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# EXTENDING FOSTER CARE FOR TRANSITIONING YOUTH

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## A. Extended Jurisdiction

Under the Fostering Connections Act, a youth can voluntarily remain in foster care after their 18th birthday (referred to as "Extended Foster Care") if they meet certain requirements. Extended Foster Care is eligible for Title IV-E funding from the federal government until the youth's 21st birthday. [42 U.S.C. § 675](#).

In Texas, the eligibility requirements for extended foster care are that the youth over age of 18 is:

- Regularly attending high school or enrolled in a program leading toward a high school diploma or high school equivalency certificate;
- Regularly attending an institution of higher education or a postsecondary vocational or technical program;
- Participating in a program or activity that promotes or removes barriers to employment;
- Employed for at least 80 hours a month; or
- Incapable of performing the activities described above due to a documented medical condition. [Tex. Fam. Code § 264.101\(a-1\)](#).

Any court with jurisdiction over a young adult on the day before their 18th birthday will automatically continue to have jurisdiction of the youth beyond the 18th birthday for at least six months and must retain the case on their docket while the young adult is in extended foster care and during trial independence. [Tex. Fam. Code § 263.602](#). Per [Tex. Fam. Code § 263.601 et seq.](#), the court must conduct periodic hearings every six months, and must make specific findings. The court must also maintain jurisdiction over a youth age 18 or older who temporarily leaves foster care for a "trial independence" period. This is so that if/when the youth returns to foster care, the youth (and DFPS) will not lose eligibility for federal funding. This statutory structure assists the child welfare agency in ensuring federal funding to assist with extended foster care services. Without it, DFPS would not be able to serve many of the youth who leave foster care after turning 18 and later find they need to return to care for additional supports and services while they transition to independence. Extended care also offers support and stable placement for youth pursuing higher education.

## B. Trial Independence

"Trial Independence," found in [Tex. Fam. Code § 263.6015](#), allows young adults who exit foster care on their 18th birthday or any time prior to their 21<sup>st</sup> birthday, if in extended foster care, to then decide to voluntarily return to foster care within six months (or within a 12-month period if authorized by a court order) for additional support. The court retaining jurisdiction allows DFPS to draw down federal dollars to help provide services to young adults who exit and later return to care. A young adult who enters or reenters extended foster care after a period of trial independence must complete a new trial independence period upon exiting extended foster care. Each trial independence period may last no more than one year. [Tex. Fam. Code § 263.6015](#). The court's extended jurisdiction over the young adult terminates on the last day of the month in which the trial independence ends or upon the young

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adult's 21<sup>st</sup> birthday, whichever comes first. [Tex. Fam. Code § 263.602\(f\)](#). The court may, at the request of the young adult, conduct a review hearing and make specific findings, but may not compel the young adult to attend a court hearing. [Tex. Fam. Code § 263.602\(g\)](#).

## **C. Supervised Independent Living**

The Supervised Independent Living (SIL) program is a type of placement in Extended Foster Care which allows a youth to live in a more independent setting, including apartments, dorms, and shared housing.<sup>20</sup> Young adults receive casework and support services to help them become independent and self-sufficient.

If a youth is placed in a SIL program, the youth receive case management and support services to help them become independent and self-sufficient through a DFPS contracted provider. The youth is not supervised 24 hours a day by an adult and has increased responsibilities.

### **1. Benefits of SIL Program**

Through SIL, a young adult has increased responsibilities and support to transition to independent living with help such as:

- Meeting their own needs with limited guidance
- Experiencing age-appropriate mistakes and consequences and learn responsible behaviors
- Managing finances
- Managing their own time including schedule appointments
- Developing connections with family, caring adults and supportive networks
- Leaving the SIL setting for employment, education, social and other activities
- Achieving identified education and employment goals
- Accessing community resources
- Experiencing life skills
- Establishing important relationships

### **2. Eligibility requirements for SIL**

SIL is available for a young adult who is able to:

- Demonstrate a reasonable level of maturity and ability to manage the expectations required in a SIL setting with no supervision and case management; and
- Meet eligibility requirements for Extended Foster Care.

SIL with Enhanced Case Management (ECM) services, which are additional support or services to help youth be able to adjust to and maintain independence, is available to a young adult who:

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- Demonstrate a reasonable level of maturity and ability to manage the expectations required in a SIL setting with no supervision and case management;
  - Has a history of complex needs that require additional case management to be able to successfully adjust to a (SIL) placement; and
  - Meet eligibility requirements for enhanced case management services<sup>21</sup>
  - Meet [eligibility requirements](#) for Extended Foster Care.

Through SIL with ECM, a young adult receives assistance with:

- Scheduling and managing their own medical, educational, and employment services - through community-based providers, governmental agencies, and other organizations
- Arranging transportation to necessary appointments
- Developing and monitoring a medication management plan
- Improving their daily life skills

The young adult in a SIL placement must meet the Extended Foster Care eligibility requirements within 30 days of placement.

A 17-year-old youth in DFPS conservatorship may apply for a SIL placement but is not eligible for placement until their 18th birthday. Youth may apply for a SIL program 45 days prior to their 18<sup>th</sup> birthday, but there may be situations that allow application submission earlier, such as a SIL which is college-based or SIL apartment waitlists.

### **3. SIL settings**

SIL settings can include:

- Apartments
- Non-College Dorms
- College Dorms – Note that (ECM) is not permitted in college dorm settings)
- Shared Housing
- Host Homes

For more information about SIL settings, see DFPS' [Types of SIL Settings](#) webpage.<sup>22</sup>

### **4. Requesting a SIL Placement:**

**Step 1:** The young adult discusses SIL with the DFPS caseworker. The young adult completes the DFPS SIL Application and gives it to the DFPS caseworker.

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**Step 2:** The DFPS caseworker will then include their comments and complete their required sections of the SIL application. Youth and DFPS caseworker comments are required in all applicable sections in order for the application to be considered complete.

**Step 3:** The DFPS caseworker sends the completed and approved SIL Application and other required forms to the SIL Coordinator through a mailbox established by DFPS. After review, the SIL Coordinator in the DFPS State Office sends an email approving or denying the application.

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**Special Issue:** *If the youth is applying for SIL ECM, additional required documents will need to be sent along with application and other forms.*

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**Step 4:** If approved, the state office SIL Coordinator will send the DFPS caseworker an email with necessary forms and next steps.

**Step 5:** The DFPS caseworker discusses the available SIL placement options with the young adult and submits the application packet to the agreed providers.

**Step 6:** Upon initial acceptance by a SIL provider, the young adult and DFPS caseworker hold discussions with the SIL provider. If the young adult, DFPS caseworker, and SIL provider agree on the placement, then a placement date is identified and the placement is completed.

## D. Resources

DFPS website:

- [CPS Policy Handbook § 10400](#) - Extended Foster Care for Youth Who are Age 18 or Older<sup>23</sup>
- [Extended Court Jurisdiction Flowchart](#)<sup>24</sup>
- [Extended Foster Care Resource Guide](#)<sup>25</sup>
- [Extended Foster Care](#) webpage<sup>26</sup>
- [Supervised Independent Living](#) webpage<sup>27</sup>
- [Transitional Living Services](#) handout<sup>28</sup>

Texas RioGrande Legal Aid website:

- Texas Foster Youth Justice Project [Legal Resources for Youth Aging out of Foster Care](#)<sup>29</sup>