



BRITISH COLUMBIA LAW INSTITUTE

1822 East Mall, University of British Columbia

Vancouver, British Columbia V6T 1Z1

Voice: (604) 822 0142 Fax: (604) 822 0144 E-mail: bcli@bcli.org

Website: www.bcli.org

BRITISH COLUMBIA
LAW INSTITUTE

MODERNIZING THE CHILD, FAMILY AND COMMUNITY SERVICE ACT

Backgrounder Study Paper on Youth Aging into the Community

Date: 25 May 2021

An overview of the study paper

Research in Canada and internationally clearly demonstrates that youth who have been in government care are more likely to experience significantly worse social, educational, employment and health outcomes as adults than their peers in the general population. There is a global trend that sees young people not in care more likely to stay at home longer, reaping the benefits of the financial and emotional support that comes with doing so. These benefits are not available to youth aging out of the child protection system.

Acknowledging this situation, attention has been directed in recent years towards the plight of young adults leaving care by policy makers and civil society, both in Canada and internationally. This study paper aims to capture the recent movement and reform that has occurred in this field with a view to enabling a comparison of British Columbia's law and policy from this interprovincial and international perspective.

The study paper outlines the legislative and policy landscape with respect to youth aging into the community in British Columbia, setting out programs and supports currently available to assist youth transitioning from care. The study paper also reviews legislative models that support policy and practice related to youth aging into the community in other jurisdictions, including Ontario, England, select Australian states, New Zealand and the United States, with a focus on Washington. Despite challenges in making direct comparisons, the study paper offers some broad comparisons, identifies some trends, and highlights some innovative practices on topics which include transition planning, post-care supports, relationship-based support, extended care, Indigenous youth leaving care and program evaluation.

supported by

THE  LAW
FOUNDATION
OF BRITISH COLUMBIA

About the Modernizing the Child, Family and Community Service Act Project

The Modernizing the *Child, Family and Community Service Act* Project is a major law-reform project. BCLI began the Modernizing the *Child, Family and Community Service Act* Project in 2019. The project has two dimensions:

- (1) a focused review of the *Child, Family and Community Service Act*¹ to identify outdated provisions and operational incompatibilities and gaps within the statute itself and with legislation and regulations that intersect with this Act; and
- (2) comparative legal research into legislative models that support policy and practice related to youth aging into the community.

This study paper is concerned with the second dimension of the project.²

Our supporters and the project committee

The Modernizing the *Child, Family and Community Service Act* Project has been made possible by project funding from the Law Foundation of British Columbia.

In carrying out the project, BCLI had the assistance of the Child Protection Project Committee. This committee is made up of experts in the child protection field in British Columbia. It includes members of the legal and social work professions, as well as officials from the Ministry of Children and Family Development for British Columbia, the Office of the Representative for Children and Youth of British Columbia, and the Office of the Public Guardian and Trustee of British Columbia.

Content of the study paper

British Columbia's approach to youth leaving care

Research clearly demonstrates that youth who have aged out of government care in British Columbia are more likely to experience significantly worse social, educational, employment and health outcomes than their peers in the general population. A number of British Columbia-focused reports in recent years have indicated that services and supports for youth aging into the community are insufficient to address this gap in outcomes.

There are numerous reasons why a child may be placed in care, including neglect, harm and parental illness. A child may enter care through a number of different pathways, which sit along a continuum of ministry intervention.

1. RSBC 1996, c 46 [CFCSA].

2. See British Columbia Law Institute, *Report on Modernizing the Child, Family and Community Service Act* (Rep. no. 92) (April 2021) (for the report prepared to address the project's first dimension).

The study paper leads with a detailed review of the legislative and policy landscape with respect to youth aging into the community in British Columbia, setting out legislated supports and services as well as policy-based government and non-government programs.

In summary, some programs and supports exist in British Columbia to assist care leavers in their transition to adulthood, with a focus on education and training. Most programs are policy-based and discretionary. Specific transition planning is not statutorily mandated for all youth in care in British Columbia, although internal ministry policy sets out some expectations in this regard. British Columbia's main support program and its only legislated program (Agreements with Young Adults), is widely criticized for failing to bring young adults above the poverty line, having narrow eligibility criteria, disadvantaging the most vulnerable cohorts of care leavers and perpetuating inequities in access, in particular for Indigenous care leavers. Other policies and programs have been created in British Columbia to meet some of the more pressing needs of youth aging into the community. Most of these programs have developed in an ad hoc manner, and in response to observed needs. However, there is no unifying policy or framework within which these various programs currently operate.

It is well documented that Indigenous children and youth in care experience poorer outcomes than their non-Indigenous peers. Given this, and the historical and current overrepresentation of Indigenous youth in care in British Columbia, the study paper specifically addresses Indigenous care leavers. Many advocates and experts have called for policy and practice to focus on the needs of Indigenous care leavers. While by no means aiming to be comprehensive in its discussion, the study paper identifies some key reform recommendations and initiatives aimed at improving outcomes for Indigenous youth transitioning from care to the community. Any government consideration of services and programs for Indigenous youth must be developed in partnership with Indigenous communities.

The study paper canvasses some recent general government initiatives relating to care leavers in British Columbia, including those flowing from the ongoing COVID-19 pandemic. It also outlines recent reform recommendations made by the Representative for Children and Youth, researchers and other experts.

Canadian comparison—Ontario

The study paper depicts a relatively comprehensive picture of the care leaving system in Ontario, to enable an effective comparison with British Columbia. The study paper outlines both the legislated transition planning and post-care support programs and services available to youth aging into the community in Ontario. The Continued Care and Support Program is Ontario's main program of support for youth aging into the community. Legislation mandates that monthly financial support and guidance be provided to eligible young adults, including those on voluntary agreements, until they turn 21 years of age. This program has statutory authority, is universally accessible and is not tied to a youth's success in meeting their stated goals. Other non-legislated support programs also exist, which include financial support for extended health and dental services, transition life skills programs and a number of educational supports. These supports are not centrally coordinated.

The overrepresentation of Indigenous children in care in Ontario is widely acknowledged and criticized. This chapter provides an outline of some recent reform recommendations and government initiatives aimed at improving services to meet the needs of Indigenous children and youth in care, and more specifically as they transition from care into the community. Given time, scope of the project and expertise, these are in no way to be considered a comprehensive reporting of Indigenous careleaving legal and policy issues.

International comparisons

The challenges faced by care-experienced youth in British Columbia are not unique to British Columbia. Despite a relative dearth of comprehensive longitudinal studies, there is a consensus in the literature that internationally and across the board, youth aging out of care experience poorer life outcomes globally, as compared with their non-care peers.

Our international comparative research in this study paper aims to provide a relatively detailed picture of the statutorily mandated supports and services available to care leavers in select jurisdictions, to enable a broader perspective on British Columbia's approach. To this end, we have reviewed the international jurisdictions of England, select Australian jurisdictions, New Zealand and the United States, with a focus on Washington.

England

England has significantly overhauled its care leaver supports and services in the past two decades, with the introduction of comprehensive care leaver legislation and ongoing government commitments to evaluating and updating programs and strategies. Statutory duties, generally placed on local authorities, are specific and numerous.

England was the pioneer of the one-on-one, relationship-based support worker model (Personal Adviser), which has been reproduced in some form in several other jurisdictions, as well as the innovative legislative requirement to “keep in touch” with youth who have left care. Extended care for foster children was incorporated into legislation in 2014 through the Staying Put program, and more recently for youth aging out of residential care through its Staying Close program.

Australia

Australia has seen the development of a national framework over the past decade, providing some consistency between states with respect to their care leaving mandates and promoting the incorporation of duties into law. However, while states' legislation sets out a broad framework of government duties with respect to transition planning and post-care services, implementation is highly discretionary and enforceability is lacking. All Australian jurisdictions provide some form of universally available post-care services, which support care leavers in areas such as health, housing, education, employment and well-being. There has been a strong campaign in Australia advocating for states to provide extended care. This has resulted in three Australian states recently offering some form of extended care to

eligible care leavers up to the age of 21. Notably, Victoria has the broadest extended care program.

New Zealand

New Zealand has recently overhauled its child protection system, with a number of major legislative amendments relevant to young people leaving care coming into force in 2019. Key features of the new legislative system include statutorily mandated transition planning, extended care to the age of 21, the provision of transition support services accessible to the age of 25, legislative requirements to maintain contact with care leavers, one-on-one relationship-based transition support workers and broad powers to provide discretionary financial assistance to young people in or leaving care and to those who support them. As part of this overhaul of the child protection system, New Zealand has incorporated some legislative and other reform measures aimed at reducing disparities between Māori and non-Māori youth in care, building partnerships with Indigenous communities and organizations and providing culturally appropriate transition services to combat cultural disconnection and disengagement with Indigenous communities.

United States

The study paper focuses on two pivotal pieces of federal legislation impacting the programs and services available to youth aging out of the foster care system in the United States. These are the *Foster Care Independence Act of 1999*, which significantly improved funding for state-based independent living programs for foster youth, and the *Fostering Connections to Success and Adoptions Act of 2008*, which permits states to optionally extend foster care up to the age of 21. Federal legislation also provides for extended Medicaid coverage and an education funding program to assist youth from foster care with expenses for higher education.

States have flexibility to design their own independent living programs with the assistance of federal funding, covering areas such as finance, housing, counselling, employment, education, relationship, community connections and other needs of youth leaving care. Washington state provides its independent living program to youth up to the age of 21 (or 23 if in extended care) through its Independent Living Program, Transition to Independent Living Program and Independent Youth Housing Program.

The United States is notable for its early adoption of extended care for foster youth. Most states, including Washington, offer extended care up the age of 21 years for youth in care who meet the education, training, employment or medical waiver eligibility requirements. The United States' approach to mandating data collection and evaluation of independent living programs through federal legislation is an innovative practice worthy of highlighting.

Key themes, trends & innovative practices

Political, historical, constitutional and cultural differences between the jurisdictions surveyed, although chosen for comparison due to broad similarities with Canada, make direct

comparisons somewhat difficult. Acknowledging these limitations, the study paper makes some broad comparisons, identifies some trends, and highlights some innovative practices.

Internationally, the last two decades have seen a significant shift in law and policy towards legislating and thereby formalizing government services available to youth aging into community.

Outside British Columbia, all reviewed jurisdictions, bar one, have legislation that mandates the provision of some form of support to *all* youth who have aged out of care. (Tasmania still provides support to all youth leaving care but does so pursuant to government policy.) British Columbia is unique in that its primary legislated support program only supports a narrow cohort of care leavers. While the reach and accessibility of post-care programs is variable across jurisdictions, it can safely be said that, outside of British Columbia, there is a trend toward broadening coverage of post-care programs to ensure support is universally accessible, particularly for the more vulnerable cohorts of youth.

The concept of a relationship-based transition worker who provides one-on-one practical, planning and personal support for the whole period of the youth's transition has now been incorporated into the post-care programs in several jurisdictions. While most jurisdictions' post-care services, including those of British Columbia, provide some form of case management service, these models stand out for their relationship-based approach to support. The role of these workers is not just practical but also emotional, reflecting the importance, as supported by the literature, of youth having someone they can identify as being committed to their well-being in the longer term. Evidence suggests this model has significant benefits for youth navigating the transition into the community.

In addition to this innovative practice of relationship-based support workers, the statutory duties in England and New Zealand to maintain contact with youth who have aged out of care for a period of time are worth highlighting. These statutory requirements require local authorities or transition workers to be proactive in their efforts to engage with and keep in touch with care leavers.

The research indicates a clear trend toward extending care to youth beyond the statutory age of majority, with some form of extended care now in place in the vast majority of United States jurisdictions, at least three Australian states, New Zealand and England. Extending the care of the state as a means of scaffolding youth as they develop the skills, abilities and maturity necessary to move toward being functioning, independent adults has the support of significant numbers of researchers, academics, advocacy groups and other commentators.

We have outlined some recent legislative measures taken in these comparative jurisdictions aimed at improving outcomes and experiences for Indigenous care leavers, which may help to inform British Columbian policy going forward; however, more comprehensive research is likely needed in this area. Legislative measures identified in other jurisdictions tend to focus on obligations to consult with and involve Indigenous organizations and

communities in transition care planning for Indigenous youth, and on improving the cultural competency of care leaver policies and programs.

Outside the United States, there is a dearth of data on care leaver outcomes and a lack of comprehensive evaluative studies of the impact of care leaving programs on these outcomes to help guide future design of policy and practice. The study paper highlights the innovative solution to this problem in the United States, whereby the federal government has incorporated program evaluation and data collection into statutory obligations tied to foster care funding.

Conclusion

Some programs and supports exist in British Columbia to assist limited numbers of care leavers in their transition to adulthood, with a focus on education and training. Most programs are policy-based and discretionary. The Agreements with Young Adults program, British Columbia's primary care leaver support program, is the only statutorily mandated program supporting youth aging into the community. The program is widely criticized for its limited accessibility and for providing inadequate and insufficient supports.

Our comparative research has revealed significant variability between jurisdictions in the level of support, the types of support, the period of support, and the legal authority for the support provided to youth transitioning from care to the community. While there is great variability between jurisdictions, the interprovincial and international research does clearly highlight that British Columbia has fallen behind. As the only jurisdiction surveyed that does *not* provide some form of post-care guidance and support to *all* care leavers, in line with modern understandings of trauma, harm reduction and the impact of cultural disconnection, British Columbia stands out. Further, with a clear international trend toward extending care based on evidence of both the lifelong benefits to youth, as well as state economic benefits, British Columbia is also lagging. That said, it must be acknowledged that COVID-19 related emergency measures have been extended to all youth set to age out of care during this time.

Even after taking account of context and comparative difficulties, it is clear that British Columbia could learn a significant amount from the generally more cohesive, developed, innovative, and statute-based, albeit diverse, approaches to supporting care leavers in these jurisdictions.