

NOTICE OF RULE MAKING

Pursuant to A.C.A. § 20-76-201, the Director, Division of Children and Family Services DCFS, issues proposed changes to the DCFS Family Services Policy and Procedures FSPP Manual.

1 REGULAR PROMULGATION OF:

POLICY and PROCEDURES

POLICY I-F Confidentiality –

Designates protected health information as confidential and identifies what agencies and individuals can receive confidential client information.

POLICY II-C Child Abuse Hotline for Child Maltreatment Reports

Investigations will be initiated within 24 hours for allegations of severe maltreatment and/or neglect as defined by Garrett's Law.

POLICY II-D Child Maltreatment Central Registry

Protected health information is included in reports that may be disclosed to authorized agencies and individuals.

PROCEDURE II-D5 Information Disclosure on Pending Investigations

Information on pending investigations may be released to senators, representatives, and staff acting in their official capacities.

POLICY II-E County Office Assessment of Child Maltreatment Reports

Change to Garrett's Law: will be found true, but exempt; authorization to take an individual child into Emergency Seventy-Two 72 hour custody, if necessary for the health and safety of the child; hospital social worker added to acceptable reporters; mother may place the child for fast-track adoption.

Primary focus of assessments will be to determine if offender has access to children and if children need protection. Workers will obtain criminal background checks on any subjects of child maltreatment reports.

PROCEDURE II-E5 Other Child Maltreatment Assessment Actions

Family Service Workers will obtain drug test results from mandated reporters.

PROCEDURE II-E6 Child Maltreatment Investigative Determination - Change to Garrett's Law: will be found true, but exempt; authorization to take an individual child into Emergency Seventy-Two 72 hour custody, if necessary for the health and safety of the child; hospital social worker added to acceptable reporters; mother may place the child for fast-track adoption.

PROCEDURE II-E8 Child Maltreatment Determination Notification and Follow-up

Provides instruction on routing and processing child maltreatment determination notifications, including time frames.

PROCEDURE II-E10 Protective Custody of a Child in Immediate Danger

Clarification of procedure regarding driving record history in local background check.

Any child determined to be at risk may be taken into protective custody if subject to neglect as defined under Garrett's Law.

POLICY II-I Family in Need Of Services (FINS)

Issues regarding placement of a juvenile in custody of the Department pursuant to a FINS or dependency-neglect case will be addressed only in the FINS or dependency-neglect cases. In addition, the Department will not recommend that the court split custody of a juvenile.

POLICY II-J Division of Developmental Disabilities Services DDS Children's Services Referrals

Outlines provisions for the referral of a child under the age of 3 involved in a substantiated case of child abuse or neglect to Early Intervention services.

PROCEDURE II-J1 DDS Referrals for Services

Outlines procedures for the referral of a child under the age of 3 who is involved in a substantiated case of child abuse or neglect to Early Intervention services.

POLICY II-K Sex Offender with Custody or Unsupervised Visitation Rights

When a hot-line reports that a child is participating in unsupervised visits with a Level I or II sex offender, or the child is in the custody of a Level I or II sex offender due to the parameters of a divorce decree, and there is no other allegation, but the report is based on the mere fact that the alleged offender is a registered sex offender. In this case, the report will be found un-true.

PROCEDURE II-K 1 Sex Offender with Custody or Unsupervised Visitation Rights

When a hot-line reports that a child is participating in unsupervised visits with a Level I or II sex offender, or the child is in the custody of a Level I or II sex offender due to the parameters of a divorce decree, and there is no other allegation, but the report is based on the mere fact that the alleged offender is a registered sex offender. In this case, the report will be found un-true

POLICY III-A Services Case Opening and Re-evaluation

The child of ANY in DHS custody is considered a dependent juvenile. In addition, a child's placement and care with a public or private child placement of child care agency is the responsibility of either DHS or any other public agency with whom DHHS has an agreement

PROCEDURE IV-A1 Case Plans - When a child is placed outside the state in which his/her parent resides, the FSW will visit the home or institution in which a child has been placed no less frequently than every 6 months. In addition, the case plan shall incorporate the health and education records of the child, including the most recent information available.

POLICY VI-A Out-of-Home Placement Criteria

Provides residence of placement location restrictions for any child or adolescent, who is in DCFS custody and is being placed in an approved foster home. Provides restrictions for contact by the perpetrator, who is a child or adolescent in DCFS custody, with the victim. Allows placement by Sheriff or Chiefs of Police of children into approved foster homes during an emergency situation.

PROCEDURE VI-A1 Out-Of-Home Placement Criteria

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PROCEDURE VI-A4 In Emergency Situations A Sheriff or Police Chief May Place Children in Foster Homes

Allows placement by Sheriff or Chiefs of Police of children into an approved foster homes during an emergency situation.

PROCEDURE VI-B1 Maintaining Family Ties in Out-of-Home Placement

Placement of a sibling group of up to eight siblings may be made to one foster home if all children are related to one another.

POLICY VI-F Case Review Judicial Hearings for Children in Out-Of-Home Placement

In-state and out-of-state options will be considered when trying to place a child in a timely and orderly manner. Establishes guidelines for transferring cases to new venues. Establishes time frame for permanency review hearings after an order for termination of parental rights is filed. Foster/adoptive parents and relatives have the right to be heard in proceedings held with respect to the child in their care.

POLICY VI-G Interstate Compact on Placement of Children ICPC

Children will be moved in an orderly and timely manner.

PROCEDURE VI-G1 Types of Placement Covered by ICPC

Children will be moved in an orderly and timely manner.

PROCEDURE VI-G3 Responsibilities of the Sending State

Any report from another state, Indian tribe, or private agency under contract with the receiving state shall meet all requirements imposed by the sending state for the completion of the home study before placing the child in the home.

PROCEDURE VI-G4 Responsibilities of the Receiving State

Outlines timeframe for receiving state to comply with a request to assess and monitor placement. Also outlines instances in which additional time may be given to complete requests.

PROCEDURE VI-G7 Completion of a Home Study

Any state agency that administers or supervises the administration of a state program operated under an approved state plan will not be restricted from contracting with a private agency to conduct home studies.

POLICY VI-H Interference with Custody

Defines the offense of interference with custody.

POLICY VI-K Educational Services

If a court transfers custody of a child to the Department, the court will issue orders determining whether the child's parent or guardian may have access to school records, attend school conferences and activities, or obtain information on the child's current placement. A surrogate parent will be appointed if the court orders that the child's parent(s) have no involvement in the child's educational planning.

PROCEDURE VI-K1 Educational Services

Identifies who should be contacted with a child in foster care is suspended from school.

POLICY VII-A Foster Parent Recruitment, Training, Approval, Re-evaluation and Retention

Removes restriction of placing a child in a foster home where a homosexual is an adult member of that household.

POLICY VII-B Providing Information to Foster Parents

Foster parents, pre-adoptive parents, and relative caregivers have the right to be heard in any proceeding held with respect to a child in their care.

POLICY VII-D Changes in Out-Of-Home Placement

Trial placements are not to exceed sixty (60) days.

POLICY VII-E Financial Support to Foster Parents

When a youth in foster care has a child who is placed in the same family foster home or public/private child placement or childcare agency, foster care maintenance payments made on behalf of the youth shall include and be limited to amounts that cover allowable costs for the child.

POLICY VII-G Volunteers

Volunteers approved by DHS who transport/supervise children in foster care shall not be liable to the Department, children, parents, or clients of DHS for any injuries to the client or child unless due to malicious, grossly negligent, willful, or wanton conduct.

POLICY VIII-B Chaffee Foster Care Independence Program Post Secondary & After Care Services

A copy of the youth's entire record will be made available to that youth at no cost when he or she leaves foster care after attaining the age of majority under state law. If the youth refuses the entire record, his/her health and education records must still be provided at no cost.

POLICY VIII-C Termination of Parental Rights

The mother may place the child for fast-track adoption in true but exempt Garrett's law investigation/cases.

PROCEDURE VIII-C4 Garrett's Law, Illegal Substances and Adoption

The mother may place the child for fast-track adoption in true but exempt Garrett's law investigation/cases.

POLICY VIII-F Foster Parent, Kinship Foster Parent, and Relative Adoption

Allows adoption decree to be finalized by the court when a child placed for adoption in a foster home dies prior to the finalization of the adoption.

Child Maltreatment Central Registry checks will be done on adoptive parents and members of the household age ten 10 or older in the resident state and any other state in which they have resided for the past six 6 years. FBI fingerprint-based checks will be done on adoptive parents and those members of the household age sixteen 16 or older.

PROCEDURE VIII-F1 Staffing and Recommendations

Adoptive parent applicants and all members of their household age sixteen 16 years or older must agree to a fingerprint-based FBI criminal record check.

PROCEDURE VIII-F2 Assessment and Preparation

Any member of the household, age 10 and older, except the child in foster care, must have a Central Registry Check

PROCEDURE VIII-F9 When a Child Dies Before Finalization of an Adoption

Allows adoption decree to be finalized by the court when a child placed for adoption in a foster home dies prior to the finalization of the adoption.

POLICY VIII-G Development of Adoptive Placement

Child Maltreatment Central Registry checks will be done on adoptive parents and members of the household age ten 10 or older in the resident state and any other state in which they have resided for the past six 6 years. FBI fingerprint-based checks will be done on adoptive parents and those members of the household age sixteen 16 or older.

PROCEDURE VIII-G2 Criteria for Adoption

FBI fingerprint-based checks will be done on adoptive parents and those members of the household age sixteen 16 or older.

PROCEDURE VIII-H2 Subsidy Payments and Support

This policy was revised to comply with a title IV-E regulation.

PROCEDURE IX-A2 Appeals and Hearings of Adverse Action

DHS must notify hearing officer and respondent of status of any proceeding of the juvenile division of circuit court if child maltreatment is also at issue in the administrative proceeding.

PROCEDURE IX-A4 Investigative File for Administrative Hearing

The name of the form referenced in this procedure was changed.

POLICY IX-F Child in Foster Care Application for an Arkansas Learner's or Intermediate Driver's License and Insurance Reimbursement Program

Allows the Director of DCFS to sign for or designate someone to sign for a child in foster care to obtain a driver's license. Establishes that DCFS may reimburse the foster parent or child in foster care for the cost of auto insurance.

PROCEDURE IX-F1 Child in Foster Care Applying for an Arkansas Learner's or Intermediate Driver's License

Allows the Director of DCFS to sign for or designate someone to sign for a child in foster care to obtain a driver's license.

PROCEDURE IX-F2 The Child in Foster Care Driving Privileges

Establishes that DCFS may reimburse the foster parent or child in foster care for the cost of auto insurance.

POLICY X-A Home Studies and Supervision

Any licensed social worker shall conduct a home study before placement of a child in the home of the petitioner.

POLICY XII-A Services to Children of Immigrant Families

Policy developed based on DCFS Executive Directive 2006-10 and outlines how DCFS will respond to child welfare related emergencies that occur in the immigrant community

PROCEDURE XII-A1 Response to Children of Actual or Suspected Illegal Aliens

Procedure was developed based on DCFS Executive Directive 2006-10. The manner in which DCFS shall respond to children of actual or suspected illegal aliens is outlined.

APPENDICES**1. Appendix I: Glossary**

Removes restriction of placing a child in a foster home where a homosexual is an adult member of that household.

Revised definition of home study.

Revised definition of "mandated reporter" to include social workers in hospital and employees of child advocacy centers.

Added "safety plan" to glossary.

Revised definition of "sexual abuse" to include voyeurism and forcing listening to a phone sex line.

Revised definition of "trial placement" to include time frame of sixty 60 days.

2. Appendix X: Safeguards for Child Victims Testifying in Judicial and Administrative Proceedings

Establishes safety guidelines for children in foster care testifying in court or at hearings.

FORMS**CFS-307** Follow-up with Child Maltreatment Reporter and Instructions

Clarifies reporting and placement of names on the Child Maltreatment Registry, and reporting to school officials and parents of the alleged victim, and alleged underaged juvenile aggressor.

CFS-311 Notice to Local Education Agency LEA of Alleged Child Maltreatment

Clarifies reporting and placement of names on the Child Maltreatment Registry, and reporting to school officials and parents of the alleged victim, and alleged underaged juvenile aggressor.

CFS-312A Child Maltreatment Investigative Determination Notice – Offender

Clarifies reporting and placement of names on the Child Maltreatment Registry, and reporting to school officials and parents of the alleged victim, and alleged underaged juvenile aggressor.

CFS-312A1 Child Maltreatment Investigative Determination Notice and Acknowledgement & Instructions

This form was revised to comply with a judicial order.

CFS-312A1 Witness Statement

This form was developed to comply with a judicial order.

CFS-312B Child Maltreatment Investigative Determination Notice – Parent of Underaged Juvenile Aggressor

Clarifies reporting and placement of names on the Child Maltreatment Registry, and reporting to school officials and parents of the alleged victim, and alleged underaged juvenile aggressor.

CFS-312C Child Maltreatment Investigative Determination – Not the Offender

Clarifies reporting and placement of names on the Child Maltreatment Registry, and reporting to school officials and

parents of the alleged victim, and alleged underaged juvenile aggressor.

CFS-313 Office of Chief Counsel Review of Administrative Hearing Investigative Determination

This form was developed to replace CFS-346 (Notice of Non-Defense of a True Child Maltreatment Investigative Determination).

CFS-363 Foster Parent, Adoptive Parent or Applicant Smoking Certification & Instructions

This form was developed to comply with Act 703 (Task Force on Child Abuse and Neglect Legislation).

CFS-388 Application and Agreement to Participate in DCFS Foster Care Driver's License Program and Instructions

Form used for approval of child in foster care to participate in driving privilege, permission to obtain a driving license.

CFS-389 Application and Agreement to Participate in DCFS Foster Care Driving Insurance Reimbursement Program and Instructions

Form used for approval and reimbursement of insuring a child in foster care to drive a specific vehicle.

CFS-521 Child Welfare Agency Licensing Unit Compliance Record

This form was revised to be a template and added a line for each person to print or type his or her name above their signatures.

PUBLICATIONS

PUB-357 Child Maltreatment Assessment Protocol

1. Presence of an Illegal Substance in a Newborn or its Mother at the Time of Birth Resulting from the Mother's Knowing Use of the Substance – This publication was revised to comply with 2007 Act 284 and Act 381.

Change to Garrett's Law: will be found true, but exempt; authorization to take an individual child into Emergency Seventy-Two 72 hour custody, if necessary for the health and safety of the child; hospital social worker added to acceptable reporters; mother may place the child for fast-track adoption.

2. Introduction – No restrictions may be placed on employees or volunteers who are reporting suspected child abuse to the hotline.
3. Definitions - Revised the definition of sexual abuse to include voyeurism and forcing listening to a phone sex line.

PUB-052 Child Protective Services – A Caretaker's Guide

Clarifies reporting and placement of names on the Child Maltreatment Registry.

PUB-404 Chafee Foster Care Independence Program Handbook

This handbook was revised to incorporate DCFS workgroup recommendations.

PUB-30 Family Foster Care Handbook

This handbook was revised to comply with 2007 Legislative Acts 216, 634, 703, and 725.

For copies of the proposed documents or to submit comments, contact: Division of Children and Family Services, P.O. Box 1437, Little Rock, Arkansas 72203-1437, Attention: Policy Unit, Slot S570. All comments must be submitted in writing within 30 days of the date appearing below or 30 days following the date of the newspaper notice, whichever is the longer period. If you need any material in a different format, such as large print, contact our Americans with Disabilities Act Coordinator at 682-8830 Voice or 682-1442 TDD. The Arkansas Department of Human Services is in compliance with Titles VI and VII of the Civil Rights Act and operates, manages and delivers services without regard to age, religion, disability, political affiliation, veteran status, sex, race, color or national origin.

Pat Page,
Director, Division of Children and Family Services

Date

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