

# ARKANSAS REGISTER

## Proposed Rule Cover Sheet



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Name of Department \_\_\_\_\_

Agency or Division Name \_\_\_\_\_

Other Subdivision or Department, If Applicable \_\_\_\_\_

Previous Agency Name, If Applicable \_\_\_\_\_

Contact Person \_\_\_\_\_

Contact E-mail \_\_\_\_\_

Contact Phone \_\_\_\_\_

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Name of Rule \_\_\_\_\_

Newspaper Name \_\_\_\_\_

Date of Publishing \_\_\_\_\_

Final Date for Public Comment \_\_\_\_\_

Location and Time of Public Meeting \_\_\_\_\_

## FINANCIAL IMPACT STATEMENT

**PLEASE ANSWER ALL QUESTIONS COMPLETELY**

**DEPARTMENT**     Department of Human Services

**DIVISION**         Division of Children and Family Services

**PERSON COMPLETING THIS STATEMENT**   Christin Harper

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To comply with Ark. Code Ann. § 25-15-204(e), please complete the following Financial Impact Statement and file two copies with the questionnaire and proposed rules.

**SHORT TITLE OF THIS RULE**                     Promoting Successful Transitions to Adulthood

- |   |   |  |
|---|---|--|
| 1. Does this proposed, amended, or repealed rule have a financial impact?   | Yes <input type="checkbox"/>            | No <input checked="" type="checkbox"/> |
| 2. Is the rule based on the best reasonably obtainable scientific, technical, economic, or other evidence and information available concerning the need for, consequences of, and alternatives to the rule? | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/>            |
| 3. In consideration of the alternatives to this rule, was this rule determined by the agency to be the least costly rule considered?  | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/>            |

If an agency is proposing a more costly rule, please state the following:

- (a) How the additional benefits of the more costly rule justify its additional cost;

\_\_\_\_\_

- (b) The reason for adoption of the more costly rule;

\_\_\_\_\_

- (c) Whether the more costly rule is based on the interests of public health, safety, or welfare, and if so, please explain; and;

\_\_\_\_\_

- (d) Whether the reason is within the scope of the agency's statutory authority; and if so, please explain.

\_\_\_\_\_

4. If the purpose of this rule is to implement a federal rule or regulation, please state the following:

- (a) What is the cost to implement the federal rule or regulation?

**Current Fiscal Year**

General Revenue	<u>\$0.00</u>
Federal Funds	<u>\$0.00</u>
Cash Funds	<u>\$0.00</u>
Special Revenue	<u>\$0.00</u>
Other (Identify)	<u>\$0.00</u>
 Total	 <u>\$0.00</u>

**Next Fiscal Year**

General Revenue	<u>\$0.00</u>
Federal Funds	<u>\$0.00</u>
Cash Funds	<u>\$0.00</u>
Special Revenue	<u>\$0.00</u>
Other (Identify)	<u>\$0.00</u>
 Total	 <u>\$0.00</u>

(b) What is the additional cost of the state rule?

**Current Fiscal Year**

General Revenue	<u>\$0.00</u>
Federal Funds	<u>\$0.00</u>
Cash Funds	<u>\$0.00</u>
Special Revenue	<u>\$0.00</u>
Other (Identify)	<u>\$0.00</u>
Total	<u>\$0.00</u>

**Next Fiscal Year**

General Revenue	<u>\$0.00</u>
Federal Funds	<u>\$0.00</u>
Cash Funds	<u>\$0.00</u>
Special Revenue	<u>\$0.00</u>
Other (Identify)	<u>\$0.00</u>
Total	<u>\$0.00</u>

5. What is the total estimated cost by fiscal year to any private individual, entity and business subject to the proposed, amended, or repealed rule? Identify the entity(ies) subject to the proposed rule and explain how they are affected.

**Current Fiscal Year**

\$ \$0.00

**Next Fiscal Year**

\$ \$0.00

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6. What is the total estimated cost by fiscal year to state, county, and municipal government to implement this rule? Is this the cost of the program or grant? Please explain how the government is affected.

**Current Fiscal Year**

\$ \$0.00

**Next Fiscal Year**

\$ \$0.00

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7. With respect to the agency's answers to Questions #5 and #6 above, is there a new or increased cost or obligation of at least one hundred thousand dollars (\$100,000) per year to a private individual, private entity, private business, state government, county government, municipal government, or to two (2) or more of those entities combined?

Yes ☐ No ☒

If YES, the agency is required by Ark. Code Ann. § 25-15-204(e)(4) to file written findings at the time of filing the financial impact statement. The written findings shall be filed simultaneously with the financial impact statement and shall include, without limitation, the following:

- (1) a statement of the rule's basis and purpose;
- (2) the problem the agency seeks to address with the proposed rule, including a statement of whether a rule is required by statute;
- (3) a description of the factual evidence that:
  - (a) justifies the agency's need for the proposed rule; and
  - (b) describes how the benefits of the rule meet the relevant statutory objectives and justify the rule's costs;
- (4) a list of less costly alternatives to the proposed rule and the reasons why the alternatives do not adequately address the problem to be solved by the proposed rule;

- (5) a list of alternatives to the proposed rule that were suggested as a result of public comment and the reasons why the alternatives do not adequately address the problem to be solved by the proposed rule;
- (6) a statement of whether existing rules have created or contributed to the problem the agency seeks to address with the proposed rule and, if existing rules have created or contributed to the problem, an explanation of why amendment or repeal of the rule creating or contributing to the problem is not a sufficient response; and
- (7) an agency plan for review of the rule no less than every ten (10) years to determine whether, based upon the evidence, there remains a need for the rule including, without limitation, whether:
  - (a) the rule is achieving the statutory objectives;
  - (b) the benefits of the rule continue to justify its costs; and
  - (c) the rule can be amended or repealed to reduce costs while continuing to achieve the statutory objectives.

## **Statement of Necessity and Rule Summary Promoting Successful Transitions to Adulthood**

### **Statement of Necessity:**

Pursuant to Acts 316 and 791 of the 93<sup>rd</sup> General Assembly, Regular Session (the Act), the Division of Children and Family Services' revises rules regarding services provided to youth eighteen (18) through twenty-one (21) years of age who aged out of foster care or who continue to participate in the Extended Foster Care Program, as detailed below. DCFS also formalizes current practice guidance regarding youth sponsors and aftercare payments and makes formatting and technical corrections.

### **Summary:**

Effective May 1, 2022, the Division of Children and Family Services implements the following changes to the listed rules:

- Policy VIII-B: Extended Foster Care
  - To update the definition of and the eligibility requirements for extended foster care pursuant to the Act, to include reentry requirements.
  - To clarify that participation in extended foster care does not impede or otherwise alter any right afforded to youth by virtue of their age of majority pursuant to the Act.
  - To add that a six-month review hearing is not required for a juvenile who is over eighteen (18) years of age and has elected to remain in extended foster care or return to extended foster care pursuant to the Act.
  - To include existing practice guidance regarding the definition of and eligibility criteria for Transitional Youth Services Sponsors for youth participating in the Extended Foster Care Program.
  - To make formatting improvements and technical corrections.
- Policy VIII-C: After Care Services and Support
  - To clarify eligibility requirements for aftercare services.
  - To formalize existing practice guidance into rule regarding aftercare eligibility for youth who initially participate in the Extended Foster Care Program but then choose to leave the program prior to twenty-one (21) years of age.
  - To make formatting improvements and technical corrections.

## NOTICE OF RULE MAKING

The Director of the Division of Children and Family Services of the Department of Human Services announces for a public comment period of thirty (30) calendar days a notice of rulemaking for the following proposed rule under one or more of the following chapters, subchapters, or sections of the Arkansas Code: A.C.A. §§ 9-28-103 and 12-18-105.

### **Effective May 1, 2022:**

The Director of the Division of Children and Family Services (DCFS) amends the Division of Children & Family Services Policy & Procedure Manual. DCFS amends section XIII-B concerning extended foster care to align with Acts 316 and 791 of the 93<sup>rd</sup> General Assembly. DCFS updates the eligibility requirements for extended foster care. DCFS clarifies that a six-month review hearing is not required for a juvenile who is over eighteen years of age and has elected to remain in extended foster care or return to extended foster care. DCFS also adds detailed practice guidance for the Transitional Youth Services Sponsor program.

DCFS revises section VII-C, After Care Services and Support, to clarify eligibility requirements for after care services. Also, DCFS adds rules regarding after care eligibility for youth who initially participate in the Extended Foster Care program but then choose to leave the program before the age of twenty-one. Lastly, DCFS makes technical corrections throughout the amended sections.

The proposed rule is available for review at the Department of Human Services (DHS) Office of Rules Promulgation, 2nd floor Donaghey Plaza South Building, 7th and Main Streets, P. O. Box 1437, Slot S295, Little Rock, Arkansas 72203-1437. You may also access and download the proposed rule at <https://humanservices.arkansas.gov/do-business-with-dhs/proposed-rules/>. Public comments must be submitted in writing at the above address or at the following email address: [ORP@dhs.arkansas.gov](mailto:ORP@dhs.arkansas.gov). All public comments must be received by DHS no later than **March 12, 2022**. Please note that public comments submitted in response to this notice are considered public documents. A public comment, including the commenter's name and any personal information contained within the public comment, will be made publicly available and may be seen by various people.

If you need this material in a different format, such as large print, contact the Office of Rules Promulgation at 501-534-4138.

The Arkansas Department of Human Services is in compliance with Titles VI and VII of the Civil Rights Act and is operated, managed and delivers services without regard to religion, disability, political affiliation, veteran status, age, race, color, or national origin. **4502024715**



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Mischa Martin, Director  
Division of Children and Family Services

## POLICY VIII-B: EXTENDED FOSTER CARE

0509/20132022

Even after reaching the legal age of majority (~~(i.e. that being, eighteen (18)~~ years of age), all youth need additional support and access to an array of resources as they continue their transition into adulthood. As such, youth who are ages eighteen (18) through twenty-one (21) years of age (or such other age as may be required under federal law) may choose to participate in the eExtended Foster Care Program for education, ~~treatment~~, work, or other programs and services ~~as determined appropriate by their Transitional Team~~ in order to help them achieve a successful transition into adulthood.

Extended foster care provides case management services and support,s as well as financial assistance with room and board costs for a youth who:

- A. Was adjudicated dependent or dependent neglected;
- B. Was in foster care at eighteen (18) years of age but is not yet twenty-one (21) years of age (or such other age as may be required under federal law);
- C. Wishes to participate in extended foster care to benefit from the program; and
- A. ~~Is one or more of the following:~~
  - ~~— In order to be eligible for extended foster care, youth must meet one of the following criteria:~~
  - ~~1) CThe youth is completing secondary education or a program leading to an equivalent credential; ~~or,~~~~
  - ~~1) EThe youth is enrolled in an institution ~~which that~~ provides post-secondary or vocational education; ~~or,~~~~
  - ~~2) PThe youth is participating in a program or activity designed to promote, or remove barriers to, employment; ~~or,~~~~
  - ~~3) EThe youth is employed for at least eighty (80) hours per month; ~~or,~~~~
  - ~~4) IThe youth is incapable of ~~doing any of the above described activities~~ completing school or work activities above due to a documented medical condition, which incapability is supported by regularly updated information in the youth's case plan.~~

Participation in extended foster care does not impede or otherwise alter any right afforded to the youth by virtue of their age of majority, including without limitation the right to consent to medical treatment or enter into contracts.

A six-month review hearing is not required for a juvenile who is over eighteen (18) years of age and has elected to remain in extended foster care or to return to extended foster care.

A copy of the youth's entire record will be made available to them at no cost at the final Transitional Team meeting, which will occur within ninety (90) days of youth's planned exit from care.

### **TRANSITIONAL YOUTH SERVICES SPONSOR**

Youth who elect to participate in the Extended Foster Care Program will select a Transitional Youth Services (TYS) Sponsor. The sponsor will be a supportive adult with whom the youth already has a connection, such as the youth's previous out-of-home provider. For youth who are unable to identify such an individual, staff may recommend someone who is already serving as a sponsor to other youth in extended foster care or a volunteer from the community. The role of the sponsor is to provide support and guidance to the youth as they transition to adulthood. The sponsor will also receive the board payment on the youth's behalf. The sponsor will then assist the youth in managing the board payment according to their established budget developed by the youth and their Transitional Team. Exceptions for sponsors may be approved by the DivisionDepartment of Child and Family Services (DCFS) Director or designee. See Procedure VIII-B2 below for more information regarding TYS Sponsors.

If a youth was in foster care on or after his 16<sup>th</sup> birthday and was adopted or a guardianship was put into place on behalf of the youth before his or her 18<sup>th</sup> birthday, he or she will be eligible for Transitional Youth Services until his or her 21<sup>st</sup> birthday.

Board payments for IV-E eligible youth ~~may~~will be made through title IV-E funds as appropriate. Board payments for youth who are not IV-E eligible will be paid using State General Revenue funds or other federal funds as allowed under federal law and regulations.

~~A copy of the youth's entire record will be made available to him or her at no cost at the final Transitional Team meeting which will occur within 90 days of youth's planned exit from care.~~

### **PARTICIPATION IN EXTENDED FOSTER CARE AFTER A PREVIOUS EXIT**

Youth who left foster care at eighteen (18) years of age or older may later participate in the Extended Foster Care Program if the youth submits a request in writing or in person to the



department to participate in extended foster care. Division staff will inform the youth of the option to have a petition filed on their behalf by their previous attorney ad litem if the youth also wishes for the court to have jurisdiction over their extended foster care case.

After receiving a request to return to the Extended Foster Care Program, the youth's case will be reopened in the Division's information management system by the next business day. A TYS sponsor will be secured and keyed with a corresponding board rate within seven (7) business days after the request to return to the Extended Foster Care Program is received. Additional urgency in keying the sponsor and board rate will be exercised as needed to ensure this information is keyed prior to the monthly board payment run that occurs after the youth's return date.

The department may discharge a juvenile from extended foster care program if the juvenile:

- A. Is over eighteen (18) years of age;
- B. Reenters extended foster care after having his or her request to reenter foster care approved; and
- C. Fails to engage in or have a viable plan to meet the extended foster care requirements listed above or have a viable plan to meet those requirements for more than sixty (60) days.

## **PROCEDURE VIII-B1: Extended Foster Care**

054/20122022

The Family Service Worker, with support from the Transitional Youth Services Coordinator, will:

- A. Consider the following issues with the youth:
  - 1) The school the youth will attend, if applicable;
  - 2) Searching for and securing a job, if applicable;
  - 3) Living arrangements, including without limitation helping the youth locate a residence and assisting with any apartment applications;
  - 4) Choosing a sponsor;
  - 5) Budgeted income/expenses;
  - 6) Amount of board payment;
  - 7) Start-up items;
  - 8) Transportation needs;
  - 9) Continued life-skills training;
  - 10) Support needed to help youth remain in school, if applicable; and
  - 11) Designating a health care power of attorney or health care proxy. (if not already determined before entering extended foster care)

- B. Assist the youth and their Transitional Team in determining appropriate housing and needed support.
- C. Complete CFS-370: Residence Checklist for Youth.
- D. Develop a budget via CFS-025 with the youth and their Transitional Team.
- E. Visit the youth face-to-face at least once a month.
- F. Obtain approval for less than twice-monthly visits from the County Supervisor, if appropriate.
- G. Maintain monthly contacts with the youth's sponsor. Contacts may be by telephone.
- H. Obtain the youth's consumer credit report annually until the youth exits foster care, and:–
  - 1) Access the report via [www.annualcreditreport.com](http://www.annualcreditreport.com) within thirty (30) days of the youth's birthday or within thirty (30) days of the youth entering care, whichever comes first; however, only access it on an annual basis (i.e. that being, ensure that one (1) full year has passed since accessing the previous year's report before viewing the current year's report);–
  - 2) Review report with the youth and help youth in interpreting the report within ten (10) working days of accessing the report;–
  - 3) Assist youth in resolving any inaccuracies found in the report;–
  - 4) Document the credit report review in the Division's information management system, selecting "Annual Credit Check – Engage Youth"; and
  - 5) Share relevant information with the youth's Transitional Services Coordinator.

## PROCEDURE VIII-B2: TYS Sponsors

05/2022

The Family Service Worker, with support from the TYS Coordinator, will:

- A. Assist the youth in locating and choosing a sponsor ~~who is not the person from whom the youth was removed.~~
  - 1) ~~who may be the youth's out of home provider, attorney ad litem, apartment manager/owner, or a volunteer from the community.~~Before finalizing a sponsor for a youth, a State Police Criminal Record Check and Child Maltreatment Central Registry Check will be conducted on the proposed sponsor.
  - B-a) In emergency situations in which a family member (other than the person from whom the youth was removed) wishes to serve as the sponsor, a Lexis Nexis check may be run in lieu of the State Police Criminal Record Check and Child Maltreatment Central Registry Check.
- B. ~~Approve the sponsor chosen by the youth.~~Request that ~~the local Resource team~~ establish an "ILP Sponsor" service for the approved sponsor in the ~~Division's~~ information management system and key the youth into the placement service with the board amount listed in the youth's approved budget.
- C. –
- D. ~~Notify the Transitional Services Coordinator of the youth's sponsor.~~

- ~~E. Assist the youth and his or her Transitional Team in determining appropriate housing and needed support for the first school year. (If youth intends to reside with sponsor, he or she must be an approved placement.)~~
- ~~F. Complete CFS 370: Residence Checklist for Youth.~~
- ~~G. Notify Resource Worker to initiate the youth's monthly board payments when residence is selected.~~
- ~~H. Develop a budget with the youth and share it with the Transitional Team.~~
- ~~I. Visit the youth face to face at least once a month.~~
- ~~J. Obtain approval for less than twice monthly visits from the County Supervisor, if appropriate.~~
- ~~K. Maintain monthly contacts with the youth's sponsor. Contacts may be by telephone.~~
- ~~L. Obtain the youth's consumer credit report annually until the youth exits foster care.~~
  - ~~1) Access the report via [www.annualcreditreport.com](http://www.annualcreditreport.com) within 30 days of the youth's birthday or within 30 days of the youth entering care, whichever comes first; however, only access it on an annual basis (i.e., ensure that one full year has passed since accessing the previous year's report before viewing the current year's report).~~
  - ~~2) Review report with the youth and help youth in interpreting the report within ten (10) working days of accessing the report.~~
  - ~~3) Assist youth in resolving any inaccuracies found in the report.~~
  - ~~4) Document the credit report review in the contacts screen in CHRIS.~~
  - ~~5) Share relevant information with the youth's Transitional Services Coordinator.~~

The youth's sTYS Sponsor will, as appropriate:

- A. Serve as a member of the youth's Transitional Team to include participating in the youth's Transitional Team meetings.
- B. Provide support and guidance to the youth as they transition to adulthood (for example, assisting with decision making, including without limitation decisions regarding education, employment, and housing).
- C. Assist the youth with budgeting the youth's board payment.
- D. Help to ensure the youth meets at least one (1) of the Extended Foster Care Program requirements or has a viable plan in place to meet one (1) of the Extended Foster Care Program requirements.
- ~~A. Attend and participate in Team Meetings.~~
- ~~B. Assist the youth in selecting the transitional living residence.~~
- ~~C. Assist the youth with managing their budget if selected as board payment payee.~~
- ~~D-E. \_\_\_\_\_ Maintain regular contact with the youth.~~

In addition, youth eighteen (18) years of age and older who are participating in the Extended Foster Care Program may live with their TYS Sponsors (even if the TYS Sponsor is not an approved resource home) as appropriate, provided that:

- A. A State Police Criminal Background and Child Maltreatment Registry checks are clear and up to date (that being, within the past two (2) years);

- B. A visual inspection of the sponsor's home is conducted, and the home is deemed safe and appropriate for a young adult;
- C. The Area Director or designee and the youth's attorney ad litem approves the living arrangement with the sponsor; and,
- D. A Transitional Team Meeting is held to ensure the sponsor understands their role and that individualized guidelines and expectations are established for any youth who will reside with their sponsor (including without limitation curfews and responsibility for assisting with costs of living, if applicable, via the youth's board payment).

An approved resource parent may serve as both a resource parent for children placed in their home and a TYS Sponsor for a youth in extended foster care but who is not residing in the resource home. However, an Independent Living Program (ILP) Sponsor service will have to be opened for that individual. Any resource parent who wishes to serve as a sponsor for a youth and who is set up under a master provider (such as Therapeutic Foster Care or Private Licensed Placement Agencies), provider (such as Therapeutic Foster Care or Private Licensed Placement Agencies) must be set up with a new ILP Sponsor service with a new provider number.

If a youth in foster care was placed in a resource home prior to turning eighteen (18) years of age and continues to stay in that resource home after turning eighteen (18) years of age (and while participating in the Extended Foster Care Program), the youth will remain keyed into the resource home as a regular placement rather than keying the resource parent as the sponsor for the youth.

## POLICY VIII-C: AFTER CARE SERVICES ~~AND~~ SUPPORT

~~0105/2011~~2022

~~After care Chafee funds can be used to~~may provide assistance and services to youth who have left foster care because they have attained eighteen (18) years of age ~~but and who~~ have not attained twenty-one (21) years of age. ~~These services are called After Care.~~ The youth must have been in foster care on ~~his or her~~their eighteenth 18<sup>th</sup>-birthday and must not currently ~~in be DHS custody~~participating in the Extended Foster Care Program to be eligible for after care services and support. However, associated financial paperwork processes for after care services may begin prior to a youth's exit from care in order to ensure a more seamless transition. After care is funded by the John F. Chafee Foster Care Program for Successful Transition to Adulthood grant award.-

~~In order to be eligible for after care, youth must meet one of the following criteria:~~

- ~~1. Youth must have been in foster care at or before age 17, OR~~
- ~~2. Youth must have entered care at age 17 or after due to dependency neglect, OR~~
- ~~3. Youth must have entered foster care at age 17 or after with a prior dependency neglect status.~~

Additionally, a youth is encouraged to~~must~~ have a budget and a viable plan that includes participation in education, employment, or training. If the youth is incapable of school or work requirements due to , or a documented medical condition, they are also eligible for after care treatment in order to be eligible for after care. After care support is generally limited to five hundred dollars (\$500) in any one (1) month and may be requested for a total of two thousand dollars (\$2000). However, more than five hundred dollars (\$500) per month may be provided to a youth on an as needed basis. After care support may include without limitation expenditures for ~~education or training programs,~~ housing, insurance, housing set-up, transportation, utility bills, and or utility deposits. After care support does not include amounts available through the Education and Training Voucher (ETV) Program.

After care support is paid to the provider of the good or service, rather than~~not~~ the youth. However, reimbursement may be made to the youth if the documentation of the expense, as well as the paperwork needed by the Division of Children and Family Services (DCFS) for reimbursement, is provided.

For youth who initially elect to participate in the Extended Foster Care Program but then choose to leave that program prior to twenty-one (21) years of age, after care funding will still be

available on a prorated amount based on the number of months remaining until the youth's twenty-first birthday.

~~After care support does not include amounts available through ETV.~~ Youth eligible for after care may also participate in life skills classes, and staff may help with transportation needs of these youth as staff capacity allows.

Mark-UP