

“WHEN

A JUDGE'S GUIDE TO PREGNANCY

YOU

PREVENTION AMONG FOSTER YOUTH

DECIDE...”

WITH BENCH TOOLS AND SCRIPTS

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# BACKGROUND

In 2008 The National Campaign to Prevent Teen and Unplanned Pregnancy (The National Campaign) partnered with the National Council of Juvenile and Family Court Judges (NCJFCJ) to survey juvenile and family court judges on issues related to preventing teen and unplanned pregnancy. The effort resulted in a guide entitled *Critical Judgment: How Juvenile and Family Court Judges Can Help Prevent Teen and Unplanned Pregnancy*.

As a follow up to this work, in 2010 The National Campaign and NCJFCJ brought together judges from across the country to recommend steps to prevent teen and unplanned pregnancy in the foster care and juvenile justice systems. The judges recommended developing a tool to assist them in preventing teen and unplanned pregnancy, which resulted in the creation of the Technical Assistance Bulletin, *When you Decide... A Judge's Guide to Pregnancy Prevention Among Foster Youth* completed in 2011. Two NCJFCJ Model Court sites, Miami-Dade and Los Angeles, were selected to pilot and provide feedback from March 2012 to October 2013. What follows is an updated toolkit based on the experiences of Miami-Dade and Los Angeles, as well as feedback from other judges in the field.

## COMFORT LEVEL WITH TEEN PREGNANCY PREVENTION

Depending on the individual and the context, both youth and judges will have different levels of comfort discussing sex and pregnancy in the courtroom. When implementing the recommendations in this toolkit, the judge and collaborative stakeholders (e.g. case workers, probation officers, Court Appointed Special Advocate, etc.) can decide where the court wishes to fall on the continuum of privacy for foster youth and comfort levels discussing sex and pregnancy in the courtroom. For example, the judge may consider asking broader questions of agency staff or requesting more specific orders regarding the content of the case report submitted to the court. The judge may also develop modifications to questions depending on whether the youth is a female or a male. Judges may also look to their opposite sex colleagues for advice and support. Judges should not be shy about discussing sex and pregnancy prevention with case stakeholders, either directly or with the assistance of support staff.

To learn more about how other judges have approached this issue in their court rooms, refer to *Critical Judgment: How Juvenile and Family Court Judges Can Help Prevent Teen and Unplanned Pregnancy* (available at [TheNationalCampaign.org](http://TheNationalCampaign.org)), a publication from The National Campaign to Prevent Teen and Unplanned Pregnancy and the National Council of Juvenile and Family Court Judges.

## HOW TO USE THIS TOOLKIT

Judges play an important role in ensuring that youth get the support, knowledge, and tools needed to make healthy long-term decisions regarding sex and reproduction. Three critical inquiries from the judge—**Relationships, Knowledge, and Motivation**—can support an environment in which pregnancy is delayed.

This toolkit does not require that specific questions related to sexuality or reproductive health be directed to youth on the record in the courtroom. Rather, this toolkit supports judges in ensuring that appropriate system stakeholders focus on sexual and reproductive health as an integral part of the youth's case plan and that youth receive the support, knowledge, and tools needed to make healthy long-term decisions regarding sex and pregnancy planning.

This toolkit likely has similar questions to those already asked by judges using other bench tools and can be inserted into a bench book or used with existing bench cards to streamline questions asked during the following hearings:

- » Initial Hearing
- » Dispositional Hearing
- » Review Hearing
- » Permanency Hearing



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# TECHNICAL ASSISTANCE BULLETIN



## INTRODUCTION

Teen pregnancy has significant consequences—many of which are negative—for both the young parents and the baby. This is especially true for youth in foster care. Removed from their families and facing an uncertain future, youth in foster care are less prepared to make informed, responsible decisions about sex and family formation and more likely than their non-foster care peers to engage in sex at an earlier age and become pregnant or cause a pregnancy.

Judges in dependency proceedings are in a unique position to help foster youth make informed reproductive health decisions (See *On Judicial Oversight—Relationships, Knowledge, and Motivation* on page 23). In particular, judges have the authority and the responsibility to ensure that youth are present and heard from at each hearing, and that case plans for youth include support of caring, trusted adult relationships; plans for the foster youth’s future; and developmentally-appropriate reproductive health information. Having these elements in place are key to helping foster youth make their own responsible decisions to delay sex and postpone pregnancy.

The contents of this toolkit were developed based on suggestions and feedback from judges in sites that piloted the initial version. It is designed to guide judges in both on-the-bench hearings and off-the-bench collaborative processes by setting forth a framework—relationships, knowledge, and motivation—with which youth are more likely to make good reproductive health decisions. Finally, it suggests questions to ask from the bench that can best ensure the framework is in place in all aspects of the youth’s life in care. By asking the right questions at every hearing, judges can ensure that each stakeholder in the case fulfills his or her responsibility to take the steps necessary to support youth in making responsible decisions about sex and pregnancy.

## Include Boys

While girls who become pregnant experience different consequences than boys who cause a pregnancy, **it is vital that the judge place equal emphasis on pregnancy planning and prevention among both genders.**

The court should equally focus on integration of sexual and reproductive health in the case plans of boys as well as those of girls through inquiry and promoting healthy relationships with appropriate adults, access to sexual and reproductive health information, and the foster youth’s long-term plans and motivations. **Boys should also fully understand their responsibilities to any child they may father, both personally and legally.**

It is important to note that this tool does not require specific questions related to sexuality or reproductive health be directed to youth on the record in the courtroom. Each court will have its own culture and comfort level in dealing with issues of sexuality and reproductive health.

However, it is strongly recommended that youth be encouraged to attend hearings and thoughtfully discuss sexual and reproductive health in a way that does not infringe on their privacy and that focuses on three key factors: relationships, knowledge, and motivation. Judges should be aware that, as of the publication of this toolkit, no state limits or prohibits discussion of reproductive health options with foster youth. If a stakeholder claims that a policy prohibiting discussion of reproductive health options with foster youth exists, judges should ask for a copy of the “policy” which restricts discussion so that the court can fully understand the restriction. For more information, please see *Rights of Minors in Foster Care* on page 31.

## SEX, PREGNANCY, AND BIRTH: YOUTH IN FOSTER CARE

Youth in foster care face more challenging circumstances and experience less positive outcomes with respect to risk for early pregnancy than youth in the general population. Although there is no national-level data on pregnancy among youth in foster care, studies indicate that, as compared with their peers outside the foster care system, youth in foster care begin having sexual intercourse at a younger age, are more likely to become pregnant or father a child at a young age, and are more likely to carry a pregnancy to term.<sup>1</sup>

A Midwestern study of former foster youth showed that one-third of the females became pregnant before age 17, and nearly half by age 19; this is 2.5 times the rate for their non-foster peers.<sup>2</sup> By age 19, youth in foster care were more than twice as likely as all youth to have given birth to a child.<sup>3</sup> And 46% of youth in foster care who have been pregnant once have had a subsequent pregnancy while still a teen, as compared to 29% of their non-foster peers.<sup>4</sup> Foster youth also report having intercourse with a partner who has a sexually transmitted infection (STI) at three times the rate of non-foster care youth.<sup>5</sup>

Pregnancy has even more profound consequences for teens growing up in foster care than for their non-foster peers. As Miami Judge Jeri Cohen put it, “[w]hen the girls get pregnant they are unable to effectively utilize all the other services that we offer them.”<sup>6</sup>

## FOSTER CARE AND THE INTENT TO HAVE A BABY

When working with youth in foster care, it is important to understand that some youth in care may want to get pregnant.

To some, having a baby is a way to:

- » Find a meaningful relationship.
- » Create a family.
- » Sustain relationships.
- » Achieve a sense of stability.
- » Get closer to their birth family.
- » Receive unconditional love.
- » Become successful and achieve more (more motivated due to baby).
- » Show that they can do better than their birth parents.

This means that a judge and stakeholders cannot assume when working with youth in care that a pregnancy is an accident or something to be avoided. Consider these factors when talking with youth in foster care about reasons to avoid early pregnancy. Stakeholders may consider working with youth in care to identify ways to fulfill these needs without having a baby.

“ [Foster families are] not really related to you biologically at all. Or living in groups homes. Like none of them girls in there; you don’t know them. **And a baby that’s yours, that’s your family, that’s like something you can relate to.** ”

*(Fostering Hope: Preventing Teen Pregnancy Among Youth in Foster Care)*

See page 12 for sources.

It is also true that some youth in care will be parents when they enter the child welfare system and may be at risk for a subsequent teen pregnancy and birth. In fact, by age 19, nearly half of females in foster care have had a subsequent pregnancy compared to less than one-third of females not in foster care.

### SEXUAL ABUSE AND TRAUMA: MEETING THE REPRODUCTIVE HEALTH NEEDS OF FOSTER YOUTH

All youth in foster care have experienced trauma on some level—at a minimum, they have been removed from their homes—youth may also have experienced sexual abuse. Discussing issues related to sex, reproductive health, pregnancy, and contraception may trigger trauma cues like flashbacks or bad memories. The youth may respond by exhibiting such negative behavior as spacing out, constant movement, acting out, and/or struggling to manage emotions in both the courtroom and other places that remind them of the traumatic experience. It is important to understand that trauma may be why the youth is acting out and not to misinterpret these behaviors as disrespectful or negative; they are often an unconscious response that has been triggered by memories of prior trauma.

For foster youth who disclose a history of sexual abuse it is critical to identify counselors and therapists who can work with the youth, and then follow their professional guidance as to how and when to discuss sex, reproductive health, pregnancy, and contraceptive methods and access.

## KEY TO PREVENTION: GIVING YOUTH THE TOOLS TO MAKE GOOD DECISIONS

Teen pregnancy is the result of a series of decisions about sex, with numerous opportunities to guide decision-making with positive prevention measures. For example, before a youth becomes pregnant or causes a pregnancy, she or he engages in sexual activity, which may or may not include intercourse. Pregnancy (and possibly an STI) could be the result of a larger, more complicated process, involving several decisions along the way, each of which is an opportunity to make a choice.

Some of these choices are:

- » Initiation of sexual activity.
- » Whether and when to have intercourse.
- » Frequency of sexual intercourse.
- » Number of partners.
- » Choice of partners and quality of relationships.
- » Whether and how to take action to prevent pregnancy and STIs.

The recent decline in teen pregnancy rates in the U.S. highlights the importance of focusing on the entire timeline of decisions. Research indicates the decline has resulted, in part, from behavioral changes in two distinct areas: delayed initiation of sexual intercourse and improved contraceptive practice.<sup>7</sup> Youth have been making different—and better—decisions about their reproductive health.

Adults can support good decision-making among youth in foster care. In particular, they can create an environment that communicates the importance of waiting to have a baby, provides the youth with complete and accurate information, and helps the youth to take responsibility for each of the decisions that may lead to pregnancy. Three factors play a critical role in the development of good decision-making skills that will help youth postpone sex and pregnancy: **relationships, knowledge, and motivation.**

It is crucial that youth be encouraged to attend and be heard at each hearing, if they want to and are comfortable doing so. The youth may not be willing to talk about sex and relationships, wanting instead to guard their privacy during a time when many people are making decisions for them. The judge should be prepared to modify how the court receives information about progress on the three decision-making skills factors—relationships, knowledge, motivation—to safeguard the youth's privacy.

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See page 12 for sources.

## RELATIONSHIPS AND ASKING THE RIGHT QUESTIONS

One of the most important factors in preventing teen pregnancy is a supportive relationship between the youth and a caring, trusted adult. That caring adult can help to communicate with youth about the importance of delaying sex and being prepared for pregnancy and parenthood. They can also help the youth learn about healthy relationships and provide a link to clinical services, if appropriate.

Many years of research have confirmed that parents are a primary influence on a youth's decisions about sex. Youth who are close to their parents are more likely to postpone sex, to have fewer sexual partners, and to use contraception consistently.<sup>8</sup> Studies have consistently shown that parents' values influence whether youth have sex, how old they are when they have sex for the first time, the number of sexual partners they have, their use of contraception, and whether or not they become pregnant.<sup>9</sup>

Monitoring and supervision are also related to lower teen pregnancy rates, primarily by decreasing the opportunity for sexual activity, particularly early sexual activity.<sup>10</sup> This is especially important given that youth who have sex in their early teens have more sexual partners, are less likely to use contraception, and are more likely to become pregnant.<sup>11</sup> Supervision can also include restrictions on age differences in youth relationships, which in turn affects sexual activity; teens who have a partner close to them in age are far less likely to have sexual intercourse than a young teen with a partner two or more years older.<sup>12</sup>

Foster youth are the first to point out the obvious absence of strong relationships with caring, supportive adults as a major factor affecting their ability to make good decisions about sex and pregnancy prevention.<sup>13</sup> A youth living in a non-relative foster placement is separated not only from parents but also frequently from extended family, school friends, peers, and mentors. The youth must often change schools and churches, cutting off contact with teachers, coaches, or pastors who may have played a supportive role in his or her life.

Many adult stakeholders assume responsibility for the wellbeing of a youth placed in foster care:

- » **Child welfare staff** must develop a case plan to meet the youth's need for safety, health, education, and permanency.
- » A **lawyer or guardian ad litem** will advocate for the youth in court.
- » **Foster parents** or **group home staff** will provide a safe, nurturing environment.
- » The **behavioral health service provider** will address the youth's mental health needs.
- » The **Court Appointed Special Advocate (CASA)** will advocate for the youth's best interests in court.
- » The **judge** will ensure that the stakeholders make reasonable and timely efforts to provide the youth with necessary and appropriate services to achieve the permanent case plan goal.

No one individual is charged with filling the role that a parent would ordinarily be expected to play by developing a relationship based on trust and confidence that guides youth in making major life decisions.

The foster care system must either:

- A** - support or facilitate a youth's relationship with caring adults who might not be able to provide a home for the youth but may nonetheless serve as a mentor or confidant; or
- B** - adult stakeholders must step into that role.

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See page 12 for sources.

# FROM THE BENCH CARD: ASKING THE RIGHT QUESTIONS ABOUT RELATIONSHIPS

The judge should ask if the youth is present. If not, the judge should determine why not and what can be done to make sure the youth attends in the future. If the youth is present, the judge should be prepared to engage the youth by asking questions about placement, caring adults, school, extracurricular activities, and future plans.

At the first hearing and at each subsequent hearing, the judge should receive the answers to the following questions, either from reports submitted to the court or through questioning during the hearings:

- Who is the trusted adult in the youth's life with whom the youth has a positive relationship?
- Who have the parents identified as extended family members and other support persons?
- Who has the youth identified as family and support persons, and specifically, adults with whom the youth may be able to communicate effectively about intimate topics such as sex, love, and relationships?
- What other action has been taken to identify and engage family and support persons, by whom, and when?
- What barriers, if any, are there to participation, and what is being done to overcome those barriers?
- Which of the important adults in the youth's life (including foster parents, agency staff, youth's attorney, and CASA) have received information and training on how best to communicate with the youth about decision-making in general, and sexuality and relationships in particular?
- Which important adults are working closely together, coordinating their support of the youth and monitoring the youth's activities and friendships?
- What services are being provided to help the youth develop a healthy relationship with the parents?
- What training has been provided to the caring adult for effective developmentally appropriate communication about values, healthy relationships, reproductive health information, and information and access to contraceptive methods?

## THE JUDGE'S ROLE: FOCUS ON RELATIONSHIPS

The judge can ensure that stakeholders are either supporting and facilitating existing relationships with caring, trusted adults, or stepping into the role with appropriate training and skills.

The first thing the judge can do is make sure the youth is present at each hearing, and give the youth an opportunity to speak at each hearing. Beginning at the initial hearing, the judge can ensure that:

- » The agency staff and all participants focus on identifying the important and appropriate adults in the youth's life and promoting and strengthening those relationships.
- » Everyone working with the youth, including the agency staff, is trained to understand reproductive health issues, be supportive of the youth, and communicate effectively in a developmentally appropriate way.

**Facilitating and Supporting Existing Relationships.** Stakeholders involved in the case should be encouraged to think about this issue broadly. Both maternal and paternal relatives should be considered as a possible placement for the youth, and for involvement in the case in other ways. Relatives and other caring adults can provide positive support to the youth in a variety of areas and may be able to facilitate visitation between the youth and his or her parents or siblings, host the youth for visits during holidays, attend athletic events or school functions, serve as a mentor, support the youth in case planning meetings and hearings, or just visit on a regular basis.

**Stakeholders Taking on the Caring Adult Role.** Sadly, in too many cases, the only constant person in a foster youth's life will be the case stakeholders. Particularly in these circumstances, it is important that the stakeholders have the training and skills to be able to communicate effectively with the youth and develop a relationship of mutual trust.

Both the stakeholders and the existing caring adult should receive training on how to effectively communicate with the foster youth about developmentally appropriate reproductive health information and values, as well as how to support use and access to a full range of contraceptive methods.

## KNOWLEDGE AND ASKING THE RIGHT QUESTIONS

To make good decisions about preventing pregnancy foster youth need—but may not be getting—comprehensive, accurate information from reliable sources about sex, reproductive health, pregnancy, and contraception.

The National Center for Health Statistics (NCHS) reports that virtually all adolescents receive some formal sex education before they are 18.<sup>14</sup> In that same survey, one-third of adolescents report that they were not taught anything about methods of birth control,<sup>15</sup> even though most teens believe they should be getting information about both abstinence and contraception, or contraception alone.<sup>16</sup>

Although 59% of older youth believe that doctors are their most trusted source of information about contraception, almost half rely on less trusted sources for their knowledge: the media and their friends.<sup>17</sup> It is not surprising, then, that a significant minority reports little or no knowledge about common methods of contraception.<sup>18</sup> Youth appear to have a limited and sometimes incorrect understanding of basic concepts of sexual reproduction:

- » Most older youth know that a woman is more fertile at certain times of the month, BUT less than one-third correctly identified when that time is.<sup>19</sup>
- » Sixteen percent erroneously believe that it is quite or extremely likely that they themselves are infertile.<sup>20</sup>
- » Close to half of teens surveyed wrongly believe that there is a 50% chance of getting pregnant even when correctly using the birth control pill.<sup>21</sup>

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See page 12 for sources.

- » Half of older youth and one-third of all youth agree with the statement: “It doesn’t matter whether you use birth control or not; when it is your time to get pregnant, it will happen.”<sup>22</sup>
- » Three-quarters of this same group also report that “I have all the information I need to avoid an unplanned pregnancy.”<sup>23</sup>

There is a disconnect between youth’s perceptions and beliefs and the facts. Comprehensive, accurate information from reliable sources about sex, reproductive health, pregnancy, and contraception is needed to bridge this knowledge gap.

Similarly, there is a knowledge gap related to the consequences of pregnancy and parenting. Surveys indicate that most youth agree that it is okay for a single female to have a baby.<sup>24</sup> In 2007, almost half of youth surveyed reported that they had never really thought about what their life would be like if they got pregnant or got someone pregnant as a teen.<sup>25</sup>

To close this gap, the trusted caring adult in the youth’s life—whether it is an existing relationship or another qualified adult stepping into the role—must be prepared to be the source of developmentally appropriate, reliable information. To best prepare these important adults, thorough training is paramount.

### THE JUDGE’S ROLE: FOCUS ON KNOWLEDGE

Responsible parents don’t wait until their child is almost an adult to begin a conversation about sex, reproductive health, pregnancy, and contraceptive methods, and access. Similarly, stakeholders should not wait until the youth is aging out of the foster care system to share this information. Foster youth report that they have some access to information on these issues but some report that it is too little and too late.<sup>26</sup>

Discussion, planning, and taking action to support the reproductive health of youth in foster care should begin early, at puberty or, at least, before the youth enters high school. In 2013, 46% of children in foster care were between the ages of 10 and 20 years old which means the work should begin by the first court hearing.<sup>27</sup>

Because a foster youth is continually maturing, developmentally appropriate discussions with a caring, trusting adult should take place multiple times throughout the youth’s adolescence. This enables the youth to regularly receive information on these topics throughout their lives. Information sharing should not happen just once.

All foster youth are entitled to receive regular health screenings. Agency staff should ensure that, as the youth enters puberty, those screenings include an examination and age-appropriate reproductive health and pregnancy prevention information, including information about methods of contraception and how and where to get it.

The judge should specifically order that these steps be included in the youth’s case plan, and ask if the youth has a doctor with whom a positive relationship exists. The judge should ensure that the case plan provides for:

- » Developmentally-appropriate information shared by a caring trusted adult starting at puberty (or earlier).
- » Appropriate reproductive medical screening and services.
- » Evidence-based education that promotes informed decisions about sex, delaying sex, pregnancy, and effective use of contraception.
- » Easy access to appropriate methods of contraception.
- » Stakeholders should be aware of the youth’s potential involvement in sexual activity; for example, when a youth begins dating or reports that he or she is involved in a romantic relationship. The supportive adults must follow-up with the youth on the reproductive health information received, and ensure access to reproductive health care and contraception as well as reiterating effective ways to prevent pregnancy and STIs.

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See page 12 for sources.

# FROM THE BENCH CARD: ASKING THE RIGHT QUESTIONS ABOUT KNOWLEDGE

The judge should ask if the youth is present. If not, the judge should determine why not and what can be done to make sure the youth attends in the future. If the youth is present, the judge should be prepared to engage the youth by asking questions about placement, caring adults, school, extracurricular activities, and future plans. The judge should inform stakeholders of the expectation that information about sex, reproductive health, pregnancy, contraceptive methods, and access to contraceptives will be shared with the foster youth and reported on at hearings.

At subsequent hearings the judge should have answers to the following questions, either from reports submitted to the court, or through questioning during the hearing:

- Who is responsible for providing the foster youth with developmentally-appropriate and ongoing information on sex, pregnancy, reproductive health, contraception methods, contraception access, STI prevention, and healthy relationships?
- What comprehensive and accurate information has been shared with the foster youth?
- Which physician has the youth been referred to for age- and developmentally- appropriate reproductive health screenings and pregnancy prevention information?
- When did or will the youth complete an evidence-based sex education program that included complete and accurate information about reproduction, STIs, abstinence, and contraception?
- How does the youth access contraception? What steps have been taken so access is ongoing, ready, and non-judgmental? Who provided the youth with information on how to use contraception effectively and consistently?

The case plan should also provide information on the training for relative placements and other significant adults—especially foster parents—on how to responsibly and effectively communicate with youth about making good decisions specifically with regard to sexuality, reproductive health, pregnancy, contraception, and relationships.

The judge should be alert to whether the agency staff and the youth’s placement have a good working relationship, and that both are setting appropriate boundaries and expectations for the youth and monitoring his/her activities and friendships.

## MOTIVATION AND ASKING THE RIGHT QUESTIONS

Healthy relationships with caring, trusted adults and ongoing, developmentally-appropriate knowledge are not enough to help a foster youth make good decisions. The issues that emerge with sexual maturation arise at a time when adolescents are making decisions in other major areas of their lives, such as:

- » What are my life goals?
- » What kind of career do I want?
- » Will I continue my education, and in what form?
- » Who will my friends be?
- » Will I use alcohol or drugs, or engage in other risky behavior?

Youth must also be motivated to avoid pregnancy. Motivation to make careful decisions is tied to the ability to envision a bright future, the knowledge of how to achieve that future, and recognition of how today’s decisions might affect that future. A youth who has a real vision of their future and is motivated to forego short-term opportunities to achieve long-term goals is more likely to make responsible decisions about sex and pregnancy. In other words, for those who choose to engage in sexual intercourse, “there must be some compelling reason for them to master contraceptive information and go to the trouble it takes to use birth control carefully and consistently.”<sup>28</sup>

Youth growing up in adverse circumstances may not see a positive future for themselves—or, even if they do, they may lack the support needed to believe that they can achieve that future. Programs designed to prevent teen pregnancy are more likely to succeed if they also help youth develop the skills needed to become successful adults. “By engaging teens in meaningful activities, making them feel competent, and helping them develop valuable skills, youth development groups give kids a sense of hope in their future—[which is] the greatest incentive to remain pregnancy-free.”<sup>29</sup>

Planning for the future is not something a foster youth may be interested in or able to do until life has stabilized. Achieving placement, educational, and extra-curricular stability is key to the ability to plan for the youth’s future. Services supporting each of these priorities should be included in the case plan and should be reviewed at every case staffing and hearing, with input from the youth and the caring adults with whom the youth is connected.

First, the youth must have a stable placement in a safe, nurturing environment, preferably with a relative or other caring adult, and with siblings (if applicable). If a full and complete effort is not put into finding an appropriate placement, the placement is likely to disrupt. Every disruption delays and impedes the development and implementation of an effective plan for the youth’s future; therefore, agency staff should identify and put in place the assistance needed to support and maintain the placement.

Second, the youth must have educational stability. Every youth must enroll in and attend an educational or vocational program, and—to the extent possible depending on his or her best interest—the youth should remain in the familiar environment of his or her home school. The importance of the judge’s role in ensuring that the educational needs of youth in foster care are met has been well documented.<sup>30</sup> By discouraging changes in school placement (and the resultant setbacks in educational progress) the judge can celebrate the youth’s achievements in school and work towards eliminating barriers and challenges.

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See page 12 for sources.

Third, the youth must have stability in the extra-curricular activities, such as involvement with a church youth group, participation in athletic activities, or involvement in interest-based clubs or hobbies. Engaging in these activities will enable youth to explore and build upon interests, helping to frame their short- and long-term goals and provide motivation to avoid negative outcomes.

As the youth matures—but well before he or she approaches emancipation—the case manager and other adults identified by the youth should assist in developing a detailed plan for transitioning to independent living and ultimately into adulthood. The plan should address the major adult life markers: housing, employment, education, and health (in particular, reproductive health).

### **THE JUDGE'S ROLE: FOCUS ON MOTIVATION**

In accordance with federal law, the judge should ensure that the child welfare agency works with the youth to develop comprehensive transition plans (as appropriate), including independent living skills training (housing, education, career, and reproductive health) and provide services that are necessary and appropriate to achieving that plan.

At each hearing, the judge can discuss with the youth his or her life goals, identify the steps needed to achieve those goals, and walk through how short-term decisions (including the decision to engage in unprotected sex) can affect long-term aspirations (See *On Foster Youth Participation in Court* on page 21).

The judge can also serve as a pro-active supporter of the youth's goals, asking the youth about progress towards his or her stated goals, celebrating his or her successes, and helping him or her problem solve any barriers that may have arisen in meeting those goals.

## **CONCLUSION**

Engaging in sexual activity and having a baby are major milestones in life. For youth and young adults, the earlier these occur, the more potential for negative long-term consequences. Ultimately, adults cannot control a youth's sexual behavior, but they can have a powerful impact on their decision-making by communicating the value of postponing sex and pregnancy, and by providing them with comprehensive, accurate information; health care; and ready access to contraception. More importantly, they can help the youth to envision a bright future and support them as they work to make good decisions.

The juvenile judge plays an important role in ensuring that the youth's case plan provides for his or her safety, wellbeing, and permanency. This includes having specific provisions to address reproductive health and pregnancy prevention through the support of long-term relationships with caring adults, comprehensive sex education, access to reproductive health services and contraception, and support of the youth's long-term plans to transition to adulthood. By including the youth in the planning and review process and asking the right questions at every hearing, the judge can make certain that all stakeholders are making a reasonable effort to support the youth in learning to make informed decisions about when he or she is ready for sexual activity and pregnancy.

# FROM THE BENCH CARD: ASKING THE RIGHT QUESTIONS ABOUT MOTIVATION

The judge should ask if the youth is present. If not, the judge should determine why not and what can be done to make sure the youth attends in the future. If the youth is present, the judge should be prepared to engage the youth by asking questions about placement, caring adults, school, extracurricular activities, and future plans.

During regular reviews of the case, the judge should have answers to the following questions, either from reports submitted to the court, or through questioning during the hearing:

- How stable is the youth's placement? Is the youth placed with a relative or other caring adult who has a supportive relationship with the youth?
- If not, what efforts are being made to identify an appropriate relative or caring adult to achieve a stable placement?
- What reasonable efforts have been made to place siblings together?
- What, if any, support is needed to maintain the youth in a stable placement? Who is responsible for providing this support? By when?
- Where is the youth enrolled in school? How stable is the youth's educational placement?
- If the youth was moved from his or her home school, why is that in the youth's best interest?
- What has been done to ensure the continuity of education credits, extracurricular activities, etc.?
- What are the youth's life goals? How are those being supported by stakeholders?
- Who has reviewed the youth's educational records, assessed the youth's performance, and ensured that the youth is receiving any necessary remedial or educational support services?
- What extracurricular activities is the youth engaged in? What efforts are being made to maintain stability in the youth's participation in extracurricular activities?
- What supports and services are in place to maintain the stability of the youth's placement, education, and extracurricular activities?
- What supports and services are in place to assist the youth with independent living skills (housing, education, employment, reproductive health) and transition planning?

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# TRAINING RECOMMENDATIONS AND RESOURCES



# TRAINING RECOMMENDATIONS

A key theme in the feedback from the pilot project was the need for training of both stakeholders and caring adults in the lives of young people related to:

- » Who, where, and how to talk about reproductive health and safety with foster youth in a developmentally appropriate way.
- » What services are available to the foster youth.
- » Understanding why a foster youth might want a baby.
- » Understanding the effect of sexual abuse and trauma on sexuality and reproductive health.

## RESOURCES

### FAST FACTS: TEEN PREGNANCY IN THE UNITED STATES

Our *Fast Facts* fact sheet series details data on teen pregnancy, birth, and childbearing including information on:

- » race and ethnicity,
- » sexual behavior,
- » contraceptive use,
- » and trends in the United States.

Learn more at [TheNationalCampaign.org](https://www.thenationalcampaign.org).

### TEEN BIRTH RATE

Provides state rankings and their corresponding teen birth rate (overall, not broken down by race/ethnicity, age, etc.) and U.S. overall teen birth rate.

Learn more at [TheNationalCampaign.org/data](https://www.thenationalcampaign.org/data).

### TEEN PREGNANCY RATE

Provides state rankings for teen pregnancy and their corresponding rate (overall, not broken down by race/ethnicity, age, etc.) and U.S. overall teen pregnancy rate.

Learn more at [TheNationalCampaign.org/data](https://www.thenationalcampaign.org/data).

### TOOLS FOR JUDGES:

From the Bench: Full Bench Cards .....	page 15
Quick Reference Guide Bench Card .....	page 19
On Foster Youth Participation in Court .....	page 21
On Judicial Oversight—Relationships, Knowledge, and Motivation .....	page 23
Rights of Minors in Foster Care .....	page 31
Sample Scripts .....	page 33
Seven Things You Can Do to Help Prevent Pregnancy among Foster Youth .....	page 37

### AVAILABLE AT THENATIONALCAMPAIGN.ORG:

*Critical Judgment: How Juvenile and Family Court Judges Can Help Prevent Teen and Unplanned Pregnancy*

*Why it Matters* (a fact sheet series on the consequences of teen pregnancy)

## TOOLS FOR SYSTEM STAKEHOLDERS

(i.e. case managers, probation officers, social workers, CASA):

Outside the Court Room: Working with Youth to Address Reproductive Health .....	page 25
Rights of Minors in Foster Care .....	page 31
Sample Scripts .....	page 33

### AVAILABLE AT THENATIONALCAMPAIGN.ORG:

*Help Me to Succeed: A Guide for Supporting Youth in Foster Care to Prevent Teen Pregnancy*

*Talking Back: What Teens Want Adults to Know About Teen Pregnancy*

*Pocket Protector: A Guide to Birth Control Options*

### TOOLS FOR FOSTER YOUTH:

**Bedsider.org** (website for young people age 18–29)

**StayTeen.org** (website for teens age 13–17)

**StayTeen.org/health-centers** (Stay Teen Health Center Finder)

### AVAILABLE AT THENATIONALCAMPAIGN.ORG:

*It's Your Call: Make the Right Decision for You*

*Pocket Protector: A Guide to Birth Control Options*

## TOOLS FOR PARENTS, FOSTER PARENTS, CAREGIVERS

### AVAILABLE AT THENATIONALCAMPAIGN.ORG:

*10 Tips for Foster Parents to Help Their Foster Youth Avoid Teen Pregnancy*

*10 Tips for Parents To Help Their Children Avoid Teen Pregnancy*

*A Crucial Connection: Working Together to Address Teen Pregnancy Among Youth in Foster Care*

*Fostering Hope: Preventing Teen Pregnancy Among Youth in Foster Care*



# FROM THE BENCH: FULL BENCH CARDS



# FROM THE BENCH: FULL BENCH CARDS

The judge should ask if the youth is present. If not, the judge should determine why not and what can be done to make sure the youth attends in the future. If the youth is present, the judge should be prepared to engage the youth by asking questions about placement, caring adults, school, extracurricular activities, and future plans.

The judge should inform stakeholders of the expectation that information about sex, reproductive health, pregnancy, contraceptive methods, and access to contraceptives will be shared with the foster youth and reported on at hearings.

**At the first hearing and at each subsequent hearing, the judge should receive the answers to the following questions**, either from reports submitted to the court or through questioning during the hearings.

## QUESTIONS ABOUT RELATIONSHIPS

- Who is the trusted adult in the youth's life with whom the youth has a positive relationship?
- Who have the parents identified as extended family members and other support persons?
- Who has the youth identified as family and support persons, and specifically, adults with whom the youth may be able to communicate effectively about intimate topics such as sex, love, and relationships?
- What other action has been taken to identify and engage family and support persons, by whom, and when?
- What barriers, if any, are there to participation, and what is being done to overcome those barriers?
- Which of the important adults in the youth's life (including foster parents and the agency staff, youth's attorney, and CASA) are receiving information and training on how best to communicate with the youth about decision-making in general, and sexuality and relationships in particular?
- Which important adults are working closely together, coordinating their support of the youth and monitoring the youth's activities and friendships?
- What services are being provided to help the youth develop a healthy relationship with the parents?
- What training has been provided to the caring adult for effective developmentally appropriate communication about values, healthy relationships, reproductive health information, and information and access to contraceptive methods?

## QUESTIONS ABOUT KNOWLEDGE

- Who is responsible for providing the foster youth with developmentally-appropriate and ongoing information on sex, pregnancy, reproductive health, contraception methods, contraception access, STI prevention and healthy relationships?
- What comprehensive and accurate information has been shared with the foster youth?
- Which physician has the youth been referred to for medical screenings and age- and developmentally- appropriate reproductive health and pregnancy prevention information?
- When did or will the youth complete an evidence-based sex education program that included complete and accurate information about reproduction, STIs, abstinence, and contraception?
- How does the youth access contraception? What steps have been taken so access is ongoing, ready, and non- judgmental? Who provided the youth with information on how to use contraception effectively and consistently?

## QUESTIONS ABOUT MOTIVATION

- How stable is the youth's placement? Is the youth placed with a relative or other caring adult who has a supportive relationship with the youth?
- If not, what efforts are being made to identify an appropriate relative or caring adult to achieve a stable placement?
- What reasonable efforts have been made to place siblings together?
- What, if any, support is needed to maintain the youth in a stable placement? Who is responsible for providing this support? By when?
- Where is the youth enrolled in school? How stable is the youth's educational placement?
- If the youth was moved from his or her home school, why is that in the youth's best interest?
- What has been done to ensure the continuity of education credits, extracurricular activities, etc.?
- What are the youth's life goals? How are those being supported by stakeholders?
- Who has reviewed the youth's educational records, assessed the youth's performance, and ensured that the youth is receiving any necessary remedial or educational support services?
- What extracurricular activities is the youth engaged in? What efforts are being made to maintain stability in the youth's participation in extracurricular activities?
- What supports and services are in place to maintain the stability of the youth's placement, education, and extracurricular activities?
- What supports and services are in place to assist the youth with independent living skills (housing, education, employment, reproductive health) and transition planning?





# QUICK REFERENCE GUIDE BENCH CARD



# QUICK REFERENCE GUIDE BENCH CARD

**The judge should ask if the youth is present. If not, the judge should determine why not and what can be done to make sure the youth attends in the future.**

The questions below can be asked of the youth themselves or system stakeholders to ensure that questions related to teen pregnancy prevention are addressed.

- Who are the long-term supportive adults that have been identified in the foster youth's life and how are those relationships supported by the case plan?**

(This could include family members, foster parents, child welfare staff, and other advocates.)

- Who referred the foster youth to a health care provider for a health screening, including STI screening, and information about birth control? What does the foster youth know about how to access these reproductive health services on his or her own?**

(This could include a visit to the health clinic, accessing reliable web resources, or attending an educational program.)

- From where and how does the foster youth have ongoing and ready access to contraception?**

- What are the foster youth's long-term and short-term goals? What conversations have been had with the foster youth about the impact a pregnancy would have on those goals?**





# ON FOSTER YOUTH PARTICIPATION IN COURT



# ON FOSTER YOUTH PARTICIPATION IN COURT

Federal law requires that youth in care be given the opportunity to be heard, and that specialized transition case plans be developed for older youth. In most states, a foster youth is a party to the dependency proceeding and has the right to attend hearings; the judge should encourage the youth to attend unless it is contrary to his or her interests.

Support of participation by foster youth includes setting hearings at times when the youth is not in school or during scheduled extracurricular activities. The judge should ask about who will transport the youth to and from the courthouse for hearings. The judge should also consider alternative forms of participation, such as allowing the youth to participate by phone or through writing a non-ex parte letter.

If the foster youth doesn't attend court proceedings, the judge should ask about the foster youth's absence. The judge should advise the agency staff and counsel that he or she strongly encourages the youth to attend in person. Some judges give the youth, through counsel, a letter or "notice" in youth-friendly language that lets the youth know about the proceeding, the importance of the hearings, and the judge's wish to hear personally from the youth in court.

If the foster youth attends court hearings, this is the beginning of a relationship with another person who can be instrumental in achieving long-term goals. The nature of that relationship is in large measure up to the judge. The youth has probably never been in court before, and it will likely seem strange and troubling that major decisions in the youth's life are being made by a stranger. Even with the best attorney, court process may be intimidating, confusing, and frustrating.

Some judges believe that their role should be no different than it is with any other party. Others believe that it is part of the judge's role in supporting the youth's safety, wellbeing, and stability, to get to know each youth on their caseload, understand their individual needs and goals, and engage their active participation in the proceedings. Whatever the comfort level in connecting with youth in the courtroom, the judge sets an example by establishing a relationship that demonstrates respect for the youth, clarifies what the youth can expect the judge to do, and follows through on those expectations.

## A SUGGESTED INTRODUCTION MIGHT BE:

I'm glad that you've chosen to attend this hearing, and I hope you will come to all of the hearings. I will try to set those hearings at a time when you can attend, so please let me, your lawyer, or your case worker know when you have conflicts.

My job is to make sure that your case worker and the other adults working with you place you in a safe, permanent home. Hopefully, that will be with one of your parents. If not, then we hope to place you with a member of your family or a trusted adult friend. It is also my job to ensure that you maintain your relationships with your brothers and sisters, and with family members who you love and who are helpful and supportive of you. Finally, it is my responsibility to see that all the adults who are responsible for you make sure that you are in school and getting the support you need there, that your health needs are known and met, and that you receive any other services or support that you need.

This case is likely to last for a number of months. Today, and in the coming weeks and months, I will have to make a number of decisions that affect you. I will be reading reports and hearing from the agency staff about what the agency is doing to take care of you and what decisions they want me to make about you. It will help me to make better decisions if I know what you want and what you need. I hope you will feel comfortable telling me that yourself, but if not, tell your lawyer or your case worker and they will tell me. I cannot promise that I will always do what you want me to do. But I can promise that I will listen to your views and consider them very carefully in making my decisions. My priority is your best interest; my goals are to maintain your safety, promote your wellbeing, and find you a permanent home.

The judge should explain any decisions made at the hearing, and make sure the youth understands what will happen at the next hearing, between hearings, and when the next hearing will take place. The judge should also make clear that the agency staff will include the youth in all case planning activities, and affirm with the youth that he or she was included in case planning at subsequent hearings.

The more a judge knows about a youth, the more well informed a decision he or she can make for the youth's benefit. For example, the youth may not feel comfortable taking the initiative to request placement or contact with particular relatives—particularly if those relatives are at odds with his or her parents. But if the judge asks the youth to tell him or her about people who are important in her life, the judge may unearth previously undisclosed information that can help agency staff to locate a relative placement or support person for the youth. This, in turn, can lead to the long-term, healthy adult relationship the youth needs. A casual conversation about the youth's interests can prompt the judge to inquire of agency staff what is being done to support those interests through extracurricular activities.

The judge can also take this opportunity to focus positive attention on the youth. All too often, hearing time is spent on the negatives—placement disruptions, failing classes, fights with roommates. While those issues are important, the judge can also do much to encourage the youth by finding something to praise—consistent attendance at school, active participation in therapy, joining a school athletic team.

The judge can also model the relationships that other stakeholders should develop with the youth: setting expectations, encouraging the youth to accept responsibility for making the important decisions in his or her life, giving the tools to do so effectively, and holding themselves and the foster youth accountable for what they have agreed to do. The judge should review the various elements of the case plan with the youth and explain that he or she is ordering these services be provided so that the youth can develop the ability to succeed as an adult.

With respect to sex and pregnancy, the judge should openly acknowledge that part of the maturation process includes developing sexual and romantic relationships, and explain that part of the case plan is designed to give the information and support needed to make good decisions about sex, including delaying sexual activity and, if engaging in sexual intercourse, taking effective measures to prevent pregnancy and disease (See *Sample Scripts* on page 33 for suggestions).



**ON JUDICIAL  
OVERSIGHT:  
RELATIONSHIPS,  
KNOWLEDGE,  
AND MOTIVATION**



# ON JUDICIAL OVERSIGHT: RELATIONSHIPS, KNOWLEDGE, AND MOTIVATION

The job of a judge is to apply the law and determine whether the conditions of the law have been met based on the facts of a particular case. As a result of three decades of changes to federal child welfare laws, the role of the judge in a dependency case has changed dramatically. Federal law requires the dependency judge to approve the case plan for a youth in foster care, review the plan periodically, and determine whether the child welfare agency is making reasonable efforts to achieve the case plan. A dependency judge should also ensure that foster youth coming before them have been given the tools to make good decisions about sex and their reproductive health (which includes delaying pregnancy and using contraception if sexually active).

In addition to asking basic questions pertaining to the legal status of a child, the judge is also charged with ensuring that the child welfare agency meets its responsibility to providing timely permanency for youth in a safe, nurturing home.

Specifically, after a youth has been deemed dependent, the judge must:

- » Hold disposition, review, and permanency hearings within federally specified timeframes;
- » Determine the appropriate placement for the youth;
- » Approve a permanent case plan goal for the youth;
- » Review the written agency case plan and determine whether the proposed services are necessary and appropriate to achieve the case plan goal; and
- » Review the progress in the case within specified timeframes and determine whether the agency is making reasonable efforts to achieve the case plan goals.

As has been amply demonstrated elsewhere,<sup>1</sup> to fulfill this expanded role a judge must be knowledgeable about the child welfare agency, available community services, and underlying domestic issues such as child abuse and neglect, substance abuse, mental illness, and domestic violence. As the case proceeds, the judge cannot simply monitor progress but must also take affirmative steps to ensure that the goals of the law are met. This includes clarifying roles and responsibilities, setting expectations, establishing timeframes for action, evaluating results, and holding parties accountable.

For example, the importance of early action by the court is reflected in the provision of the Fostering Connections to Success and Increasing Adoptions Act. This Act requires the child welfare agency to identify and provide notice to all adult relatives within 30 days after removal.<sup>2</sup> Often there will be many relatives and friends at the preliminary protective hearing, but when the children are not returned to the parents or placed with one of them immediately, they tend to fade out of the picture. The judge can play a positive role in fostering engagement by relatives by explaining the process to them, encouraging them to identify ways in which can assist the family even if they cannot be a placement, and asking them to provide contact information to the agency staff. This judicial oversight supports facilitating and supporting existing relationships.

The child welfare agency is required to promote educational stability by coordinating with local schools to ensure that youth remain where they were originally enrolled (unless this would be contrary to their best interests). The agency is also required to coordinate with the state Medicaid agency and other medical providers to develop a plan for ongoing oversight and coordination of health care services, including initial and follow-up health screenings and continuity of care. While these stipulations are not required to be a part of the individual

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<sup>1</sup> Publication Development Committee of the National Council of Juvenile and Family Court Judges, Victims of Child Abuse Project, & Grossman, D. E. (1995). *Resource guidelines: Improving court practice in child abuse and neglect cases*. Reno, NV: National Council of Juvenile and Family Court Judges.

<sup>2</sup> 42 U.S. C. § 671 (2010).

written case plan, they are appropriate areas of inquiry for the judge and should inform any decision regarding “reasonable efforts.”<sup>3</sup> This judicial oversight responsibility supports the foster youth’s access to information and knowledge, as well as motivation.

The Act has also added requirements focused on older youth.<sup>4</sup> Where appropriate, there must be “a written description of the programs and services which will help such child prepare for the transition from foster care to independent living” for youth age 16 or older. Within 90 days before the youth turns 18, the case manager must also “provide the child with assistance and support in developing a transition plan that is personalized at the direction of the child” that addresses at a minimum housing, health insurance, education, support services, and employment services.<sup>5</sup> This judicial oversight responsibility supports the foster youth’s motivation after foster care.

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<sup>3</sup> For more background on the educational issues and checklists to assist judges in ensuring that the educational needs of foster children are being met, see *Asking the Right Questions II: Judicial Checklists to Meet the Educational Needs of Children and Youth in Foster Care* (Gatowski, Medina, & Warren, 2008).

<sup>4</sup> The Fostering Connections to Success and Increasing Adoptions Act of 2008, Pub. L. No. 110-351 (2008).

<sup>5</sup> The Fostering Connections to Success and Increasing Adoptions Act of 2008, Pub. L. No. 110-351 (2008).



**OUTSIDE THE  
COURTROOM:  
WORKING WITH  
YOUTH TO ADDRESS  
REPRODUCTIVE  
HEALTH**



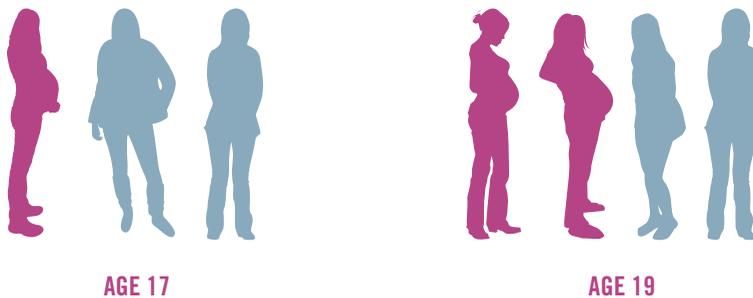
# OUTSIDE THE COURTROOM: WORKING WITH YOUTH TO ADDRESS REPRODUCTIVE HEALTH

Teen pregnancy rates have declined dramatically nationwide over the past two decades. However, disparities remain, particularly for youth in foster care. In fact, the teen pregnancy rate for girls in foster care is more than double the rate for teen girls in the general population. When working with youth, we encourage you to use this tool below to start a conversation and to help teens make good decisions about their reproductive health.

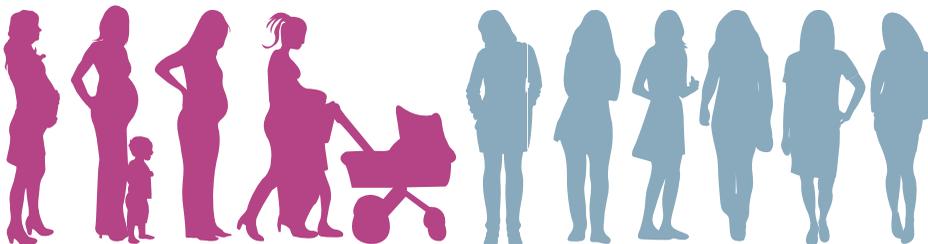
## THE ISSUE

Youth in the child welfare system are considered a high risk population for early pregnancy. What does this really mean?

- » **One-third of girls in foster care become pregnant at least once by age 17, and almost half become pregnant at least once by age 19.**



- » **A teen girl in foster care is 2.5 times more likely to become pregnant by age 19 than her adolescent peers who are not in foster care. Four in 10 girls in foster care also experience two or more pregnancies by age 19.**



### WHY IS THIS IMPORTANT?

- » Compared to women who delay childbearing, teen mothers are more likely to drop out of school and live in poverty.
- » The children of teen mothers in foster care are more likely to experience child abuse and neglect, and enter the child welfare system.

## THE CHECKLIST

This checklist can be used to help the youth you serve to make sound decisions about their sexual behavior and relationships; you can and should tailor it depending on the specific services and programs available in your jurisdiction. Complete this checklist for each youth you support. Some items will require you to have a conversation with the youth; follow the tips included later in this resource to get started.

PROMOTING HEALTHY YOUTH CHECKLIST	YES	NO	RESOURCES
Describe the youth's medical home. If the youth does not have a medical home, explain why not.	<input type="checkbox"/>	<input type="checkbox"/>	Identify a health care provider in the youth's community. If one is not readily available, consult the web-based resources to help find a clinic on page 30.
Is the youth familiar with birth control? If so, which methods does he or she recognize/ know about? Has the youth decided what method is best for them?	<input type="checkbox"/>	<input type="checkbox"/>	Talk with the youth about birth control and ensure they have access to a provider who can talk with them, too. See resources on pages 13–14 and 30 for more information.
What current, accurate information on preventing pregnancy and sexually transmitted infections (STI) does the youth have? From what source did the youth get the information?	<input type="checkbox"/>	<input type="checkbox"/>	Help youth to find a local program or resource that is current and accurate. Introduce youth to resources on the web. See pages 13–14 and 30 for more information.
How do you know that the youth is comfortable communicating his or her needs to a health care provider?	<input type="checkbox"/>	<input type="checkbox"/>	Talk to the youth about how to advocate for themselves when seeking health services. If youth is not comfortable, refer him or her to web resources for more support (see page 30). Consider incorporating reproductive health into Life Skills/Independent Living/ or other case services.

# TALKING WITH YOUTH

Working with young people means listening to them, allowing them to discuss concerns, and answering their questions. Here are a couple of things to keep in mind when you get questions from or have conversations with foster youth.

## QUESTIONS ABOUT SEXUAL IDENTITY

- » Ensure that you provide a supportive, non-judgmental environment. Cultural sensitivity is important when building a rapport with youth so that they are comfortable discussing sensitive and personal topics. Data suggest that lesbian, gay, bisexual, and transgender (LGBT) youth are overrepresented in the foster care population and experience higher rates of unplanned pregnancy than the general population, so it's important for you to be prepared to discuss the topic.
- » Use a value-neutral approach. That is, exclude your personal views from the discussion and focus on fact-based prevention messages (e.g., condoms reduce your risk for pregnancy and HIV). If you are not comfortable with your knowledge level, refer the youth to another trusted adult in their lives such as a family doctor, community worker, school counselor, or church member.

## QUESTIONS ABOUT SEX AND BIRTH CONTROL

- » Be sure youth know their rights. In particular, they should understand rights about consent for contraceptive services. For instance, in many states all minors may consent to contraceptive services. In most states Medicaid covers ALL forms of contraception, and Title X funding ensures access to confidential reproductive health services for teens. For more information see *Rights of Minors in Foster Care* on page 31.
- » Refer youth to digital resources for information about sexuality and birth control such as **StayTeen.org** (website for teens age 13–17) and **Bedsider.org** (website for young people age 18–29).

## QUESTIONS ABOUT PREGNANCY

- » Address the motivations that youth in foster care may have for getting pregnant. For example, a foster youth may see having a child as a way to give a child the love and care they feel they didn't have. Some youth may see having a child as a way to create the family they did not have or fill an emotional void. To some foster teens, having a child may mean not being alone, being loved, and having someone to love.
- » Try to engage the youth about these motivations for starting a family. Acknowledge that it is normal to want a stable, loving family. Then ask the youth to consider what the consequences of having a family now might be. Reinforce that the desire to start a family now relates to other important goals, such as getting an education, choosing a career, and being able to support a family. You might ask the youth:
  - › How will you support a child?
  - › What support systems do you have in place to help you raise a child?
  - › How will you attend college or acquire the skills needed to obtain a well-paying job if you are a parent now?
  - › How will you afford an apartment? Childcare? Groceries? Transportation?
- » Pregnancy may be used to control the youth if she is involved in an abusive relationship. Youth in abusive relationships may not be able to negotiate sexual activity or birth control with their partner leaving them at risk for pregnancy and/or STIs. Sometimes abusers can sabotage birth control as another means of control. Consider that the youth may feel as if pregnancy prevention is out of their control. You might ask the youth about their relationship (see below) as well as their access to and use of birth control. In addition, you may talk to youth who may be facing birth control sabotage, about methods of birth control that are not partner reliant and can't be seen by partners like IUDs, the implant, and the shot.

## QUESTIONS ABOUT RELATIONSHIPS

- » Foster youth may be more vulnerable to early pregnancy because they are at greater risk for engaging in sex and unprotected sex during their teen years. Foster youth may decide to have sex because of a close relationship with a boyfriend or girlfriend. Youth who become sexually active may forego the use of birth control in response to a partner's desire to have unprotected sex. Youth also may be less careful about birth control because they are in a relationship or are indifferent to pregnancy or wish to get pregnant.
- » Youth may face enormous pressure from society, friends, and significant others to have sex. Empower them to negotiate relationships and sexual activity in their relationships by teaching them strong communication skills. Provide them with the tools to anticipate pressure and respond appropriately. Help them to understand when pressure becomes coercive or abusive and the confidence to leave a relationship that doesn't match their expectations.
- » Acknowledge that it is normal for someone to want stable relationships. Discuss the attributes of healthy versus unhealthy relationships and the warning signs of an abusive relationship. Healthy relationships do not involve pressure to have sex or pressure to have unprotected sex. Healthy relationships support the desire to pursue educational, career, and personal goals.
- » Engage the youth in activities helping them to identify healthy vs unhealthy behaviors in relationships. Consider using the Relationship Spectrum from [LoveIsRespect.org](http://LoveIsRespect.org).

## TYPES OF QUESTIONS

When faced with a tricky question it may be helpful to first identify what type of question you are dealing with and then determine an appropriate response.

Here are some common types of questions you may encounter from the youth you support:

<b>QUESTION TYPE</b>	<b>INFORMATION-SEEKING</b>
<b>DEFINITION</b>	Straightforward questions with specific, factual answers.
<b>SAMPLE QUESTION</b>	Can you get an STI from a toilet seat?  Since most STIs are caused by germs and bacteria that are very fragile, it is not possible to get a disease from a toilet seat because the bacteria or virus could not stay alive there. (Note: take this opportunity to share additional information on how STIs are transmitted and where to get tested)
<b>SAMPLE RESPONSE</b>	
<b>QUESTION TYPE</b>	<b>AM I NORMAL?</b>
<b>DEFINITION</b>	These questions are often about something a person worries about and needs reassurance on. So while there may be a factual response, the person needs to know that wanting to know the answer is normal.
<b>SAMPLE QUESTION</b>	Why are boys horny all the time?  It really does seem as though all boys are horny all the time, but we know that not only are some boys not at all interested in sex, but many girls can be very interested in sex and we don't often hear about that. It is really normal for teens to think about sex a lot, be curious, and even masturbate a lot. It is also normal for those feelings not to be very strong at all. People develop at different rates and so a person's interest in sex is a really individual thing. Why do you think we have this stereotype that all guys are horny?
<b>SAMPLE RESPONSE</b>	

**QUESTION TYPE****PERSONAL BELIEF****DEFINITION**

These questions are a test of how much you are willing to share about yourself. Most of the time, sharing personal information is not appropriate, but generally explaining to the youth that your experiences happened at a time very different from today, and therefore are not relevant to them, is a safe way to avoid answering these types of questions.

**SAMPLE QUESTION**

How old were you when you had sex for the first time?

**SAMPLE RESPONSE**

Since I am not you it would not be helpful to you for me to give you an answer. We can talk together about the choice you have to make, and then maybe it will be easier for you to make a decision that is right for you.

**QUESTION TYPE****SHOCK QUESTIONS****DEFINITION**

These questions are asked to test you. This is a check of your sense of humor, your ability to think on your feet, and your ability to not get flustered or upset by a question. Sometimes it is best to ignore the question, but other times, it helps to give a serious answer.

**SAMPLE QUESTION**

My girlfriend smells like dead stinky fish, what should I do?

**SAMPLE RESPONSE**

This question is asking about something we often hear—that a girl's vagina smells dirty or bad, but the way it is asked is part of the problem. It is true that many vaginas have a scent and that some are stronger and more noticeable than others. This is very normal. It is not right to make a girl or woman feel bad about her body especially over something completely normal. However, if the smell is different than usual, it could be a sign of infection and she should see a doctor.

# RESOURCES

## FIND A LOCAL HEALTH CENTER

### **StayTeen.org**

Enter your zip code in the health center finder at [StayTeen.org/health-centers](https://www.stayteen.org/health-centers)

### **Bedsider.org**

Enter your zip code in the location box at [Bedsider.org/where\\_to\\_get\\_it](https://www.bedsider.org/where_to_get_it) or TEXT MYBC to 42411

## HAVE QUESTIONS ABOUT SEX & BIRTH CONTROL?

**Bedsider.org** (website for young people age 18-29)

**StayTeen.org** (website for teens age13-17)

**GoAskAlice.Columbia.edu**

**SexEtc.org**

## BIRTH CONTROL METHODS

*Pocket Protector: A Guide to Birth Control Options* (available on [TheNationalCampaign.org](https://www.thenationalcampaign.org))

**Bedsider.org** (website for young people age 18-29)

**StayTeen.org** (website for teens age13-17)



# **RIGHTS OF MINORS IN FOSTER CARE**



# RIGHTS OF MINORS IN FOSTER CARE

The reproductive health rights of youth in foster care are no different than those of their peers outside of the foster care system. In many states minors have the right of access to free or low-cost confidential reproductive health care, including youth in foster care. In most states Medicaid covers many, if not all forms of contraception and most minors in foster care are already accessing Medicaid services for their general health care coverage. As reproductive health is part of the foster youth's overall safety, wellbeing, and permanency, it is important that judges understand foster youths' rights and hold stakeholders accountable for providing access to reproductive health information and care.

Many foster care system stakeholders are unfamiliar with the reproductive health rights of youth in foster care, and some may even believe policies exist in their organization against discussing and providing access to reproductive health care for foster youth. Not so. Consider the following:

- » No state limits or prohibits discussion of reproductive health options with foster youth. If a stakeholder claims that a policy exists prohibiting discussion of reproductive health options with foster youth, judges should ask for a copy of the "policy" which restricts discussion so that the court can fully understand the restriction.
- » No state explicitly requires parental consent or notification for contraceptive services. However, two states (Texas and Utah) require parental consent for contraceptive services paid for with state funds.<sup>1</sup>
- » Twenty-one states and the District of Columbia explicitly allow minors to obtain contraceptive services without a parent's involvement. Another 25 states have affirmed that right for certain classes of minors, while four states have no law.<sup>1</sup> In the absence of a specific law, courts have determined that minors' privacy rights include the right to obtain contraceptive services. For more information visit the Guttmacher Institute's State Policy Brief on Minor's Access To Contraceptive Services.<sup>1</sup>

## SAMPLE GUIDE TO THE RIGHTS OF MINORS IN FOSTER CARE

- » Foster Youth Have Rights.  
This website, <http://www.fosteryouthhelp.ca.gov/rights2.html>, from the California Ombudsman for Foster Care is specifically for foster care youth. It details health, school, and family rights as well as rights within the foster care home and the court room.

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<sup>1</sup> Guttmacher Institute. (October 2014). State Policies in Brief: Minors' Access to Contraceptive Services. Retrieved October 17, 2014 from [http://www.guttmacher.org/statecenter/spibs/spib\\_MACS.pdf](http://www.guttmacher.org/statecenter/spibs/spib_MACS.pdf).





# SAMPLE SCRIPTS



# SAMPLE SCRIPTS

Judges don't have to talk to foster youth about sex or discuss a youth's personal decisions in open court, however you do need to make sure the conversations are happening as part of your oversight of the youth's health and wellbeing. In other words, your role as a judge is not to become a "sexpert" or act as a sex educator within your courtroom, but instead to hold accountable those stakeholders responsible for the youth's safety, wellbeing, and permanency. This also includes ensuring that youth in care are receiving appropriate and reliable information and clinical services; that there are caring, healthy, adult relationships supporting the youth; and that the youth are motivated by future plans beyond foster care. These three elements are key in preventing teen and unplanned pregnancy. Here are some suggestions for getting the conversation started; whether you ask stakeholders or the youth themselves, the answers will help you guide, direct, and hold stakeholders accountable.

## ON THE TOPIC OF RELATIONSHIPS AND IDENTIFYING A CARING ADULT

### FOR YOUTH

It sounds like you have a lot going on in your life right now with balancing school, work, and a social life—who do you talk to when you need to talk about what's going on in your life?

### FOR STAKEHOLDERS

Who is the caring adult in the foster youth's life to talk to and provide support?

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### FOR YOUTH

When you have a question about something going on in your life, who is the first person you think of asking? Who else might you ask if you can't get ahold of that person?

### FOR STAKEHOLDERS

Who is the caring adult in the foster youth's life to talk to and provide support?

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### FOR YOUTH

You've mentioned that you have a boyfriend/ girlfriend/ partner—when you need some relationship advice, who can you turn to for answers? Are there any others in your life (or on your treatment team) you could talk to?

### FOR STAKEHOLDERS

Who is the caring adult in the foster youth's life to talk to and provide support?

**FOR YOUTH**

It sounds like you have made some plans for your future with your treatment team like college, working, and living on your own. Have you considered how having a baby right now might impact those plans? Have you learned what to do to delay a pregnancy until you are ready to be a successful parent?

**FOR STAKEHOLDERS**

What plans has the youth made for the future? What has been discussed about how the youth can delay pregnancy until they are ready? Does the youth understand that “being ready” is more than simply wanting a child?

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**FOR YOUTH**

As you become an adult, taking care of your health needs on your own is important. Has your social worker discussed how to make a doctor’s appointment? If you need some suggestions about what to say when you call to make an appointment, check out [StayTeen.org](http://StayTeen.org) (a website for teens age 13–17) or [Bedsider.org](http://Bedsider.org) (a website for young people age 18–29).

**FOR STAKEHOLDERS**

Who has discussed with the youth how to make a doctor’s appointment? Who has assisted the youth with what to say when they call for an appointment?

**FOR YOUTH**

It sounds like you have a dental appointment, a counseling appointment, and a vision appointment coming up. Has your social worker also planned a visit to the clinic to have sexual health screening done? Like the dentist, counselor, and eye doctor, this is part of everyone’s basic health care and should be done on a regular basis.

**FOR STAKEHOLDERS**

When is the youth scheduled to visit a clinic for a sexual health screening?

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### FOR YOUTH

Is it easy to go see your doctor? Does your doctor talk to you about things like birth control? (If not, request that the social worker to follow up with medical staff)

### FOR STAKEHOLDERS

Who is ensuring that the doctor has talked with the youth about birth control?

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### FOR YOUTH

If you or your partner has questions about your relationship or about sex, where do you go to get answers? Is there someone on your team you can talk to about these questions? Have you discussed these topics with your regular doctor?\*

### FOR STAKEHOLDERS

Describe how you have communicated to the youth who on the team is available to talk about relationships and sex.

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### FOR YOUTH

Have you had a class on sex ed at your school? Was the teacher helpful and did they cover where to go to get birth control or condoms for free?

### FOR STAKEHOLDERS

When did the youth attend a class on sex ed and when? How does the youth know where to get birth control and condoms for free and without embarrassment?

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\* Suggest visiting [StayTeen.org](http://StayTeen.org) (for teens age 13–17) or [Bedsider.org](http://Bedsider.org) (for young people age 18–19) for more information about relationships, birth control, and a zip code-based clinic locator. These website referrals can even be part of a handout given to the youth at the hearing.





# 7 THINGS YOU CAN DO TO HELP PREVENT PREGNANCY AMONG YOUTH IN FOSTER CARE



# 7 THINGS YOU CAN DO TO HELP PREVENT PREGNANCY AMONG YOUTH IN FOSTER CARE

## 1 STOCK USEFUL RESOURCES IN YOUR COURTROOM.

No need for a lengthy conversation, or for you to brush up on your knowledge of birth control options. You can provide young people with access to information that can help them to better plan for their futures by simply making medically accurate, youth-friendly resources available in your courtroom. Take a look at The National Campaign's *Pocket Protector: A Guide to Birth Control Options* and the Birth Control Method Explorers available at [StayTeen.org](http://StayTeen.org) or [Bedsider.org](http://Bedsider.org).

## 2 DISPEL MYTHS.

If a discussion about the rights of youth in care comes up, be clear that youth in foster care have the same ability to consent to reproductive health services (including sexually transmitted infection screening and ALL contraceptive options) as youth who are not in care. Often confusion about a youth's rights to access to care can lead support staff to inaction and concerns about "policy" and "rules" that may not actually exist. (See *Rights of Minors in Foster Care* on page 31.)

## 3 ASK ABOUT ALL OF A YOUNG PERSON'S HEALTH CARE NEEDS.

A youth's sexual health is part of their overall health. When inquiring about the health care needs of a youth in your courtroom don't stop at dental, vision, and appropriate mental health needs—ask if appointments have been made for sexual health services as well. These appointments might include screenings for sexually transmitted infections (STIs) as well as birth control, but there's no need to go into detail; simply remind social workers or guardians ad litem to make these appointments as part of a youth's routine overall health care.

## 4 TREAT YOUTH IN CARE LIKE THEY ARE EXPERTS... BECAUSE THEY ARE!

Youth are experts on themselves. If we take the time to have conversations with them about the relationships in their lives we can learn a lot about their needs and whether or not they are being met. (See the *Sample Scripts* on page 33 for more ideas about getting the conversation started.)

## 5 HARNESS THE POWER OF PARENTS AND PARENT FIGURES.

Parents have power and influence. In fact, youth report that they want to hear messages about sex and relationships from their parents or the parent figures in their lives, and this includes foster parents. Provide resources in your courtroom for parents, foster parents, or the healthy adult relationship in the youth's life so that adults can discuss this issue in their homes, and encourage conversations by asking youth about the topic during routine permanency hearings. (See The National Campaign's parent resources *Ten Tips for Parents to Help Their Children Avoid Teen Pregnancy and Talking Back: What Teens Want Adults to Know About Teen Pregnancy* available on [TheNationalCampaign.org](http://TheNationalCampaign.org) for more information on engaging parents.) Coordinate with social services and the youth's Court Appointed Special Advocate (CASA) so that the resources provided to parents, foster parents, and the healthy adult relationship in the youth's life in the courtroom are the same as those used by stakeholders.

## 6 ASK ABOUT RELATIONSHIPS WITH CARING ADULTS.

Qualitative data suggest that youth in care are less motivated than youth in the general population to avoid pregnancy and in fact many might be interested in becoming pregnant. Interest in having a baby might be driven by a desire for permanent and stable relationships. Ensuring that youth in care have a stable and caring adult in their lives might help reduce this motivation.

## 7 ENCOURAGE YOUTH IN CARE TO THINK ABOUT AND PLAN FOR THEIR FUTURE.

Youth who believe they have a successful future ahead of them are more likely to delay sex, pregnancy, and parenthood. Work with youth to explore educational and other life goals, how to achieve those goals, and how decisions made now might impact whether or not they achieve those goals.





The National Campaign to Prevent Teen and Unplanned Pregnancy  
202.478.8500 • [www.TheNationalCampaign.org](http://www.TheNationalCampaign.org) • [www.Bedsider.org](http://www.Bedsider.org) • [www.StayTeen.org](http://www.StayTeen.org)