

LEGAL RIGHTS OF TEENS IN OUT-OF-HOME CARE

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INTRODUCTION

This booklet covers some of the areas of the law that might concern a person in out-of-home care. ***Legal Rights of Teens in Out-of-Home Care*** tries to answer some of the questions you might have about your out-of-home care, courtroom appearances, group home, foster home, and emancipation.

After reading ***Legal Rights of Teens in Out-of-Home Care***, if you think there are other topics that should have been covered, or other things that should have been emphasized, please let us know. We'd like your opinion.

The rights explained in this booklet are your *legal* rights. Just knowing your rights is not enough -- using your rights with common sense will help you get along even better. There is a lot of practical advice available from books, magazines, peers, and social workers that you can put to use. We know we can't cover it all, but we hope we've given you a good start.

If you have trouble understanding what certain words mean, find them in the ***Index*** at the end of this booklet. It lists some of the complex words and phrases used here and the page number that has a definition for each word. Endnotes are also available in this booklet to help you find the laws that guarantee your rights.¹

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OUT-OF-HOME CARE

What is out-of-home care?

Out-of-home care, also called foster care, is a 24-hour state-supervised living arrangement for children and youth who are in need of temporary or long-term substitute parenting. The goal of out-of-home care is to protect and care for you when your parents cannot. While you are in care, a social worker will attempt to reunify you with your family, if possible. If being with your family is not possible, then a social worker will try to find you another permanent place to live.

When you are in out-of-home care, you may live in a public shelter, a foster home, a relative's home, or a group home. You have a right to live in the "least restrictive" and most family-like place that can meet your needs and to live as close to your family as possible.²

How do children and youth get into out-of-home care?

In most cases, children and youth are placed in out-of-home care after they have been removed from their home and a court has found their parents cannot care for them. In some cases, parents voluntarily arrange for their children to be placed in out-of-home care.

Who decides whether and when I return to my parent(s)?

The judge. If you are removed from your home, your parent(s) will have to follow a "reunification plan" before you can return. This plan is to make sure that you will be safely cared for at home.

In deciding whether to return you to your home, the judge will get input from many people, including your social worker, probation officer, and attorney. The judge makes the decision through a series of hearings in which you have the right to participate. See the section called ***Role of the Courts***.

What is a "case plan"?

Your case plan³ is a written document that sets out specific steps the social service agency and your family will take to try to resolve the problems that led to your being removed from your home. The Social Service Agency must complete a case plan within 30 days of your removal from home.⁴ It must take into account your best interests and special needs.⁵ See the box on the next page for what must be in the case plan.⁶

The case plan must include your health and medical records.⁷ It should be updated whenever your placement changes⁸ and at least every six months.⁹ In some counties, older foster youth are part of the case planning process. Ask your social worker if you want to participate.

CONTENTS OF THE CASE PLAN

A case plan must have:

- the long-term goal for your welfare,
 - the type of foster care where you will be placed,
 - why that placement is appropriate for you,
 - a plan for your proper care,
 - a plan for ensuring that you and your family receive services,
 - why those services are appropriate for you and your family,
 - a visitation schedule for your parents and siblings, and
 - a transitional independent living plan if you're 16 or older.
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What is a transitional independent living plan?

It's a plan for how you will get the skills and help you need to be able to live on your own. You have a right to receive a copy of this plan.¹⁰ See the section called ***Independent Living*** for more details.

Can I see my case plan?

Yes, if you are over 10. It is part of the court record of each hearing, so you can get a report of its contents at each hearing.¹¹

ROLE OF THE COURTS

What is a juvenile court?

A juvenile court is a court of law that is in charge of child abuse and neglect cases, as well as delinquency cases.

What is a juvenile court petition?

A petition is a request that the court become involved in a child's life. There are three kinds of petitions, named after numbered sections of California law, the Welfare and Institutions Code:

- **300 Petition**
- **601 Petition**
- **602 Petition**

A **300 Petition** is filed by CPS for abused or neglected children and youth and will state -- "allege" -- the reasons - that CPS workers think a child needs protection.¹² If the court agrees with the petition - "sustains" -- at the jurisdictional hearing, the child becomes a "dependent" of the court.

A 300 petition is filed because of your parents' behavior. The following two petitions will be filed because of your behavior.

A **601 Petition** is filed by the Probation Department and alleges that a child has either run away, been truant from school four or more times within one school year, violated curfew, or regularly disobeyed his or her parents.¹³ These are violations that are unlawful because of your age, your "status" as a minor. If the court finds the petition is true, the youth becomes a "ward" of the court and is known as a "status offender." (Some counties treat runaways under Section 300.)

A **602 Petition**, filed by the District Attorney's Office, alleges that a child has committed an act that would be considered a crime if it had been committed by an adult.¹⁴ Like the 601 Petition, if the court sustains this petition, the result is that the youth becomes a ward of the court as a delinquent.

This booklet does not discuss the court process for wards. However, the court may place wards in foster homes and group homes and in those placements wards have many of the same rights as dependents.

What kinds of hearings are there?

There are several kinds of hearings for young people who are or may be "dependents."

- Detention hearing
- Jurisdictional hearing
- Disposition hearing
- Dependency status review
- Permanency planning hearing
- Termination of parental rights hearing

The *detention hearing*¹⁵ happens at the very beginning of a case when a youth has been removed from home by a social worker because of an emergency. The judge decides whether to let you go back home or to order you to stay in temporary foster care. The detention hearing must take place no later than three days after you've been removed from your home. Even if the judge lets you return home or to a relative, he or she may order the Department to supervise your care.

If you are placed in emergency or temporary foster care, then the judge must set a hearing date within 15 days of the time you enter temporary placement. If you're at home, the hearing must be within 30 days of the filing of the petition.¹⁶ These hearings can be postponed if all the lawyers agree.

At the *jurisdictional hearing*,¹⁷ the judge decides whether the allegations of the 300 Petition are true (sustained). Both you and your parents have the right to an attorney at this hearing. The judge may hear witnesses and other evidence. If the judge sustains the petition, you become a dependent of the court. The next step is to decide what should happen to you.

At the *disposition hearing*,¹⁸ the judge decides where you should live while your parents try to solve their problems. It can take place at the same time as the jurisdictional hearing, but can be scheduled for later.

For the hearing, the Department files a report on your situation,¹⁹ called a "social study." The report makes recommendations for your care. It must also explain what should be done to help you return home. The report must also spell out visitation by relatives. The family members and lawyers involved in the case have a right to a copy.

The court reviews your case at a *dependency status review*,²⁰ at least every six months. The court will look at reports and decide whether the reasons you got into foster care still exist, if your placement is right, whether your case

plan is being followed, and whether your parents are following the reunification plan (if there is one).²¹ You or your lawyer can participate.²² You also are entitled to get notice of the review at least 15 days ahead of time.²³

The *permanency planning hearing*²⁴ determines your future placement, though really every hearing is supposed to look at this goal. It must be held no later than 12 months from the date that you entered care. The first thing the judge decides is whether you can return home. If the judge doesn't allow a return home, then there are four choices:

- *Schedule a second and final permanency planning hearing in about six months.*²⁵ The judge will do this only if it's possible that you may be able to return to your parents in the next six months. At that hearing, the judge will send you home or select one of the following options.
- *Adoption.*²⁶ See the section on **Adoption**.
- *Legal guardianship.*²⁷ The judge will look at this option only if adoption is not an available option.²⁸ See the section of this booklet called **Guardianship**.
- *Long-term out-of-home care.*²⁹ The judge will look at this option only if all the other options are not possible.

If the court finds you cannot go home and can be adopted, the court will terminate your parents' rights.

After the permanency planning hearing, the court will continue to review your case every 6 months.

Can a judge decide where and with whom I live at these hearings?

Yes. If you can't live with your parents, a judge can place you with either a relative, or in a foster or a group home. You should tell the judge your views on where you want to live.³⁰

“BEST” PLACEMENT

In deciding where and with which person you should live, the judge will look at each candidate’s moral character and ability to:

- be effective in guiding your behavior,
 - provide for your needs,
 - facilitate visitation, and
 - keep siblings together
-

A judge will also decide whether you can visit with your parents and other family members while you are in out-of-home care and what types of services you and your family may need to be reunified.

Can I go to hearings where the judge makes decisions about my future?

Yes. You also have the right to make a statement to the court about any decision that has to do with your placement or whether to return to your parents.³¹ You can also ask the judge to talk with you privately, "in chambers," without your parents around.

You also have the right to petition the juvenile court yourself to change, modify, or set aside any order it makes. That means that you can ask for hearings about your case. This includes hearings to end the court's jurisdiction and involvement.³²

Of course, your attorney will help you do these. Even adults cannot do them on their own. You can also just go to observe -- you don't have to say anything unless you choose to.

How do I find out about these hearings?

The court must notify you in writing of the date, time, and place of each hearing.³³

Can I have an attorney to represent me at these hearings?

Yes. You have the right to have an attorney represent you. Your attorney is responsible to do everything in his or her power to protect your interests. You have the right to meet with your attorney alone before the hearing.³⁴

How do I get an attorney?

The court must appoint an attorney for you, unless the judge believes that you would not benefit by having an attorney. If you don't have an attorney and think that you need one, tell the judge what you think. The judge must give the specific reasons why you would not benefit from having an attorney if he does not appoint an attorney for you.³⁵

What is the attorney supposed to do?

Your attorney is responsible to investigate facts, interview witnesses, make recommendations to the court concerning your welfare and participate further in the court proceedings to the degree necessary to adequately represent your interests. Your attorney must interview you and take into account your wishes when making his or her recommendations to the court. The same attorney who represents you at the detention hearing is responsible for representing you at all later hearings unless he is relieved by the court for not doing an acceptable job in protect your interests or unless the court substitutes him for another attorney.³⁶

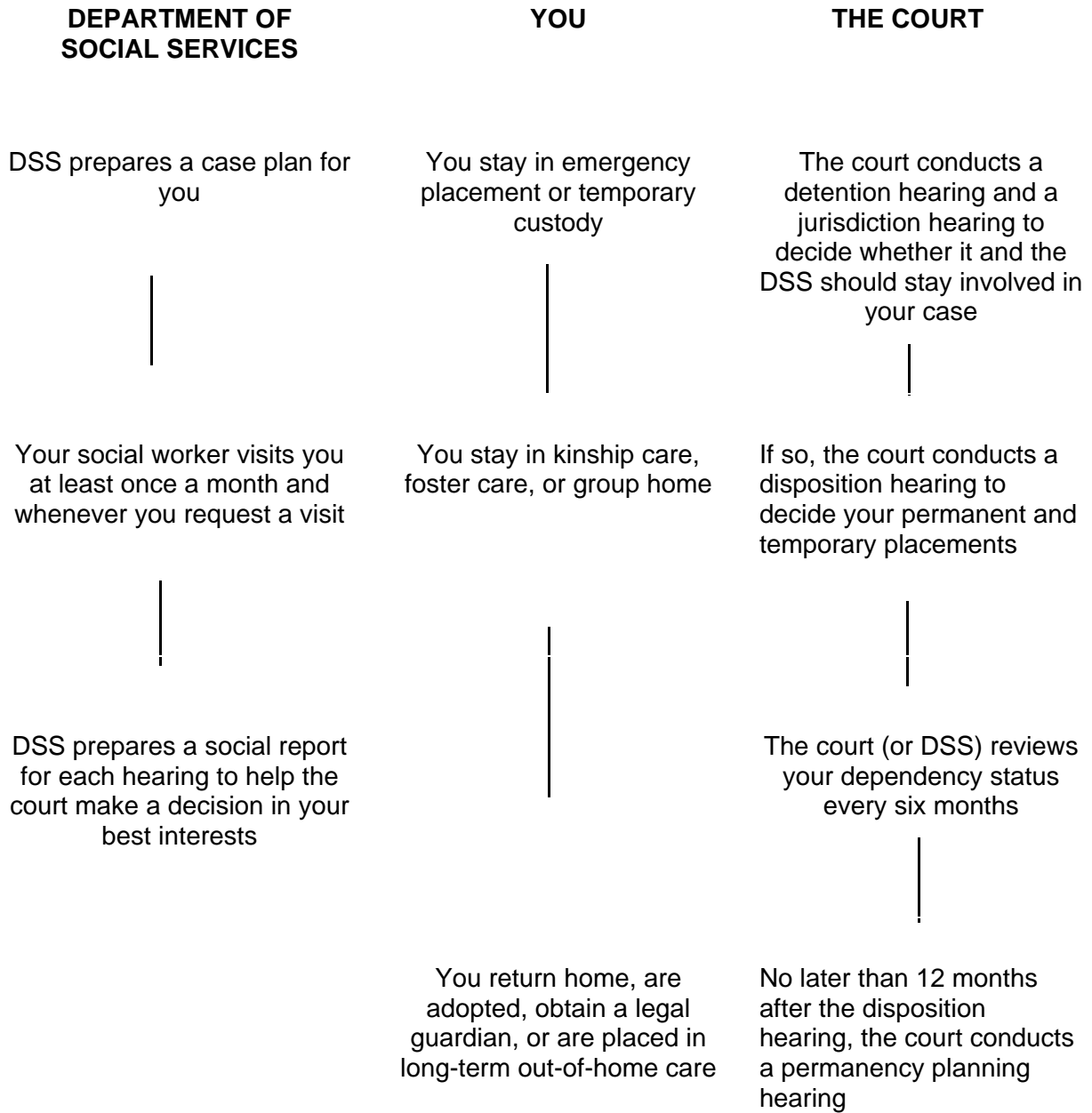
Who else can attend these hearings?

Your parents, their attorneys, your guardian or foster parents (if you are living with a foster family) and their attorney, your social worker, and your court-appointed special advocate (CASA). Any blood relative who cares about your case can also attend.³⁷ Non-relatives who are not legal guardians but who have been taking care of you on a day-to-day basis can also attend.³⁸

What is a "social study"?

A social study is a written report that your social worker writes and gives to the judge before the hearings about your situation in out-of-home care. You or your attorney have a right to know what the report says at least 10 days before each status review hearing.³⁹

WHAT HAPPENS WHEN YOU ARE REMOVED FROM YOUR HOME FOR ABUSE OR NEGLECT



TYPES OF PLACEMENTS

Where will I be sent to live once I am placed in out-of-home care?

There are several different types of placements where you may be sent, depending on the circumstances of your case. A *foster home* is a family setting, where you live with foster parents and up to 5 other foster children. A *group home* is a residence where you live with other children. Most group homes have paid staff who usually do not live in the group home. Services are provided to you in a group setting, though group homes should be as family-like as possible. *Kinship care* is a home with relatives other than your parents. The court will try and place you with a family member when possible.

What is "custody"?

"Legal" custody is the right and responsibility to make the decisions relating to your health, education, and welfare.

"Physical" custody means the place you live and who is directly supervising you.

How does the social service agency get legal custody?

There are two ways the state social service agency can get legal custody of you:

- voluntary placement⁴⁰
- court placement⁴¹

A *voluntary placement* is when parents agree to let the social service agency take care of their child. A *court placement* is when the social service agency asks the court for custody of a child because the child has been abused or neglected.

See the section of this booklet on ***Role of the Courts*** to get more information on the court process.

Who makes the decision where I will go to live?

The social worker usually decides.⁴² For example, a social worker decides which foster home to send you to or whether you should live in a group home. A judge can overrule the social worker and decide that you should live with a relative. A judge may also decide that your placement is not appropriate and order the social worker to find a new placement for you. See the section on ***Out-of-Home Care***.

What if I don't get along with the foster parent, the group home staff, or my social worker?

Talk to the person you don't get along with. Many times you can solve even big problems through honest discussion. You should also tell your social worker. If this doesn't work, you may want to consider filing a complaint. Every group home is required to have written complaint procedures. You cannot be punished for filing a complaint. The home's grievance procedures should be posted in a location accessible to you. If not, ask one of the staff what to do - they are required by law to inform you of how to file a complaint.⁴³ If you live in a foster home, your foster parents must give you the address and phone number of where to file confidential complaints and how to do so.⁴⁴ If your complaint is with your social worker, you should consider talking to or sending a letter to the worker's supervisor. If you have an attorney, you should also talk to him or her.

GUARDIANSHIP

What is the difference between a foster parent and a legal guardian?

A *foster parent* is licensed by the state. A court may place you with foster parents after finding that your parents are unable to take care of you properly. The agency selects the foster parent to care for you. The foster parent is not legally responsible for you. The court and the child protection agency are responsible. The agency can remove you from the home of the foster parent without court approval.

A *legal guardian* has legal custody of you. The guardian stands in the place of your parent in providing physical needs, such as food, clothing, shelter, medical care, and education. The guardian can make medical and educational decisions for you.

What is a guardianship?

Guardianship is one of the permanent plan options the juvenile court can order for you if you cannot be safely returned to your parents.⁴⁵ See the section on ***Role of the Courts***. A guardianship suspends the rights and responsibilities of your parents and gives legal authority and responsibility to care for you to a responsible adult who becomes your legal guardian. The legal guardian will be an adult who has some relationship to you, like a relative or a family friend. Guardianship is not permanent. The court can end a guardianship. The agency cannot end a guardianship without court approval.

When does the guardianship end?

When you turn 18. It also may end sooner if you go back to court and get another order.⁴⁶ It will also end in the case of your adoption or marriage.⁴⁷ You, your parent, or the guardian can petition the court to end a juvenile court guardianship.

ADOPTION

What is adoption?

Adoption is the first permanent plan option the court must consider when you cannot be safely returned to your parents.⁴⁸ See the section on ***Role of the Courts*** for more information about permanency planning.

Unlike guardianship, which is only temporary, adoption is legally permanent. Once you become adopted, you are part of the family that adopts you. You cannot be removed from an adoptive home unless the court determines that your adoptive parents are not properly taking care of you. Legally, you become the “child” of your adoptive parents.⁴⁹

What is required for adoption?

First, your parents’ rights are terminated or they give consent to an adoption.⁵⁰ If you are over 12, you must also consent to the adoption.⁵¹ The adoptive parents file a petition with the court. The court approves the petition for adoption if it is satisfied that your interests will be promoted by the adoption.⁵²

What is adoption assistance?

The Adoption Assistance Program provides benefits to prospective parents who are interested in adopting children from the child welfare department.⁵³ A “special needs” child is one who would be unlikely due to age or background to get adopted without financial assistance. All children over the age of 3 are considered “special needs” children.⁵⁴ If your prospective parents qualify, they will receive reimbursement for some expenses, such as court costs associated with the adoption,⁵⁵ as well as regular payments to cover your needs.⁵⁶

INDEPENDENT LIVING

What is an Independent Living Skills Program or ILSP?

This is a program to help you develop the skills you need to be on your own. It is offered to youth 16 years old and older. The program must be described in a *written transitional independent living plan (ILP)*,⁵⁷ which is part of your case plan. The ILP, designed by your social worker, should be appropriate for your age and abilities. Employment must be a part of the plan unless physical or mental difficulty makes it inappropriate. The reasons must be in the case plan.⁵⁸

Many counties also offer special group programs to help encourage independent living skills. These should be available to every youth in foster care, age 16 and older, who wants to participate.

These Independent Living Programs are a great way to meet with other youth in out-of-home care who are in situations similar to your own. They also will help you prepare and apply for college, including letting you know about special financial aid programs available for students who were in out-of-home care. These programs will also help you find, interview for, and stay in a job.

Who is eligible for these Independent Living Programs?

Anybody who is 16 or over can attend ILSP events. Some counties allow younger children to participate. Ask your social worker about it.

What is transitional housing?

It is a type of placement that's available to youth 16 to 18 years old who are in Independent Living Programs.⁵⁹ So far, it's available in only a few counties in California, but should be available to more youth soon. There are three different kinds of transitional housing. You can:

- live with an adult in an apartment,
- live in your own apartment, with a supervising adult who lives in the building, or
- live in your own apartment with supervision by the Department.

VISITATION

How often should my social worker be visiting?

Usually once a month. In the first month of placement, your social worker should visit at least two or three times. If you're in a long-term, stable placement, visits can be less frequent, but never less than once every six months.⁶⁰ If you're in a group home, your social worker must visit you every month.⁶¹ If you ask to see your social worker, he or she must come to see you.

Can I visit my parents, grandparents and other relatives when I am in out-of-home placement?

Yes. You have a right to visit with your parents⁶² and grandparents⁶³ unless there is some reason why it is not in your best interests. Your case plan spells out a visitation plan for visits that may include parents,⁶⁴ grandparents, siblings,⁶⁵ and other important family members. The judge can order visitation for anyone having an interest in your welfare.

I'm in a different placement than my brother/sister. Can we visit each other?

Yes. The court must allow you to keep contact with siblings as much as possible, unless it is against the best interests of you or your brother or sister.⁶⁶ Your case plan should specifically set out visitation arrangements for you and your siblings.⁶⁷

What if I would like to change the arrangement for visiting with my family?

Talk with your attorney and social worker. At the next hearing, tell the judge how you feel. You can also petition the court yourself to modify your visitation plan. See the section of this booklet called *Role of the Courts*.

CONFIDENTIALITY AND YOUR RECORDS

Who can look at my records or get information about my case?

Only those people directly involved in your case. Also, the social worker can share information with those people who need it in order to take care of you.⁶⁸ For example, your social worker could tell your foster parents or group home staff about your medical history so they can make sure that you get the care you need. But your social worker shouldn't tell anyone who doesn't need to know that information.

If you want others to look at your records, you can give your consent, or permission. In some cases, you might also have to get the consent of your parents, guardian, social worker, probation officer, or the juvenile court to release the information.

Can I look at my school records?

Yes. If you're under 16, you need the permission of your parents, case worker, or a judge. After you turn 16 or finish the 10th grade, you can look at them yourself.⁶⁹ Ask a guidance counselor or principal about what you need to do.

Can I look at my other records?

Yes. You have the right to look at your court records.⁷⁰ You do not have a clear right to look at the records kept by your foster parents or group home. However, your attorney or "authorized representative" (anyone who has legal authority to act on your behalf) has access to those records.⁷¹ Ask your social worker or probation officer.

Can I get my juvenile court record sealed?

Yes. You can seal your records if you are dependent (300), status offender (601), or delinquent (602). You can get them sealed:

- ✔ five years after your last juvenile court contact. That means five years after the juvenile court jurisdiction ended or the first time you were ordered to appear before your probation officer, whichever is later.

or

- ✔ after you turn 18,

but,

✔ if you've committed certain serious crimes, you will not be able to seal your records.⁷²

Because of time limits on destruction of records, it may not be worthwhile to seal Section 300 records.

How do I get my juvenile court records sealed?

Your records won't be sealed automatically. *You* must do something to get them sealed. All that's usually necessary is for you to call the probation department of the county you went to court in. They'll tell you what you need to do to seal your record.

What will I have to do when I get them sealed?

An official will interview you. Be sure to give them a list of all agencies and counties you've had contact with, that you can remember. The official will ask you questions about any criminal activity since you had contact with the juvenile court, like "have you been arrested?" Be honest -- they will run a computer check on the information you give. If your record is "clean," the court will seal your record.

What can I say to people who ask me if I have a juvenile court record?

If you are a dependent, you do not have a juvenile court record. If you are a ward, after your juvenile court records are sealed, you can *totally deny* having a record. In other words, the law says that you can say that those juvenile offenses never happened. You can also deny having a sealed record. You can even deny being arrested, detained, or having any contact with the juvenile court.⁷³ This rule is to help you avoid the stigma of having been involved with the juvenile court.

After my records are sealed, can anyone look at them?

Only with your permission. If you want someone to look at your record, you'll have to ask the court to let it happen.⁷⁴ Keep in mind it could take months to seal your whole record. This is the time it takes for the court to call all the agencies with information about you.

Will the records ever be destroyed?

Yes. But when they're destroyed depends on whether you had them sealed and what your juvenile court status was.

WHEN RECORDS ARE DESTROYED

Juvenile Court Status	When Records Are Destroyed
Section 300 <i>Dependent</i>	At age 21, or 5 years after they're sealed, whichever comes first.
Section 601 <i>Status Offender</i>	Sealed records destroyed after 5 years. Unsealed records destroyed at age 28.
Section 602 <i>Delinquent</i>	For certain serious crimes, records cannot be destroyed. At age 38 for all other records.

How do I get a California identification card?

Go to the local Department of Motor Vehicles (DMV) office. It's listed in the phone book. You'll need a social security number (though you don't have to bring the card) and a certified birth certificate. It will cost you \$6.00.

How can I get a certified copy of my birth certificate?

Call the vital statistics office in your birth state for instructions on how to request one. Each state is a little different, so make sure you understand what they'll need. It may take a few weeks, unless you go in person. It will cost from \$10 - \$20. If you were born in California, the number is (916) 445-2684, and the fee is \$12.00.

What if my parent(s) have my birth certificate but won't give it to me?

Get another copy. There's no law against having several copies.

PREGNANCY

If I become pregnant, will they transfer me automatically from my foster or group home?

Not necessarily. It is up to your caseworker and the court to decide whether or not you get transferred to a new placement. The decision is based on how well your current placement is working, and whether or not it is equipped to support a pregnant teen.⁷⁵

If I have the baby while in out-of-home care, will they take it away from me?

If you have the baby while in out-of-home care, there are two things that might happen. One, you might become the custodial parent of the baby, and the baby stays with you in your placement. Two, your caseworker might file a petition to have the baby become a dependent of the court. If this happens, the baby may stay with you in your placement, under the official care of your foster parents, or it may be put in a completely separate placement. If the Department files a petition, you'll be able to get a free lawyer to represent you.

Do I need my parents' permission to put the baby up for adoption?

No. Voluntary adoption, however, requires the consent of both parents of the new baby.

If I become pregnant and I want an abortion, how do I get one?

If you become pregnant, Medi-Cal will cover your abortion if you want one. An abortion is considered a sensitive service and will be provided to you at no cost.

Can my parents or boyfriend make me have an abortion or keep me from having one?

No. It is your choice alone. If you need someone to talk to about this important decision, call 1-800-230-PLAN to get in touch with a Planned Parenthood counselor in your area.

MONEY

Do I have a right to an allowance or money for clothing?

If you are in a group home, you have a clear right to an allowance unless your case plan says that you shouldn't receive it.⁷⁶ There is not, however, a clear right to an allowance for youth in foster homes. Your group home or foster home can keep your money in a safe place for you so long as you have access to it.⁷⁷

When can I get a job?

You can legally start a job when you turn 16, and even sooner in special cases. There are restrictions on the number of hours you can work per day and per week and the type of work you can do. Ask your Independent Living Skills Program (ILSP) worker or school about how to find a job and get a work permit.

Can my foster parents or group home keep me from working?

Yes, but they must have a good reason. The reason must be in your case plan if you are 16 or older.⁷⁸ If you are able to work responsibly, your group home or foster home should cooperate in your employment.

Is there a limit on how much I can save?

Yes. Any savings that you plan to use to prepare to leave, and when you leave foster care may not exceed \$10,000 including interest. This type of savings account is called an emancipation account. The government may not make you use any of your savings in this account to help pay for your foster care placement.⁷⁹

You may also save money in a different account than your emancipation account. However, any money over \$1,000 that is placed in this account may be used by the government to help pay for your foster care placement.

What is an emancipation account?

The emancipation account is an ordinary bank account that you open, or any adult opens on your behalf, for the specific purpose of saving money that you earn through a job, participation in an ILSP program, or any other source detailed in your written transitional independent living plan to help you make it on your own when you leave the system.

How do I set up an emancipation account?

Your ILSP worker will help you with this. You can set up an emancipation account by opening, or having an adult open an account in your name with a bank or savings and loan institution that is insured. This account should be separate from any account you keep for basic spending money. The money that you deposit in this account must be from work or other sources that are part of your written independent living transitional plan. The money in this account must be used for purposes related to the goal of emancipation or when you leave foster care. If you need to withdraw money from this account while you are still in foster care, your social worker must agree in writing that the reason you need to withdraw the money is related to the goal of emancipation and place the written approval of the withdrawal in your case file.

RELIGION

Can my foster parents or group home make me go to a church, temple, or mosque?

No. You do not have to attend religious services that you do not wish to.⁸⁰

Can my foster parents or group home keep me from going to my church, temple, or mosque?

No. You have a right to attend religious services of your choice. Your foster parents or group home must help you to arrange transportation to and from your place of worship provided it is within a reasonable distance. The only other way you can be prevented from attending religious services is if there is a very strong reason for not allowing you to go. Foster parents, for example, can refuse to take you to services if you seriously misbehaved on a prior occasion. They cannot, however, refuse to take you to services simply because they don't want to. Your social worker is supposed to help match you to foster care providers who will understand your religious needs.⁸¹

DRIVING

When can I get a driver's license?

You may get a learner's permit, which allows you to drive with a driver who is at least 25 years old, when you turn 15-1/2 years old.⁸² You may be eligible for a provisional license after you have held a learner's permit for at least 6 months, completed 50 hours of supervised driving, including 10 at night, completed driver's education and training and finished 6 hours or more of behind the wheel instruction.⁸³ Your provisional license becomes a full license when you turn 18 years old if you have no outstanding Department of Motor Vehicles suspensions or court ordered restrictions.

What are the requirements of a provisional license?

For the first 6 months (or until you turn 18) you may not have a passenger in your car who is under the age of 20 years old unless you also have a licensed driver who is at least 25 years old in the car as well. For the first 12 months (or until you turn 18), you may not drive between midnight and 5:00 a.m. unless a licensed driver who is at least 25 years of age is in the car. There are exceptions to this restriction when reasonable transportation facilities are inadequate and the operation of the vehicle becomes necessary due to immediate family, employment, medical, and school needs. Licensees must carry a statement from the appropriate school official, employer, doctor, or parent/ guardian while driving.⁸⁴

How can I get a driver's license?

The rules differ depending on your age. Once you turn 18, you can simply apply at the Department of Motor Vehicles (DMV), which is listed in the phone book's government section. If you want a license before you turn 18, you'll have to apply for a learner's permit and get your guardian or biological parent to sign a form. You can also get the signature of a grandparent, adult sibling, aunt, uncle, or a foster parent who is living with you. None of these people are required to sign for you. The person who signs will be responsible for damages if you have an accident. In some cases, out-of-home care providers are not permitted by the county or their own rules to sign for you. There is no right to have a license. (See page 25 for steps to apply for your learner's permit).

What if I can't get a parent, guardian, relative, or foster parent to sign for my driver's license?

If no one will sign, you can get your probation officer or social worker to sign. They'll tell your foster parents that they're signing for you.⁸⁵

But to have your probation officer or social worker sign, you must have auto insurance -- *before you can get a license*. The probation officer, social worker, or county agency will not be responsible for damages from any accident.

How do I get auto insurance?

If you have a parent, guardian, relative, or foster parent sign for your license, his or her insurance should cover you. The person who signs should talk to his or her insurance agent to make sure that you are covered under his or her insurance policy.

If you have your social worker or probation officer sign, the easiest way to get insurance is by calling the California Automobile Assigned Risk Plan toll free at 1-800-622-0954. Beware! Getting insurance is very expensive, often with a large up-front charge.

THE STEPS TO GETTING A LEARNER'S PERMIT FOR DRIVING IF YOU'RE UNDER 18

If a parent, guardian, foster parent, or relative who lives with you signs.

- Be at least 15-1/2 years old.
- Complete a Dept. of Motor Vehicles form, signed by your parents, or guardian, or by your foster care parent or relative who lives with you.
- Pass the eye test.
- Pass the traffic law and road sign test. You will also need a social security number and a certified birth certificate.
- Pay a fee of \$12.00.

If your PO or social worker signs.

- If you don't have one already, get an *identification card* from your local Department of Motor Vehicles (DMV) office. You'll need a social security number (though not necessarily the card) and a certified birth certificate. The cost is \$6.00.
- Take the card to an *insurance agent* to apply for a policy.
- Take the policy application forms to the DMV to get a *temporary driving instruction permit*. This is when you'd get your PO or social worker to sign.
- Take a classroom driver education course and a driver training course in high school or by a driving school.
- Return to the insurance agent, pay the initial fee, and fill out some more forms.
- Pass a test on the *rules of the road*.
- Pass an *eye test* and your *driving test*.
- Pay a fee of \$12.00.

If your PO or social worker signs, be extra sure to keep your insurance payments up. The insurance company will terminate your policy if you're late in paying. If it does, it'll tell the DMV, which will take away your license.

EMANCIPATION

What does "emancipation" mean?

It means being free from the custody and control of your parents, guardians, the social service agency and the juvenile court.

How can I get emancipated?

You are automatically emancipated when you reach the age of "majority" -- that is, become an adult under the law -- at age 18.

There are three ways to be emancipated before age 18:⁸⁶

- *By getting married.* This requires consent of your parent(s) or guardian(s) and the court.
- *By joining the armed services,* including the Air Force, Army, Coast Guard, Navy, and Marines. You'll need to be accepted by the service and get the consent of your parent or guardian to join.
- *By being declared emancipated by a judge.*⁸⁷

LEGAL EMANCIPATION

You'll have to show to or convince a judge that:

- you're at least 14 years old,
 - you live separate and apart from your parents willingly
 - with their consent of acquiescence,
 - you manage your own finances
 - you have your own legal source of income, and
 - emancipation is not contrary to your best interests.
-

Do I qualify for emancipation by a judge?

You must be at least 14, living independently and managing your own finances including having a legal source of income and paying for your own necessities like food, clothing and housing. You won't qualify if you are living in a group home, foster home, temporary shelter or living in any other situation in which someone else supports you. Even if you meet the basic requirements for emancipation, a judge may refuse to declare you emancipated if the judge decides that emancipation is "contrary to your best interest" or, in other words, not good for you.

How can I get a judge to declare me emancipated?

You will need to show the judge that you meet the basic requirements and convince the judge that emancipation is a good option for you. You will need to fill out some forms with the court. There is a court filing fee that varies depending on the county (usually between \$100 and \$200). You can ask the court to waive the fee, but that usually doesn't reflect well on your ability to support yourself financially. Your local Superior Court Clerk, who is listed in the phone book, can provide you with the forms and information on emancipation, filing fees and fee waivers. The court designed the forms to make it easy for youth to go through an emancipation without help. However, the process may seem very complex, and an adult or an attorney may be a big help.

Is emancipation my best option?

Emancipation is not for everyone. Very few youth are able to meet the requirements for becoming emancipated before reaching the age of 18. Emancipation may not be necessary to get the things you need. If for example you need a different living situation, it may be a better option to try to get your placement changed or a different living arrangement approved by the court. (See **Types of Placements, Guardianship, Independent Living** and **Role of the Courts** sections in this booklet.) You already have the right to get counseling and treatment for things like contraception, sexually transmitted diseases, pregnancy-related treatment, and drug and alcohol abuse treatment without notice to or the consent of adult. Emancipation is a serious step and should be considered carefully.

What changes when I get emancipated before 18?

You'll be treated as an adult in certain ways. You'll no longer need parental consent or a signature of an adult to get medical or dental care, enter binding contracts, move to a new residence, apply for a work permit or enroll in school or college.⁸⁸ Remember that you can currently do these things without emancipating, as long as you get the necessary signatures.

What are the disadvantages to emancipation?

By emancipating, you give up some things. Until you turn 18, your parents, or the Department of Social Services, must support you financially.⁸⁹ If you are emancipated, you give up the right to this financial support and you'll no longer be eligible for state out-of-home care.⁹⁰ You'll be solely liable to pay for certain things, such as accidents and harm you cause.

What *doesn't* change after emancipation?

Even after you're emancipated, you'll still be treated as a minor in some ways. Emancipation won't let you drive before the age of 16.⁹¹ At 16, you can get a driver's license without an adult taking financial responsibility for you if you have proof of insurance.⁹² It also doesn't change the rules about statutory rape. Until you turn 18, you'll still need parental or court permission to get married.⁹³ You still won't be able to drink⁹⁴ or smoke.⁹⁵ You also won't be able to vote.⁹⁶

COMPLAINTS

What can I do if I think that something is wrong with my placement, care or services?

You can call the State Foster Care Ombudsman's office and explain your concerns.⁹⁷ This office investigates complaints and is there to help you with any problems or concerns you have about your care, treatment or services while in foster care.⁹⁸ The toll free number is (877) 846-1602.

In addition to calling the Foster Care Ombudsman, you may make a written complaint.⁹⁹ The staff at your group home or your foster parents must tell you how and where to send your written complaint. You may also speak to your social worker or attorney any time that you have a complaint or concern about your placement, care or services.¹⁰⁰

KNOW YOUR RIGHTS

With every right comes a responsibility to use the right fully without exploiting it. Respect the rights of others as you exercise yours. As you read the following pages, keep in mind that respect for others, cooperation, and courtesy go a long way in getting the things you need and want.

You have the right to:

- ◆ Live in a safe, healthy and comfortable home where you are treated with dignity and respect.
- ◆ Be free from physical, sexual or mental abuse.
- ◆ Be given healthy food and adequate clothing, and receive medical and dental care.
- ◆ Contact your family members. Visit and contact your brothers and sisters.*
- ◆ Make and receive confidential phone calls and send or receive unopened mail.*
- ◆ Participate in school activities and religious services of your choice.
- ◆ Have social contacts outside of the foster care system.
- ◆ Keep your own money and have your own bank account.*
- ◆ Attend Independent Living Skills Programs if you are 16 or older.
- ◆ Work if you are old enough by state law.
- ◆ Attend your court hearing and speak to the judge. Review your case plan. Keep your court records confidential.
- ◆ Contact your social worker or probation officer, attorney or CASA. See your social worker or probation officer once a month.
- ◆ Make complaints to the Department of Social Services and Foster Care Ombudsperson without punishment.

*Unless prohibited by a court order or your case plan.

YOUR GROUP HOME OR FOSTER HOME'S RESPONSIBILITIES

- To accept you and treat you with dignity and respect.
- To provide for your daily care.
- To protect the confidential information about you.
- To keep in regular contact with your social worker or probation officer.
- To participate in hearings about your case.
- To follow your case plan.
- To make sure you receive needed medical and dental care.
- To be reasonable when providing discipline, which may include confining you in an unlocked area, charging fines, and restricting television, radio, or phone access.

YOUR SOCIAL WORKER OR PROBATION OFFICER'S RESPONSIBILITIES

- To extend you courtesy and respect.
- To meet with you regularly, usually once a month.
- To call you once a month if there will be no visit. To return calls to you.
- To arrange for services to meet your needs while you are in placement.
- To choose the least restrictive and most appropriate placement for you.
- To formulate a permanent plan for you.
- To arrange visits with parents and siblings, unless the court has restricted or denied visits.
- To inform the court of your situation and make recommendations to the court.
- To provide services for independent living after you turn 16, if not sooner.

DEFINITION INDEX

The number refers to the page number which has a definition for the word.

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USEFUL RESOURCES

- **Office of the State Foster Care Ombudsman** (877) 846-1602

If you think there is something wrong with your placement, care or services, this office will help you with your complaint and may start an investigation depending on the circumstances

- For help, call the **California Youth Crisis Line** (24 hours a day). (800) 843-5200

The Youth Crisis Line can answer questions about:

- food
- health care
- drug treatment
- child care
- where to stay
- where to get legal help

It's confidential. You can also call just to talk.

- **California Youth Connection (CYC)** (800) 397-8236

CYC is an organization to help you speak out about the needs of foster youth. CYC was started by foster youth in 1988 to give you a voice about issues that affect you. CYC members work on legislation, speak to the legislature and other policy makers, and work on statewide committees and in their own communities, to improve the foster care system. CYC is youth run and each year youth put on two statewide conference where CYC members from all over California come together to discuss issues. CYC builds leadership skills and gives you a network of current and former foster youth for peer support. You can join CYC at age 14 and remain a member until age 24. Many Independent Living Skills Programs have CYC chapters. To find out if there is one in your county, contact your county Independent Living Program or call the CYC statewide office.

- To get in touch with your local independent living program, call the number in your county.
- Other helpful numbers for your county include:
(County agencies: please fill in names and numbers for the court, Medi-Cal, after care programs, CASA, and any other services you have found useful.)

_____ (Name)

_____ (Telephone Number)

_____ (Name)

_____ (Telephone Number)

ENDNOTES

1. The following abbreviations refer to California law:

BPC	Business & Professions Code
CC	Civil Code
EC	Education Code
FC	Family Code
HSC	Health & Safety Code
PeC	Penal Code
PrC	Probate Code
VC	Vehicle Code
WIC	Welfare & Institutions Code
CCR	California Code of Regulations
CR	Court Rules
DSSM	California Department of Social Services Manual of Policies and Procedures, Division 31, Child Welfare Services Program

2. **WIC 16000**
3. **WIC 16501(a); 16501.1(a), (b)**
4. **WIC 16501(a); 16501.1(d)**
5. **WIC 16501.1(c); DSSM 31-205**
6. **WIC 16501.1(f); DSSM 31-206**
7. **WIC 16010(a); DSSM 31-206**
8. **WIC 16010(c)**
9. **WIC 16501.1(d)**
10. **DSSM 31-525.13**
11. **WIC 16501.1(f)(12); 16001.9(a)(19); DSSM 31-040**
12. **WIC 300**
13. **WIC 601**
14. **WIC 602 (amended by Proposition 21)**
15. **WIC 315-16; 319**

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16. WIC 334
 17. WIC 355; 356
 18. WIC 358; CR 1451
 19. WIC 358(b); 358.1
 20. WIC 364, 366
 21. WIC 366.21
 22. WIC 399
 23. WIC 366.21(b)
 24. WIC 366.21(f)
 25. WIC 366.21(g)(1)
 26. WIC 366.21(g); 366.26(b)(1),(2)
 27. WIC 366.21(g)(3); 366.26(b)(3)
 28. **The court can consider guardianship only if the court finds that one of the following situations exist: (1) the child lives in a residential treatment facility; adoption is unlikely, and continuation of parental rights will not prevent finding the child a permanent family placement once the child leaves the facility; (2) the parents have maintained regular visitation and contact with the child and the child would benefit from a continuing relationship with the parents; (3) the child is at least 12 years old and the child objects to termination of parental rights; (4) exceptional circumstances prevent the child's current caretakers from adopting and the removal of the child would be seriously detrimental to the emotional well being of the child; or (5) at each and every hearing at which the court was required to consider reasonable efforts or services, the court found reasonable efforts at family reunification were not made or reasonable services were not offered or provided to parents.**
 29. WIC 366.21(g)(2)
 30. WIC 399; 16001.9(a)(17)
 31. WIC 399; 16001.9(a)(17)
 32. WIC 353.1, 388
 33. WIC 335; 336; 366.21(a), (b); 366.23 (a)
 34. WIC 349

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35. WIC 317(c)
 36. WIC 317(d),(e)
 37. *Charles S. v. Superior Court*, 168 Cal.App.3d 151, 156; 214 Cal.Rptr. 47, 50 (1985).
 38. These non-relative caretakers of dependents have standing as "de facto parents" under California Rules of Court 1412(e). *In re B.G.*, 11 Cal.3d 679, 114 Cal.Rptr. 444, 454 (1974); *In re Joshua S.*, 205 Cal.App.3d 119, 122; 252 Cal.Rptr. 106, 107 (1988). Foster parents can participate in proceedings under *In re Kristen B.*, 187 Cal.App.3d 596, 608; 232 Cal.Rptr. 36, 43 (1986).
 39. WIC 366.21(c)
 40. WIC 16507.4
 41. WIC 300, 319(e), 361.2(e)
 42. WIC 361.2; DSSM 31-405
 43. CCR 84072.2; WIC 16001.9(a)(8)
 44. CCR 87072(a)(4)
 45. WIC 366.21(g), 366.26(b)(3). For children who are not dependents in the juvenile court, guardianship proceedings are governed by Probate Code §1500 et. seq. and are handled in the family or probate division of the Superior Court.
 46. WIC 388, CR 1466(c)
 47. PrC 1600(b); FC 7002(a)
 48. WIC 366.21(g),(i); 366.26(b)
 49. FC 8616
 50. FC 8604; 8605; 8606
 51. FC 8602
 52. FC 8612
 53. WIC 16115, et seq.
 54. WIC 16120(a)(1)
 55. WIC 16120.1
 56. WIC 16121
 57. DSSM 31-002(i); 31-525.1; WIC 16001.9(a)(16)

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58. DSSM 31-525.1; WIC 16001.9(a)(14)
 59. WIC 16522
 60. DSSM 31-320.2; 31-320.3; 31-320.4
 61. DSSM 31-320.414
 62. WIC 362.1(a); DSSM 31-340.2; WIC 16001.9(a)(6)
 63. WIC 16507(a); DSSM 31-345; WIC 16001.9(a)(6)
 64. WIC 16501.1(f)(5)
 65. WIC 16501.1(f)(8)
 66. WIC 16002(b); 16001.9(a)(7)
 67. WIC 16002(b); 16501.1(f)(8); 16501.1(g)
 68. WIC 10850(a); 22 CCR 84070; CR 1423(a),(b); WIC 16001.9(a)(21)
 69. EC 49076(a)(6)
 70. WIC 827(c), CR 1423; WIC 16001.9(a)(19)
 71. CCR 80070(d)(1)
 72. WIC 389, 781(a)
 73. WIC 781(a)
 74. WIC 389(a), 781(a) (amended by Proposition 21)
 75. WIC 16146
 76. 22 CCR 84077 (2)
 77. 22 CCR 84072(b)(8), 89372(c)(18)(E)
 78. WIC 11008.15; 16001.9(a)(14); DSSM 31-525
 79. WIC 11155.5(a); 11401; 16001.9(11)
 80. 22 CCR 80072(a)(5), 89372(c)(17); WIC 16001.9(a)(10)
 81. 22 CCR 89173(c); DSSM 31-420.12
 82. VC 12509
 83. VC 12814.6

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84. VC 12814.6
 85. VC 17701
 86. FC 700277
 87. FC 7120, 7122
 88. FC 7050(e)(17)
 89. The obligation covers an 18-year-old unmarried child who is in high school and extends until the child completes the 12th grade or turns 19 years old, whichever happens first. FC 3900, 3901
 90. FC 7050(c)
 91. VC 12509; 12814.6(a)(3)
 92. VC 177075
 93. FC 302
 94. BPC 25658
 95. PeC 308
 96. United States Constitution, Amendment XXVI
 97. WIC 16164
 98. WIC 16164; 16165; WIC 16001.9(a)(8)
 99. 22 CCR 84072.2; 87072; DSSM 31-002(g)(1); DSSM 31-020; WIC 16001.9(a)(8)
 100. 22 CCR 84072.2; 87072(a)(4)