



# HB21-1094

Foster Youth Transition Program

Office of the Child's Representative  
2021 Fall Conference

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# QUICK POLL

A bar chart with four green bars of varying heights. The first bar is the tallest, followed by the second, third, and fourth bars in descending order of height. The bars are set against a dark gray background.

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## History & Purpose

- Started with HB18-1319 which extended services for foster youth aged 18-21 and allowed counties to provide Core Services to this age group. Also created the Former Foster Youth Steering Committee
- Former Foster Youth Steering Committee made recommendations in May 2019 which included recommending re-entry to foster care.
- OCR worked with CDHS, counties and others for 2 years on this bill.
- Voluntary program that allows youth to continue past the age of 18 in a developmentally appropriate manner or to re-enter after the age of 18, up to the 21 or greater age required by federal law.
- Recognize the need for the system to treat someone who is 18 or older different than when they were young children.
- Retain all rights and responsibilities they would normally have.

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## Services and Supports

- **Medicaid** enrollment assistance
- Assistance with **safe, affordable, and stable housing**
- **Case management services**, including a roadmap to success, and the following:
  - Resources to help transition to adulthood
  - Assistance with **employment, financial support, financial literacy**
  - Assistance with **driver's license/identification card**
- Upon request and if available, **expungement services**
- **Education** goals, financial aid
- **Special Immigrant Juvenile Status**
- Obtaining copies of **health and education records**
- **Building relationships** with individuals who are important to participating youth, including searches
- Accessing **information about maternal and paternal relatives**, including **siblings**.

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## Housing

- If county has legal authority for physical placement:
  - Paid for by foster care maintenance, other housing assistance; any youth expenses must be based on the ability to pay.
  - Any placement approved by county or court for which youth is eligible and is least restrictive option to meet the youth's need.
  - If QRTP, 19-1-115 must be met.
- If county does not have legal authority for physical placement
  - Youth may reside anywhere they are eligible to reside
  - Access financial support for housing that youth is eligible to receive



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## Eligible Youth

### Must be 18-21

- unless older age required by federal law
- (currently applicable through Division X of the Pandemic Relief Bill)

### Current or recent prior foster care or kinship care involvement

- In foster care on or after youth's 16<sup>th</sup> birthday
  - County department custody for placement
  - Physical placement of a juvenile committed to the custody of the state department of human services into a community placement
- Noncertified kinship care on or after youth's 16<sup>th</sup> birthday and adjudicated dependent or neglected

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## Eligibility Requirements

Completing secondary education or GED

Institution that provides postsecondary or vocational education

Working at least 80 hours per month

Participating in activity designed to promote employment/remove barriers

### EXCEPTIONS:

Incapable due to medical condition

Waiver by federal law

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## Definitions

### "ROADMAP TO SUCCESS"

MEANS A WRITTEN DESCRIPTION OF A YOUTH'S GOALS, PROGRAMS, AND SERVICES PROVIDED DURING AN OPEN CASE THAT WILL ASSIST YOUTH WHO ARE FOURTEEN YEARS OF AGE OR OLDER AND IN FOSTER CARE TO THE YOUTH'S EVENTUAL TRANSITION FROM FOSTER CARE TO SUCCESSFUL ADULTHOOD. THE DOCUMENT IS DEVELOPED COLLABORATIVELY WITH THE YOUTH.

### "EMANCIPATION TRANSITION PLAN"

MEANS A PLAN DEVELOPED PURSUANT TO SECTION 19-7-310 THAT ADDRESSES HOW THE YOUTH WILL MEET THE YOUTH'S NEEDS UPON THE YOUTH'S IMMINENT EMANCIPATION FROM FOSTER CARE.

- Info about housing, health insurance, education, mentors, workforce/employment supports
- Importance of designating another individual to make health care decisions; opportunity to execute a health care power of attorney

### "TRANSITION PROGRAM" OR "FOSTER YOUTH IN TRANSITION PROGRAM"

MEANS THE PROGRAM ESTABLISHED PURSUANT TO SECTION 19-7-303 IN WHICH AN ELIGIBLE YOUTH MAY VOLUNTARILY OPT TO CONTINUE OR RESUME RECEIVING CHILD WELFARE SERVICES THAT MAY INCLUDE BUT ARE NOT LIMITED TO FOSTER CARE MAINTENANCE PAYMENTS.

- Definition of foster care amended to include supervised independent living placement 19-7-302

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# Definitions

## LEGAL AUTHORITY FOR PHYSICAL PLACEMENT

### "SUPERVISED INDEPENDENT LIVING PLACEMENT"

MEANS A SETTING IN WHICH A YOUTH IS LIVING INDEPENDENTLY WITH COUNTY DEPARTMENT SUPERVISION.

"SUPERVISED INDEPENDENT LIVING PLACEMENT" IS DESIGNED TO PROMOTE AND LEAD TO A YOUTH'S SUCCESSFUL EMANCIPATION.

- Background checks not required for all individuals living

### "VOLUNTARY SERVICES AGREEMENT"

MEANS A STANDARDIZED VOLUNTARY SERVICES AGREEMENT ENTERED INTO BY A PARTICIPATING YOUTH PURSUANT TO SECTION 19-7-306.

- Client driven and developmentally appropriate
- Specifies terms of youth's participation, services, county rights and obligations, circumstances under which youth may stop participation

# ARTICLE 3

## Client Directed Counsel

- GAL begins acting as counsel **immediately upon 18<sup>th</sup> birthday**
  - unless youth is deemed incapacitated (19-3-704, references Article 15)—then GAL stays on as GAL and counsel is appointed
- At first hearing following youth's 18<sup>th</sup> birthday court shall advise youth who has a current GAL of right to counsel, ability to consent or have same person continue as counsel or have new person;
  - if youth elects new person, court shall appointed attorney from the OCR list of attorneys
- Motion to determine incapacity must be filed prior to youth's 18<sup>th</sup> birthday

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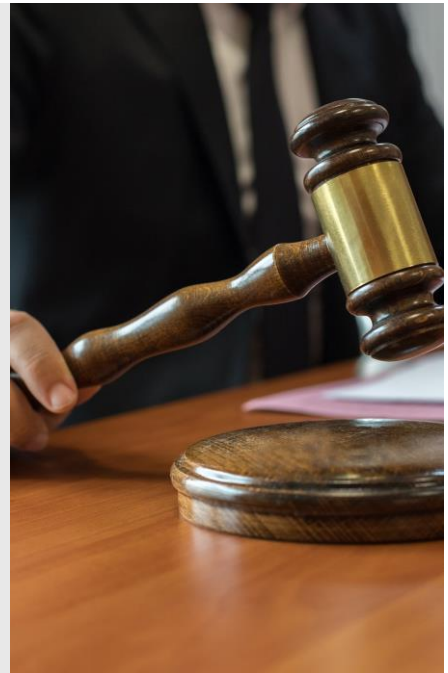
## Transition Hearing

- Must be held within 35 days after youth's 18<sup>th</sup> birthday
- Purpose is to determine whether the youth will opt into FYIT program
- County department must file a report 7 days prior to transition hearing
  - Reasonable efforts
  - Affirmation that county department has provided youth with records/documents
  - Affirmation that youth has been informed of benefits and options
- Statement of whether youth has made a preliminary decision to emancipate/enter
  - If youth chooses to emancipate, emancipation transition plan
  - Petition will be filed if youth will choose to enter

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## Hearing Requirements

- Court **must** advise youth:
  - Right to choose whether to emancipate/enter FYIT program
  - Requirement of VSA
  - Length of time youth may remain in program
  - Reentry rights
  - Right to counsel/consult with counsel
  - Right to have emancipation transition hearing continued up to 119 days
- Court may:
  - Continue up to 119 days
  - Dismiss case/youth if youth opts in and petition has been filed
- **If youth chooses to emancipate**, court must
  - Review transition plan, consult with youth
  - Determine reasonable efforts
  - Ensure records/documentation
  - Determine Medicaid enrollment, advise re eligibility



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### INCAPACITATED YOUTH

#### If youth is deemed incapacitated pursuant to 15-14-103:

- jurisdiction continues until youth has made complete transition into adult disability services
- or youth reaches 21 (or greater age required by federal law)
- or court extends jurisdiction until transition is complete

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# Runaway Youth

County may file a motion to terminate jurisdiction when:

- Youth is age 16-18
- Whereabouts have been unknown for more than 90 days

Hearing within 35 days after county department files motion;

- Court must determine whether county has made reasonable efforts to locate the youth
- Hearing may be waived if stipulated
- Motion must be withdrawn if youth returns

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## PERMANENCY HEARING

Prior to closing a case before the youth's 16th birthday, the court **shall** advise youth of eligibility for foster youth in transition program if youth should later determine he/she/they needs assistance

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# ARTICLE 7

Foster Youth Transition Program

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## Pre-Filing

- Youth makes request to county department to participate where youth self-attests youth resides (legal name/date of birth)
- County department determines whether youth is eligible within 3 business days of the request
- If youth is eligible
  - County department prepares and executes a voluntary services agreement
  - County department makes referral in writing to OCR and provides youth with contact information for OCR
  - Within 90 days of VSA, files petition to juvenile court
- If youth deemed not eligible
  - County department notifies youth how to appeal, and provides contact information for OCR

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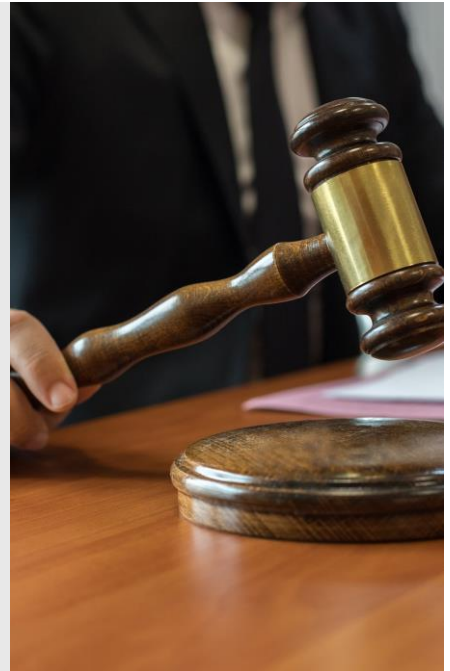
## Petition

- May be filed by county department or youth
  - county must file within 90 days of VSA
- Must be accompanied by the VSA
- Form petition available at:
   
<https://docs.google.com/document/d/11L0dmcEWzKC1lxZSai6OPnz-iqWpvf78/edit>
- Court appearances require notice to youth and licensed foster parents

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## Periodic Reviews

- At least once every six months
- Shall be conducted in a manner that seeks participating youth's meaningful participation (remote, accommodating work, school, treatment)
- Shall coincide with PPH when possible
  - If not PPH, may be held on court's written/administrative docket
- Purpose is to ensure youth receives necessary services and supports
- County department must file written report that includes:
  - Roadmap to success
  - Statement of youth's progress
  - Reasonable efforts
  - Barriers/opportunities to address barriers



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## Court Orders

### Court must make findings re:

- Reasonable efforts
- Whether youth continues to need FC and whether placement is least restrictive

### Court may order

- County department to provide additional services and supports
- If youth is not substantially fulfilling obligations, court may enter orders for youth to follow to continue to be eligible

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## TERMINATION OF JURISDICTION

Three ways the court terminates jurisdiction

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## Terminate Jurisdiction

1	2	3
Youth may request case be dismissed at any time	County DHS moves at least 90 days prior to the youth's 21 <sup>st</sup> birthday (or greater age allowed by federal law).	County DHS moves court to terminate the VSA and jurisdiction because the youth no longer meets the eligibility requirements.
Emancipation discharge hearing within 30 days of request.	Court holds an emancipation discharge hearing.	Court holds an emancipation discharge hearing within 35 days.

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## Emancipation Discharge Hearing

- May be continued up to 119 days but not past last day of month in which youth turns 21 (or older as required by federal law)
- Emancipation transition plan must be developed and finalized no more than 90 days prior to emancipation discharge hearing
- County department must file report to court at least 7 days prior to hearing:
  - Reasonable efforts
  - Affirmation of documents/records
  - Copy of emancipation transition plan
- For Youth who are aging out—90 days prior to last day of eligibility:
  - Written notice to youth
  - Info about community resources

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## Emancipation Discharge Hearing

- Prior to emancipation, court shall:
  - Review emancipation transition plan and consult with youth on readiness
  - Make reasonable efforts determination
  - Determine whether youth has been provided with all necessary records and documents
  - Determine whether enrolled in Medicaid/ advise on Medicaid eligibility up to age 26

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## Practice Issues

- Venue/location
- GAL to counsel
  - Conflicts analysis
  - Capacity determinations
  - While statute requires hearing after, best practice to file earlier (and required if incapacity)

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## Miscellaneous

19-7-314 creates foster youth successful transition to adulthood grant program

19-7-315 Rulmaking requirement

- Eligibility
- Administrative appeals of eligibility determination
- Enrollment
- Emancipation transition plans and roadmaps to success
- Expedited procedures for temporary shelters for homeless/at risk of homeless

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# DIVISION X

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