

Frequently Asked Questions Related to Host Homes

Medical Issues

Who is responsible for medical bills?

Parents are typically responsible for their child's medical bills. If you are hosting a youth who is uninsured, sometimes there are neighborhood/local health care options that will cover their medical care. In addition, you should consider pursuing public benefits to assist with medical bills for the youth, including Medicaid and/or the Children's Health Insurance Program (CHIP). But the paperwork and waiting for an approval decision can make that process challenging. To obtain and receive public benefits on behalf of a minor you are hosting in your home, you must enter into an "Authorization Agreement" with one or both of the parents if they are available and cooperative. (See Texas Family Code § 34.002(7), available at <https://statutes.capitol.texas.gov/Docs/FA/htm/FA.34.htm>.) In order for this agreement to be effective, there is very specific language that must be included. The advice of an attorney may also be required to make sure all necessary information is included.

Alternatively, it is possible for you to obtain and maintain health insurance for the youth by entering into an Authorization Agreement with one or both of the youth's parents if they are available and cooperative. (See Texas Family Code § 34.002(2).) As mentioned above, you may need to consult an attorney to assist you with preparing a proper Authorization Agreement. Once you have that agreement in place, you can seek to have the youth covered by your health insurance provider.

Because state law is not entirely clear about health insurance options when a non-parent adult is caring for a minor, beware that if you are the adult consenting to the treatment of the youth (as discussed in the question below), there is some risk that your consent will be interpreted as

an implicit agreement to pay the medical bills, or that you will be asked to agree in writing to pay the medical bills. Read the paperwork carefully. If necessary, consider clarifying with the hospital administrator who is responsible for the medical bills.

Who is responsible for consenting medical procedures?

Normally a natural parent must consent to their child's medical and dental care, and psychiatric, psychological, and surgical treatment. But, even without a parent's consent, a youth under 18 may consent to medical, dental, psychological, and surgical treatment by a doctor or dentist if the youth satisfies any of the following conditions:

- is at least 16 years old and living away from their parents, managing conservator, or guardian, and is managing their own finances;
- is consenting to diagnosis or treatment of an infectious, contagious, or communicable disease that is reportable to the Texas Department of State Health Services;
- is unmarried and pregnant and consenting to hospital, medical or surgical treatment related to pregnancy (but not abortion);
- is consenting to examination or treatment for drug or chemical addiction, dependency, or any other condition directly related to drug or chemical use; or
- is consenting to counseling for suicide prevention, chemical addiction or dependency, or for sexual, physical, or emotional abuse.

(Texas Family Code §§ 32.003, 32.004, available at <https://statutes.capitol.texas.gov/Docs/FA/htm/FA.32.htm>.) Importantly, as mentioned, if the youth is 16 or older, living away from their parents, and is managing their own finances, Texas law allows them to consent to their own medical and dental care, and psychiatric, psychological, and surgical treatment.

In the case of an emergency, appropriate medical care for an urgent or emergent condition may not be withheld or delayed because parental consent cannot be obtained.

In addition, an adult who is caring for a youth, and has written permission to consent from a person who has the right to consent for the youth (such as a natural parent), may consent to medical, dental, psychological, and surgical treatment for the youth. (*Id.* § 32.002.) So if the natural parent of the youth is available and cooperative, you should seek a statement in writing

from them that includes: the name of the child, the name of one or both of the youth's parents if known, the name of the person giving consent and the person's relationship with the youth, a statement of the nature of the medical treatment to be given, and the date the treatment is to begin. (*Id.*) This consent form will allow you to consent to the medical treatment without the parent being present. This simple consent form is likely the best option if you expect a one-time need to consent to medical treatment for the youth.

If necessary and possible, you should also consider entering into an "Authorization Agreement" with one or both of the youth's parents, which would authorize you to consent to medical, dental, psychological, or surgical treatment and immunization of the child, including executing any consents or authorizations for the release of information as required by law, relating to the treatment or immunization. (Texas Family Code §§ 34.002 - 34.005, available at <https://statutes.capitol.texas.gov/Docs/FA/htm/FA.34.htm>.) As previously discussed, this consent form is more complicated, requires very specific language in order to be effective, and may require the advice of an attorney. Although more complicated, it is likely preferable for a long-term host of a youth who will need to consent to unknown future medical treatments more than just once.

Alternatively, Texas law allows you to seek a temporary authorization by filing documentation and appearing at a hearing in court, where you will need to demonstrate that it is in the child's best interests for you to temporarily be authorized to consent on behalf of the child. (Texas Family Code § 35.001 *et seq.*, available at <https://statutes.capitol.texas.gov/Docs/FA/htm/FA.35.htm>.) The temporary authorization will allow you to, among other things, consent to medical and other treatment for the child, seek public benefits for the child, enroll them in school, and to consent to any other care necessary for the welfare of the child. (*Id.* § 35.005.) This process for obtaining temporary authorization is for scenarios where a parent is not available or is unwilling to sign an Authorization Agreement.

Whose insurance can you use for the youth, as a host?

As discussed above for Question No. 1, if the youth is not insured through the natural parent's health insurance provider, you may need to assist him or her in seeking public benefits. If the natural parent is willing to enter into an Authorization Agreement, you can also seek to obtain and maintain health insurance for the youth through your health insurance provider. (Texas Family Code § 34.002(2), available at <https://statutes.capitol.texas.gov/Docs/FA/htm/FA.34.htm>.)

What happens if the youth does not have access to insurance?

As discussed above, if the youth does not have access to medical insurance, you should consider local healthcare providers that do not require insurance, seek to obtain public benefits, and/or add the youth to your own medical insurance plan.

Driver Liability Issues for Both the Host and the Youth

If a youth wants to start driving, can/should a host put the youth on their driver's insurance?

In general, a youth may be added as a driver on your insurance policy if they are legally permitted to drive. There is no requirement that someone be part of your natural family to be listed as a driver on your insurance policy.

However, if the youth first needs to obtain a learner's permit or driver's license to be permitted to drive and their parent will not assist with that process, you will first need to enter into an Authorization Agreement with the youth's natural parent, if possible. The Authorization Agreement form will allow you to authorize the youth to obtain a learner's permit or driver's license. (Texas Family Code § 34.002(5), available at <https://statutes.capitol.texas.gov/Docs/FA/htm/FA.34.htm>.) This form can be complicated, requires very specific language in order to be effective, and may require the advice of an attorney.

It is risky and inadvisable to allow an uninsured youth to drive your car without being added to your policy, unless you have confirmed that your insurance policy covers someone driving your car with your permission (such as the youth you are hosting). Although it depends on the specifics of your policy, if the youth is involved in a car accident, your insurance company may deny a claim if the driver is not listed on the insurance policy. You, as the owner of the vehicle, would be responsible for damage caused when the youth is driving the vehicle, which is why the youth should be added to your policy if you intend to permit them to use your vehicle.

If you do not intend to allow the youth to use your vehicle or do not want to potentially pay for a higher premium as a result of adding them to your policy, you should not add them to your policy and should not permit them to use your vehicle.

Note that the McKinney-Vento Act, which is a federal law designed to assist homeless students attend and participate in school, requires the school district in which a homeless youth chooses to attend school to provide or arrange transportation to and from school. (See 42 U.S.C. § 11432(g)(1)(J)(iii), available at <https://www.govinfo.gov/content/pkg/USCODE-2017-title42/pdf/USCODE-2017-title42-chap119-subchapVI-partB-sec11432.pdf>.) If transportation to and from school is the primary reason you are considering allowing access to your car, a better option for you and your family might be to have the school district provide the youth's transportation to and from school. You should seek further information from the homeless youth liaison for your school district to confirm that the youth qualifies for this transportation.

What happens if the host gets into a car accident and the youth is in the car?

If you are driving a vehicle you own and cause an accident, you are likely responsible for paying for your passenger's medical bills. If you will be driving the youth you are hosting in your home often, you should consider making sure you have adequate medical payment insurance coverage as part of your auto insurance plan. If the other driver is at fault, that driver's liability coverage is required to cover at least some of the medical bills for you and your passengers.

Permission slips: Can/should hosts sign permission slip forms even though they are not the parent or guardian? If not, what should they do?

For a youth who is considered homeless under the McKinney-Vento Act, which likely applies to a minor residing with a host family on a short-term basis, federal law requires states and school districts to eliminate barriers to school enrollment and retention. The Act defines enrollment as "attending classes and participating fully in school activities." (42 U.S.C. § 11434a(1), available at <https://www.govinfo.gov/content/pkg/USCODE-2010-title42/pdf/USCODE-2010-title42-chap119-subchapVI-partB-sec11434a.pdf>.) Therefore, students experiencing homelessness must be able to enroll in school immediately, and that includes not just attending classes, but also participating in extracurricular school activities, such as sports, performing arts, and clubs.

But federal law does not require a specific approach on the question of who can sign a permission slip for an extracurricular activity and the answer may depend on the specific school district's policies. School districts have discretion to decide the approach that makes the most sense based on the individual circumstances of each youth, so long as the student is enrolled immediately and participating fully in school. You should seek further information from the homeless youth liaison employed by your school district to determine when and under what circumstances the youth is permitted to attend field trips or participate in other activities without a permission slip signed by a natural parent.

If the youth is in high school, often the youth can sign their own permission slips as an unaccompanied student. If the youth is in middle school, often a simple agreement between the host and the parent will be sufficient to allow the host to sign permission slips, as long as the parent's signature is notarized and the agreement states that the host has the authority to sign using their judgment on the parent's behalf.

In addition, Texas law allows a non-parent to authorize the child to participate in age-appropriate extracurricular, civic, social, or recreational activities, including athletic activities, if you enter into an Authorization Agreement with the youth's natural parent. (See Texas Family Code § 34.002(4), available at <https://statutes.capitol.texas.gov/Docs/FA/htm/FA.34.htm>.) As discussed above, this form can be complicated, requires very specific language in order to be effective, and may require the advice of an attorney.

Harboring/ parental involvement/ CPS involvement issues: When can a host get in trouble for “harboring” a youth? And when might the host be responsible, in some way, for that youth’s bad conduct or criminal activity?

Under Texas law, an adult can be charged with a Class A misdemeanor for “harboring a child” (a person who is younger than 18) if the child has escaped custody of a peace officer, a probation officer, the Texas Youth Council, a detention facility, or the child's home without a parent's or guardian's consent (when the child has been absent for a “substantial length of time” or the child has no intent to return home). (Texas Penal Code § 25.06, available at <https://statutes.capitol.texas.gov/Docs/PE/htm/PE.25.htm>.)

It is a defense to the misdemeanor charge for failure to report a runaway child if the person “harboring” the child is related to the child by the “second degree of consanguinity,” meaning the child's sibling or grandparent. (Texas Government Code § 573.023, available at <https://statutes.capitol.texas.gov/Docs/GV/htm/GV.573.htm>.)

It is also a defense to a charge of harboring if the person allegedly harboring the child notifies the parent, agency, or officer from which the child “escaped” within 24 hours after discovering the child is absent from home without parental consent (or otherwise escaped custody of a state agency or peace officer). (*Id.*)

For these reasons, you should immediately contact the youth's parents, police, and agency the youth left if you know that a youth has left their custody without their consent.

Texas law is not clear on when you, as a non-parent permitting a youth to live in your home, will be responsible in some way for their conduct. In general, any liability resulting from the

student's activities, be it damage or destruction of property or injury to persons, is most likely the responsibility of the youth, their natural parent(s), and/or legal guardian(s). In an abundance of caution, you should consider having the youth you are hosting sign an agreement with "rules" they agree to comply with while living in your home. For example, the rules may state requirements such as (a) the youth must attend all day of school on every school day and (2) the youth must be home by a certain time every day. Although the agreement will not be binding on a minor, it may be helpful in limiting any liability you could potentially face for the youth's wrongful conduct if the youth disregarded the agreed rules.