stops and floor votes.

² 7-9-13 FSFN, *Demographics of Children Receiving Out-of-Home Services*; 7-29-13 FSFN, *Children and Young Adults Active by Primary Worker*

In 2012, 1,441 Florida youth ages 13-17 completed the Florida *My Services* Survey. Highlights of the results are shown in the tables and narrative below.

2012 My Services Survey - Have you successfully completed a driver's education course?			
AGE	16	17	TOTAL
Yes	31	72	103
No	321	291	612
I had the opportunity to take a driver's education course and I did not want to take a course	15	12	27
TOTAL	367	375	742
Percent Yes (does not include those who had an opportunity to take a course but did not want to)	9%	20%	14%

The number of 16 year olds in the 2013 spring survey who completed a driver's education course remained constant at 9% and the number of 17 year olds increased to 23%.

In the 2013 spring survey, 262 youth age 16 and 287 youth age 17 reported that they had not had the opportunity to take a driver's education course.

2012 My Services Survey – I have a learner's permit				
AGE	15	16	17	TOTAL
Yes	11	28	54	93
No	260	339	321	920
TOTAL	271	367	375	1013
Percent Yes	4%	8%	14%	9%

In the 2013 spring survey, the number of youth with a learner's permit was still very low at 88 youth ages 15-17 or 9%.

2012 My Services Survey – I have a driver's license			
AGE	16	17	TOTAL
Yes	4	11	15
No	363	364	727
TOTAL	367	375	742
Percent Yes	1%	3%	2%

In the spring 2013 *My Services* Survey, 20 youth ages 16 and 17 had a driver's license.

A total of 1,821 youth ages 18 through 22 completed the 2012 *Florida National Youth in Transition Data Base* Survey. Of those responding, a total of 872 young adults ages 18 to 22 (48%) reported having obtained their driver's license.

Independent Living Services Advisory Council (ILSAC) Reports have identified a myriad of reasons why obtaining a driver's license and being able to drive are critical to youth currently or formerly in foster care. These include:

- All dependent children should enjoy as normal a life as their friends. There should be no penalty to being a teen in foster care.
- Transportation needs are central to the effective transition to adulthood. Public transportation is an option for only a very small number of transitioning youth.
- For many youth, school and employment may be part or full-time and transportation to and from those activities is a primary issue that may affect their future success.
- The ability to find, purchase or finance and then maintain a vehicle in order to continue in school or sustain employment can be a major hurdle for youth whether they are 16 and in a foster home or 19 and trying to make it on their own.

There are a series of steps that occur for a youth who is learning to drive and who ultimately want to obtain a driver's license and a vehicle. During each of those steps there are concerns and challenges in the process.

Learner's Permits

The barriers for obtaining a learner's permit have been mostly eliminated in Florida Statutes but some still persist.

To obtain a learner's permit you must:

1. Complete the Florida Driver's Association online Drug Alcohol Traffic Awareness (DATA) course. Cost of this test is \$29.95.
2. Complete the Department of Highway Safety and Motor Vehicles (DMV) Exam – you must be 15 years old to take this exam. Cost of this exam is \$14.95.
3. Documents needed (you must be 15 years or older):
 - Certificate of Completion for the DATA course;
 - One of the following forms of identification: original birth certificate, valid U.S. passport or Florida ID card;
 - Original Social Security card; and
 - If under 18 years of age, a natural parent (or legal guardian) must sign a consent form in front of the examiner or a notary public.

Section 322.09 of Florida Statutes states:

(5) Notwithstanding the provisions of subsections (1) and (2), a caseworker at the agency at which the state has placed a minor in foster care may sign the minor's application for a driver's license pursuant to a court-approved transition plan. Before signing the application, the caseworker shall notify the foster parent or other responsible party of the intent to sign and verify the application. The caseworker does not assume any obligation or become liable for any damages caused by the negligence or willful misconduct of the minor by reason of having signed the application.

Florida Statutes now allow a case manager or foster parent to sign this consent form; however, interviews indicate that there are still some case management organizations that will not permit caseworkers to sign the application.

4. At the DMV you must:

- Take the 40 question DMV test if it has not been taken online.
- Get a picture taken.
- Take a vision test. (You must have 20/40 or better vision in each and both eyes, with or without corrective lenses.)
- Take a hearing test.
- Give a thumb print.
- Receive your Learner's Permit.

Challenges

1. Paying for the DATA and DMV tests.
2. Obtaining the identification that must be presented for a learner's permit. Florida Statutes require that by age 17, youth in out-of-home care must be provided with a State of Florida ID card, an original or certified copy of their birth certificate, and a current Medicaid card.
 - The *My Services* 2012 Fall Survey indicates that 54% of youth age 15, 58% of youth age 16, and 78% of youth age 17 have access to an original or certified copy of their birth certificate.
 - The survey also indicates that 34% of youth age 15, 42% of youth age 16, and 69% of youth age 17 have a Social Security card.

Youth report that moving from another state to Florida, one county to another, or one community based care lead agency to another creates additional barriers to accessing the required documents. Some group home providers report that they request birth certificates and Social Security cards directly on the internet and absorb those costs.

RECOMMENDATIONS

1. Offset the cost of DATA and DMV tests. Options may include: youth allowance (required in statute), community based care funding, private funders, or request that the DMV waive fees for youth in foster care.
2. Mandate youth ages 15 and over have the necessary forms of identification and provide options for online access to those documents. Current law requires all youth ages 17 have the required forms of identification. An option is to lower the age requirement from 17 to 15.

3. Identify and disseminate on-line or other options for obtaining certified birth certificates and social security cards.
4. Identify and determine why some case management agencies will not permit caseworkers to sign driver's license applications and/or learner's permit applications.

Driver's Education

Many youth opt to take driver's education courses at their high school as the most economical alternative. Driver's education is considered an elective and many youth report that these classes fill quickly and are not always available to them. Some Florida school districts offer a summer driver's education course and fees for the course range from \$50.00 to \$250.00. In addition, many teens in foster care are already behind academically and must fill their schedule with required courses in order to advance to the next grade and graduate on time. Some youth have reported that they must have an attendance record in order to sign up for and be accepted into a high school driver's education course.

Another option that a number of teens and young adults have identified as a way of obtaining their driver's license is to take a driver's education course with a private driving school. While the expense is higher with this option (ranging from \$300-\$5,000), private driving schools provide the vehicle for the required practice driving experience and carry the required liability insurance for the driver's test.

Youth with a learner's permit must:

1. Be accompanied by an adult age 21 years or older who has a valid driver's license in the front passenger seat whenever a learner-permit driver is driving.
2. For the first three months, drive only during daylight hours. After three months, they can drive until 10:00 p.m.
3. Have one year of practice driving, including at least 50 hours of practice driving and 10 hours of driving at night. High school driver's education courses do not generally provide that level of driving experience.
4. Be free of Traffic Convictions - During the learner's permit year, youth cannot receive any traffic convictions in order to be eligible for a driver's license.

Foster parents and residential group home providers who do not provide any insurance to the youth with a learner's permit or do not allow the youth to utilize their vehicle cannot legally provide that driving experience. GALs or other individuals in the youth's life also place themselves at some risk by allowing youth to practice in their vehicle. Many of the youth interviewed said they practiced with a friend.

Some residential group homes have identified the option of allowing youth to practice on private property or residential group home grounds.

Florida Sheriff's Association operates a Teen Driver Challenge Program at no cost in many counties of Florida. This could be a potential partnership for further exploration.

Challenges:

1. Access to driver's education courses as an elective in high school.
2. High school driver's education courses do not provide access to the required number of practice driving hours to meet the driver's license qualifications.
3. Costs associated with summer high school programs.
4. Costs associated with private driving schools.
5. Documentation of practice experience when a foster parent or residential group home provider do not allow a youth to use their vehicle.
6. Potential risk to other adults, i.e. GALs, teachers, coaches, mentors who allow youth to use their vehicles for practice driving time.

RECOMMENDATIONS

1. Subsidies for private driving schools.
2. Subsidies for summer high school programs.
3. Waivers or preference for foster youth in Sheriff's Teen Drivers Challenge Program or other like programs.
4. Waivers/exceptions for other adults to provide practice driving experience; i.e. GALs, teachers, coaches, mentors, etc.

Getting a Driver's License

Youth must be 16 years of age or older and have had a learner's permit for at least one year with no traffic convictions and 50 hours of driving experience including 10 hours at night.

They must schedule an appointment at the DMV and present to the DMV:

- A Florida learner's permit or a license from another jurisdiction;
- Parent or guardian (foster parent/group home/case manager) must sign a Parent Consent for Driver Application of a Minor in front of the DMV examiner or have a notary witness this consent form. This form states that you have at least 50 hours of driving experience, of which 10 hours are at night;
- Valid vehicle registration must be provided on the vehicle for the driving test; and
- Pass the Driving Skills Test.

Once that a driver's license is obtained, problems with liability and insurance premiums arise for foster parents, group home providers and youth.

Auto Insurance and Liability

The issues of auto insurance and potential liability are the primary concerns raised by foster parents that were interviewed. Current and former youth in foster care that were interviewed discussed the cost of auto insurance as their primary concern.

Learner's Permit

When foster parents are considering adding a teen driver to their policy, they need to call their auto insurance agent to determine what adjustments might need to be made in this instance.

Florida enacted statutes that protect foster parents who sign an application for a learner's permit. Florida Statutes, s. 622.796, states, "An insurer that issues an insurance policy on a private motor vehicle to a named insured who is a foster parent of a minor child may not charge an additional premium for coverage of the minor child while the child is operating the insured vehicle for the period of time that the minor has a learner's driver's license, until such time as the minor obtains a driver's license."

This should mitigate any additional costs to foster parents during the learner's permit period.

Liability issues for foster parents and residential group homes are only partially addressed by Florida Statutes. Foster parents and residential group homes could be held liable by granting permissive use of an owned automobile because of the strict liability imposed by the State of Florida on all owners of automobiles for any damages caused by the driver of that vehicle.

Insurance

High premiums for drivers under the age of 25 are not uncommon for youth in foster care.

Foster parents may be willing to add a licensed driver on their own auto insurance; however, they will likely not be willing to bear those additional costs without some reimbursement. Any parent who has ever had a youthful driver on their policy knows that the cost of insurance can be quite high. Data are very clear that youthful drivers have more accidents.

Section 322.09(4), Florida Statutes, states, "Notwithstanding the provisions of subsections (1) and (2), if a foster parent of a minor who is under the age of 18 years and is in foster care as defined in s. 39.01, an authorized representative of a residential group home at which such a minor resides, or the caseworker at the agency at which the state has placed the minor signs the minor's application for a learner's driver's license, that foster parent, group home representative, or caseworker does not assume any obligation or become liable for any damages caused by the negligence or willful misconduct of the minor by reason of having signed the application. Prior to signing the application, the caseworker shall notify the foster parent or other responsible party of his or her intent to sign and verify the application.

Foster parents are generally required to notify insurance carriers of any occupants in their home that have a driver's license even though that occupant/youth may not have permission to drive the insured vehicle. Interviews revealed that foster parents have been notified by their insurance company that they know (by virtue of driver's license applications and addresses) that there is now an occupant who has a learner's permit or driver's license in their residence. While Florida Statutes, s. 622.796 is in effect for a youth with a learner's permit, it does not extend to a youth with a driver's license. Foster parents have also reported that the placement stability for older youth in care is a factor in their willingness to bear additional insurance costs and liability.

Liability

The overriding concern is the liability that follows an accident and the potential for claims on the foster parent's auto insurance and homeowner's policy. While it is not likely that all liability can be eliminated, there should be some consideration for protection of foster parents who provide a home and parent teens in foster care who are in fact under the authority of the state.

The National Resource Center for Family Centered Practice and Permanency Planning at the Silberman School of Social Work at Hunter College includes a 2007 position statement from the National Foster Parent Association (NFPA)³. The paper states:

“NFPA supports implementation of a liability and property damage insurance package to protect foster parents from liability for acts of the child in care and for suits brought by the biological parent, the child or others arising out of the foster parent/child relationship.”

An additional option is for youth to obtain their own individual auto insurance policy similar to the Missouri policy⁴ for drivers on non-owned vehicles.

Since youth under the age of 18 cannot enter into a legal contract with the exception of leases and utilities (under the removal of non-age disability in Florida Statutes⁵), an option would be to add to that statute the ability for youth in foster care to enter into a contract for auto insurance.

Some natural parents are now titling cars in the names of their children so that in the event their child is found liable for an accident, the strict liability follows the child and not the parent.

For young adults in foster care over the age of 18, the requirements to obtain a driver's license are much less onerous. They are also able to negotiate and purchase auto insurance without difficulty. These youth can enter into contracts to purchase an automobile. While these issues become less difficult legally, the ability of a former foster youth to budget, shop, purchase and maintain an automobile, and the related costs to do so remain a challenge for many, especially when they have not had previous experience or ongoing support from adults in their lives.

³ See Attachment 6.

⁴ Missouri Policy: The State of Missouri provides an auto liability insurance policy for youth ages 18-21 in the legal custody of the child welfare department through a special endorsement through the Automobile Insurance Plan Servicing Organization and its governing board.

⁵ Florida Statutes, sections 743.044 -743.046.

Challenges

Challenges for obtaining and using a learner's permit and a driver's license include the following barriers identified by youth and other stakeholders interviewed.

1. Communication to foster parents/group homes regarding the statute that disallows increase in insurance premiums when a foster youth is operating a vehicle with a learner's permit Section 322.09(4), Florida Statutes. Every foster parent interviewed as well as most providers were unaware of this statute.
2. The strict liability imposed by the State of Florida on all owners of automobiles for any damages caused by the driver of that vehicle places foster parents, GALs and group home providers in a difficult position while the youth is operating a vehicle with a learner's permit or with a driver's license. This is a disincentive to supporting youth in achieving this age appropriate life skill.
3. Increased insurance premiums for foster parents.
4. Youth under the age of 18 are not able to enter into insurance contracts.

RECOMMENDATIONS

1. Add authority for foster youth to enter into contracts for auto insurance to the list of items allowable for youth in foster care.
2. Provide reimbursement for all or part of increased insurance premiums for foster parents or youth.
3. Explore the liability exemption or limit for foster parents, GALs and group home providers as agents of the state.
4. Explore statewide insurance policy for qualified youth in foster care.
5. Exploration with private insurance companies that may be willing to provide reduced insurance rates to foster parents and/or youth.
6. Development of conditions and responsibilities for youth, foster parents, and group home providers that must be agreed to and fulfilled to access any reimbursement created. This could provide an additional incentive for youth to access financial supports, as well as support foster parents in implementing the "reasonable and prudent parent" intent of the "Let Kids be Kids" legislation.

Access to Automobiles

There are a number of programs in Florida that provide used and donated vehicles to at risk populations. Many youth interviewed identified purchasing "Budget to Own" vehicles that are sometimes unreliable and may involve fairly high financing costs. Some areas of the state have an hourly or time limited rental car option available; Miami is one city that does this.

Jim Casey Youth Opportunities Initiative, a national foundation focused on youth aging out of foster care, has developed a matched Individual Development Accounts (IDA) called the Opportunity Passport™. This option is available in Hillsborough, Pinellas and Pasco counties. Over the past seven years, 236 youth have enrolled in this program and saved \$54,878.50. Twenty-nine of those youth have used their matched funds to obtain vehicles (an approved asset purchase) for \$28,737.62.

Challenges

1. Purchasing, insuring and maintaining an automobile.

RECOMMENDATIONS

1. Collaborating with auto dealers, clubs, associations and other organizations that provide donated vehicles.
2. Developing statewide Opportunity Passport IDA's.
3. Information regarding programs that provide reasonable access to used or time limited rental automobiles.

An electronic copy of this report as well as the attachments may be downloaded at:

http://www.guardianadlitem.org/news_main.asp

Click on the link: *A Voice Heard: Keys to Independence*

Attachments include:

1. Connected by 25, Inc. (Cby25), Inc., *Florida Youth Survey Report*, selected results, 2012 and 2013
2. List of Stakeholders interviewed for this report
3. Florida Independent Living Services Advisory Council (ILSAC) *White Paper on Driver's License Issues*
4. Research on States with Driver License Legislation related to foster youth
5. 2007 Florida House and Senate bills filed related to driver licenses for foster youth
6. *National Foster Parent Association Position Statement* Updated January 16, 2007

Review of State Policies Regarding Access to Driver's Licenses for Youth in Foster Care

Colorado recently passed legislation stating that a minor over 15 years old and in foster care is not required to complete an affidavit of liability to register for a state approved driver education course prior to applying for a minor's instructional permit.

Arkansas identifies criteria that a youth in foster care must meet when requesting permission to apply for a learner's permit or intermediate driver's license and the youth must participate in their driving insurance reimbursement program. The Arkansas law:

- Establishes responsibilities of youth, foster parents and other staff throughout the process;
- States that a driver's license is a privilege and not an entitlement;
- Has requirements regarding youth behavior, school performance and enrollment in an Independent Living program;
- Requires that there be liability insurance covering the youth as a driver on each specific vehicle the youth will be allowed to drive. The additional cost of insuring that youth as a driver can be reimbursed to the foster parent; and
- Requires that a youth's driving performance be monitored. The driver's license may be withdrawn by the Department.

Missouri provides an auto liability insurance policy for youth ages 18-21 in the legal custody of the child welfare department. This is accomplished through a special endorsement through the Automobile Insurance Plan Servicing organization and its governing board to assist youth in foster care with obtaining auto liability coverage for vehicles they drive but do not own. Through this program, the youth may purchase an auto insurance policy in his or her name that provides state required limits of liability and uninsured motorist coverage to the youth.

Utah provides foster parent reimbursement of motor vehicle insurance coverage for youth in foster care with certain conditions on coverage and other requirements.

Hawaii provides some basic protection insurance reimbursement to foster parents.

Indiana, Michigan, Minnesota, Oregon, Texas, Virginia and Washington utilize federal Chafee Education and Training Voucher (ETV) Funds for eligible youth for private insurance with required signatures for approval authority (i.e., willing adult, birth parent, legal guardian, social worker, supervisor, Independent Living Coordinator, etc.)

Arkansas, New Hampshire, North Carolina, and Wisconsin utilize Chafee and ETV funds for private insurance to eligible youth with approving authority signature (i.e., State designee, foster parents, Human Services Director, etc.)

Arizona, Connecticut, Delaware, Indiana, Maine, Minnesota, Nebraska, New York, North Dakota, Ohio, Washington provide some financial assistance with costs of obtaining a driver's license.

Texas created a workgroup in 2010 that identified factors in the youth's ability to take a driver's education course, apply for and receive a driver's license, and obtain affordable automobile insurance.

Key factors included:

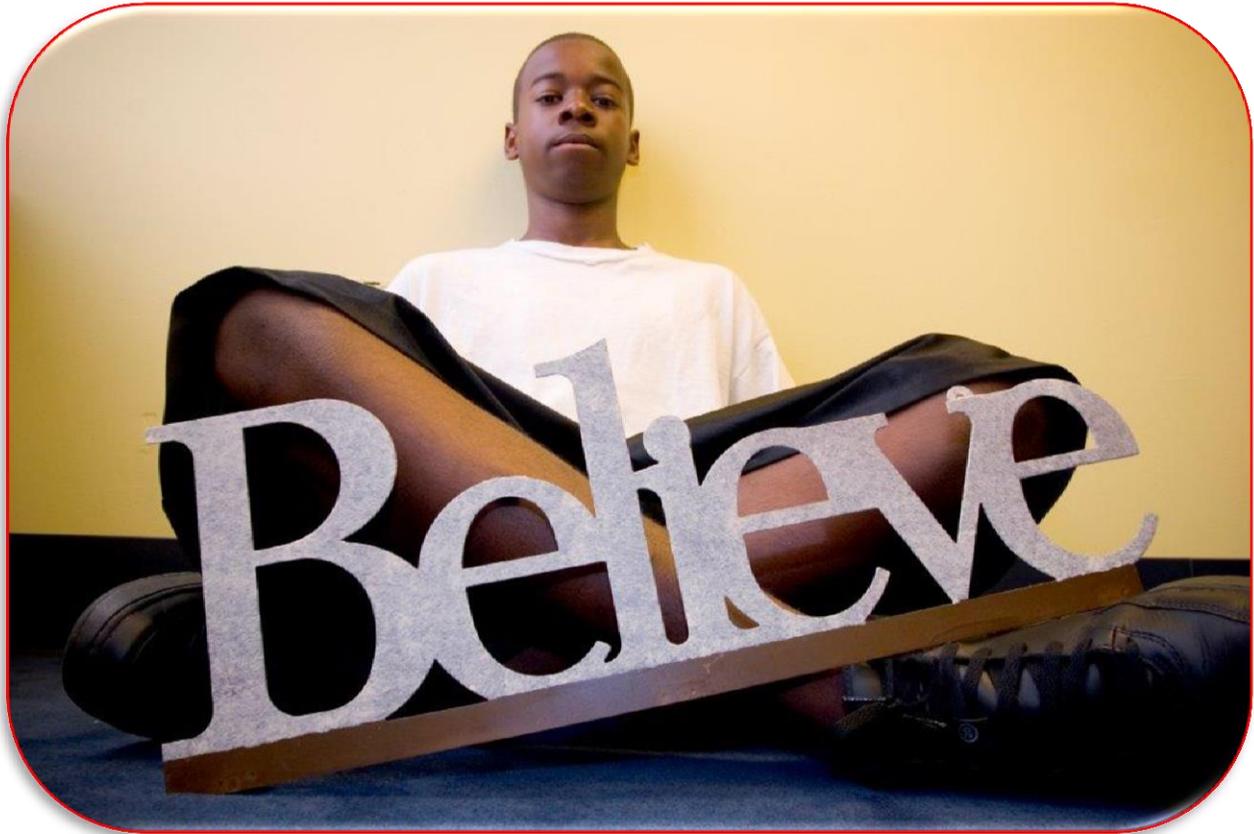
- Funding limitations for all of the above for both youth and foster parents;
- Meeting school attendance requirements and award of class credit (affects eligibility to get a driver's license and complete drivers education courses);
- Licensing and staffing limitations of residential group homes or foster homes; and
- Foster parents' ability to add youth to their personal auto insurance which increases policy costs and liability factors for the foster parents.

The solutions identified included amending sections of the transportation code that would waive driver's license fees, change the attendance requirement and eliminate excused absences for youth in foster care as part of the attendance requirement, developing additional policies and procedures that support the opportunities for and information about taking drivers education courses.

Delaware and Tennessee indicate they are currently studying the issue of access to driver's education and licenses for youth in foster care in their states.

Florida attempted to pass House Bill 745⁶ in 2007. This bill would have created a pilot program to reimburse foster parents, residential facilities or foster children who live independently for a portion of the insurance costs. However, this bill did not pass.

⁶ CS/HB745, 2007: Would have mandated the following - Motor Vehicle Insurance/Foster Child; creates pilot program to reimburse foster parents, residential facilities, or foster children who live independently portion of increased costs of motor vehicle insurance for foster child who has driver's license; directs DCFS to establish pilot program in DeSoto, Hillsborough, Manatee, Pasco, Pinellas, & Sarasota Counties; requires that person who incurs increased cost submit to DCFS documentation of that increase.



“The greatest gifts you can give your children are the roots of responsibility and the wings of independence.” – Denis Waitley



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