



# TEXAS FOSTER YOUTH JUSTICE PROJECT

Legal Help for New Beginnings

## Helping Students with Lived Experience Overcome Legal Challenges

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**TRLA**  
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# TEXAS FOSTER YOUTH JUSTICE PROJECT

Legal Help for New Beginnings

Hotline: (877) 313-3688

Email: [info@texasfosteryouth.org](mailto:info@texasfosteryouth.org)

Website: [www.texasfosteryouth.org](http://www.texasfosteryouth.org)

Statewide  
program

Assists current and  
former foster youth  
with civil legal  
problems

Assists homeless,  
unaccompanied  
youth with civil legal  
problems

Assists groups of  
current and former  
foster youth with  
civil legal problems

Provides guidance  
for those that work  
with current and  
former foster youth

# Project Staff

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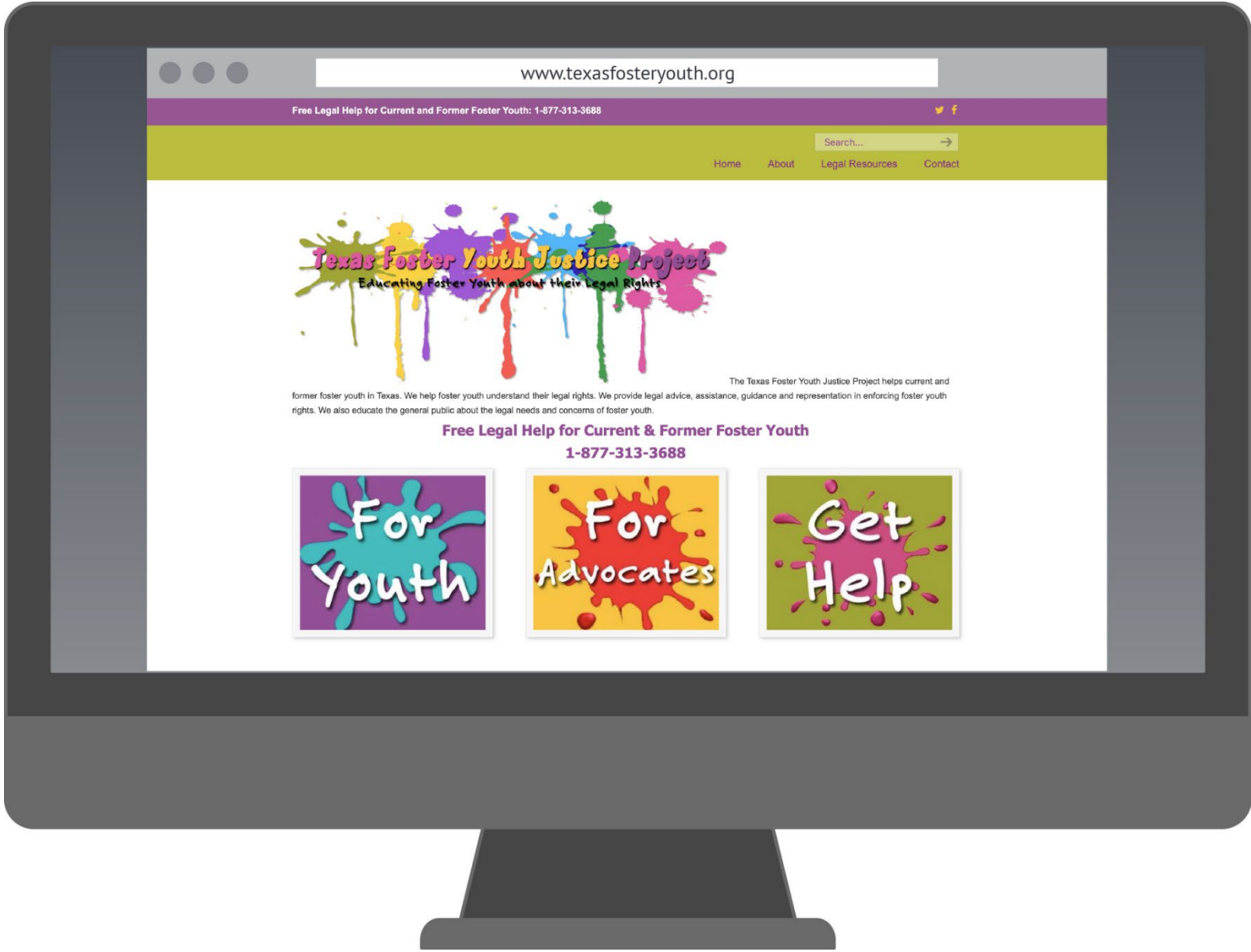
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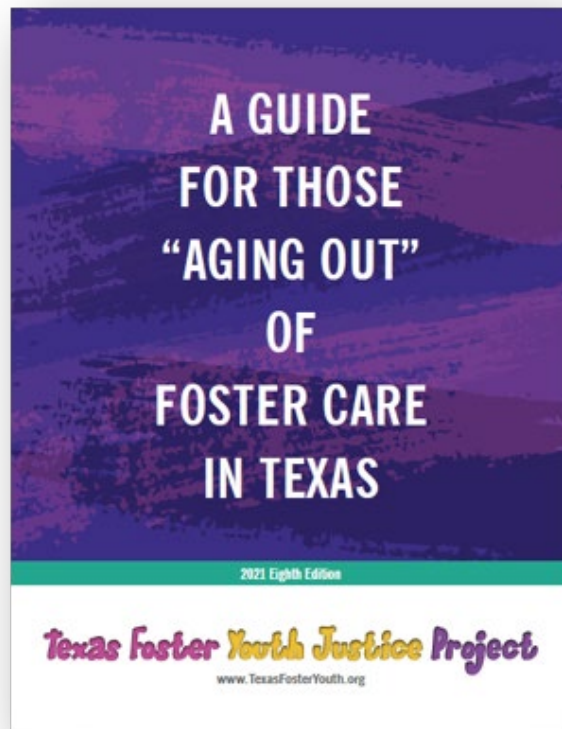
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# A Guide for those Aging Out

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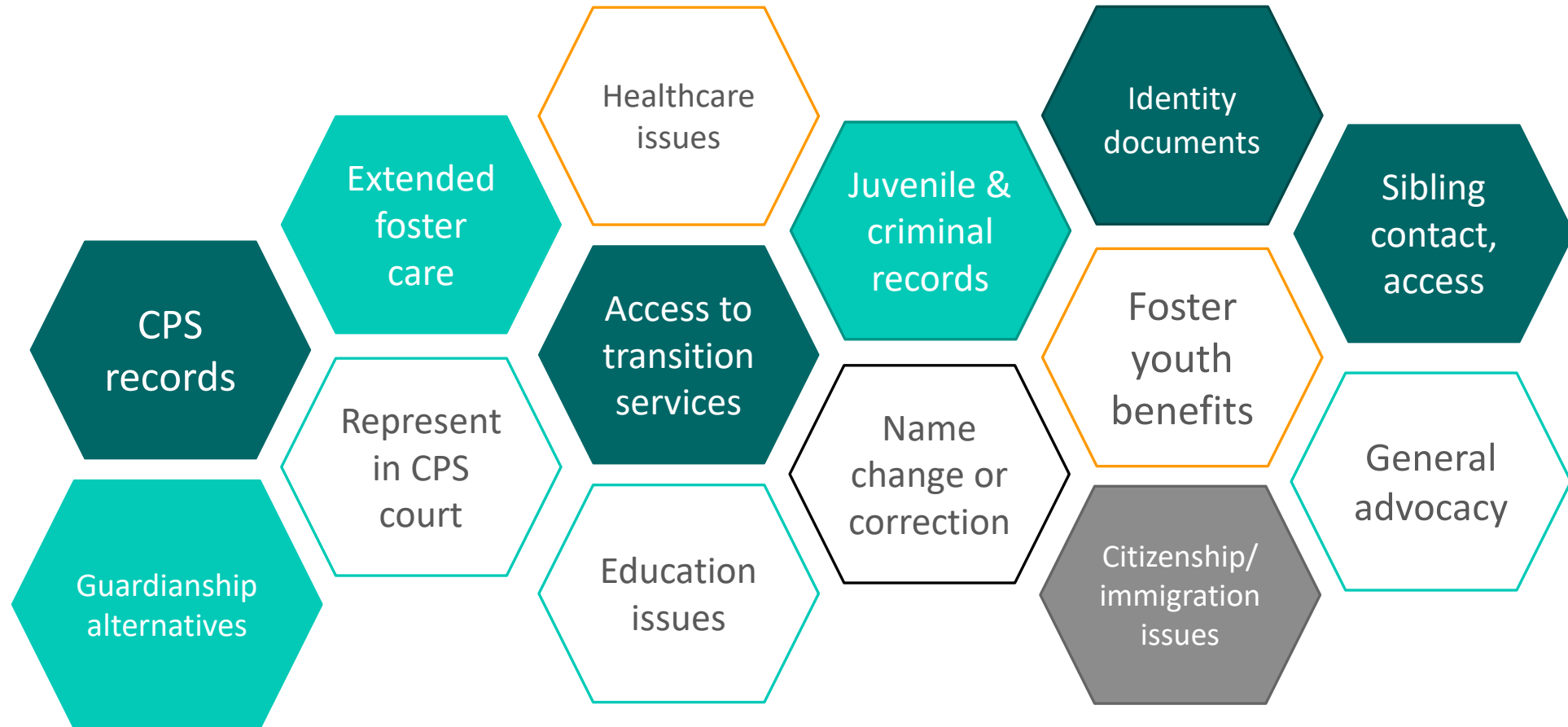
**8th Edition (2021)**

Download for free at  
[www.texasfosteryouth.org](http://www.texasfosteryouth.org)

Will be updated in 2024

# Common Project Cases

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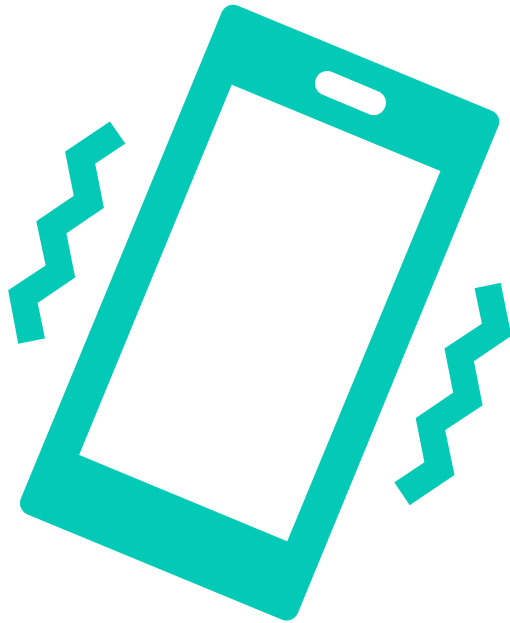
# Overview

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- ❖ Connecting with the TFYJP, TFYJP Priorities, and Common Cases
- ❖ Addressing Systemic Barriers with Resources and Legal Remedies
  - Identification and Name Issues
  - Juvenile/Criminal Involvement
  - Transition Benefits and Services
  - Immigration Issues
  - Disability Issues
- ❖ Case Study

# Connecting Clients with the TFYJP

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- ❖ Scheduling an intake
- ❖ Completing an intake
  - Youth or young adult must be the primary person answering questions or, if there is a communication challenge, at least be present
  - Must be able to provide financial information for the household and meet financial eligibility guidelines
- ❖ Providing necessary documents to evaluate case
- ❖ Signing representation documents and maintaining contact



# TFYJP Priorities

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- ❖ Legal issues that constitute barriers to independence
  - “I can’t get a job because...”
  - “I can’t find a place to live because...”
  - “I can’t go to school because...”
- ❖ Legal issues that impact the rights of current and former foster youth
  - “My attorney won’t let me talk to the judge”
  - “My placement won’t let me use the phone to make a complaint”
  - “My caseworker says I’m not eligible for aftercare benefits”

# Most Common Cases

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- ❖ CPS Records: requesting from DFPS and reviewing for completeness; advocating for additional records when needed
- ❖ Foster Youth: legal advocacy related to status as a foster youth, including representation in CPS court, connection to benefits, petitions for sibling access, etc.
- ❖ Birth Certificate Issues (and other ID docs problems): requesting and correcting birth certificates and providing guidance on obtaining other necessary documents
- ❖ Criminal and juvenile records relief: sealing juvenile records; expunging and sealing adult criminal records
- ❖ Immigration relief: requesting records, replacing documents, applying for work permits, green cards, and naturalization

# Addressing Systemic Barriers

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## Identification and Name Issues: Barriers

- ❖ Everyone must have identification documents to function as an adult
- ❖ CPS must provide the following to foster youth by age 16: (1) Original or certified copy of birth certificate; (2) Texas ID or driver's license; (3) social security card; AND (4) original immigration documents
- ❖ Many laws and rules in place to make sure foster youth have these documents (but that doesn't always mean they get them)
- ❖ Many young adults lose their documents within years of leaving care
- ❖ No policies in place to ensure homeless youth obtain their documents
- ❖ Problems for those born outside the U.S. without proof of identity and/or status
- ❖ *See full TEHCY presentation on identification documents [here](#) (08/30/2022)*

# Addressing Systemic Barriers

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## Identification and Name Issues: Barriers

- ❖ Failed adoptions and failure to update identity documents
- ❖ Incorrect name on birth certificate (e.g., “Infant Smith”)
- ❖ Variations of name used throughout child’s life
- ❖ May affect ability to receive benefits, enroll in school, or obtain employment
- ❖ Easier to address before age 18 – foster youth can notify their attorney ad litem, judge, or ombudsman that there is a problem
- ❖ Unaccompanied youth can only change their name if their parent or guardian files the petition in court (or if the youth becomes emancipated)
- ❖ Adults can file on their own but must include fingerprint card and disclose criminal history

# Addressing Systemic Barriers

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## Identification and Name Issues: Resources

- ❖ [\\*How Foster Youth Can Get Their Texas Birth Certificate, Texas Identification \(ID\) Card, and Texas Driver's License](#)
- ❖ [DFPS Foster Youth Verification Form K-908-2042](#)
- ❖ DPS Foster Youth Fact Sheets for [Identification Card](#) and [Driver's License](#)
- ❖ [\\*How Homeless and Unaccompanied Youth Can Get Their Texas Birth Certificate and Texas ID Card and Texas Driver's License](#)
- ❖ [Certification of Homeless Status for Texas Birth Certificate and Texas Identification Card and Driver's License](#)
- ❖ DPS Homeless Youth Fact Sheets for [Identification Card](#) and [Driver's License](#)

# Addressing Systemic Barriers

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## Identification and Name Issues: Resources

### Coming VERY Soon! FREE Driver Education

- ❖ Free driver education program for current and aged out foster youth and homeless youth
- ❖ Created by [SB 2054](#) (2021)
- ❖ Program to be administered by the Texas Workforce Commission
- ❖ Program rules/regulations can be found at [40 Tex. Admin. Code Ch. 808](#)

# Addressing Systemic Barriers

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## Identification and Name Issues: Legal Remedies

- ❖ Request birth certificates and file corrections to birth certificates
- ❖ Advocate for compliance with Texas Health & Safety Code [§ 191.0049](#) which requires Vital Statistics and all local registrars or county clerks to issue birth certificate without fee or parental consent to a child in foster care or young adult in extended foster care (or certified homeless youth/young adult)
- ❖ Provide guidance on how to obtain or replace social security card and Texas ID or driver's license
- ❖ Obtain sealed adoption orders when needed to prove name changes
- ❖ Change legal name in court when necessary, or correct court orders of prior name changes

# Addressing Systemic Barriers

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## Juvenile Justice Involvement: Barriers

- ❖ Criminal offenses committed by children ages 10-16 are handled in the juvenile justice system (considered an adult at age 17 for criminal purposes)
- ❖ Can be placed on probation or incarcerated
- ❖ Records are confidential and cannot be released to the public, but can still have an impact on future housing and employment opportunities (if housing is provided by DFPS, if seeking military enlistment or federal employment, etc.)
- ❖ They don't just "go away"



# Addressing Systemic Barriers

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## Juvenile Justice Involvement: Legal Remedies

- ❖ Children have the same due process rights as adults – if they cannot afford an attorney, an attorney must be appointed for them
- ❖ Depending on certain factors, most juvenile records can be sealed
- ❖ Sealing generally has the same effect as expunction - as if the offense had never happened - and can only be unsealed in very limited circumstances
- ❖ Some juvenile records must be sealed without an application: conduct in need of supervision (CINS), misdemeanors, and non-adjudicated felonies
- ❖ Others may be sealed with an application, such as felony adjudications, or any offense if the subject has had an adult misdemeanor conviction (sealing not permitted for those with adult felony convictions and other restrictions)

# Addressing Systemic Barriers

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## **Criminal Justice Involvement: Barriers**

- ❖ Criminal offenses committed by individuals age 17+ are handled in the adult criminal justice system
- ❖ Anyone who cannot afford an attorney is entitled to a court-appointed attorney for all felonies and Class A and B misdemeanors (but not Class C misdemeanors – they are punishable by fine only)
- ❖ Children of any age may be certified as an adult by a judge and the case may be transferred to the adult criminal justice system
- ❖ Records are public information and never go away (unless expunged)
- ❖ Problems with incorrect info in background checks and with data miners

# Addressing Systemic Barriers

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## **Criminal Justice Involvement: Legal Remedies**

- ❖ Expunction is available for offenses that were not prosecuted, dismissed without probation, completion of pretrial diversion, acquittals, pardons
- ❖ Expunction is NOT available for offenses that resulted in deferred adjudication or conviction
- ❖ Nondisclosure requires records to be sealed from the public, but a long list of state agencies, licensing boards, and private industries continue to have access; nondisclosure is discretionary – must be in the “interest of justice”
- ❖ Nondisclosure is generally available for cases that were dismissed following deferred adjudication and for first-time misdemeanor convictions, but there are many disqualifiers (such as any history of family violence offense)

# Addressing Systemic Barriers

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## **Class C Misdemeanors: Barriers**

- ❖ Class C misdemeanors are only punishable by fine, not confinement, so there is no constitutional right to an attorney
- ❖ Young people in foster care or experiencing homelessness often are unable to resolve Class C cases (many times due to immediate placement changes and no follow up by the caseworker)
- ❖ Unresolved Class C misdemeanors turn into warrants when youth turn 18, which show up in the adult criminal justice system and put a hold on obtaining a driver's license
- ❖ Certain Class C convictions can limit employment and housing opportunities

# Addressing Systemic Barriers

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## Class C Misdemeanors: Legal Remedies

- ❖ As of 09/01/2021, justice and municipal courts cannot require youth in foster care or extended foster care to pay any amount of fine and costs, but may require community service ([Art. 45.041\(b-6\)](#), Code of Crim. Pro.)
- ❖ See [How to resolve Class C citations received while in foster care](#) for more information and a template letter young people can provide to the court to invoke their right to complete community service
- ❖ See [Ticket Help Texas](#) for additional information about resolving Class C misdemeanors

# Addressing Systemic Barriers

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## Transition Benefits and Services: Barriers

- ❖ All youth who are in foster care when they turn 18 may be eligible for certain benefits and services, including
  - Extended foster care, including supervised independent living (SIL) – but a placement must be available
  - Case management from regional contractors and PAL staff (see list of providers [here](#) and PAL coordinators [here](#)) – but many youth don't know who to contact
  - Transitional living allowance (TLA) provides \$1,000 benefit (max \$500/month), but youth must have attended PAL classes, must be living independently, and must be working or going to school (must also have been in a paid placement within last 24 months)
  - Aftercare room and board (ACRB) provides a max \$3,000 benefit (max \$500/month) but must have an emergency need; paid directly to landlord/utility company, etc.

# Addressing Systemic Barriers

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## Transition Benefits and Services: Barriers

- ❖ Former Foster Care Child (FFCC) Medicaid – young adults ages 18-25 are eligible if they were in conservatorship and were receiving Medicaid on their 18th birthday
  - Medicaid benefits are ended the day a child is incarcerated in a juvenile or adult facility; if a youth is incarcerated on their 18th birthday, they will NOT be eligible for FFCC Medicaid
  - All young adults receiving FFCC Medicaid must renew their eligibility with HHSC every year – must confirm they continue to live in Texas
- ❖ Medicaid for Transitioning Foster Care Youth (MTFCY) – available for young adults who aged out of foster care but are not eligible for FFCC Medicaid
- ❖ Non-citizens are no longer eligible for Medicaid after their 21st birthday

# Addressing Systemic Barriers

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## Transition Benefits and Services: Barriers

### ❖ Housing Benefits

- FYI/FUP housing vouchers: (local public housing) available to young adults age 18-24 for up to 36 months of assistance; must apply through DFPS regional housing liaison; available to young adults who were in conservatorship as briefly as one day, including adopted children
  - Must provide birth certificate, social security card, and Texas ID; must pass background check
- Section 811: (TDHCA) rental assistance for young adults with disabilities receiving SSI, must apply through DFPS regional housing liaison; long-term option for those who can live independently
  - Must verify eligibility, provide SSI award letter, and pass background check



# Addressing Systemic Barriers

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## Transition Benefits and Services: Barriers

### ❖ Education Benefits

- College Tuition and Fee Waiver: tuition and fees waived for any public Texas college, university, or training program (expanded eligibility)
  - Former foster youth must enroll in one class before age 25\*
  - Request from PAL; student submits to the school (need to be aware of deadlines)
  - Pay attention to restrictive criteria – not available to anyone with experience in foster care; not available to anyone who has been adopted (must have had an adoption assistance agreement)

# Addressing Systemic Barriers

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## Transition Benefits and Services: Barriers

### ❖ Education Benefits

- Education and Training Voucher( ETV): young adults who were in foster care (or adopted or subject of a Permanency Care Assistance agreement) at age 16 or older can apply for up to \$5,000/year for help pay for education-related expenses, including housing
  - Can receive benefits until age 23; apply through BCFS
  - Benefit cannot exceed the cost of attendance after other financial aid is applied (some institutions broadly apply “financial aid” to include SIL or even tuition waiver)

# Addressing Systemic Barriers

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## Transition Benefits and Services: Resources

- ❖ Find contacts for the following at these websites:
  - [PAL Coordinators and State Staff](#)
  - [Transition Support Services Providers](#)
  - [Transition Centers](#)
  - [DFPS Reentry Liaisons](#) (for returning to extended foster care)
  - [Supervised Independent Living \(SIL\) Providers](#)
  - [DFPS Regional Housing Liaisons](#) (to apply for FYI/FUP vouchers and Section 811)
  
- ❖ See applicable CPS policies at [Section 10200](#) (and following sections) of the CPS Handbook

# Addressing Systemic Barriers

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## **Transition Benefits and Services: Legal Remedies**

- ❖ Advocate for reentry to extended foster care and SIL placements
- ❖ Provide information and refer to local or state office PAL staff to access benefits
- ❖ General advocacy and representation related to transition to independence while in foster care or extended foster care
- ❖ Assist youth and young adults to obtain or renew Medicaid benefits
- ❖ Assist youth to obtain needed identification documents
- ❖ Assist youth to apply for housing programs

# Addressing Systemic Barriers

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## Immigration Issues: Barriers

- ❖ No U.S. birth certificate showing youth was born in a U.S. state, must assume not a citizen unless there is other certified documentation of citizenship
- ❖ If youth is an immigrant, must sort out whether they have some sort of legal status in the U.S. and obtain documentation of their status in order to work, get identification, full access to financial aid, and function in the U.S.
- ❖ Many youth age out of foster care without knowing their status or having any documentation
- ❖ Even if a youth has legal immigration status, non-citizens have very limited access to many public benefits (e.g., non-citizen young adults are no longer eligible for any type of Medicaid once they turn 21)

# Addressing Systemic Barriers

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## Immigration Issues: Resources

- ❖ [DFPS International and Immigration Issues Resource Guide](#)
  - Includes contact information for immigration specialists, border liaisons, and regional legal services staff
- ❖ Understand the SIJS backlog and translating difficult terms (such as “visa bulletin” and “priority date”): <https://www.ilrc.org/resources/breaking-down-visa-bulletin-what-sijs-advocates-need-know>

# Addressing Systemic Barriers

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## Immigration Issues: Legal Remedies

- ❖ Request immigration records from DPFS and submit FOIA requests to USCIS and other immigration agencies as needed
- ❖ File applications to obtain or replace work permits, green cards, certificates of naturalization, and other necessary immigration documents
- ❖ Assist young adults to apply for naturalization
- ❖ In limited cases, may refer to TRLA or other immigration attorneys to ask the immigration court to reopen and dismiss removal cases

# Addressing Systemic Barriers

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## Disability Issues: Barriers

- ❖ Disabilities may either not be identified or too broadly applied
- ❖ Poor transition planning has devastating consequences
  - Waiting too long to apply for SSI (not taking denials/appeals into account)
  - Not identifying appropriate transition options, such as HCS
  - Not requesting DID (determination of intellectual disability) before age 16
  - Pushing for guardianship when not appropriate
- ❖ Generally insufficient resources to meet the needs of young people with disabilities who do not have a support system



# Addressing Systemic Barriers

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## Disability Issues: Resources

- ❖ Social Security Income (SSI)
  - CPS Handbook [Section 10341](#) requires the caseworker to coordinate with the regional developmental disability specialist (DDS) to plan for long-term care for a youth with disabilities (including applying for SSI)
  - CPS Handbook [Section 10341.2](#) requires the caseworker to notify the SSI coordinator when a youth turns 17 to apply for SSI if youth is not already receiving benefits, but this is likely too long to wait, especially if the application is initially denied
  - SSI benefits are paid to DFPS while youth or young adult is in care

# Addressing Systemic Barriers

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## Disability Issues: Resources

### ❖ Home and Community-Based Services (HCS)

- Youth with intellectual disabilities should receive a CPS “slot” to avoid public waiting list (10+ years long)
- Determination of intellectual disability (DID) assessment should be completed before age 16 by the Local Intellectual and Developmental Disability Authority (LIDDA)
- Much more difficult to determine whether the intellectual disability was present before age 18 if DID is completed after 18th birthday
- See DFPS HCS Resource Guide
- Intermediate Care Facility (ICF/IDD) placements as a backup option

# Addressing Systemic Barriers

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## Disability Issues: Resources

### ❖ Guardianship and Alternatives

- Guardianship is a severely restrictive intervention that strips an “incapacitated person” of their rights, including right to choose where they live, to drive, to marry, and to vote
- Is the most restrictive option and should be the option of last resort
- Requires alternatives be explored and ruled out
- Determination of whether a guardianship is appropriate is not whether the person has full capacity, but whether the person has “sufficient capacity with supports and services” (Estates Code [§ 1202.001\(b\)\(2\)](#))

# Addressing Systemic Barriers

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## Disability Issues: Resources

### ❖ Guardianship and Alternatives

- Alternatives may include supports and services such as:
  - HCS services
  - Supported decision-making agreement
  - Durable and medical powers of attorney
  - Declaration for mental health treatment
  - Representative payee for benefit payments
  - Authorized representative for public benefits
- Rights of a person under a guardianship can only be restored with a court order finding the person has “sufficient capacity”

# Addressing Systemic Barriers

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## Disability Issues: Resources

- ❖ Guardianship and Alternatives
  - When guardianship may be appropriate, DFPS should refer the case to HHSC Guardianship Services, which will conduct an assessment to determine capacity, before the youth's 17th birthday
  - The court may extend jurisdiction on its own motion if it believes a young adult may be incapacitated to allow DFPS to refer the case to HHSC for a guardianship assessment, BUT the extended jurisdiction terminates if HHSC determines a guardianship is not appropriate, a court with probate jurisdiction denies a guardianship application, or a guardian is appointed (whichever is earlier); Family Code § 263.603

# Addressing Systemic Barriers

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## Disability Issues: Legal Remedies

- ❖ Advocate for alternatives to guardianship such as supported decision-making agreements (SDMAs) and Home and Community-Based Services (HCS)
- ❖ Advocate for capacity to be restored to young adults under a guardianship that is not appropriate
- ❖ Appeal denials of applications for SSI benefits (or refer to another organization to appeal)
- ❖ Advocate for courts to comply with laws terminating jurisdiction when HHSC determines that a guardianship is not appropriate
- ❖ Advocate for the rights of individuals receiving HCS services (and coordinate referrals to [Disability Rights Texas](#))

# Addressing Systemic Barriers

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## Other Miscellaneous Foster Youth Legal Issues/Remedies

- ❖ CPS Records: request CPS case records from DFPS to provide young adults information about their history and family and to obtain records to support concurrent legal cases
- ❖ Education: advocate for appropriate education services for foster and homeless youth
- ❖ Economic Advocacy: advocate for the removal of wrongful charges and credit reporting history and pursue relief for ID theft

# Addressing Systemic Barriers

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## **Homeless or Unaccompanied Youth Legal Issues/Remedies**

- ❖ Applications for public benefits
- ❖ Emancipation (removal of disabilities of minority)
- ❖ Assistance to complete Authorization Agreements for Voluntary Adult Caregiver or petition the court for temporary authorization to care for a child
- ❖ Advise on what minors can consent to without a parent or guardian
- ❖ Advocate for immediate school enrollment without a parent and related benefits for unaccompanied or homeless students



# Case Study

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## “Mary” – Barriers

- ❖ Entered foster care at age 14 following a referral from juvenile probation and was placed in a cycle of psychiatric hospitals, emergency shelters, and RTCs.
- ❖ First real foster home placement at age 16 – over a year later, placement ended when Mary was arrested for Class C misdemeanor assault by contact family violence. Sat in jail for 2 days without her clothes (was a “suicide risk”).
- ❖ No resolution to the Class C case – all her questions were unanswered.
- ❖ First job working at a daycare – fired as soon as her background check came back. She had a conviction for the Class C offense on her record.
- ❖ Class C misdemeanors are punishable by fine only, but can wreak havoc on a person’s ability to get a job or find safe and stable housing. Class C convictions are not eligible for expunction; family violence offenses permanently disqualify a person from nondisclosure relief.

# Case Study

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## “Mary” – Legal Remedies

1. Requested CPS records to get as much background info as possible on Class C arrest and dynamics in the foster home.
2. Requested Class C court records. Discovered Mary was given “time served”, which resulted in the conviction. Her “plea” was allegedly taken over the phone and required admonitions were not given. The complaint (charging document) was filed two days after the conviction was entered.
3. Sealed juvenile records so record would be clean when working to address the Class C conviction.
4. Filed application for a writ of habeas corpus, asking the court to set aside the conviction – this was granted. The prosecutor then agreed to dismiss the charges “in the interest of justice”. We are now working to expunge the charge.

# Reach Out!

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We are building a resource list to refer hotline callers and clients to for non-legal needs.

Let us know what programs your organizations are offering foster and homeless youth in your region!

Contact Camilla at [csullivan@trla.org](mailto:csullivan@trla.org) or (210) 610-2695 with your info.

# Contact Us

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## Texas Foster Youth Justice Project

Hotline: (877) 313-3688

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Website: [www.texasfosteryouth.org](http://www.texasfosteryouth.org)

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