FOSTER YOUTH IN TRANSITION

HB 21-1094 Bench Card

Client-Directed Representation at Age 18 in D&Ns ..... §§ 19-7-308; 19-3-203

On 18th birthday: GAL in a D&N converts to client-directed automatically.

At first hearing after 18th birthday: This is likely the transition hearing. Court advises the youth* on client-directed representation (see advisement page). Attorneys are appointed from the OCR-approved list.

Exception: If youth is incapacitated, the GAL remains and a new attorney is appointed.

Continuing Jurisdiction in D&N Cases ..... § 19-3-205

*** Jurisdiction in the D&N case terminates at age 18 ½ ***

Exception: If youth is transitioning to adult services (§ 25.5-6-409.5), then the court may extend jurisdiction until transition is complete; if youth is also incapacitated, then jurisdiction *must* continue.

Runaway Provisions - § 19-3-205

Jurisdiction may terminate for youth ages 16 to 18 if whereabouts unknown for > 90 days. On motion, hearing in 35 days to determine reasonable efforts to locate youth. Motion withdrawn if youth returns.

Transition Hearings for Youth Who Turn 18 in a D&N ..... § 19-3-705

When a youth turns 18 while in foster or kinship care, a transition hearing is held within 35 days of their 18th birthday. The county files a report 7 days prior. The court advises the youth,* and the youth decides whether to emancipate, ask for a continuance, or opt-in to FYTP. Youth choices:

Emancipation

Personalized emancipation transition plan must be developed and finalized no more than 90 days prior to the hearing.

Follow emancipation discharge hearing requirements and case closure procedures (see below).

SIJS: "D&N Case is closing due to age."

Continuance

May continue up to 119 days (but not past age 18.5) if youth needs additional time to decide or to allow time to improve the plan, gather documents, or other reasons to allow successful transition to adulthood.

Strongly consider youth wishes and willingness to engage.

Entering the Youth in Transition Program directly from D&N

Petition filed with Court. Roadmap to Success and signed Voluntary Services Agreement are attached.

D&N closes as to this youth. *Find: "Case is closing due to age."***

New Youth in Transition case opens. Follow Article 7 procedures for FYTP (below).

Foster Youth in Transition Program (FYTP)

Article 7: Voluntary extended foster care for youth 18 up to 21 | New JV Case # | Parties are the county and the youth

Two paths to open: 1) Direct from D&N; or 2) Re-Entry

Eligibility ..... § 19-7-304

1. AGE: Youth is currently 18-21
2. PRIOR PLACEMENT: On or after 16th birthday youth in either a) foster care, OR b) noncertified kinship care AND was adjudicated D&N
3. WORK/SCHOOL: Youth is engaged in, or intends to engage in, educational/vocational activities OR is incapable due to a documented medical condition
4. Enters into the Voluntary Services Agreement (VSA).

"Foster care" means placement of a child into the legal custody or authority for placement of a county DHS or committed to the custody of the state DHS into a community placement. § 19-1-103 (51.3)

Work or school requirements are met by at least one: completing high school or equivalency, attending post-secondary or vocational institution, working at least 80 hrs/mo, or activities to remove barriers to employment.

Re-Entry Youth & First Hearing ..... §§ 19-7-304; 19-7-306; 19-7-307

- Eligible youth not in a current D&N can enter a VSA with the county where the youth self-attests they reside. The county may serve a youth in a VSA up to 90 days before filing a petition with the Court. The OCR may assign counsel during this time. A petition may be filed by the youth or the county DHS.
  - ⇒ Hearing must be within 180 days from the youth's entry into VSA to make timely title IV-E findings (p2).
  - ⇒ Court appoints counsel if not already assigned.

* advisement scripts provided on 3rd page

Reviews & Permanency Hearings ..... §§ 19-7-307; 19-7-311; 19-7-312

- Notice must be provided to youth and licensed foster parents. §307(5)
- Permanency planning hearings are required every 12 months and otherwise in accordance with 19-3-702. §311
- Periodic reviews are required every 6 months to ensure youth are provided necessary services/supports. May be held on the Court's administrative docket by agreement if does not coincide with PPH. §312
- County DHS must file a report 7 days prior to a review which includes:
  - ⇒ Copy of Roadmap to Success (case plan w/goals & services)
  - ⇒ A statement of the youth's progress on their goals and whether the youth is meeting their obligations under the VSA
  - ⇒ Statement of any barriers to the youth meeting their goals and plans to address such barriers
  - ⇒ Statement of DHS reasonable efforts to support youth goals

Youth Participation

Hearings must be held in a way that seeks youth's meaningful participation, including offering remote options to accommodate the youth's work, school, or treatment.

The Court may enter orders:

- ⇒ For the county to provide additional services/supports toward youth's goals or eligibility
- ⇒ For the youth to follow to continue eligibility

Findings at review hearings shall address whether:

- ⇒ Reasonable efforts have been made to implement the youth's case plan and Roadmap to Success
- ⇒ Foster care continues to be necessary, in **in the youth's best interest,*** and in the least restrictive setting to meet the youth's needs. **Best interest is a Title IV-E requirement; to be addressed in future clean-up to CO statute.*

Emancipation Discharge Hearings & Case Closure ..... §§ 19-7-310; 19-7-313

An emancipation discharge hearing is required prior to case closure. The Court may continue the hearing up to 119 days with youth's consent (FYTP; art 7) or strongly considering youth's wishes (D&N; Art 3).

- May occur upon the youth's request at any time as FYTP is voluntary.
- Must occur prior to the last day of the month the youth turns 21.
  - ⇒ When applicable, find "case is closing due to age."**
- A county department may file a motion to terminate the VSA and jurisdiction because the youth no longer meets eligibility requirements; then the discharge hearing is held within 35 days. If the request to terminate is due to youth noncompliance with the VSA, county must show reasonable efforts to engage youth.
- County DHS must file a report 7 days prior to the hearing, which includes the following:
  - ⇒ a reasonable efforts description
  - ⇒ an affirmation that the youth has been provided with necessary records, contacts, and a copy of the Emancipation Transition Plan (ETP).

Emancipation Transition Plan

ETPs support youth upon emancipation. The ETP includes specific options for housing, health insurance, education, local opportunities for mentors and continuing support services, and workforce/employment services. Must provide youth the option to execute a health care power of attorney.

Hearing requirements–the Court must:

- ⇒ Review the emancipation transition plan.
- ⇒ Determine if the county has made reasonable efforts toward the youth's permanency goals and preparing the youth for a successful transition to adulthood.
- ⇒ Determine whether the youth has been provided with all necessary records/documents. §§ 19-7-310; 19-3-702(4)(d)
- ⇒ Determine if the youth has been enrolled in Medicaid
- ⇒ The court advises the youth.* § 19-7-310.

* advisement scripts provided on 3rd page

****SIJS—§ 19-7-305(1)(c)(VII)**

Some youth may be referred to services for support in obtaining Special Immigrant Juvenile Status. One necessary finding the court may make is that a youth who is in the FYTP is in foster care and is **dependent on the juvenile court**.

When a youth ages out of the D&N at 18 or the FYTP at 21, court should find **"the case is closing due to the youth's age."**

Foster Youth in Transition Sample Advisement Scripts

CLIENT-DIRECTED COUNSEL (1st hearing after 18th bday; likely transition hearing) . . . . . §§ 19-7-308; 19-3-203

- You have the right to have an attorney who will represent your objectives and goals. You have the right to keep your current Guardian ad Litem (unless there is a conflict of interest), who will transition to your attorney, or you have the right to choose to have a different person appointed to be your attorney.
- Do you want [name] as your attorney, or are you seeking a new attorney?

TRANSITION HEARINGS . . . . . § 19-3-705(3)

- You have the right to choose whether 1) you want to emancipate, meaning you would no longer receive services from DHS, or 2) you can voluntarily continue receiving services in the foster youth in transition program.
- To participate in the program, you must enter into a voluntary services agreement with [county] human services, Did you have a chance to review this with your caseworker or [GAL/attorney name]?
- Services through the program are voluntary for you, meaning you choose the services, and you may remain in the program until the last day of the month you turn 21, as long as you meet all other program requirements.
- If you choose to emancipate but later decide you need further support, you have the right to begin receiving services again through the program until you turn 21.
- You have the right to talk to your attorney about whether you want to enter the program or emancipate.
- If you're not sure, and you're considering emancipation, we can reschedule this hearing for up to 119 days from now if you want more time to decide or if you want more time to prepare for emancipation.
- Have you had enough time to think about what you want to do?
- Do you have any questions about the program?
- Do you want to enter the foster youth in transition program? *(if yes, verify filing of petition and VSA)*

EMANCIPATION HEARINGS . . . . . §§ 19-3-705(4); 19-7-310(3)

- Emancipating from the Foster Youth in Transition Program means you will no longer be in foster care or receive child welfare services. You may be eligible for other types of support, but this case will close.
- Have you had a chance to review your Emancipation Transition Plan with your caseworker and your attorney?
- *Recommended Inquiries:*
  - ⇒ *Ask youth about their plans. Where will they live? Work? Are they in school?*
  - ⇒ *Confirm directly with the youth that they have vital documents including identification (state ID/passport).*
  - ⇒ *Ask who they can call if they ever need help.*
- As a young person who was in foster care after age 18, you are eligible for former foster care Medicaid up to age 26. Are you enrolled in Medicaid currently?
- To make sure your Medicaid enrollment stays active, it is very important that you keep your contact information up to date with the county where you live, or the Colorado Department of Health Care and Financing.

FOR YOUTH UNDER 21 CHOOSING TO EMANCIPATE:

- You have the right to stay in this program until you are 21. Are you sure you are ready to emancipate?
- You have the right to return to the Foster Youth in Transition Program until your 21st birthday if you decide you need or want more support. You can re-enter by contacting your lawyer, the Office of the Child's Representative, or the county department of human services wherever you are living at the time.
- Do you have any questions about emancipation?

FOR YOUTH UNDER 21 EMANCIPATING DUE TO INELIGIBILITY:

- To participate in this program, you are required to follow the Voluntary Services Agreement, including attending school or working, or engaging in activities to remove barriers to school or work.
- Since [state specific determination re non-compliance with work/school requirements or the VSA], you are currently not eligible to stay in the program. However, if you re-establish eligibility, you may return to the program up to age 21. You can be eligible even if you aren't yet in school or working, but you want support of the program to start, and you are willing to engage in activities to remove barriers to attending work or school.
- You can re-enter by contacting your lawyer, the Office of the Child's Representative, or the county department of human services where you are living at the time. Do you know how to contact these offices?