

# South Carolina Department of Social Services

## Human Services Policy and Procedure Manual

### CHAPTER 7, Child Protective and Preventive Services

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## CHAPTER 7, Child Protective and Preventive Services

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### 700 Introduction

#### STATUTES AND REGULATIONS

Statutes and Regulations 766 that relate directly to the contents of the Child Protective and Preventive Services Manual are: South Carolina Code of Laws, [Title 63 - South Carolina Children's Code](#); 27 South Carolina Code Annotated Regulations 114-4510 through 114-4550 (Governs Child Protective Services Involving Institutions).

#### OTHER AGENCY POLICIES

Related guiding principles and policies which govern the Department of Social Services follow.

The guiding principles mandate the following:

Principle: 1. To respect the humanity and dignity of each person for whom the agency delivers quality services.

Principle: 2. To respect the humanity and dignity of each staff person.

#### Quality Service

It is the policy of the Department of Social Services to promote a work environment that encourages each staff person in the Department of Social Services to perform each duty exactly as required or cause the requirement to be officially changed to what the agency and its clients really need.

#### MISSION STATEMENT FOR CHILD PROTECTIVE AND PREVENTIVE SERVICES

Child Protective and Preventive Services are offered to families by the South Carolina Department of Social Services which is mandated by law to protect children from abuse or neglect within their families, in foster care, or by persons responsible for the child's welfare as defined by statute. Services are provided to strengthen families; to enable children to remain safe in the home; to temporarily remove from parental custody a child who is at imminent risk of harm; or to pursue termination of parental rights and assure the child permanency in a substitute family if the custodial family cannot be preserved without serious risk to the child. [The child is our primary client in child protection cases and the following goals for children and families have been defined by federal law and good practice standards.](#)

- [Safety. All children have the right to live in an environment free from abuse and neglect. The safety of children is the paramount concern that must guide child protection efforts.](#)
- [Permanency.](#) Children need a family and a permanent place to call home. A sense of continuity and connectedness is central to a child's healthy development.
- [Child and family well-being.](#) Children deserve nurturing environments in which their physical, emotional, educational, and social needs are met. Child protection practices must take into

account each child's needs and should promote healthy development.

### PHILOSOPHICAL TENETS OF CHILD PROTECTION

The importance of the family in U.S. society is central to the Nation's history and tradition. Parents have a fundamental right to raise their children as they see fit, and society presumes that parents will act in their children's best interest. When parents do not protect their children from harm and meet their basic needs—as with cases of child abuse and neglect—society has a responsibility to intervene to protect the health and welfare of these children. Any intervention into family life on behalf of children must be guided by State and Federal laws, sound professional standards for practice, and strong philosophical underpinnings. This section presents key principles underscored in Federal legislation and the philosophical tenets on which the community's responsibility for child protection is based.

The following philosophical tenets expand upon the principles set forth in the Adoptions and Safe Families Act enacted in 1997 and in subsequent federal law, and the values that underlie sound practices in community responses to child abuse and neglect.

- Prevention programs are necessary to strengthen families and reduce the likelihood of child abuse and neglect. Child maltreatment results from a combination of factors: psychological, social, situational, and societal. Factors that may contribute to an increased risk for child abuse and neglect include, for example, family structure, poverty, substance abuse, poor housing conditions, teenage pregnancy, domestic and community violence, mental illness, and lack of support from extended families and community members. To reduce the occurrence of maltreatment, communities should develop and implement prevention programs that support children and families.
- The responsibility for addressing child maltreatment is shared among community professionals and citizens. No single agency, individual, or discipline has all the necessary knowledge, skills, or resources to provide the assistance needed by abused and neglected children and their families. While public child protective services (CPS) agencies, law enforcement, and courts have legal mandates and primary responsibility for responding to child maltreatment, other service providers working with children and families—along with community members—play important roles in supporting families and protecting children. To be effective in addressing this complex problem, the combined expertise and resources of interdisciplinary agencies and professionals are needed.
- A safe and permanent home is the best place for a child to grow up. Most children are best cared for in their own families. Children naturally develop a strong attachment to their families and when removed from them, they typically experience loss, confusion, and other negative emotions. Maintaining the family as a unit preserves important relationships with parents, siblings, and extended family members and allows children to grow and develop within their own culture and environment.
- When parents (or caregivers) are unable or unwilling to fulfill their responsibilities to provide adequate care and to keep their children safe, CPS has the mandate to intervene. Both laws and good practice maintain that interventions should be designed to help parents protect their children in the least intrusive manner possible. Interventions should build on the family's strengths and address the factors that contribute to the risk of maltreatment. Reasonable efforts must be made to maintain child safety and keep the children with their families except when there is significant risk to child safety. Referral to court and removal of children from their families should only be done when it is determined that children cannot be kept safely in their

own homes.

- Most parents want to be good parents and have the strength and capacity, when adequately supported, to care for their children and keep them safe. Underlying CPS intervention is the belief that people have the strength and potential to change their lives. Professionals must search for and identify the strengths and the inner resiliencies in families that provide the foundation for change.
- To help families protect their children and meet their basic needs, the community's response must demonstrate respect for every person involved. All people deserve to be treated with respect and dignity. This means showing respect for a person, while not necessarily approving or condoning his or her actions. In addition to caregivers and children, service providers should demonstrate respect for mothers, fathers, grandparents, other family members, and the family's support network.
- Services must be individualized and tailored. While people may have similar problems, there are elements that will vary from family to family. In addition, each family's strengths and resources are different. The community's response, therefore, must be customized to reflect the particular circumstances, strengths, and needs of each family.
- Child protection and service delivery approaches should be family centered. While noting that the child is our primary client, we believe that parents, children, their extended families, and support networks (e.g., the faith community, teachers, health care providers, substitute caregivers) should be actively involved as partners in developing and implementing appropriate plans and services to reduce or eliminate the risk of maltreatment. Tapping into the strengths and resources of a family's natural support network is fundamental to enhancing family functioning.
- Interventions need to be sensitive to the cultures, beliefs, and customs of all families. Professionals must acknowledge and show respect for the values and traditions of families from diverse cultural, ethnic, and religious backgrounds. To become culturally competent, professionals must first understand themselves and the effects of their own background on their values, behaviors, and judgments about others. In working with children and families different from themselves, professionals need to be aware of the context of the family's culture and background in order to help provide access to culturally relevant services and solutions.
- To best protect a child's overall well-being, agencies must assure that children move to permanency as quickly as possible. Along with developing plans to facilitate reunification of children, agencies must develop alternative plans for permanence from the time the child enters care. For those children who cannot be safely reunified with their families, timely efforts must be made to ensure a stable, secure, and permanent home for the child through adoption or other permanent living arrangements.

Note: The mission statement and philosophical tenets of foster care are contained in Chapter 8.

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## Referenced Documents

**Revision Comments**

Philosophical Tenets are updated to reflect revised national goals of safety, permanency and wellbeing based on federal law.

## CHAPTER 7, Child Protective and Preventive Services

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### 701 Policies

This section specifies the policies of the Department of Social Services that guide all practice and procedure associated with Child Protective and Preventive Services.

1. Persons referred for child protective services are eligible without regard to income.
2. Any DSS employee who conducts intakes, participates in or conducts child protective services (CPS) assessment (investigation), carries cases in foster care, family preservation or adoptions, and/or **county** foster home licensing as well as individuals providing direct supervision of state child welfare services must be child welfare certified.

Certification Requirements for Individuals Returning to Child Welfare Duties - Any individual previously child welfare certified who does not engage in child welfare duties for more than 12 consecutive months (due to leaving employment with DSS or change in duties or position within DSS) and intends to return to child welfare duties at DSS must be re-certified.

Exemptions can be made based on employment activities during the break in service or employment at the discretion of the Director of Knowledge Management and Practice Change with appointing authority's recommendation and justification in writing.

Maintaining Certification - Each human service worker and supervisor will be required to obtain 20 hours training child welfare training per year in order to maintain child welfare certification. It is the appointing authority's responsibility to ensure each worker has completed this requirement and maintain documentation of hours in the employee's personnel file.

Staff must obtain child welfare certification prior to being assigned cases for CPS assessment, CPS investigation, family preservation, foster care, adoptions, and/or county foster home licensing. Under close supervision, staff who have not completed the certification requirements may provide case management support services such as transportation of clients, arranging and observing visits, making referrals, follow up on medical reports, and other similar duties.

All staff are expected to maintain a level of professional expertise through ongoing training on child abuse and neglect.

Note: Additional training and certifications may be required as a condition of employment and/or program area functionalities.

3. Only certified staff of the Department are authorized to screen referrals made to Child Protective and Preventive Services in order to ensure that the screening decision is in compliance



with SC Code of Laws and agency policy.

4. The Department shall use a standardized procedure of casework practice for assessing safety and risk, and providing, documenting and terminating child protective services to families and children.

5. When the agency receives a referral that involves the use of illegal drugs by the parent or other person responsible for the child's welfare and there is an allegation that the parent's behavior has harmed or places the child at substantial risk of harm, the agency will accept this as a report of suspected abuse and neglect and complete a thorough investigation, to include the safety assessment, to determine if children are unsafe and if parental behavior has caused harm or placed the child at substantial risk of harm. Please note that nothing in this statement is intended to minimize the importance of assessing issues of domestic violence, mental health concerns, or other family dynamics that impact on child safety.

6. The State Child Fatality Advisory Committee is established and authorized by state statute to review the circumstances surrounding the unexpected and unexplained deaths of children. (Reference SC Code of Laws Ann. §63-7-1900) The SCFAC is a multidisciplinary group composed of child advocates, medical professionals, law enforcement, coroners, and representatives of state agencies with responsibility for services to children and families. By virtue of their professional expertise and because of the direct access to law enforcement investigations of child deaths, the SCFAC may receive information that leads them to believe that surviving siblings of a deceased child are at substantial risk of harm.

Therefore, it is the policy of DSS that when the State Child Fatality Advisory Committee has reason to believe that a risk of harm exists and makes a report, that this report shall be investigated by the Department of Social Services pursuant to SC Code of Laws Ann. §63-7-920 and agency policy.

The DSS representative to the SCFAC will assume responsibility for ensuring that an investigation is initiated in compliance with statute and policy and will obtain and provide to the county investigating any documentation the SCFAC can by statute release to DSS. The DSS representative will be responsible for reporting back to the SCFAC at the conclusion of the investigation at the next regularly scheduled meeting of the committee.

7. The policy and practice standard of the department is that Child Protective Services staff will conduct at least one face to face interview once a calendar month with the victim child, siblings and any other children in the home, and parents, protective adult, and/or other caregiver during the time a case is open for child protective services. The purpose of this visit is to assess for child safety and to assess progress toward meeting treatment goals to reduce future risk of harm. Additional visits should be made as determined on a case by case basis given the issues specific to each family.

8. The agency should pursue removal of children from a home where:  
a. parents' use or abuse of or dependence on alcohol and/or other drugs and/or any other factors such as domestic violence or mental health, leads to endangering the safety of the child and

b. there is no other protective caregiver in the home or otherwise available.

9. In order to close a CPS treatment case with the child in the home when parents have been abusing or are dependent on alcohol and other drugs and/or when any other factors such as domestic violence or mental health problems have caused the child to be unsafe, there must be documentation in the agency record of the following:

a. The parent/caregiver in question must be involved in a treatment program designed to change the behaviors that made the child unsafe and demonstrated significant progress on the treatment plan goals and there is a second person in the home who is the protective caregiver and DSS case consultation has taken place with the treatment provider(s) and sufficient changes in behavior have been made that eliminate the safety threats and reduce risk of future harm.

OR

b. The parent/caregiver has completed treatment and the caregiver has demonstrated observable behavioral changes in their ability to keep the child safe and DSS case consultation has taken place with specific treatment provider(s) and sufficient changes in behavior have been made that eliminate the safety threats and reduce risk of future harm. In general, case closure requires that the parental behaviors that led to the child being unsafe have been changed and the agency can articulate the reasons that support the belief that the child is now safe in the parent's care.

10. The Department is authorized to provide a process for the review and amendment of cases indicated for child abuse or neglect pursuant to §63-7-920, which are not otherwise being brought before the family court for disposition. This process is authorized and defined under SC Code of Laws Ann. §63-7-1410.

11. It is the policy of the Department that in cases indicated under §63-7-920 where the individual determined by a preponderance of the evidence to have abused or neglected the child, disagrees with or challenges the case decision and the safety of the child is in question, the case MUST be taken to Family Court for review of the child safety concerns and a finding on the child abuse case decision.

In cases where treatment services are to be provided or are reasonably expected to be provided and the individual or family disagrees with the indicated decision and/or the decision to deliver services, those cases MUST be taken to Family Court. There can be little effective treatment and the safety of the child is in question when there is no acknowledgement of the abuse or neglect. The Administrative Appeals process cannot coerce treatment nor address child safety.

12. Client case records must be kept current in the automated case record (CAPSS). All case activity should be documented in CAPSS as soon as it occurs but no later than thirty (30) calendar days after the action; documentation of critical events (such as removals, court action, and others as determined by supervisor) must be completed within ten (10) calendar days.

Note that the documentation of initiating a CPS investigation and the CPS case decision must be entered within five days of the activity (reference Section 710 and 719). The monthly visit for in home treatment cases must be documented by the end of the month for data reporting purposes.

(Reference, Section 731 and D04-22).

13. SC Code of Laws Ann. §43-1-115 requires that each county DSS child welfare program in South Carolina be reviewed at least once every five years for the purpose of quality assurance. SCDDSS has modeled its quality assurance process on the federal Child and Family Services Review (CFSR) process. DSS engages in a review of the child welfare services program:

- a. to determine to what degree services are delivered in compliance with federal and state laws and agency policy; and
- b. to assess the outcomes for children and families involved in the child welfare system.

By agency policy, county child welfare reviews are both quantitative (begin with an analysis of agency data for that county for the period under review) and qualitative (includes an analysis of information obtained from agency stake holders, and information obtained from a review of client records).

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## Referenced Documents

### Revision Comments

January 2015- Clarified certification requirements for child welfare workers and supervisors for CPS assessment, CPS investigation, family preservation, foster care, adoptions, and/or county foster home licensing in accordance with Directive Memo D14-14, Child Welfare Certification Requirements, dated August 1, 2014.

## CHAPTER 7, Child Protective and Preventive Services

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### 701.01 Guided Supervision for CPS Cases

This section adds guidelines for Guided Supervision to CPS Policy.

#### Policy Statement

The Child Protective Services Supervisor will use a process called Guided Supervision to staff cases at critical points in the life of the case. Guided Supervision is a process supported by a tool that encourages supervisors to ask questions that explore workers' capacity to assess immediate danger to or safety of a child. The Guided Supervision process also strengthens a CPS Supervisor's or CPS Caseworker's capacity to determine child safety based on family conditions, the vulnerability of the child (ren), and observable threats in the home that present imminent harm. The goal of Guided Supervision is: 1. to improve the quality of assessments; 2. to build worker capacity for assessing child safety; and

3. to ensure that the safety or treatment plans workers develop are addressing the circumstances which caused the child to be unsafe with a plan that is action-oriented and has an immediate impact with respect to ensuring child safety.

Guided Supervision is expected to help CPS Caseworkers become more knowledgeable about safe and unsafe home environments and what constitutes safety. Guided Supervision will also help CPS Caseworkers become more skilled in:

1. identifying safety threats and potential harm to the child;
2. distinguishing present and impending dangers;
3. assessing child safety;
4. assessing parental protective capacities;
5. identifying safety thresholds; and
6. determining safety interventions.

### **What Children and Youth are Affected by This Policy**

Any child or youth who is an alleged victim of child abuse and/or neglect will be affected by this policy.

#### **Procedures for Guided Supervision**

1. The CPS Supervisor uses the Guided Supervision Tool to assist with the assessment of safety, permanency and well-being of the child. Guided Supervision is used for identification of additional information needed to determine appropriate actions in a case. There is a CAPSS code called Guided Supervision Staffing from which weekly batch reports will be pulled. The following should be discussed during the Guided Supervision staffing:

- a. What led to the child being identified as a victim of child abuse and/or neglect?
- b. Describe the child's functioning on a daily basis.
- c. What are the parents' functioning abilities?
- d. What are the parents' general parenting experiences? i.e.: activities with child;
- e. How are the parents' cooperating with the treatment plan?
- f. Describe the parents' general discipline techniques.
- g. What is the status of any legal actions on this case?
- h. What is the status of locating non-custodial parents?

2. Guided Supervision should be used in CPS cases at the following critical decision making points or any time there is a change in the status of a case:

- a. At the seven (7) day staffing;
- b. At the thirty (30) day staffing;
- c. At the case decision;

d. When the child is to be placed with an Alternative Caregiver/relative.

e. When there is a need for legal action on a case;

f. When a non-custodial parent has not been located;

g. For any review of the case;

h. For case closure.

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### **Referenced Documents**

### **Revision Comments**

New Section

## **702 Special Practice Considerations**

The following items are provided to highlight critical practice issues to elaborate and clarify.

### **Practice Issues:**

The following information is provided to explain and clarify critical practice issues. Other information will be added as practice issues are identified in the areas of domestic and family violence, mental health concerns, and other family dynamics that impact on child safety.

#### **Practice Issues:**

1. For local operating and communications procedures between local Law Enforcement and DSS, refer to your county's DSS/Law Enforcement Protocol. This protocol is mandated by SC Code of Laws Ann. §63-7-620. This protocol should be reviewed annually and revised as needed.

2. Each county is to enter into a Memorandum of Agreement with the Children's Advocacy Center (CAC) or similar multidisciplinary abuse assessment facility that serves that county for the purpose of defining the referral process, forensic interviewing, and multi-agency case staffing procedures. (Reference SC Code of Laws Ann. §63-11-310)

3. Alcohol and Substance Abuse: In light of the serious consequences for children because of parental drug and alcohol use/abuse/dependence, the following clarification is provided and relates to the intake screening decision, the case decision and the decision to close a treatment case. Nothing in this section is intended to suggest that other policies or procedures are supplanted or replaced and this information is provided to clarify and reinforce best practice.

The following information provides context for understanding use/abuse/dependence of alcohol and illegal substances and impact on parenting. (Reference: National Center on Substance Abuse and Child Welfare)

Use of alcohol or drugs to socialize and feel effects; use may not appear abusive and may not lead to dependence, however the circumstances under which a parent uses can cause children to be unsafe or put children at risk of future harm and should be thoroughly assessed.

- Use during pregnancy can harm the fetus
- Use of prescription pain medication per the instructions from a prescribing physician can sometimes have unintended or unexpected effects—a parent caring for children may find that he or she is more drowsy than expected and cannot respond to the needs of children in his or her care

Abuse of alcohol or drugs includes at least one of these factors in the last 12 months:

- Recurrent substance use resulting in failure to fulfill obligations at work, home or school
- Recurrent substance use in situations that are physically hazardous

- Recurrent substance-related legal problems
- Continued substance use despite having persistent or recurrent social or interpersonal problems caused by or exacerbated by the substance
- Driving with children in the car while under the influence
- Children may be left in unsafe care—with an inappropriate caretaker or unattended—while parent is partying
- Parent may neglect or sporadically address the children's needs for regular meals, clothing, and cleanliness
- Even when the parent is in the home, the parent's use may leave children unsupervised
- Behavior toward children may be inconsistent, such as a pattern of violence then remorse

Dependence, also known as addiction, is a pattern of use that results in three or more of the following symptoms in a 12 month period:

- Tolerance—needing more of the drug or alcohol to get “high”
- Withdrawal—physical symptoms when alcohol or other drugs are not used, such as tremors, nausea, sweating, and shakiness
- Substance is taken in larger amounts and over a longer period than intended
- Persistent desire or unsuccessful efforts to cut down or control substance use
- A great deal of time is spent in activities related to obtaining the substance, use of the substance or recovering from its effects
- Important social, occupational, or recreational activities are given up or reduced because of substance use
- Substance use is continued despite knowledge of persistent or recurrent physical or psychological problems caused or exacerbated by the substance
- Despite a clear danger to children, the parent may engage in addiction-related behaviors, such as leaving children unattended while seeking alcohol or other drugs
- Funds are used to buy alcohol or other drugs, while other necessities, such as buying food, are neglected
- A parent may not be able to think logically or make rational decisions regarding children's needs or care
- A parent may not be able to prioritize children's needs over his or her own need for the substance

Intake: when the agency receives a referral that alleges that the parent or other person responsible uses illegal substances and the caller has reason to believe that a child's safety is threatened with harm, the agency will conduct a child protection investigation, including a safety assessment, to determine if the parental use of an illegal substance creates safety threats for a child. The agency takes this position because of the widely-recognized extensive and complex negative implication for parenting when illegal substances are involved,

The use of an illegal substance suggests a pattern of behavior which requires a more in-depth assessment than can be obtained at intake. Therefore, the expectation is that we will make the safety determination through a thorough safety assessment, not based on limited information gathered at the point of intake. This expectation is built upon research and nationally established good practice standards.

Investigation and Assessment: Agency policy for a thorough investigation requires that the assessment will include and document the whole picture of the parent's drug or

alcohol use, determine the impact of that use on the child, and identify intervention needs. A thorough assessment must determine whether a parent's involvement with alcohol or other drugs has left the parent emotionally and physically unavailable to the child. A parent's mental functioning, their judgment, inhibitions, and/or protective capacity may be impaired and therefore put a child at substantial risk of all forms of abuse or neglect. The effects of the various drugs on a parent can be complex and staff should consult with alcohol and drug professionals and with program specialists for research in this field on specific cases. For example, an alcohol or substance abusing parent may disappear for days, leaving the child alone or with an unsuitable caregiver. A parent may spend the household budget on drugs or alcohol thereby depriving the child of adequate food, clothing, shelter or medical care. A child's health and safety can be seriously jeopardized by the criminal activity associated with the acquisition of drugs, the manufacture of illegal drugs in the home or the sale/distribution of illegal substances. In addition, parental alcohol or substance abuse can contribute to the child's own alcohol or substance abuse.

Substance tests provide a diagnostic tool to help determine frequency and chronicity of use and are used by alcohol and drug treatment providers to monitor compliance with treatment goals. Positive drug tests must be considered in light of the wide range of behaviors that can be associated with parental substance use or abuse in order to complete a comprehensive child maltreatment assessment and make a case decision

Case Closure: In order to close a CPS treatment case with the child in the home, when parents have been abusing or are dependent on alcohol and other drugs, there must be documentation in the agency record of the following.

1. The parent/caregiver in question must be involved in a treatment program designed to change the behaviors that made the child unsafe and demonstrated significant progress on the treatment plan goals and there is a second person in the home who is the protective caregiver and DSS case consultation has taken place with the treatment provider(s) and sufficient changes in behavior have been made that eliminate the safety threats and reduce risk of future harm.

OR

2. The parent/caregiver has completed treatment and the caregiver has demonstrated observable behavioral changes in their ability to keep the child safe and DSS case consultation has taken place with specific treatment provider(s) and sufficient changes in behavior have been made that eliminate the safety threats and reduce risk of future harm.

In general, case closure requires that the parental behaviors that led to the child being unsafe have been changed and the agency can articulate the reasons that support its belief that the child is now safe in the parent's care.

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## Referenced Documents

New section has been created to provide context for the CPS Procedures.

## Revision Comments



## **CHAPTER 7, Child Protective and Preventive Services**

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### **710 Intake Policy and Procedures**

This section explains Child Protective Services intake policy and procedures.

#### **Policy Statement**

Assessment of child safety and imminent risk of abuse and/or neglect are the two main focuses of Child Protective Services. The Department of Social Services is charged with a thorough gathering of all reported allegations of potential abuse and/or neglect or risk of abuse and/or neglect. The agency assesses each call or referral and makes a determination regarding the imminence of danger alleged in the referral. The Intake Worker and Intake Supervisor will complete the screening tools and obtain information that allows them to make a determination of the urgency of the situation. Upon acceptance of a report, the case will be assigned for investigation by a child protective services worker. Families are referred to an Appropriate Response (AR) agency for preventive services when the information, analyzed through an evidence-based screening tool, determines that the alleged problems affect family life but do not rise to the level of abuse and/or neglect. This screening tool is completed independently by the Intake worker who will analyze the level of safety or risk to the child(ren). The Intake Worker will make a recommendation of the response the agency should take based on the information that was reported. The Intake Supervisor will make an independent decision about the recommendation made by the Intake Worker. If the referral is referred to an Appropriate Response agency, the AR agency will complete a safety and risk assessment and will provide services as needed to eliminate or reduce the risks of abuse and/or neglect. When a person contacts the agency to convey a concern about the safety and well-being of a child, the person is a reporter and protections, provided by law for the reporter, apply whether it results in an investigation or a referral to an Alternative Response agency. As per statute, DSS will provide intake screening services 24 hours a day.

#### **Departmental Values**

Children deserve to be protected and safe. Children should never be left to protect or provide for themselves or others; that is the role of all responsible adults. Children's needs and their immediate and enduring safety should take precedence over the comfort of all adults. The agency's investigation and/ or response to a report of child abuse, maltreatment and/or neglect requires urgency on the part of the agency to protect the child, while making every effort to minimize the disruption in the child's life as well as assuring safety.

In the past, DSS has screened all referrals of suspected child abuse and/or neglect and assigned the referral either for investigation or for “no response” from DSS. If the report was accepted, the investigation would result in a decision that the case was either “indicated” or “unfounded” for abuse and/or neglect. DSS maintains records of cases “indicated” as a result of an investigation in the agency’s confidential data base. Perpetrators’ names may be recorded in the Central Registry as a result of a court order or an OHAN investigation. Those families with an “indicated” child abuse case received services for problems that had initiated the referral to the agency or that were discovered during the assessment/investigation.

To more comprehensively serve families, to prevent child abuse and/or neglect, and to encourage family participation in services, DSS will utilize an Appropriate Response System. Appropriate Response (AR) is a method of service delivery which allows families referred to the agency for possible child abuse and/or neglect to be assessed for supportive services without threat of a child protective services investigation. Collaborative efforts with community-based prevention services have been shown to increase the families’ engagement with services. This method also involves the community’s assistance in meeting families’ service needs resulting in long-term improvement in the safety, stability and well-being of children.

### **Which children will be affected by this policy?**

Any child under the age of eighteen (18) years who is reported to DSS because of a suspicion that he/she may have been subjected to abuse, maltreatment and/or neglect by his/her parent or person acting in the parental capacity such as the caretaker, guardian or other persons as defined in SC Code Section 63-1-20.

### **Operational Impact**

Use of intake guidelines and safety or risk tools will assist the agency in determining which cases will be investigated for child maltreatment, abuse and/or neglect and which cases will be referred for Voluntary Case Management (VCM) or Family Strengthening Services (FSS) which are DSS contracted community-based prevention services. A thorough interview which gathers detailed information regarding the allegations, efficient documentation of information and a structured evaluation of the risk factors will support targeting protective services to children who are most at risk, while allowing others to receive a referral for prevention services to provide them with enduring safety.

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## **710 Intake Procedures:**

### **INTRODUCTION TO PROCEDURES**

Section 710 includes procedures related to job functions of the Child Protective Services Unit in each county office. These procedures are intended to be applied in conjunction with the South Carolina Children's Code, the Indian Child Welfare Act and other pertinent laws. (See Section 750, SC Code Section 63-7-10 et seq., and the Indian Child Welfare Act (ICWA)) These procedures are also intended to ensure that the agency is meeting the federal requirements of Child Abuse Protection and Treatment Act (CAPTA) as amended (42 U.S.C. 5101 et seq.), to have a triage system that assesses reports received to determine which reports require an intense intervention and which require a referral to a program that will offer voluntary prevention services to reduce risk of abuse and/or neglect.

Intake is the first step in the Child Protective Services casework process. It is the point at which referrals are received concerning children where the reporter has reason to believe that the child has been or is being abused and/or neglected.

Referrals become reports after CPS intake screening criteria are applied to the information received and the decision is made to initiate a CPS investigation. If the allegations or concerns indicate the family is experiencing problems of a nature that do not rise to the level of child abuse and/or neglect criteria but may affect the stability of family life, a referral is made to Voluntary Case Management (VCM) or Family Strengthening Services (FSS) which are DSS contracted community-based prevention services. Persons or families referred for child protective services or prevention services are eligible for services without regard to income. This eligibility applies to services provided by either DSS or the Appropriate Response community-based partners.

DSS must have a 24 hour reporting system for receipt of reports regarding child abuse and/or neglect or other problems of a nature which may affect the stability of family life.

### **OVERVIEW OF APPROPRIATE RESPONSE TO CHILD PROTECTION**

Appropriate Response (AR) is an approach that allows Child Protective Services (CPS) to respond in multiple ways to child abuse and/or neglect (CA/N) allegations by establishing cooperative partnerships with DSS contracted community-based organizations. Each referral to CPS Intake is assessed to determine the most appropriate and effective response to the children and families brought to its attention. Screening criteria are consistent with statutory definitions of child abuse and/or neglect.

Reports to CPS Intake which have immediate safety concerns or high risk of harm due to abuse and/or neglect will result in a CPS investigation by DSS. For low or moderate risk reports with no immediate safety concerns, CPS Intake will screen and refer families for Family Strengthening Services (FSS) or Voluntary Case Management Services (VCM), as appropriate. If the family agrees to participate in these services, the FSS/VCM partners will complete a family assessment and offer services to alleviate risk and resolve issues that brought the family to the attention of DSS.

- FSS and VCM services are voluntary. These services are not a result of a CPS investigation.
- FSS: This service shall be utilized for cases assessed as presenting low risk of harm to a child or children. FSS services, which include assessment, service planning, short-term counseling and intervention and development of a family's resources, will be provided for up to six (6) months.
- VCM: This service shall be utilized for cases assessed as presenting moderate risk of harm to a child or children. VCM services, which include assessment, case planning, monitoring and counseling, can be provided for up to twelve (12) months.

South Carolina's AR process begins with a referral regarding a child's safety and/or well-being to CPS Intake. The CPS Intake Worker will complete the Risk Assessment Matrix and make a recommendation about the type of response each referral should receive. The Intake Supervisor will complete an independent assessment of each referral, based on information sent from the Intake Worker, to identify the most appropriate response for families with children who have been allegedly maltreated and/or are at risk of maltreatment. Particular emphasis is placed on a determination at intake of whether a report presents a risk or safety concern and what level of risk exists at intake. The report will then be:

- (a) accepted as a report of suspected abuse and/or neglect and referred for investigation/assessment; or
- (b) referred to an Appropriate Response partner; or
- (c) screened out or determined for "no action."

The decision is based on the information that is available from the reporter, collateral contacts and other sources of information such as the Department's CAPSS system.

All intake decisions are reviewed by the CPS Intake Supervisor prior to an assignment to investigation, FSS or VCM.

### **Intake Worker /Designee for Intake Recommendation**

It is critical that the Intake Worker engage the reporter to ensure that the agency understands the reporter's concern for the victim child. The greater the amount of detail gathered at intake, the better the ability of the agency to determine the level of safety or risk for the child. Questions should be asked that allow the reporter to explain their concerns for calling the agency and the Intake Worker should ask the reporter what their concern for the child is, in addition to the allegations of abuse and/or neglect that are being reported. For example: if an explanation was given by the parent to the reporter as to how the child received the injury, but the reporter did not accept that explanation, the Intake Worker should ask what was it about the manner of the injury or the parent or the child's appearance/mannerisms that caused the reporter to doubt the explanation and call the agency.

1. The Intake Worker determines if the caller intends to make a report of child abuse and/or neglect or is requesting other services or information. Sufficient information must be gathered at intake to enable the Intake Worker to assess the child's safety.
2. The Intake Worker obtains identifying information and how to locate the child or children, the parent or caretaker. To enable the agency to assure assessment of all children in the home, the Intake Worker attempts to gain as much detail as possible as to the number and ages of the children in the family,
3. The Intake Worker obtains the details of the allegations of abuse and/ or neglect to include questions about:
  - a. What is the immediate danger to the child?
  - b. What are you worried about for this child?
  - c. What are you reporting that happened to this child?
  - d. How often does this abuse and/or neglect occur or does other abuse and/or neglect occur?
  - e. Did you observe any strengths in the parent(s)? Were there any observable issues of: Mental health, alcohol and drug abuse, domestic violence, absent parent, or any knowledge of prior history of abuse and/or neglect behaviors, etc.?
  - f. In what way is the child most vulnerable? What about this child makes you the most concerned about safety?
  - g. Are others concerned about the safety of this child?
  - h. If this report is not accepted, what would you expect to happen to the child?
  - i. Would you or someone else be in a position to observe the child again or was your concern something you only had one opportunity to observe?

Refer to appendix for more child vulnerabilities and adult protective capacities Be as specific as possible in describing the nature of the abuse/neglect allegations. Utilize Form 3027 to ensure thoroughness of the intake process.

4. The Intake Worker should make every effort to engage the reporter to ensure as much information as possible is obtained that will assist in the determination of acceptance of the report as an investigation, referral to preventive services or screened out for lack of criteria for a CPS report. Engaging the reporter also assists the Intake Worker with the determination of the reporter's veracity and credibility. Ways to engage the reporter may include the following:

- a. Encouraging the reporter to provide their name, address and phone numbers. While this is not a requirement, it allows the agency to get back in touch with the reporter if additional information is needed and it allows the agency to inform the reporter of the decision to accept for investigation or refer to preventive services. The reporter should be reassured by the agency that confidentiality from the parent will be maintained.
- b. DSS accepts anonymous reports. However, it is the responsibility of the Intake Worker to gather as much information as possible from the reporter as possible since this one phone call may be the only chance the Intake Worker will have to get information from this reporter. It is probable that an anonymous reporter is someone who knows the family well and has a wealth of information to report. The anonymous reporter might feel more comfortable reporting information if he/she is not required to give his/her name and contact information.
- c. Determining the reporter's relationship to the victim and family: How well does the reporter know the family and with what frequency does he/she see the child and family?
- d. Identifying whether the reporter knows of previous maltreatment.
- e. Determining the reporter's source of information regarding the alleged report such as direct observation or information from someone else who observed the abuse and/or neglect. If the reporter did not directly observe the abuse and/or neglect, how did it come to the reporter's attention? Is there someone else from whom we can get additional information?
- f. Assessing the level of knowledge the reporter has about the alleged abuse/neglect that is being reported adds to the credibility of the reporter and the report. The details obtained by the Intake Worker regarding the alleged maltreatment assists in the thoroughness of the

intake decision. Any beliefs regarding the motive of the reporter will not be a factor in deciding whether or not to accept the report.

5. The Intake Worker must use the screening criteria and the criteria must be met based on the statute's requirements as follows:

- a. The person alleged to have been maltreated must be a person under the age of eighteen (18) years. If the alleged victim is over eighteen (18) years of age but has diminished protective capacities, the referral should be forwarded to Adult Protective Services or law enforcement.
- b. The person alleged to have injured the child must be a parent, guardian, or persons responsible for the child's welfare.
- c. There must be an allegation or belief, by the reporter, that the child is in danger of substantial risk of harm or has been harmed from acts or omissions by the parent, guardian or person responsible for the child's welfare for referral to investigation/assessment.
- d. Other problems which may affect the stability of family life must be included in the information obtained by the Intake Worker and may result in referral to an Appropriate Response partner for family preservation services.
- e. There must be reasonable means of locating the child and family. Reports can come to the agency from persons who may not know the family but who have witnessed acts of abuse and/or neglect. DSS has an obligation to attempt to identify and/or locate a family when the address is incomplete such as:
  1. the home location involves an incomplete address;
  2. a car tag number is given;
  3. only a description and location of the home has been given.

The Intake Worker should request assistance from law enforcement, utility services, the post office or other collaterals to make legitimate and genuine efforts to locate a family prior to screening out the referral because they had no reasonable means of locating the child and/or family.

6. The Intake Worker initiates the intake process on an automated system using the CAPSS Intake Tool. The CPS Intake Worker will make an assessment of whether the referral presents a safety or risk concern by using the Intake CPS Assessment "Tool". The Tool will be completed independently by the Intake Worker who will make a recommendation to the Intake Supervisor about the type of response the referral should receive. The Tool guides the Intake Worker in structured, supported

decision-making. If the referral identifies safety factors or risk factors that place the child at immediate danger/substantial risk, the report will be assigned to CPS for investigation. Immediate danger and/or substantial risk are defined as:

- a. the child is in danger of abuse and/or neglect that could result in death or life endangering illness;
- b. serious injury requiring medical attention;
- c. traumatic emotional harm or severe developmental harm that has long-lasting adverse effects on the child's well-being and has a high likelihood of occurring in the immediate future.

<b><u>SAFETY</u></b>	<b><u>RISK</u></b>
Safety identifies serious harm that is occurring immediately.	Risk identifies the likelihood of any degree of harm that may occur at some point in a more protracted future, usually measured in months or years.
Safety must be assessed quickly. It assesses present danger (i.e., the presence of current serious harm or the likelihood of serious harm).	Risk is assessed over time. It estimates the likelihood of future abuse/neglect in a family.
Safety Assessment identifies what safety threats need to be controlled.	Risk Assessment identifies the need for assistance.

7. In addition to identifying safety and risk factors, protective factors and family strengths are also identified at the point of intake. Intake Workers consider these factors when assessing the overall level of risk for a case, in order to make the most appropriate intake decision and referral for services.

8. The Intake Worker gathers information from the reporter to determine if the family or individual has any culturally specific concerns and/or a communication limitation (i.e., limited English proficiency, speech or hearing impairment). If such a situation exists, the Intake Worker refers to Limited English Proficiency/Sensory Impairment (LEP/SI) Policy and Procedures in Directive Memo D02-39, dated September 23, 2002, for specific guidelines to assist the Intake Worker in communication with the family and to respect the individual's rights.

9. The Intake Worker documents on the intake report when the reporter has reason to believe that the child is a member of a federally recognized Native American tribe or nation. If a referral is accepted for CPS investigation, the Intake Worker



notifies the Investigation/Assessment Supervisor for determination of further action. (Reference SC Code Section 754 - Indian Child Welfare Act).

10. The Intake Worker researches CAPSS for prior CPS involvement, Central Registry entries, and any prior screened out (Unfounded Category IV) calls. The Intake Worker also searches paper files, if available. The purpose of these searches is to use all available agency information on a family to assess for immediate safety for both child and workers. The Intake Worker documents results of systems searches in CAPSS Records Check Tab.

11. As deemed necessary, the intake worker informs the person making the referral of the provisions of SC Code §63-7-390 - Immunity for Reporters and/or SC Code §63-7-430 - Disclosure of Bad Faith Reporting, S. C. Code of Laws.

12. The Intake Worker assesses the seriousness of the situation and considers the urgency for response. If a report of imminent danger to a child comes in, the Intake Worker immediately notifies the Intake Supervisor for assignment of the report to a CPS Investigation Assessment Worker.

13. The Intake Worker reviews and applies guidelines for referrals involving substance (includes alcohol and drugs) exposed infants and viable fetuses (currently defined by medical authorities as 24 weeks of gestation). The guidelines for child protective services (CPS) intakes regarding substance addicted and substance exposed (illegal or legal substances) infants and viable fetuses are based upon the following principles:

a. The decision of the State to coercively intervene into the family life is based upon an assessment of immediate safety threats and risks of maltreatment to the viable fetus/infant. This assessment is based upon the interaction of factors relating to the child's presenting condition and needs, the parents' capacity to care for and protect the child, and other environmental factors. CPS involvement is also based upon the likelihood of future endangerment rather than prenatal drug abuse alone. Use of drugs by parents is acknowledged to increase the concerns for immediate safety and future risk of maltreatment for a child. A review of the agency records to determine previous history of CPS involvement must be completed when determining whether to accept an intake for CPS investigation or referral to an Appropriate Response agency for assessment and services.

Unborn child – For the purposes of child protective services, South Carolina law defines a child to include the viable fetus. A fetus is considered to be viable if it can live outside the mother's womb, currently defined by medical professionals to be at 24 weeks of gestation. When the referral involves a viable fetus and the behavior of a pregnant woman who is at least 24 weeks or more of gestation, the intake typology initially will be Substantial Risk of Physical Abuse as the allegation will be that the pregnant woman's behavior places the unborn child at risk of harm.

b. The SC Supreme Court ruling, *Whitner v. South Carolina*, had the effect of changing the definition of a child to include the viable fetus and extends the responsibility and authority of DSS to intervene in situations involving the viable fetus in the third trimester when the parent's prenatal behavior places the fetus at high risk. This primarily relates to the use of legal (alcohol or prescription medications) or illegal substances in the third trimester but may also involve other dangerous activities.

c. When a report involves drug or alcohol exposed infants, the following intake typologies should be used when the report alleges the facts described. This list does not preclude intake for these and other typologies when the facts related by the reporter support them.

i. physical abuse when there is evidence at birth that a meconium (the excrement in the fetal intestinal tract that is discharged at birth), blood or urine test of the child shows the presence of any amount of a controlled substance or a metabolite of a controlled substance unless the presence of the substance or the metabolite is the result of medical treatment administered to the mother of the infant or the infant. This relates to evidence of the direct delivery of a toxic material to the fetus by the mother.

ii. substantial risk of physical abuse when the mother tests positive for any amount of a controlled substance or a metabolite of a controlled substance unless the presence of the substance or the metabolite is the result of medical treatment administered to the mother of the infant or the infant but the child does not test positive. This relates to the presence of a toxic material in the mother but no direct evidence of delivery to the child at this point.

iii. physical neglect when the child at birth exhibits withdrawal symptoms or other physical problems associated with fetal drug exposure or fetal alcohol spectrum disorders diagnosis but does not have a positive drug screen. This relates to indirect evidence of delivery of a toxic material to the unborn child.

d. Because of the common association of substance abuse with confirmed abuse and/or neglect, the intake must be thorough regarding other areas of parental functioning, the needs of individual child(ren), the impact of the parental behavior on the child's immediate safety, future likelihood of harm, and the environment.

e. Intake Worker should request that healthcare professionals provide all available medical and social information as a means of aiding the assessment process.

f. When there are other children in the family, reliable reports of substance use during pregnancy may result in a referral for a CPS investigation/assessment when the presence of other risk factors result in physical and/or emotional abuse and/or neglect or substantial risk of abuse and/or neglect to the other children. A referral could also be made to one of the Appropriate Response partners based on information received from the reporter.

14. A referral which involves the use of illegal drugs by the parent or other person responsible for the child's welfare, when the reporter expresses concern for the child's safety, will be assessed by the Intake Worker using the Intake Risk Matrix. Completion of the Risk Matrix, as to all areas of risk to the child and the protective capacities of the parents, will be utilized to determine the investigation or assessment level: DSS, FSS, or VCM.

15. The Intake Worker accepts referrals of educational neglect when it is evident that the parents have not cooperated with school officials and the school has made efforts to get the child to school and the efforts were unsuccessful due to the parents' refusal to cooperate. An example of school's efforts may include a petition to family court by the school requiring the child to attend school and the parents to cooperate with the school.

16. The Intake Worker checks other agency systems (CHIP, CSES) for prior agency records or to determine if the family is known to the agency and considers the impact of any prior involvement on this referral. The Intake Worker documents results of systems searches in CAPSS Records Check Tab. These records searches can also help to identify or confirm information such as family addresses, individual's birthdates, and household composition.

17. The Intake Worker makes referrals to local law enforcement within 24 hours of receipt of a report of sexual abuse as defined by statute and per procedures outlined in Local DSS/Law Enforcement Protocol. In some situations, the reported typology may be a typology other than sexual abuse, but involve some type of sexual activity. For example, the report may be considering parents' actions under Lack of Supervision due to the victimization of a younger child by an older child. Such situations are to be referred to law enforcement for consideration of joint investigations/assessment.

18. The Intake Worker makes collateral contacts with professionals, such as but not limited to, school teachers, law enforcement officers, staff of the Department of Juvenile Justice, or Department of Health and Environmental Control as necessary and appropriate to obtain information regarding the allegation. The Intake Worker documents contacts in CAPSS dictation.

19. The Intake Worker notifies the mandated reporter of the intake decision to investigate and of any other referrals made including referrals to VCM and FSS

20. If requested by a non-mandated reporter, the Intake Worker provides a response to the reporter regarding the acceptance of the report for CPS investigation and documents whether a summarized outcome of the investigation/assessment is requested as authorized in SC Code §63-7-1990 F.

21. The Intake Worker records of Information & Referral calls (I & R calls) must be entered into CAPSS.

### **Intake Supervisor/ Intake Supervisor Designee for Intake Decision**

1. The Intake Supervisor reviews all information and allegations received from the Intake Worker to determine if the information rises to the level of a CPS investigation of abuse and/or neglect or if a referral needs to be made to VCM or FSS. The Intake Supervisor makes an independent assessment (not joint with the Intake Worker) and utilizes the CPS Assessment Tool.

2. The Intake Supervisor reviews referrals and signs off on the intake decision, ensures that decisions are made timely and documentation is entered into the CAPSS intake tab. The Intake Supervisor screens any referrals that are rated with no safety concerns and are rated with low or moderate risk and makes a referral to VCM or FSS through the DSS/Appropriate Response portal in CAPSS.

3. The Intake Supervisor ensures a letter is mailed to the family when the decision is made to refer the intake referral to VCM or FSS. For the counties working with SAFY the Intake Supervisor will send the letter to the family. For counties working with Growing Homes as the contracted provider, the Intake Supervisor will confirm through the portal that the letter has been mailed to the family by Growing Homes.

4. The Intake Supervisor assigns the referrals that are rated moderate risk with safety concerns or high risk for CPS investigation/assessment, reviews the allegations with the assigned investigation/assessment worker to determine the level of intervention necessary for child safety and to maximize worker safety. This may include a decision to request assistance from law enforcement or to have another caseworker accompany the assigned caseworker on the initial contact (*See Section 740, Worker Safety*).

5. The Intake Supervisor ensures that CPS worker begins the investigation/assessment within the appropriate timeframe. Intake Supervisor considers the urgency and manner of the best response prior to assigning the report to an investigation/assessment worker. If the report is believed to be a situation of

present and immediate danger, Intake Supervisor ensures that initial contact is made within 2 hours of accepting the report for CPS investigation. All other investigations must be initiated in no more than 24 hours based upon the danger threats and guidance by the Intake Supervisor.

6. The Intake Supervisor ensures when the typology of sexual abuse is reported that law enforcement has been contacted by the Intake Worker.

7. The Intake Supervisor verifies that the mandated reporter is provided a response regarding the acceptance of the report for CPS investigation and/or whether other referrals for services were made.

8. The Intake Supervisor verifies a response is made to non-mandated reporter, if requested by the reporter, and documents whether a summarized outcome of the investigation/assessment is requested as authorized in §63-7-1990 F.

9. The Intake Supervisor assists the Voluntary Case Liaison (VCL) with information that the VCM or FSS provider may need to complete their assessment. The VCL is a child protective services (CPS) employee who is employed by DSS but who may be co-located at the private provider office.

#### **“Pending” an Intake Referral**

Intake Supervisor may PEND a referral in the following circumstances if it is clear that an involved and personally knowledgeable professional (child's school teacher, doctor, therapist, or other) has information that directly impacts the intake decision and the referral does not already meet intake screening criteria at this point in time without that information. A referral may be pended for a maximum of twenty-four (24) hours if the information is critical to the decision and can be obtained in that timeframe. If the information will not be available within twenty-four (24) hours, a decision on the referral must be made immediately and not pended. If information at intake suggests imminent risk of harm, pending cannot be used.

If the referral is placed in pending status:

a. Intake Worker makes an independent decision that a referral needs to be pended and documents on the CAPSS dictation tab the rationale for pending the referral. The documentation must specify information necessary for the referral to be accepted for investigation/assessment. The Intake Supervisor independently reviews the decision to pend made by the intake worker and approves it or makes an independent decision that the referral must be assigned with the information provided. Intake Worker discusses with the reporter the decision to pend and helps the reporter to understand the decision and the need for expedience in obtaining the additional information needed to accept the report.

b. Intake Worker makes necessary contact with other professionals

only (such as law enforcement, DJJ, school, DHEC, etc.) in an effort to obtain information noted in the rationale for pending. Only professionals may be used as collateral contacts for this purpose, as contact with the family initiates an investigation.

c. Intake Worker uses “Pending Transfer” when referral must be transferred immediately because the child is a resident of and is located in another county. Within thirty minutes of receipt of the referral and decision to place the referral in “Pending Transfer” status, the Intake Worker contacts by telephone the CPS office in the child’s county of residence to transfer the referral and any supporting information as documented on the intake. If unable to reach the receiving county and the referral is of an emergency nature, the Intake Worker contacts immediately law enforcement in the county where child is located to request assistance with a child in need of protection. (See Section 713, Transferring A Referral to Another County at Intake).

If the information is sufficient for investigation/assessment but the role and responsibility of the alleged perpetrator is unclear, the Intake Worker uses any information available from law enforcement who is responding to the incident to make that determination. If that information is not available within twenty-four (24) hours of receipt of the referral, the Intake Worker ensures that an investigation/assessment is initiated and the role of the alleged perpetrator is determined through a CPS investigation/assessment.

**Within twenty-four (24) hours of receipt of the referral, the Intake Worker ensures that an intake decision is made and appropriate action is taken.**

### **Intake Referrals Not Accepted for CPS Investigation/Assessment and Not Referred to an Appropriate Response Partner**

The agency decision to not accept an intake referral for a CPS investigation nor for an Appropriate Response (AR) referral must have intake supervisory approval. The Intake Supervisor makes this decision only after a thorough review of the intake allegations and other human services involvement found in the search process to include CAPSS, Central Registry, paper files and any prior screened out calls (any information received pursuant to SC Code §63-7-310 but not investigated by the Department and classified as Unfounded Category IV) and information contained in Unfounded Categories I, II, & III reports. The decision not to accept a referral for an investigation/assessment nor for an AR referral must be made at the completion of the Intake Tool.

1. In the CPS Assessment Tab of the Intake Tool, the Intake Worker documents the rationale for not accepting the intake referral as a CPS investigation nor as an AR referral. The intake decision is coded as 'Unfounded Category IV'. The information is maintained on the system for not less than five years.

If there is another intake referral on the same alleged perpetrator and/or on the same child within 12 months of the initial decision to not investigate a report of abuse and/or neglect, the Intake Supervisor will ensure that there is consultation with another person with supervisory-level authority (to include CPS technical assistance staff) prior to making the decision to not investigate the new intake referral. This consultation and the rationale for the intake decision must be documented in CAPSS Intake.

2. Intake Worker documents the time of receipt of the report and the time of approval to screen out the report in CAPSS in the Intake Tool. The Intake Worker ensures that all referrals where the caller intends to make a report of child abuse and/or neglect are documented in CAPSS intake tab regardless of the action taken.

3. The mandated reporter is notified of the decision to screen out the report.

4. The non-mandated reporter, if requesting to do so, is notified of the decision to screen out the report.

#### **After Hours Intake Referrals**

When an On-Call Intake Worker receives a report after normal working hours or on the weekend, the On-Call Intake Worker will assess the referral for safety or high risk to the child(ren). If there is safety or high risk to the child(ren), the On-Call Intake Worker immediately responds to the call. As soon as possible after the referral is made, the On-Call Intake Worker contacts the On-Call Intake Supervisor to inform him/her of the situation and ask for any assistance needed.

When a referral is received by an On-Call Intake Worker and the safety or risk to the child(ren) is not of high or imminent nature, the On-Call Intake Worker completes the Risk Assessment Matrix and makes an independent decision about the response to the referral. The On-Call Intake Worker sends the Risk Assessment Matrix and the Intake Summary to the On-Call Intake Supervisor who then makes an independent decision about the intake and either assigns it for CPS investigation/assessment, VCM, FSS or decision that "no action" is needed. If the Intake Supervisor decides that the intake referral will be accepted and needs to be referred for CPS investigation/assessment, the Intake Supervisor assigns it to the On-Call Investigation/Assessment Worker.

#### **Written Intakes (email or letters)**

When DSS receives a written request from other agencies or individuals, including written requests initiated out-of-state, DSS must verbally communicate and immediately forward the referral to the appropriate DSS county office. The referral will then be screened for Appropriate Response.

### **VCM and FSS Referrals**

When an intake referral has been referred to VCM or FSS for assessment and services, the partner's assessment and dictation will appear on the current intake under the assessment or dictation tab. To view actions taken by the VCM or FSS partners, go to the "Intake" and click on "CPS Assessment" and then click on "Assessment by the Provider or Dictation by the Provider". The VCM or FSS partner will enter its assessment and dictation through the Provider Portal. CPS Intake Workers are to review the Provider Portal assessments and all documentation should a subsequent intake be made to the agency to assist in the intake assessment. The Intake Worker must include the FSS's or VCM's documentation in the determination of the level of risk to the child, just as the Intake Worker would consider any previous CPS cases or involvement with the family.

### **Referrals to Law Enforcement - Cases Not within DSS Jurisdiction:**

#### **Intake Worker/Supervisor**

1. The Intake Worker refers allegations of suspected child abuse and/or neglect by school personnel who are named as alleged perpetrators, involving students in nonresidential school settings, to law enforcement for the purposes of police investigation. School personnel are not considered to be a "person responsible for child's welfare" as defined by SC Code §63-7-20. Allegations of suspected child abuse/neglect in foster homes, group homes, and residential child care facilities are referred to OHAN, Out of Home Abuse and Neglect Unit (Refer to Section 720 and 721, Out of Home Investigations).
2. The Intake Worker informs mandated reporters of the mandated reporters' requirement to report to law enforcement allegations which involve persons other than the parent, guardian, or other person responsible for a child's welfare.
3. The Intake Worker assists other reporters to refer information to law enforcement when the alleged perpetrator is not a person responsible for child's welfare by providing telephone numbers or other actions.
4. The Intake Worker makes report to law enforcement when, as a mandated reporter, staff believes a child has been abused or neglected by a non-parent or guardian as outlined in the amended Law Enforcement/DSS Protocol.

### **APPENDICES**



Appendix i Child vulnerabilities  
Appendix ii Protective capacities  
Appendix iii Safety and Risk table  
Appendix iv Appropriate Response Procedures  
Appendix v Supervisory Review Tool Key

### **APPENDIX i. Child Vulnerability**

Child vulnerability should be considered from several dimensions. The following should be assessed:

- The child's ability to protect self
- The child's age
- The child's ability to communicate
- The likelihood of serious harm given the child's development
- The provocativeness of the child's behavior or temperament
- The child's behavioral needs
- The child's emotional needs
- The child's physical special needs
- The visibility of the child to others/child's access to individuals who can protect
- Family composition
- The child's role in the family
- The child's physical appearance, size, and robustness
- The child's resilience and problem-solving skills
- The child's prior victimization
- The child's ability to recognize abuse/neglect

All children are vulnerable to maltreatment and parents/caretakers have the role of protector. It is not the responsibility of the child, regardless of age, to provide protection for themselves. The parent/caretaker has the ultimate responsibility to protect the child.

### **APPENDIX ii. Protective Capacities**

Protective capacities are strengths of the family which are specifically relevant to child safety. The concept of protective capacities is based on the ability, capacity, and willingness of a parent, guardian, or custodian or caretaker who has responsibility for the care of a child and other family members to protect the child from serious harm.

The following categories of protective capacities shall be assessed:

- **Cognitive**

This category refers to specific intellect, knowledge, understanding, and perception used to assist in protecting a child. Cognitive abilities include recognizing a child's needs, personal responses to various stimuli, awareness of threatening family circumstances and understanding the responsibility to protect. Other examples include being reality oriented and having an accurate perception of a child.

· **Behavioral**

This category refers to specific action and activity to assist in protecting a child. Behavioral abilities include an individual's physical capability to intervene to protect a child; the ability to defer one's own needs in favor of the child; and the skills associated with meeting the child's safety related needs. Other examples include being adaptive, assertive and responsive, taking action, and using impulse control.

· **Emotional**

This category refers to specific feelings, attitudes, and motivations that are directly associated with child protection. Emotional abilities include a willingness and desire to protect, emotional stability, resiliency, the form in which love is expressed and reciprocated and the nature of the parent-child attachment. Also included is how effectively the parent meets his/her own emotional needs.

Caseworkers must look beyond what a parent is saying regarding his/her ability to protect and assess what a parent intentionally or unintentionally reveals about him or herself, specifically how he/she is thinking, feeling, and behaving as it relates to their parental role and protecting their child. The caseworker should collect information through previous history, observations, and interviews, including information obtained from collateral sources, and other household members, including all children.

**APPENDIX iii. Safety and Risk Table**

<b><u>SAFETY</u></b>	<b><u>RISK</u></b>
Safety identifies serious harm that is occurring immediately	Risk identifies the likelihood of any degree of harm that may occur at some point in a more protracted future, usually measured in months or years.
Safety must be assessed quickly. It assesses present danger (i.e., the presence of current serious harm or the likelihood of serious harm).	Risk is assessed over time. It estimates the likelihood of future abuse/neglect in a family

Safety Assessment identifies what safety threats need to be controlled	Risk Assessment identifies the need for assistance
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## **APPENDIX iv. Appropriate Response Procedures**

### **INTRODUCTION TO PROCEDURES**

Appropriate Response (AR) is an approach that allows Child Protective Services (CPS) to respond to Child Abuse and/or Neglect (CA/N) allegations in multiple ways by establishing cooperative partnerships with community-based organizations. Each report to CPS Intake is assessed to determine the most appropriate, efficient, effective and least intrusive response to the children and families brought to its attention.

Research has shown that families who receive a family assessment rather than a CPS investigation are more likely to be engaged in the receipt of services with the AR approach than they were with the investigative response. States with an AR approach have reported that the AR approach has broadened the community's involvement in meeting family service needs, and has expanded and expedited families' access to appropriate services.

### **FAMILY STRENGTHENING SERVICES (FSS) and VOLUNTARY CASE MANAGEMENT SERVICES (VCM)**

To facilitate South Carolina's AR implementation, the Department of Social Services (DSS) has procured the following services:

- FSS (Family Strengthening Services): This service shall be utilized for cases assessed as presenting low risk of harm to a child or children. FSS services, which include assessment, service planning, short-term counseling and intervention, and development of a family's resources, will be provided for three (3) to six (6) months.
- VCM (Voluntary Case Management): This service shall be utilized for cases assessed as presenting moderate risk of harm to a child or children. VCM services, which include assessment, case planning, monitoring and counseling, can be provided to in-home cases for up to twelve (12) months.

### **CPS Intake**

South Carolina's AR process begins with a CA/N referral to CPS Intake. CPS Intake Workers assess each referral to identify the most appropriate response for families with children who have been allegedly maltreated or are at risk of

maltreatment. Particular emphasis is placed on a determination at intake of whether a referral presents a safety or risk concern and what level of risk exists at intake, based on information that is available from the reporter, collateral contacts and other sources of information such as the Department's Central Registry and CAPSS system.

**All intake decisions are independently reviewed and approved or overridden by the CPS Intake Supervisor.**

### **Safety vs. Risk**

When an intake referral is received, CPS Intake Workers will make an assessment of whether the referral presents first a safety concern by using the Intake CPS Assessment Tool and applying the Safety Threshold Criteria (ISOLVE) to assess safety. Secondly, the level of risk factors will be assessed utilizing the same tool and criteria. The Intake Worker will make an independent decision about the level of response required for each referral. The CPS Intake Supervisor will receive the intake summary report from the Intake Worker. The Intake Supervisor will make an independent decision about the level of response for each referral and will assign the referral as a CPS investigation, an FSS referral, a VCM referral or "no action."

The Intake CPS Assessment Tool guides the CPS Intake Worker in structured objective and supportive decision-making. If an intake referral identifies a safety factor that places the child at risk of immediate danger, the case will be assigned to CPS for investigation. In the absence of safety factors, if high risk factors are identified that place the child at substantial risk of harm, the case will also be assigned to CPS for an investigation.

Safety Threshold Criteria (ISOLVE) are:

- 1) **I**mminence (harm is happening now or soon);
- 2) **S**pecific (what is the harm);
- 3) **O**ut-of-control (no one in the home to stop it from happening);
- 4) **L**evel of severity (can result in severe consequences to the child);
- 5) **V**ulnerability of the child (not just by age);
- 6) **E**vident (observable)

Examples of risk factors for immediate danger are defined as:

- 1) the child is in danger of abuse and/or neglect that could result in death, life endangering illness; serious injury requiring medical attention; or
- 2) traumatic emotional harm or severe developmental harm that has long-lasting adverse effects on a child's well-being and has a high likelihood of occurring in the immediate future; and
- 3) there is reasonable, justifiable and very specific information to suggest that "dangerous family conditions" pose a threat to the child's safety in the near future.

Examples of risk factors for substantial risk are defined as:

- 1) a repeated or ongoing pattern of abuse or neglect that places the child at risk of impairment or loss of bodily function; or
- 2) a failure to provide basic needs which place the child at significant pain, injury or harm; or
- 3) child is unable to protect self, due to age, profound physical mental, social or developmental delay; or
- 4) the parent is unable to protect the child due to mental, emotional, intellectual, and/or physical impairment, which could also include substantial incapacity due to substance abuse.

In addition to identifying safety and risk factors, caregivers' protective capacity and family strengths are also identified at the point of intake. CPS Intake Workers consider these factors when assessing the overall level of safety or risk for a case, in order to make the best intake decision and referral for services.

### **Intake Functions:**

Intake CPS Assessment: (by CPS Intake only)

The Intake CPS Assessment Tool is used by all CPS Intake Workers, including On-Call Intake Workers, to determine the best response to each referral. The CPS Intake Worker will make an independent decision about the response to each referral based on the Intake CPS Assessment Tool. This Tool is accessed by CPS Intake Workers via CAPSS. The Intake CPS Assessment Tool has five (5) tabs (sections):

- 1) History,
- 2) Maltreatment,
- 3) Safety,
- 4) Risk Matrix,
- 5) Summary,

1. The **History** tab consists of any previous DSS involvement with the family.
2. The **Maltreatment** tab consists of the current allegation of the intake referral.
3. The **Safety** tab consists of 15 Safety Factors to determine "Is the child safe?" Apply the Safety Threshold Criteria to each of the 15 Safety Factors when completing the Safety Assessment. In completing this tab, the worker must click on the [i] in each of the 15 Safety Factors. The [i] identifies the criteria of each Safety Factor and the list of indicators assigned to a specific safety level will be shown. When a Safety Factor is identified, CAPSS will auto-select "refer to Child Protective Services Investigation" on the Summary screen. When a child is assessed to be unsafe, the report will be assigned for a CPS investigation.

If no Safety Factor is identified, CPS Intake Workers will move onto the Risk Matrix tab to assess the level of risk.

4. The **Risk Matrix** tab consists of an Intake Risk Assessment Reference Table to gather further information about the child(ren) and family in 4 areas:

- a. Baseline Level of Risk History and Description of Most Recent CA/N
- b. Child Characteristics
- c. Caregiver Characteristics
- d. Family, Social and Economic Factors

Each area consists of a cluster of associated risk factors. “High risk” report will be assigned for a CPS investigation. There are a total of 24 Risk Factors in the Risk Matrix. Based on available information, CPS Intake Workers will determine the most appropriate level for each Risk Factor. The level of risk is color-coded, and the levels are as follows:

-- **High/Moderately High (in red)**

-- **Moderate (in orange)**

-- **Low/Moderately Low (in yellow)**

-- **Protective Factors/Family Strengths or “No Risk” (in green)**

Each Risk Factor has a list of specific indicators for different risk levels. The list of indicators for low risk is different from moderate risk. When assessing the level of risk, always refer to the Baseline Risks for the lists of indicators. The Baseline Risks can be accessed electronically by clicking on the [i] icon in the Intake Risk Assessment Reference Table, and the list of indicators assigned to a specific risk level will be shown. A paper copy of the Baseline Risks is also available.

a. When there are multiple children in the home, assess each child individually and document the assessment in the Summary tab. However, rate each risk factor based on the most vulnerable child when completing the Risk Matrix.

b. If information for a risk factor is not known to make an assessment at intake, leave that risk factor blank and move on to the next risk factor.

c. When a risk factor falls between two levels, choose the higher level. For example, if a rating falls between moderate or high, rate the factor as high.

d. CAPSS will summarize the results of the Intake Risk Assessment Reference Table by clustering the risk factors by risk level. Based on the results, the CPS Intake Worker will

determine the most appropriate overall level of risk to the child and make an independent decision to refer the family for services accordingly, i.e., FSS, VCM, or CPS Investigation.

e. The CPS Intake Supervisor will review each Intake Summary and make an independent decision on the outcome of the intake. The Intake Supervisor has the authority to override intake assessments completed by CPS Intake Workers, and will enter an explanation documenting the basis why an assessment was changed.

### **AR PROVIDER PORTAL FOR FSS AND VCM**

An AR Provider Portal--a dedicated and secured web-based portal--has been developed to facilitate case coordination between CPS Workers and FSS/VCM Workers on cases referred to FSS or VCM. The Provider Portal was specifically designed to link certain codes/fields/screens from the Child/Adult Protective Services System or CAPSS (DSS information system) with the Provider Portal and vice versa.

After an intake is approved for a referral to FSS or VCM in a decision made by the CPS Intake Supervisor, CAPSS will generate an auto alert email to FSS or VCM that a referral has been made. The auto alert will be sent to 3 individuals within the Provider agency. The Provider agency will be able to view the DSS Director Letter and the Intake Summary page from the Provider Portal. The Provider Agency will print and mail, via U.S. Mail, the DSS Director Letter informing the family of the referral. If a referral is made by the On-Call Intake Worker after hours or on the weekend, the DSS Director Letter will be mailed to the family on the next workday by the Provider Agency.

CPS Workers can view FSS or VCM case information to include the assessment and dictation in the Provider Portal directly from CAPSS through the original intake. There is no open CPS case service line open in CAPSS for FSS or VCM referrals. FSS and VCM Workers do not have access to CAPSS and will use the Provider Portal to document assessments and case dictations. FSS or VCM Workers can select from a drop-down menu with a listing of Action Codes and Recipients to document a case action or contact with the family. Certain Action Codes completed by FSS or VCM Workers will trigger an auto alert to CPS Intake. For example, when a Safety Assessment completed by FSS or VCM Workers in the Provider Portal indicates a Safety Factor, CPS Intake will receive an auto alert from CAPSS that a Safety Factor was identified in a FSS or VCM case. A CPS Intake Worker will then be able to view the Safety Assessment and other case

dictations completed by FSS or VCM Worker in the Provider Portal directly from CAPSS. However, the FSS or VCM Worker must also follow up by calling CPS Intake.

Documentation must be completed by FSS or VCM Workers *before* a FSS or VCM case is closed in the Provider Portal. Once a case is closed by FSS or VCM in the Provider Portal, CAPSS will remove the case from the Provider Portal and FSS or VCM Workers will no longer have access to the closed case to add further case information. Access will still be available to DSS staff through the original intake as “view only” for needed information should subsequent referral be received by DSS.

Intake Worker will provide VCM with SLED or local criminal history information, convictions and/or arrests if available/as needed in the Intake’s Summary Section to aid VCM in providing services. DSS cannot share FBI reports nor should DSS staff request the Office of Investigation to run FBI reports on a family in CPS, FSS, or VCM.

<b><u>Risk Level</u></b>	<b><u>CPS Intake</u></b>
No Risk	No Action
Low Risk	FSS Referral
Moderate Risk	VCM Referral
High Risk	CPS Investigation
Safety Concerns	CPS Investigation

**FSS Referral Criteria**

- According to the Intake CPS Assessment Tool, children are safe but may be at risk for abuse and/or neglect. The factors presenting risk may be of a low to moderate nature.
- Risk assessment indicates family does not have significant problems such as domestic violence, substance abuse, mental illness or developmental delays; or, if any of these problems are present, they do not threaten child safety, and the family has sufficient strengths and resources to deal with them through extended family and/or community resources.
- Minimum parenting standards are being met.
- In cases involving allegations of serious harm, the alleged perpetrator has no access to the child due to an existing court order, and/or the caregiver’s protective capacity.
- Family may be facing some challenges, but these are not of an overwhelming nature and they do not endanger the child’s immediate safety.
- The family has many strengths and resources and is able to deal with challenges and needs through involvement with extended family and/or community resources.



## **VCM Referral Criteria**

- According to the Intake CPS Assessment Tool, children are safe may be at risk for abuse and/or neglect. The factors presenting risk may be of a moderate to significant nature.
- Risk assessment indicates that family is facing challenges and needs that have an effect upon risk, including issues such as domestic violence, substance abuse, mental illness or developmental delays. However, these behaviors and conditions can be effectively mitigated with the assistance of VCM intervention.
- The family is likely to have moderately complex child welfare needs, including past CPS history.
- Minimum parenting standards are not being met, but the parents seem capable of meeting minimum parenting standards on their own or with extended family/community-based services after intervention by the VCM program.
- There may be juvenile court involvement, or other court involvement, such as Temporary Restraining Orders.

## **Assessments to be completed by CPS, FSS or VCM :**

### **DSS Child Safety Assessment tab and Comprehensive Risk Assessment tab: CPS Investigators, VCM and FSS:**

After the initial Intake CPS Assessment, all families undergo a child safety assessment whether they are referred to voluntary FSS, VCM, or assigned for a CPS investigation. FSS and VCM will access the DSS Child Safety Assessment tab from the Provider Portal.

The DSS Child Safety Assessment tab follows the same construct and pathway for decision-making from that of the Intake CPS Assessment Tool. In summary:

1. The Child Safety Assessment tab (to be completed by FSS/VCM within 2 working days after the initial contact) consists of 15 Safety Factors to determine whether Safety Factors exist that place the child at imminent danger. This Assessment is to be completed immediately following the initial face-to-face contact with the family.

If the Child Safety Assessment tab indicates that a child is unsafe in a FSS or VCM case, the FSS or VCM case will be referred back to CPS immediately via CPS Intake.

Apply the Safety Threshold Criteria to each of the 15 Safety Factors when completing the Safety Assessment. If a Safety Factor is identified, document specifically in the text box below the identified Safety Factor. Do NOT check off a Safety Factor without providing a detailed explanation.

2. The Comprehensive Risk Assessment tab (to be completed by FSS/VCM within 30 calendar days) consists of a Risk Matrix table with 4 areas and 24 Risk Factors.

a. Complete a full assessment of the family which includes the Risk Factors in the home, vulnerability of each child, protective capacity of caregivers (cognitive, behavioral and emotional), and family strengths;

i. When assessing risk levels, always refer to the lists of indicators from the Baseline Risks for the most appropriate level. Document specifically and explain how and why the case is assessed to have the Risk Factors indicated.

ii. There should NOT be any blanks in the Risk Matrix after intake. Investigators, VCM Workers or FSS Workers should have sufficient information about the family to determine the level of risk for each of the 24 Risk Factors after contacts with the family and collaterals.

iii. When there are multiple children in the home, document the vulnerability for every child individually in the text box below the “Child Characteristics” section.

iv. Document caregivers’ cognitive, behavioral and emotional protective capacity in the text box under the “Caregiver Characteristics” section.

v In the text box under the “Familial, Social and Economic Factors” section, describe family strengths. Are there resources and family members or others willing and able to support and enhance the caregiver’s protective capacity for this child?

vi. In the “Summary” section document the following:

a. What are we (DSS, Family and/or others) worried about?

b. What’s working well for this family?

c. What needs to happen to enhance the caregiver’s protective capacity to ensure child safety in the home – behavior change, services, and/or family supports?

b. Determine what resources are needed to assist the family and caregivers and to enhance caregivers’ protective capacity.

### **CPS and VCM/FSS Coordination**

To ensure coordination between VCM/FSS programs and CPS within a DSS Human Services Region, the Department will provide a **Voluntary Case Liaison (VCL)**, who is a DSS Worker, to be co-located with the Provider. For smaller counties within a region, a VCL will be assigned to more than one county. The VCL will be supervised by the DSS Region's Designated Supervisor.

### **Role of the VCL**

The VCL is to facilitate the following:

1. Staffing of all VCM cases with Provider staff for risk assessment
2. Staffing for all cases considered for closure. This includes both FSS and VCM cases. The purpose of the VCL's role in these staffings is risk assessment.
3. Assistance in locating clients.
4. Systems searches: CHIP; CAPSS; child support; incarceration records and police incident reports.
5. Participation in conference calls with other VCLs to ensure consistency in practice.
6. Participation in State level conference calls for AR to ensure efficacy.
7. Liaison for AR practice, policy, reports and trends.
8. Participate in case conceptualization weekly on a selected case such that Provider staff have the knowledge to approach families from a strengths-based perspective.
9. Identify and link Provider staff with local resources, e.g., food banks; churches; DV services; AOD services; mentoring options, etc.
10. Obtain copies of incident reports and court orders when applicable.
11. Research case history and gather case related information.
12. Approves IV-E eligibility for the children who would be reasonable candidates for possible removal from their home if preventive services were not provided. The VCL documents in the dictation tab of the CAPSS portal and by signing the treatment plan describing the Risk Factors which would likely require the child to be removed from the home if preventive services were not provided. The eligibility of the family/children of their IV-E reasonable candidacy is reviewed every 6 months when the treatment plan is reviewed by the VCL.
13. Assist VCM/FSS Workers in locating families through locator service or other resources available to the Department.
14. Add additional child(ren) or family members in CAPSS when necessary. Also, check on prior CPS history of any additional people in the home, formerly related

people if they are not still in the home, and make any corrections of name or information that is not correct in the intake.

The VCL is not responsible for case decisions made on VCM/FSS cases. The VCL is only responsible for responding appropriately to information provided by the VCM/FSS Workers during case consultation meetings and via case documentation. VCM/FSS Workers are expected to take appropriate action on a case (e.g., reporting to CPS Intake and returning the case to CPS when appropriate) once they have consulted with the VCL.

VCM/FSS Providers should maintain at least one hard copy of the DSS “Human Service Policy and Procedure Manual” in their offices for reference. The Manual is available via the DSS web site.

**DSS Responsibility in VCM Cases:**

Although DSS does not hold primary case management responsibility of VCM cases, all VCM cases still fall under the purview of the Department through the contractual relationship between DSS and the AR partner. Families should be informed of this. If conflicts arise regarding case management decisions in VCM cases, the Department has final decision-making authority regarding the level of safety or risk decisions.

### **What Could Happen During a CPS Investigation**

### **REFERRING VCM/FSS CASES BACK TO CPS INTAKE:**

From VCM or FSS due to Emergency Protective Custody (EPC) by Law Enforcement:

1. If a child in a VCM case is placed in EPC, CPS Intake will notify VCM or vice versa immediately via phone or email. CPS Intake Worker will determine what the appropriate response would be and assess safety and risk and work with Law Enforcement to determine if the EPC can be rescinded. If Law Enforcement does not rescind the EPC within the 24 hour allowable timeframe, then the Intake Worker will follow the intake procedures defined in this policy section for EPC. VCM Worker completes required assessment tools and documentation in the Provider Portal with a notation that “VCM return to CPS Intake due to EPC.” The VCL transmits a copy of VCM physical case record to the assigned CPS Investigator within 4 hours.
2. If a child in a FSS case is placed in EPC, CPS Intake will notify FSS immediately via phone or email. CPS Intake Worker will determine what the appropriate response would be and assess safety and risk and work with Law Enforcement to determine if the EPC can be rescinded. If Law Enforcement does not rescind the EPC within the 24 hour allowable timeframe, then the Intake Worker will follow the intake procedures defined in this policy section for EPC.

FSS Worker completes required assessment tools and documentation in the Provider Portal with a notation that “FSS return to CPS Intake due to EPC.”  
From VCM to CPS due to identification of new harm or high risk/safety concerns  
**RETURN IMMEDIATELY:**

1. VCM Worker completes the Safety Assessment in the Provider Portal and identifies Safety Factor(s) requiring CPS intervention.
2. VCM Worker immediately contacts the CPS Intake Worker to report Safety Factors or high risk concerns. VCM Worker is now the mandated reporter. VCM Worker will cite which Safety Factors exist (from the Intake CPS Assessment Tool or high risk factors from the risk matrix table) and provide a brief summary of the current concerns about the family.
3. Intake Worker generates a new intake referral, completes the Intake CPS Assessment Tool and assesses intake for the appropriate intervention by making a decision about the status of the new CPS intake.
4. Intake Supervisor makes an independent decision about the outcome of the new CPS intake and approves assignment to CPS investigation or the appropriate intervention.
5. VCM Worker completes required assessment tools and documentation in the Provider Portal to indicate “VCM returns to CPS Intake.”
6. The Intake Worker, the Intake Supervisor and the County Director will receive a group email via CAPSS to notify them that a VCM case is being returned to CPS.
7. VCM transmits a copy of the VCM physical case record to the assigned CPS Investigator within 4 hours.

**From VCM to CPS due to family’s refusal to cooperate with services after a new referral from intake -- RETURN WITHIN 2 WORKING DAYS:**

Family’s refusal to cooperate with VCM may occur at any point during the life of a VCM case. There may be cases in which the family has made progress and is actively engaged in community services and therefore refuses VCM services. These cases should be closed. VCM Worker should summarize the family’s progress and current situation in the Provider Portal before closing these cases.

If the family’s refusal to cooperate raises the level of risk or safety to the child, the VCM Worker will make a new referral to CPS intake. After the CPS investigation, CPS Investigator may re-refer family through a referral to intake for VCM services once safety/high risk issues are

resolved and family is now willing to participate in VCM services. If a family has been previously non-compliant with VCM, this must be considered in the decision about what services are appropriate to meet the needs of the family.

1. VCM Worker consults with VCL regarding the family's refusal to cooperate with services.
2. VCL staffs with the VCM Worker when the family's refusal to cooperate raises concern regarding unaddressed moderate to high risk factors. VCM Worker updates the DSS Child Safety tab and Comprehensive Risk Assessment tab in the Provider Portal. VCM Worker contacts CPS Intake and reports that the VCM case is being returned due to family's refusal with services.
3. Intake Worker generates a new intake referral, completes an Intake CPS Assessment Tool and makes an independent decision to assign the intake for CPS investigation, if indicated.
4. Intake Supervisor makes an independent decision regarding the new CPS intake and approves assignment to CPS investigation, if appropriate.
5. VCM Worker completes required assessment tools and documentation in the Provider Portal to indicate "VCM returns to CPS Intake."
6. The Intake Worker, the Intake Supervisor and the County Director will receive a group email via CAPSS to notify them that a VCM case is being returned to CPS.
7. VCM transmits a copy of the VCM physical case record to the assigned CPS Investigator within 4 hours.

### **From FSS to CPS**

**From FSS to CPS due to identified safety or high risk issues-RETURN IMMEDIATELY**

**From FSS to CPS due to elevated risk concerns-RETURN WITHIN 24 HOURS:**

1. FSS Worker completes the DSS Child Safety Assessment tab and Comprehensive Risk Assessment tab in the Provider Portal and identifies a safety concern or moderate or high risk factors during FSS involvement with the family.
2. FSS Worker contacts CPS Intake and reports that the FSS case is being returned due to identified Safety Factors or elevated risk factors. FSS Worker is now the mandated reporter. FSS Worker cites Safety Factors from the DSS Child Safety Assessment tab (15 questions and descriptive examples) or (the elevated risk identified on the risk matrix in the portal) and provide a brief summary of the current concerns about the family.
3. FSS Worker completes required assessment tools and documentation in the Provider Portal to indicate that case is returned to CPS.

4. The Intake Worker, the Intake Supervisor and the County Director will receive a group e-mail via CAPSS to notify them that a FSS case is being returned to CPS.
5. Intake Worker generates a new intake and completes the Intake CPS Assessment Tool to determine the most appropriate response and makes an **independent** decision about the outcome of the new intake.
6. Intake Supervisor makes an independent decision about the outcome of the new intake and approves referral to CPS or VCM as indicated.

**If there needs to be a change in the level of an AR case, these steps should be followed:**

1. If following an assessment:

- A. FSS sees the need for the level of a case to be raised to a VCM level, FSS will staff with the VCL and the AR Supervisor.
- B. A new referral will be made to CPS Intake. If the FSS Worker assesses and finds a high risk or safety factor, a new CPS intake referral will be made immediately. This will be referred back through the Provider Portal but a call for a staffing with the CPS Intake Supervisor will also be made by contacting the VCL and AR Supervisor.

2. If VCM sees the need for a case to be stepped down to FSS:

- A. Staff the case with the VCL and the AR Supervisor.
- B. If the VCL and AR Supervisor concur, the VCL Worker will arrange a staffing between the VCL, VCM Worker and Supervisor, and the CPS Supervisor that assigned the case to VCM.
- C. If there is an agreement that the case needs to be stepped down, the VCM Worker will close the case with the appropriate closure code in the Provider Portal. A new case will be opened in the FSS service. FSS

will continue to serve the family until services are complete.

### **Families Declining Services**

**FSS:** FSS Worker must make at least 3 attempts, not in the same day or at the same time of day, to engage the family and secure the family's commitment to accept services. If the family who was referred to FSS declines, FSS Worker will notify CPS Intake and document case closing and efforts made to engage the family in the Provider Portal. No further action will be taken by CPS Intake and FSS case will be closed. Complete documentation before closing case in the Provider Portal. Should the family initially request or agree to services through FSS but then they fail to keep appointments or evade the worker, the FSS Worker should make 3 attempts, not on the same day or at the same time of day, to reschedule with the family. Following these attempts the FSS Worker will notify CPS intake and document in the Provider Portal that the attempts were unsuccessful and the FSS case will be closed. All documentation must be completed before closing the case in the Provider Portal.

**VCM:** If family refuses to accept voluntary services and the absence of those services raise the level of risk from moderate to high, then the VCM Worker, as a mandated reporter, refers the case back to CPS Intake. If family has been receiving services and has made sufficient progress, then the case should be closed by the VCM Worker. Complete documentation before closing case in the Provider Portal.

### **Families Cannot be Located**

**FSS:** If the family cannot be located, consult VCL for assistance so that all reasonable efforts are made to locate the family. Once all reasonable efforts have been made, FSS Worker will inform CPS Intake and documents case closing in the Provider Portal. FSS Worker will complete a closing summary to document all reasonable efforts made to locate the family. No further action will be taken by CPS Intake and FSS case will be closed. Complete documentation before closing case in the Provider Portal.

**VCM:** If the family cannot be located, consult VCL for assistance so that all reasonable efforts can be made to locate the family. Once all reasonable efforts have been made, VCM can notify CPS Intake that the family was not located. The CPS Intake Worker will reevaluate the risk to the children. VCM Worker will complete a closing summary in the Provider Portal to document all reasonable efforts made to locate the family. Complete documentation before closing case in the Provider Portal.

### **Families Moving Out-Of-State**

**FSS:** If the family is moving to another state, FSS Worker will document case closing in the Provider Portal. No further action will be taken by CPS Intake and



FSS case will be closed by the FSS Worker. Complete documentation before closing case in the Provider Portal.

**VCM:** VCM will contact the CPS office in the state where the family is moving to and report the concerns that were brought to the Department's attention, along with any other information that was gathered about the family. No further action will be taken by CPS Intake and the VCM case will be closed by VCM Worker. Closing summary in the Provider Portal by VCM Worker should document the date/time/substance of the call made to CPS office in the other state. Complete documentation before closing case in the Provider Portal.

### **Families Moving Out-Of-Region**

**FSS:** These cases can be closed. However, FSS Worker should make reasonable efforts to refer and connect families to community services in the new location. Complete documentation before closing case in the Provider Portal.

**VCM:** Based on the family's current situation, the VCM Worker will consult with the VCL on case direction to close the case and refer the family to another VCM provider. The Provider Portal procedure to refer the family to another VCM provider is the following:

1. CAPSS Support receives request from the Provider A VCL.
  - a. The email must come from Provider A VCL with a cc: to Provider B VCL. The Provider A VCL will be responsible for informing the Provider B VCL of the transfer.

Note: Requests for transfers should come from VCLs or supervisors of VCLs. We will have to use our judgment on this because there could be a chance that an interim supervisor, county director or a regional will make this request.

2. CAPSS Support submits the SP to IT
3. IT executes the transfer from Provider A to Provider B
4. IT assigns the SP back to CAPSS Support
5. CAPSS Support notifies Provider A VCL and Provider B VCL that the transfer is complete.

CPS will provide all available information concerning the family when making a referral to FSS or VCM. Criminal History information, if available, may be shared for assessment purposes, but Criminal History printouts and records from the FBI cannot be provided to FSS or VCM. Also, CPS cannot share information on unfounded cases and the identity of the CA/N reporter with FSS or VCM Provider. As contracted providers, FSS and VCM programs are bound by DSS policy in respect to confidentiality. As participation in these services is voluntary, FSS and VCM Worker must obtain signed consent forms from families agreeing to FSS or VCM services and information exchange between FSS or VCM with other service

providers (i.e., school personnel, pediatricians, therapists, etc.) involved with the families. File signed consent forms in the case records. Consent forms are not required for information to be shared between CPS and FSS/VCM Provider. Expectations for Service Delivery (Refer to the Executed Contracts for Specificity):

### **Initiating Contact**

**FSS:** The Contractor will be expected to establish contact with the family within 7 calendar days following receipt of the referral. Should the family not respond to the referral letter or the Contractor's initial attempt to establish contact within 10 calendar days, the Contractor will visit the family's home to establish contact and to assess the family's specific service needs.

**VCM:** Given that the more serious risk factors indicated in the home of those families referred for VCM services, the Contractor will be expected to conduct a face-to-face interview with the family within 5 calendar days. Ideally the initial interview should take place in the family's home with both the parents and child(ren) with the child(ren) being interviewed separately. If the initial interview takes place in the Contractor's offices, a home visit must occur within 14 calendar days of the receipt of the referral.

### **Required Assessments**

**FSS:** The initial DSS Child Safety Assessment tab and Comprehensive Risk Assessment tab based on the Intake CPS Assessment Tool, to assess safety or high risk factor(s), must be completed for every family referred to FSS within 2 working days of the first face-to-face contact with the family (this includes all caretakers and all children in the family home). The initial DSS Child Safety Assessment tab and Comprehensive Risk Assessment tab based on the Intake CPS Assessment Tool must be completed within 30 calendar days of the initial face-to-face contact with the family to better determine the level of risk that exists and appropriate services to assist family. Update the assessment tools in 3 months.

**VCM:** The initial DSS Child Safety Assessment tab and Comprehensive Risk Assessment tab based on the Intake CPS Assessment Tool, to assess safety or high risk factor(s), must be completed for every family referred to VCM within two (2) working days of the first face-to-face contact with the family (this includes all caretakers and all children in the family home). The children should be interviewed separately if age appropriate. The initial DSS Child Safety Assessment tab and Comprehensive Risk Assessment tab based on the Intake CPS Assessment Tool must be completed within 30 calendar days of the initial face-to-face contact with the family, preferably after at least 3 home visits have been conducted with the family, to better determine the level of risk that exists and appropriate services to assist family. Update the assessment tools every 3 months.

### **Service Plans**

**FSS:** A Family Service Plan, identifying each area of risk identified by the FSS Worker and the family, must be created for each family, with a goal of completion within 3 to 6 months. The plan, to be signed by both the family and FSS Worker, will provide each family with clear goals, objectives and measurable outcomes that will be used for ongoing feedback to the family regarding their progress. The Family Service Plan must be completed within 30 calendar days following the date of initial contact, and a copy will be provided to the family. The FSS Worker will copy and paste the Family Service Plan into dictation for viewing by CPS staff. Every 3 months (or earlier in cases of substantial non-compliance), the FSS Worker together with the family will re-assess the level of risk and the family's progress, and revise the Family Service Plan as indicated.

**VCM:** The VCM Worker, together with the family, must develop an individualized Family Service Plan by using the results from the DSS Child Safety tab and Comprehensive Risk Assessment tab. The plan must be completed within 30 calendar days of initial face-to-face contact and signed by both parents and VCM Worker, and a copy will be provided to the family. The VCM Worker will copy and paste the Family Service Plan into dictation for viewing by the CPS staff. The Family Service Plan should outline clear goals and measurable objectives for the family related to the identified risk factors and the services required to reduce/eliminate risk. The Family Service Plan must specify a minimum of 2 face-to-face meetings a month between the family and VCM Worker.

VCM Worker must assure that the family understands the goals and objectives and that ongoing feedback and progress reports related to services are furnished to the family and the Department. Every 3 months (or earlier in cases of substantial non-compliance), VCM Worker together with the family will re-assess the level of risk

and the family's progress, and revise the Family Service Plan as indicated.

### **Home Visits**

**FSS:** Home visits may be scheduled with the family depending on their needs, at least monthly. The visits must be documented by the FSS Worker in the Provider Portal and must involve assessment of the family's needs and case planning.

**VCM:** VCM Worker must visit the parents and child(ren) at least 2 times per month. Visits may be increased, depending on the case situation and the needs of the family. The visits must be documented by the VCM Worker in the Provider Portal and must involve assessment of the family's needs and case planning.

### **Documentation Requirements**

Documentation by FSS/VCM Workers will be done in the Provider Portal's "Documentation Application." This application contains dictation and recipient codes to guide workers with their dictation.

DSS will provide information and training on specific requirements. In general, frequency and content of face-to-face visits and other contacts with families and other community/service providers must be documented by the FSS/VCM Workers to record significant events/contacts related to case activity. Entries should be timely and concise, citing only relevant facts or observation. Entries should be completed by the end of the month in which they occur.

### **Maintenance of Case Records**

VCM and FSS Workers shall maintain their own physical case records.

Records for AR (both VCM and FSS) must be maintained for a minimum of 5 years. Should a new report alleging abuse or neglect be made to DSS, AR Provider files must be assessed and reviewed by DSS/CPS Intake and Investigation Workers in the same manner as an unfounded category IV case.

It is DSS policy that access to and use of information contained in AR cases must be strictly limited to the following purposes and entities:

- (1) a prosecutor or law enforcement officer or agency, for purposes of investigation of a suspected false report pursuant to SC Code Section 63-7-440;
- (2) the department or a law enforcement officer or agency, for the purpose investigating allegations of abuse or neglect;
- (3) the department or a law enforcement officer or agency, when information is received that allows the reopening of a Category III unfounded report pursuant to SC Code Section 63-7-920(A);
- (4) as evidence in a court proceeding, if admissible under the rules of evidence as determined by a judge of competent jurisdiction;

(5) a person who is the subject of a report in an action brought by a prosecutor or by the department, if otherwise subject to discovery under the applicable rules of procedure;

(6) the department, for program improvement, auditing, and statistical purposes;

(7) as authorized in SC Code Section 63-7-2000; and

(8) the Department of Child Fatalities pursuant to SC Code Section 63-11-1960.

VCM: Case record filing should be in conformity with DSS filing standards. When a VCM case is returned to CPS, VCM must provide a physical copy of the VCM case record to CPS.

### **Maintaining Confidentiality of the Reporter**

The reporter information is not shared with the AR partner. However, if the information for whatever reason (e.g., through collateral contacts, etc.) becomes known to the AR partner, SC Code Section 63-7-330 protects the identification of the reporter. The identity of the person making a report pursuant to this Section must be kept confidential by the agency or department receiving the report and must not be disclosed except as authorized by State statute. The AR partner would refer the person named in the AR referral letter to DSS.

### **Case Closings**

**FSS:** FSS Worker will prepare a case summary that details the services provided, the family's general compliance with the Family Service Plan, the outcomes achieved, and the family's overall satisfaction with the services provided. All documentation must be completed before closing a case in the Provider Portal. A redacted version of this summary that eliminates all identifying information, except keeping the case number, shall be retained by FSS and made available to DSS for the purposes of program evaluation, quality assurance, and potential research.

**VCM:** VCM Worker will prepare a case summary that details the services provided, the family's general compliance with the Family Service Plan, the outcomes achieved, and the family's overall satisfaction with the services provided. All documentation must be completed before closing a case in the Provider Portal. A redacted version of this summary that eliminates all identifying information, except keeping the case number, the case number shall be retained by VCM and made available to DSS for the purposes of program evaluation, quality assurance, and potential research.

### **FSS/VCM PROVIDING INFORMATION TO THE COURT**

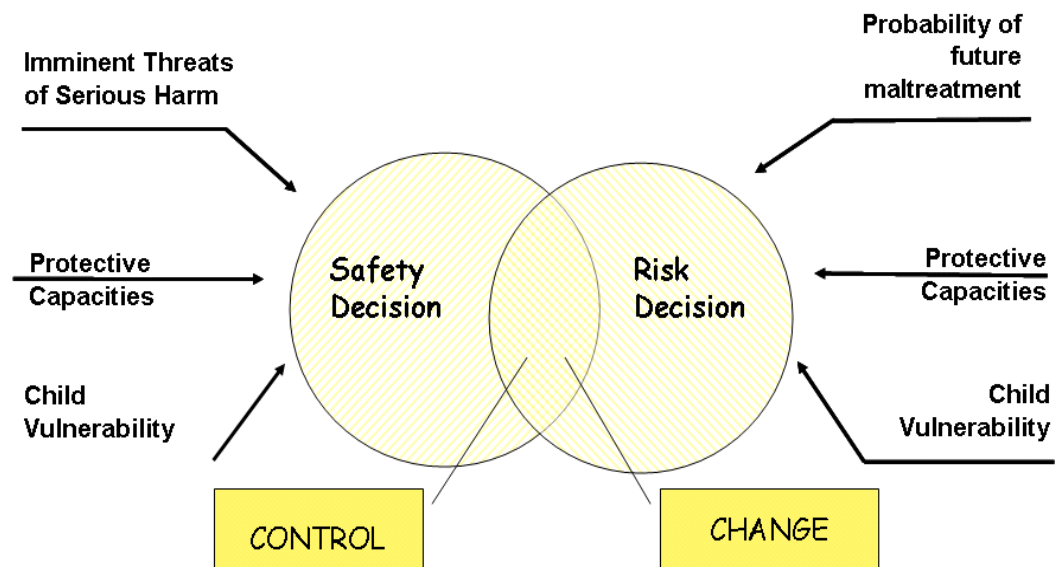
If a DSS attorney or other DSS staff subpoenas or requests that the FSS or VCM Worker/Supervisor come to court, the AR Provider should cooperate and testify and present other evidence as required by law.

Guidelines for Written Reports to Court

- Identify your program/service (FSS or VCM and provider name)

- Identify court case # and Judge’s name if available (report should be addressed to “Honorable Judge (last name)” or “Honorable Presiding Judge”)
- Include name and telephone number of assigned worker
- Include date of initial contact with family and state whether family is willing to engage in FSS or VCM services
- Report on findings of the “Safety Assessment Tab” (state that the “Safety Assessment Tab” of the family was completed and that no Safety Factors were identified) FSS or VCM Worker did not have enough time between the referral and the court date to meet with the family, just include a list of efforts made to contact the family and explain that an assessment will be completed during the first home visit.

**APPENDIX v. Supervisory Review Tool Key**




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**Referenced Documents**

**Revision Comments-** [Revision clarification to reflect agency guidelines.](#)

**CHAPTER 7, Child Protective and Preventive Services**

**Revision Number: 11-03**

**Obsolete Effective Date: 01-03-2014**

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**710.01 Intake Practice Issues**

Section deleted please refer to Section 710.

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**Referenced Documents**

**Revision Comments**





## **711 Recurrent Referrals**

Purpose: To outline the steps to be taken when two or more referrals are made on the same family, child, and/or subject of the report.

It is not unusual to receive more than one report about a child in need of or actually receiving Child Protective Services. These are recurrent referrals that should be evaluated to determine whether or not any additional action is presently required. The term "recurrent referrals" means a series of similar referrals about a family that has been or is involved with the agency.

If a family is receiving child protective services, it can be expected that referrals may continue to be received until there has been a change in the family's conditions that make the child appear to be unsafe. When multiple calls are received about a family with whom the agency is having or has had involvement, we must evaluate the call in light of what the agency is doing or has already done to investigate the concerns. For example, if a recent home visit was made and the information in the referral does not allege a different situation, then it probably will not be necessary to conduct an additional investigation as we are already aware of the concerns and taking appropriate action with the family.

While all of the referrals may involve genuine concern on the part of the reporters, also they may represent an attempt to pressure the agency into taking certain actions, such as removal or placement with a specific relative. It is important to remember that the caller's motives do not mean that a child isn't safe and the agency must always consider the content of the call.

In all recurrent referrals, case record documentation must identify the decision whether to investigate or not, the rationale for the decision and the action the agency is taking. If there are any doubts, they should be resolved in favor of the child and the referral investigated.

### **Social Service Worker**

1. For an active investigation: considers additional information discovered by the worker during the 45 days as part of the ongoing investigation. Takes appropriate action to ensure a timely assessment of child safety as well as clear documentation of the actions taken to respond. The CPS investigation is an information-gathering period so a new report on information discovered by the worker is generally not necessary so long as there is clear documentation of action taken to assess and ensure child safety.

Exceptions:

- If an emergency action is taken such as Emergency Protective Custody or an Ex Parte action where the agency assumes legal custody, state law requires that CPS initiate an investigation per law and policy. If the emergency action is what led to the initial report, DSS has initiated an investigation and would continue to complete that investigation. (Reference SC Code of Laws Ann. §63-7-700)

- Information received from an external source must be evaluated to determine if a new

report must be taken based on the allegation. If a new report is taken, it must be investigated per policy and law. The worker must respond to information provided by an external source within 24 hours to determine child safety and impact on the situation.

Notes:

- If at any time during the investigation, the agency receives information that suggests sexual abuse of a child, this information must be communicated to law enforcement within 24 hours so that law enforcement can make a decision about a joint investigation of the allegations. (Reference SC Code of Laws Ann. §63-7-980)

- The re-reporting of a situation by agency staff solely because the agency is not able to complete the investigation in the 60 days maximum allowed by state law for an investigation is not supported by state law. State law specifies that the agency must make a decision within 60 days or the decision becomes unfounded.

SC Code of Laws §63-7-930(A) "By the end of the sixty-day time period, suspected reports must be classified as either unfounded or indicated pursuant to the agency's investigation," and §63-7-930(C) "All reports that are not indicated at the conclusion of the investigation and all records of information for which an investigation was not conducted pursuant to §63-7-310 must be classified as unfounded."

(See Section 750, S. C. Code of Laws, §63-7-930)

2. For active treatment cases: reviews recurrent referrals to determine whether new allegations are contained that require a separate investigation, or if the information can be dealt with as part of the current service plan.

Note: New allegations are those incidents which were not previously reported and/or not investigated/assessed during the original investigation/assessment. An incident is a definite and separate occurrence or event **of alleged maltreatment, not just that another person has called DSS about the same incident.** This may be the same typology or another. Information received from therapists or other service providers, internal (Quality Assurance reviews) or external (such as State Child Fatality or Family Court) review processes must be evaluated to determine if the information can be dealt with as part of the ongoing active case or requires an investigation. There must be clear documentation in CAPSS dictation about the assessment of information and what actions the agency will take to respond.

For example, mentally ill mom is involved in treatment plan with DSS and mental health provider. Mom has stopped taking her medications and relapsed into depression. She had made appropriate arrangements for child's care so child is safe. This behavior requires a review of both safety and treatment plan with mom and treatment provider to evaluate the need for any modifications to either plan but a new report is not necessary.

In a similar situation, mom stops taking medications and becomes depressed to the point of not being able to function. The live-in boyfriend had agreed to be responsible but is not taking care of the child and the 8 year old child is left to take care of herself. Boyfriend molests child while mom is incapacitated. This requires new investigation, a report to law enforcement and perhaps emergency protective custody as boyfriend had agreed to be the safety plan protective caregiver. The difference is that there is no allegation of harm in the first situation, even though mom has a relapse in her treatment plan. There is clearly an allegation of harm in the second scenario.

In a treatment case, information received from the general public should be evaluated in light of current activity with the family. This means that the agency may have already acted on the information that is now being shared by a caller and a new report is not necessary. The caller should be advised that the agency will take appropriate action with the family regarding the caller's concern.

a. If the recurrent referral is consistent with the original report or does not allege a new incident, the information may be used to assist in the current delivery of treatment services. (Reference Section 710, #12)

b. If the information is not an allegation of abuse or neglect but involves a concern or need, makes an appropriate referral for services. (Reference Section 710, #12)

c. Documents action taken and information in automated system.

### **Social Service Worker**

3. For closed cases: reviews recurrent referrals to determine whether a new allegation is being made which requires an investigation.

a. New allegations are those incidents which were not previously reported or investigated/assessed during the original/*previous* investigation/assessment, and/or not dealt with during the delivery of services prior to closure. *This may include but is not limited to, additional information on the original report or new professional assessments of facts known to the previous investigation or case received from professionals who are providing treatment services, agency professionals reviewing a case for quality assurance or technical assistance purposes, or external review processes such as family court or child fatality review processes.* Documentation must clearly show the information that led to the decision to investigate or not and the subsequent actions taken.

For example: A family was investigated for neglect/lack of supervision of 2 year old child. The situation was remedied by the parent making arrangements for child care and the case was closed. The provider of the child care later contacted the agency to report that the parent ceased to use the child care and started leaving the child alone again. This is a new incident of the same typology that must be investigated. It also suggests that the parent is unable and/or unwilling to take the steps necessary to keep the child safe and the agency must consider what actions are necessary to make the child safe.

A different twist to this example would be that the child was left alone. The situation was remedied by the parent and the case closed. A person calls the agency to say that the mother left her child alone several weeks ago but the caller hasn't seen it happen lately. We look at our last action with this family and note that the concern falls within our time of involvement with the mother and no incident has occurred since our involvement. We consult with the service provider to verify that child is being care for. A new report is not necessary in this situation.

b. Information in a closed case may be used in a subsequent investigation/assessment or service delivery.

c. Closed indicated cases must be maintained for seven years from the date of closure

at which time all identifying information must be destroyed (Reference S. C. Code of Laws, §63-7-1910).

4. For unfounded reports, [reviews](#) recurrent referrals to determine whether a new allegation is being made which requires an investigation/assessment.

a. New allegations are those incidents which were not previously reported and/or not investigated/assessed during the original investigation/assessment. [This may include but is not limited to, additional information on the original report or new professional assessments of facts known to the previous investigation or case received from professionals who are providing treatment services, agency professionals reviewing a case for quality assurance or technical assistance purposes, or from external review processes such as family court or child fatality review processes. Documentation must clearly show the information that led to the decision to investigate or not and the subsequent actions taken.](#)

For example, a report is unfounded for physical abuse/excessive corporal punishment as no injuries were observed and the medical report received in the 45 day investigation period found no injuries. After the investigation was unfounded and the family notified of the case decision, the medical professional sent in a subsequent report that documents a broken bone that had not been apparent in the original tests as well as an opinion that the injury was not consistent with the parent's explanation of how it occurred. This would be a new report of the same incident based on the new information and would require a new investigation.

b. Information contained in unfounded cases must be retained for not less than five years and may be used by CPS or law enforcement in relation to child abuse investigations/assessments concerning the same victim child or the same subject and for purposes [as defined in statute. Information contained in unfounded cases is not subject to disclosure under the Freedom of Information Act as provided for in Chapter 4, Title 30. Access to and use of information contained in unfounded cases must be strictly limited according to state law.](#) (Reference S. C. Code of Laws, §63-7-530, 930 and 940).

### **Social Service Worker**

5. For all situations, consults with the supervisor or designee.

6. Documents the decision whether or not to investigate. If yes, completes the intake on automated system as appropriate.

7. Documents rationale for the decision and any other action the department is taking in automated system and updates screens as appropriate.

### **Social Service Supervisor**

8. Reviews the decision to:

a. Accept the referral for a new investigation;

b. Not take the information for investigation/assessment; or

c. Place the referral in Pending status while additional information is gathered.

9. Follows the procedures outlined in Sections 710, Intake, and 719, Child Protective Services Investigation, if information constitutes a new report.

### **Social Service Worker**

10. Follows procedure outlined in Section 710, Intake, if the referral is not accepted for investigation. (For active investigations or cases, see #1 of this section).

11. Follows procedures outlined in Section 710, if the information is placed in Pending status.

12. If this is a report on a previously unfounded report Category III, follow procedures outlined in Section 719.

### **Program Technical Assistance or Quality Assurance Staff**

13. Makes a report when information is discovered in the course of a quality assurance or technical assistance function or review of case record that leads staff to believe that children are not safe or at a substantial risk of harm in a screened out intake, an unfounded investigation, or a closed case.

a. consults with the county supervisor to determine if there have been other actions by the agency that are not documented in the case record that would clarify the decision to re-report.

b. documents in case dictation in CAPSS the careful consideration of all facts in consultation with the supervisor and county director and the actions taken to ensure child safety.

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### **Referenced Documents**

#### **Revision Comments**

July 2009 - Revised statute citations per statute change and adds clarifications to the criteria for accepting a new report.

## **712 County of Jurisdiction/Legal Residence**

Purpose: To clarify procedures involving jurisdictional issues for a child living in South Carolina or in other states. To be considered in conjunction with the procedures outlined in Section 710 and 719 and the DSS/Law Enforcement Protocol.

### **Social Service Worker (County of Intake)**

1. If the alleged victim child and alleged perpetrator reside in county of intake, proceeds with investigation/assessment as outlined in Section 719, Child Protective Services Investigation.
2. If the alleged victim child resides in county of intake, with alleged perpetrator residing in another county:
  - a. Initiates an investigation as outlined in Section 719, Child Protective Services Investigation; and
  - b. In consultation with the supervisor, requests assistance from DSS office in alleged perpetrator's county of legal residence to assist with interviewing of alleged perpetrator and/or collateral contacts, if needed.
  - c. If appropriate, refers matter to law enforcement for necessary action and coordination.
3. If the alleged victim child(ren) resides in another county, with alleged perpetrator residing in county of intake, in consultation with supervisor, follows procedures to transfer report to county of child's legal residence. (Reference Section 713, Transferring a Referral to Another County at Intake)

Note: When jurisdiction is unclear and the victim is [physically located](#) in the county of intake, the county of intake should act to provide safety. This procedure should never be a barrier to anyone making a valid report or acting to ensure the safety of a child.

### **Social Service Supervisor**

4. Staffs information for appropriateness of decision.

### **Social Service Worker (County of Intake)**

5. If the alleged victim child is a non-resident of South Carolina, but the child is in South Carolina at the time of the report, the department shall:
  - a. take emergency action as necessary to ensure child's safety;
  - b. conduct an investigation/assessment as outlined in Section 719, Child Protective Services Investigation;
  - c. Notify child's state of legal residence of the report and any subsequent investigative or

treatment issues which may require follow-up.

6. If the alleged victim child is a non-resident of South Carolina, but was allegedly abused/neglected in South Carolina and is no longer in the state:

- a. Notifies state of child's legal residence of allegation;
- b. Provides assistance by interviewing the alleged perpetrator and/or collaterals, if requested;
- c. Sends written information to state of child's legal residence;
- d. Assists to make any necessary referrals to law enforcement.
- e. Completes intake on automated system process and notes that referral was not taken as a CPS report but is an assist for the state of the child's residence and the referral made to that jurisdiction. Documents any assists in dictation.
- f. If information received through law enforcement or DSS interviews supports by a preponderance of the evidence that the alleged perpetrator would be a threat to children in South Carolina, petitions family court for the purpose of placing name on Central Registry using the standards in [§63-7-1930](#).

7. Assesses for appropriate action, including Emergency Protective Custody, referrals involving families vacationing in or passing through South Carolina. Where follow-up is deemed necessary, the report should be coordinated with the family's state of legal residence. (See Section 750, Reference Data - S. C. Code of Laws, [§63-7-620](#)).

8. If the alleged victim child is a resident of South Carolina, but was allegedly abused/neglected outside of South Carolina by a non-resident of SC and is not in SC at the time the allegations are made:

- a. Receives notice of the allegations from the state of child's location/site of alleged abuse or neglect. If allegations involve SC resident as perpetrator, initiates investigation per Section 719;
- b. Provides assistance by interviewing collaterals that live in SC, as appropriate;
- c. Sends written information to state of child's location;
- e. Completes intake on automated system and notes that referral was not taken as a CPS report but is an assist for the state of the child's location and the referral has been made to that jurisdiction. Documents casework activities in dictation.
- f. Provides treatment services to child and family in SC as needed.

9. If the alleged victim child is a resident of South Carolina, but was allegedly abused/neglected outside of South Carolina by a non-resident of SC but has returned to SC at the time the allegations are made:

- a. Notifies state where alleged abuse occurred and assesses for safety concerns with child in SC;

b. Provides assistance by interviewing collaterals in SC to include child and caregiver in SC;

c. Sends written information to state where alleged abuse occurred;

e. Completes intake on automated system process and notes that referral was not taken as a CPS report but is an assist for the state of the child's residence and the referral was made to that jurisdiction. Documents casework activities in dictation.

f. Provides treatment services as needed to identified victim child and family in SC.

10. If a child is temporarily living with an alternative caregiver in another county and custody of the child has not been changed by the court, case management of the case remains with the county where the custodial parent resides as this is the child's legal residence. The county where the child is temporarily located will assist in delivery of services as necessary and appropriate.

If after a thorough assessment of the situation, the agency recommends that custody of the child be given to the relative, then the home of the relative becomes the county of the child's legal residence. At that point, case management should transfer to the child's county for provision of services to the child. The county of child's legal residence has responsibility to coordinate any necessary services for the parents with the county where the parents reside.

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### **Referenced Documents**

### **Revision Comments**

June 2009 - updates statute cites.



### **713 Transferring a Referral at Intake to Another County**

Purpose: To provide procedures to guide the transfer of a referral when the alleged victim child named in the report lives in another county and to ensure a 24 hour response by the agency on all referrals.

#### **Social Service Worker (Intake/Sending County)**

1. Consults with supervisor regarding the decision to place the referral in Pending Transfer status.

#### **Social Service Supervisor (Intake/Sending County)**

2. Reviews and signs off on the decision to transfer the referral. Discusses with and guides the worker through the decision making process.

#### **Social Service Supervisor**

3. Ensures that all known information is completed on the intake screen on automated system prior to transfer.

#### **Social Service Supervisor or Worker (Intake/Sending County)**

4. Within thirty minutes of receipt of the referral and decision to place the referral in Pending Transfer status, contacts by telephone the county of residence to transfer the referral and any supporting information as documented on the intake. If unable to reach the receiving county and the referral is of an emergency nature, contacts immediately law enforcement in the county where child is located to request assistance with a child in need of protection. Consults with supervisor if unable to contact law enforcement.

#### **Social Service Supervisor/Designee (Receiving County)**

5. Updates automated system to accept and transfer case management responsibility. Sending county will continue to update dictation as appropriate.

#### **Social Service Worker (Intake/Sending County)**

6. Provides assistance by interviewing any parties located in the Intake County and immediately provides county of legal residence by phone any information pertinent to child's safety.

7. Documents on any interviews conducted with persons in Intake county or other assistance provided and notifies the county of child's legal residence that documentation completed.

8. Cooperates with county of child's legal residence as necessary and appropriate.

9. Logs information and referral hours in the automated system.

**Social Service Supervisor/Designee (Sending County)**

10. Ensures that automated system is updated and that any information which must be sent in writing is sent to receiving county.

**Social Service Supervisor/Designee (Receiving County)**

11. Processes referral as outlined in Section 710, Intake, upon notification of intake information by phone and change of responsibility. (See Section 750, Reference Data - [§63-7-310](#), S.C. Code of Laws)

Note: The time noted for receipt of the referral by the Intake county does not change during this transfer.

12. Logs investigative hours in the automated system.

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**Referenced Documents**

**Revision Comments**

**714 Transferring a Referral Still Under Investigation/ [Assessment](#) to Another County**

Purpose: To provide procedures to ensure that a prompt and thorough investigation/[assessment](#) is completed on a referral when a family moves to another county or is found to be legal residents of another county after the investigation/[assessment](#) has been initiated.

**Social Service Worker (Intake/Sending County)**

1. Receives information that the child or family has moved or were legal residents of another county.
2. Verifies change of legal residence by parents' actions to:
  - a. change mailing address;
  - b. enroll child in school or day care using new address;
  - c. apply for economic assistance using new address; or
  - d. any other action which would indicate the new residence is not temporary.
3. Obtains as much information as possible regarding the location of the family.
4. Immediately contacts by telephone the new county of residence to transfer the investigation/[assessment](#).

**Social Service Worker (Receiving County)**

5. In consultation with supervisor, initiates any emergency action necessary.

**Social Service Supervisor (Intake/Sending County)**

6. Reviews any written information to be sent and guides worker through the decision making process and signs off on decisions as appropriate.
7. Staffs information with the worker to ensure that pertinent and appropriate information has been gathered.

**Social Service Worker (Intake/Sending County)**

8. Documents the actions to transfer a case, case staffing and any other action completed.
9. Within two working days of transfer, completes documentation and updates the [automated system](#) as appropriate with all information gathered in Intake county.
10. Documents the referral as a "county transfer" with no case determination.

11. Provides consultation and/or assistance as requested by the new county of residence.

12. Participates in staffing with receiving county.

**Social Service Supervisor (Intake/Sending County)**

13. Reviews casework completed by worker.

**Social Service Supervisor (Receiving County)**

14. Reviews case information, assigns, investigation/[assessment](#) and changes worker assignment on data base after notification from sending county that referral or case information has been updated. Reviews any written information sent in paper file.

**Social Service Worker (Receiving County)**

15. Completes investigation/[assessment](#) as defined in Section 719, Child Protective Services Investigation.

16. Consults as needed with the sending/ intake county before the case determination is made and coordinates any staffings.

17. Updates data base to receiving county codes if data has been entered by sending/intake county.

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**Referenced Documents**

**Revision Comments**

## **715 Transferring an Indicated Case to Another County**

Purpose: To provide procedures to ensure that a family who moves to another county after a report has been indicated will receive appropriate services on a timely basis. To be completed in conjunction with the process outlined in the Casework Management Manual, Section 150.05.01, Case Transfer/Case Staffing Procedure.

### **Social Service Worker (Original County)**

1. Verifies that the family has changed legal residence by:
  - a. having changed mailing address;
  - b. enrolling child in school or day care and using a new address;
  - c. applying for economic assistance using new address; or
  - d. any other action which would indicate the new residence is not temporary.
2. Consults with the supervisor regarding the change in the family's circumstances.
3. Notifies the new county by telephone of the change in residence and gives information regarding the level of risk and/or the need for immediate contact and other information needed for provision of services to the family.
4. Immediately sends information necessary to provide emergency services to the receiving county to include but not limited to any court orders or pending actions or law enforcement information which must be mailed or faxed. Follows up within two working days with the paper case file and notification that the [automated system](#) has been updated with case actions and is available for the new worker.
5. Staffs with DSS attorney and completes any pending court action as appropriate and requests change of jurisdiction/venue.
6. Cooperates with receiving county as needed for any subsequent legal action.

### **Social Service Supervisor (Original County)**

7. Ensures that information is completed on [automated system](#) within two working days of telephone contact.

### **Social Service Supervisor (Receiving County)**

8. Cooperates and assists original county with any pending court action.
9. Reviews and signs off on case if he/she concurs with action proposed by original county. If

not in agreement, requests face-to-face or telephone conference staffing with original county to resolve concerns. Arranges any other staffings as deemed necessary.

### **Social Service Worker (Receiving County)**

10. Determines, upon consultation with worker and supervisor of original county, the current level of risk and if the level of risk requires immediate contact with the family at the time of transfer.

11. Completes changes for case management number and county number on [automated system](#) upon receipt of case file. Documents in [automated system](#) all actions.

### **Social Service Supervisor (Original County)**

12. Ensures that any case management changes which must be made by original county are made.

### **Social Service Supervisor (Receiving County)**

13. Ensures that appropriate case management changes are made and updates [automated system](#) to assign the new worker and complete the transfer of responsibility.

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## **Referenced Documents**

## **Revision Comments**

**CHAPTER 7, Child Protective and Preventive Services**  
**Revision Number: Section 834 was changed Effective Date: 05/19/2006**  
**to clarify the procedures for making a**  
**referral for a runaway foster child to be**  
**listed on the National Center for Missing &**  
**Exploited Children's database. 06-03**

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**716 Referrals on Department of Social Services Employees or Employees' Immediate Families**

Purpose: To facilitate investigations/assessment regarding agency employees or their immediate families. "Immediate family" is defined as parents, grandparents, children, siblings, aunts or uncles.

**Note:** In situations where other family or personal relationships exist, consult with program or management support staff as needed to insure an objective investigation/assessment.

**Social Service Worker (Intake County)**

1. Informs the Social Service Supervisor of a report on an employee of the Department or on the employee's immediate family.

**Social Service Supervisor**

2. Notifies County Director who will contact management support staff for assistance as needed.

**County Operations Management Support**

3. Consults with county director as needed to ensure that investigations on employees or employees' immediate family are conducted in an impartial manner. Counties will assist each other as necessary for these investigations.

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**Referenced Documents**

**Revision Comments**

March 2006 - revision to clarify process for investigations of employees or employees' relatives.

## **717 Interaction with Law Enforcement**

Purpose: To outline procedures to be followed when interacting with law enforcement pursuant to the S. C. Code of Laws, specifically, but not limited to §63-7-20, §63-7-310, §63-7-620, §63-7-610, §63-7-920.

### **County Director/Designee**

1. Cooperates with law enforcement and the solicitor.
2. Develops written protocols with local law enforcement according to the requirements of state laws and Department procedures to include but not limited to provisions for sharing information about the reporter and for ensuring confidentiality of information about reporters of child abuse and neglect, and for arranging law enforcement support for visits when safety of workers and children is a concern, as well as requesting assistance to identify and/or locate a family and/or child **no later than 72 hours or at any point prior to that if circumstances warrant**; when intake information is vague or limited **or attempts to locate the child and/or the child's family have been unsuccessful; when it appears the family is attempting to evade contact** or when the agency loses contact with the family during the investigation or delivery of services. **CPS staff must make diligent search efforts to establish and maintain family contact in order to complete investigations and monitor open family preservation cases. All diligent efforts must be documented in CAPSS including the response of law enforcement to the request by CPS staff for assistance and any activity of law enforcement.** (See Section 750, Reference Data - S. C. Code of Laws, §63-7-310 and §63-7-620)

Note: A copy of the protocol should be given to all Social Service Workers and a copy should be sent to the State Office Division of Human Services, Child Protective Services Unit.

### **Social Service Worker**

3. Notifies law enforcement of all suspected sexual abuse reports, to include the name of the reporter, as soon as possible but no later than 24 hours of receipt of the intake. (Reference §63-7-920 and Local Law Enforcement/DSS Protocol)
4. Determines, in coordination with law enforcement, if a joint investigation is needed and clarifies roles.
5. Notifies law enforcement within 24 hours of any and all reports, to include the name of the reporter, where the facts indicating abuse and neglect also appear to indicate a violation of criminal law and cooperates with law enforcement as required. (Reference §63-7-920 and Local Law Enforcement/DSS Protocol)
6. Notifies law enforcement of information received which suggest abuse and neglect by a person other than the parent, guardian or caretaker.



7. When notified by law enforcement of situations of emergency protective custody, follows procedures established in the written Local DSS/Law Enforcement Protocol and requirements of state statute. (Reference §63-7-620, S. C. Code of Laws)

8. Maintains confidentiality of reporter when a report of child abuse and neglect is received by either DSS or law enforcement as defined by statute. (Reference §63-7-1990, S. C. Code of Laws)

9. Receives from law enforcement information about the reporter (to include name) when law enforcement refers a child abuse and neglect report to DSS.

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### **Referenced Documents**

#### **Revision Comments:**

This section of policy was updated to help ensure the safety of at-risk children and families by requiring caseworkers to call law enforcement if a child or family cannot be located within the first 72 hours.



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## **718 Initiating Family Court Proceedings**

Purpose: To ensure that appropriate information regarding a family is brought to the attention of Family Court as required by the various statutes governing child protective services proceedings (Reference [§63-7-700](#), [§63-7-710](#), [§63-7-740](#), [§63-7-950](#), [§63-7-1650](#), [§63-7-1660](#), S. C. Code of Laws). Specific time frames for the following activities are governed by statute, court rules, DSS Legal Manual and procedures developed between the county DSS offices and their local DSS legal representative. This is a formal statement of roles and responsibilities related to taking a case to court. It does not take into account ongoing staffings and consultations about a case between Child Welfare staff and the DSS attorney.

### **Social Service Worker**

1. Discusses the case with his/her supervisor before initiating court action.

### **Social Service Supervisor**

2. Guides worker through the decision making process and approves or denies the initiation of court action.

### **Social Service Worker**

3. Completes the DSS-3058, Court Information Sheet, or equivalent summary of necessary information. Attaches other relevant documentation (including but not limited to medical or psychological evaluations, other reports). Updates automated system screen as appropriate.

4. Contacts the DSS legal representative to discuss the case if approval is given by the supervisor. Furnishes the legal representative with the DSS-3058 or other summary and all relevant documentation.

### **DSS Local Legal Representative**

5. Reviews all materials furnished by the worker and obtains other information from worker, case file or collateral contact, if needed.
6. Prepares the complaint and related summons, notices, petitions, orders of appointment, etc., for filing.
7. Files the complaint and related documents.
8. Ensures appointment of guardians ad litem and attorneys as necessary.
9. Arranges service on all parties.

10. Schedules hearing.
11. Serves notice of the hearing on all parties.
12. Discusses case with the worker to prepare the worker and the case for presentation in court.
13. Contacts and prepares witnesses with the assistance of the worker.
14. Subpoenas witnesses.
15. Engages in other necessary case preparation.
16. Represents the agency in actual court proceedings.
17. Prepares court order if required by the judge.
18. Serves all parties and worker with the signed, filed court order.

NOTE: The above procedures represent a generic outline of responsibilities. Attorneys and their counties should develop specific written procedures for preparation of their cases for court. Local procedures may reallocate responsibilities somewhat; however, workers must not prepare court orders and must not prepare other pleadings or court documents without review and sign-off by the attorney.

### **Social Service Worker**

19. Assists attorney with case preparation.
20. Assists family and youth to prepare for court by providing general information about the court process and answering questions they might have about what to expect.
21. Testifies in court.
22. If the local legal representative refuses to initiate court action or refuses to otherwise present the agency's position in court, documents the refusal in the case record along with the reasons and notifies the supervisor.

### **Social Service Supervisor**

23. Initiates conflict resolution procedure as provided in "Attorney-Client Relationship" section of the DSS Local Legal Services Chapter in the Administration Manual. (Refer to the DSS Local Legal Services Chapter in the Administration Manual).
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## Referenced Documents

### Revision Comments

Revisions have been made to update statute cites.

## CHAPTER 7, Child Protective and Preventive Services

Revision Number: HSP 15-06

Effective Date: 07/01/2015

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### 719 Child Protective Services Investigation/Assessment

Purpose: To outline procedures: (1) to identify safety concerns and ensure the immediate safety and safety throughout the investigation/assessment of all children in the household and under the control of the alleged perpetrator; (2) to make a determination whether or not the children were abused or neglected; (3) to make a decision regarding future risk of maltreatment; and (4) to plan for agency service intervention. The order of the steps provided in the section may vary given the specifics of the report. (See Section 750, §63-7-20, §63-7-620, §63-7-920, S. C. Code of Laws)

NOTES: The agency's safety and risk assessment and service planning document is the Child and Family Assessment and Service Planning Tool (CFASP). For general instructions about using the automated system, see the CAPSS handbook.

For local operating and communications procedures between local Law Enforcement and DSS, refer to your county's DSS/Law Enforcement Protocol. This protocol is mandated by SC Code of Laws Ann., §63-7-620.

Refer to the Memorandum of Agreement with the Children's Advocacy Center (CAC) or similar multidisciplinary abuse assessment facility that serves that county for the purpose of defining the referral process, forensic interviewing, and multi-agency case staffing procedures.

By mutual agreement between and among state agencies and entities involved in the investigation of and services to children exposed to the manufacture of methamphetamines, the South Carolina Drug Endangered Children –Investigative Guidelines for Law Enforcement, Child Welfare and Medical Personnel (SCDEC Guidelines) is to be incorporated as an addendum to the DSS/LE Protocol and its provisions used in conjunction with Section 719 when investigating such situations. The county protocols and guidelines are to be reviewed and revised annually and a copy sent to the Office of Community Services.

While the need for Emergency Protective Custody (EPC) must be assessed case-by-case, virtually every child exposed to the manufacture of methamphetamines will be in substantial and imminent danger and should be taken into EPC unless there is a relative identified as willing and able to protect. This action will be taken because of the significant health hazards and physical dangers presented by the actual manufacture of methamphetamines. Reference Chapter 8, Section 815.05 for specific procedures when children are removed by EPC as a result of

exposure to manufacture of methamphetamines.

### **Social Service Worker**

1. Receives report as assigned, reviews intake information with supervisor as necessary to plan for initial contact, child safety, personal safety, and to prioritize activities of initial assessment according to needs of the specific report.

2. If not completed by intake, notifies law enforcement as soon as possible but within 24 hours of receipt of all reports that include allegations of sexual abuse/assault, regardless of primary typology of the report. (See Section 750, S. C. Code of Laws Ann. - §63-7-920)

Checks to see if law enforcement has made a referral to CAC. If not, makes referral as soon as possible after receipt of report, but in no more than 5 working days, to local Children's Advocacy Center (CAC) or similar multidisciplinary abuse assessment facility for medical examination by a physician, or by an advanced practice registered nurse or physician assistant who is working under the supervision of a physician who has been trained in child abuse and neglect when presenting issues include:

- a. Head injury in children less than 3 years of age, burns in children 3 years of age or younger, or fractures in a child 5 years of age or younger;
- b. bruises located on the face, neck, chest, back, buttocks with a pattern or multiple in number;
- c. any report alleging sexual abuse of a child;
- d. any report involving the sexually transmitted disease in a child eleven years of age or younger; or
- e. any family in which one or more children have been pronounced dead on arrival at a hospital or other health care facility, or have been injured and later died, as a result of suspected abuse, abandonment, or neglect, when any sibling or other child remains in the home.

A medical evaluation by the CAC may not be necessary:

1. if the child has already had a medical examination by a physician or other licensed healthcare provider; or
2. if the county Department of Social Services caseworker, with supervisory approval, has determined, after conducting a child safety assessment, that there are no indications of injuries as described in subsection 26(a) - (e); or
3. after consultation with the Children's Advocacy Center or similar multidisciplinary abuse assessment facility.

(See SC Code of Laws Ann, §63-11-310 Children's Advocacy Center)

3. Makes contact with the Family Independence/Supplemental Nutrition Assistance Program (FI/SNAP) staff who might be involved with the family to gather pertinent information to assist in locating the family or in planning for worker safety at initial contact. Uses DSS Form 1600 to document communication with FI/FS staff.

4. Notifies Foster Care staff of an infant coming into the custody of DSS under the Safe Haven Act. Reference Chapter 8, Section 812.01 for additional guidance.

5. In consultation with supervisor, considers any barriers to communication known at intake,

such as limited English proficiency, speech or hearing impairment. If such a situation exists, refers to Limited English Proficiency/Sensory Impairment (LEP/SI) Policy and Procedures in Directive Memo D02-39, dated September 23, 2002, and Limited English Proficiency/Sensory Impairment (LEP/SI) Requirements, in Directive Memo D06-5, dated February 15, 2006 to county protocols for specific guidelines to assist in the initial and subsequent contacts with the family.

6. After consultation with supervisor, makes initial contact within two hours to start the investigation/assessment of reports where the information received at intake suggests an emergency with immediate present danger threats to children in order to assess for child safety and future risk and take steps to ensure the safety of all children in the household. Initial contact is about assessing immediate present danger. Evaluates referral for concerns related to worker safety and plans initial contact so as to minimize personal danger, to include but not limited to, requesting assistance from law enforcement when contact after normal working hours is necessary.

Note: Consults with law enforcement as outlined in the DSS/LE Protocol and South Carolina Drug Endangered Children –Investigative Guidelines when report suggests imminent danger in order to plan initial contact and subsequent investigative and placement action. (Reference County DSS/LE and SCDEC Guidelines) Follows SCDEC Guidelines when the report involves children at a lab site where methamphetamines are being manufactured. (Reference SCDEC Guidelines and Chapter 8, Section 815.05)

Note: The first attempt at contact is always for direct and personal contact with the child to determine if the child is safe. If the child is not available, then immediate and personal contact with the parent, guardian or other person responsible for the child's care and welfare is to be made, with personal contact with the child to follow as soon as possible. If the attempted personal contact with the parent, guardian or other person responsible for the child's care and welfare is unsuccessful, then there must be direct contact with someone who knows about the child's situation and condition so that an informed assessment of safety can be completed with personal contact with the child to follow as soon as possible. The items below (a - d) rank the contact by order of importance. Item #c below is acceptable only when all other efforts have been exhausted without success. Documentation must clearly reflect all efforts to see the child.

- a. Initiates an investigation in situations of an emergency (immediate danger) with personal contact with the involved children; or
- b. Initiates the assessment by personal contact with the parent, guardian or other person responsible for the child's care and welfare when unable to see the child; for example, child hospitalized in another county; or
- c. Documents attempted personal contact with the parent, guardian or other person responsible for the child's care and welfare which was unsuccessful, such as incorrect or incomplete directions, the family was not at home when an unannounced visit occurred, or efforts to coordinate the initial contact with law enforcement was unsuccessful. Documents specific attempts to locate family such as through the post office, utilities, school, Department of

Corrections, Inmate Search at <http://public.doc.state.sc.us/scdc-public/>.

d. Attempts to locate school age children through contact with school in county or through Department of Education, Ombudsman. Sends request for search on agency letterhead stationery and include child's name, Social Security number (if known) and DOB of child in question. Also include parents or guardian's names and the last known place of school enrollment. The DOE Ombudsman will provide any information available in the school's records.

7. Initiates an assessment of all other reports as soon as possible but no later than 24 hours from receipt of the report.

During initial contact or as soon as possible, gathers information from the child and family to identify the ethnicity (defined to include race, religion, national origin, or cultural group) and immigrant status of the child and family to determine what services might be necessary and appropriate, such as translation/interpreting, attending to specific culturally sensitive issues, and/or for meeting state and federal law regarding unqualified or undocumented immigrants. Undocumented immigrants are eligible for protective services but may not qualify for other federally funded services.

If the information gathered supports or confirms that the child is a member of a federally recognized Native American tribe or nation, notifies the tribal office for the purpose of coordinating the investigation and possible placement with tribal authorities. Immediately staffs the case with the county attorney to assure that Indian Child Welfare Act (ICWA) required notices are provided and other procedures are followed in the event of removal of the child. See Chapter 8 Foster Care for removal and placement guidance. (Reference Sections 754 and 811 - Indian Child Welfare Act)

Documents ethnicity and Native American affiliation in CAPSS.

8. Follows procedures outlined in Section 736: Death of a Child, when the investigation involves suspected abuse or neglect resulting in a child fatality.

### **Supervisor**

9. Provides the assigned worker with guidance as necessary given worker's level of experience and expertise and the allegations contained in the report.

Ensures that an initial contact is made by the assigned worker by meeting one of the standards in #6 of this section. If the initial contact was unsuccessful, the worker must continue to try to make personal contact as appropriate considering the allegations.

If personal contact has not been made by the third day or no later than 72 hours of receipt of a report, a staffing with the supervisor is required to consider necessary actions to locate the child and/or the child's family which shall include contacting law enforcement for assistance.

Note: CPS staff must make diligent search efforts to establish and maintain family contact in order to complete investigations and monitor open family preservation cases. All diligent efforts must be documented in CAPSS including the response of law enforcement to the request by CPS



staff for assistance and any activity of law enforcement.

Note: Do not leave notes for the family if they are not at home. Notes raise anxiety, can make the situation unstable and possibly increase concerns for child safety.

### **Social Service Worker**

10. Notifies the subject of the report that pursuant to §63-7-920, allegations of child maltreatment are being investigated and provides details but withholds identifying information on the reporter (See Reference Data - S. C. Code of Laws, §63-7-920)

11. As notice of the investigation, provides to and discusses with parents DSS Brochure 3034, Child Protective Services: A Guide for Parents, which provides information about the investigative assessment process, parents' rights and responsibilities, and possible court action as a result of this situation as required in §63-7-920. Answers any questions the parents may have about the process. (See Section 750 - S. C. Code of Laws, §63-7-920)

As mandated by federal law, also provides to the parents or other caregivers being investigated the handbook on parents' legal rights entitled Child Abuse, Child Neglect - What Parents Should Know If They Are Investigated, DSS Brochure 30230. This handbook provides parents with information on legal rights which includes but is not limited to: the CPS process; the reporter's protection and rights; the right to a lawyer; the right to be informed of court hearings; how to contact the clerk of court; the possibility of temporary placement of the children; the process for appointment of a guardian ad litem (GAL); and what information the parents need to share with the agency. (Reference Child Abuse Prevention and Treatment Act)

12. Identifies any present or impending danger threats at initial contact using guide in Part I: Assessment of Present Danger At Initial Contact. If protective action can control the threats so that the child can remain in the home, completes with the family prior to leaving the home on the initial contact a Safety Plan (DSS Form 3087) that identifies:

- a. the specific present or impending danger threats to be controlled,
- b. the parents' willingness to cooperate,
- c. description and confirmation of who can and will be the protector of the children,
- d. description of the safety services that will control the threats, and
- e. timeframes for action and oversight.

NOTE: The initial Safety Plan is to be used at this point to control immediate present danger safety threats (threats acting now, readily identifiable, serious and threaten immediate safety of child) if identified and must be completed before leaving the setting. If no present danger is identified, a Safety Plan is not required at initial contact. The Safety Plan developed at initial contact is immediate, short-term, and sufficient to provide responsible adult supervision and care to allow for the completion of the investigation. Its purpose is to suspend what is going on in the family long enough to complete an investigation,

Documents reasonable efforts to prevent removal by identifying the safety services or actions necessary for each child to live safely at home or with a relative or friend. Documents on the Safety Plan when a child is at imminent risk of removal by checking YES or NO.

Note: The Safety Plan at initial contact may include a [kinship](#) caregiver arrangement as described

in SC Code of Laws Ann., §63-7-920 when a child can be diverted from foster care. See # 20 for steps to determine if the agency can agree to the [kinship](#) caregiver arrangement.

13. Documents the information regarding the initial contact including the date, time, individuals present, location of the meeting and the outcome in the CAPSS automated system within five working days.

14. Completes formal staffing of assessment with supervisor no later than seven working days after the report is received and as necessary throughout the investigation/assessment. Documents staffing in CAPSS using format of DSS Form 3062 (summary of current situation, recommendations for next steps, persons involved in staffing). Use of the DSS Form 3062 in supervisory staffing is at discretion of supervisor.

If necessary, requests DSS attorney to prepare and submit an affidavit and petition for an inspection warrant if the investigation/assessment cannot be completed without it. (See Section 750, S. C. Code of Laws, §63-7-920)

15. Gathers information necessary to analyze the current functioning of the children and family and determine if children are safe using the six fundamental assessment questions that inform the safety assessment decision.

1. What is the extent of maltreatment?

- The kind and specific description of the maltreatment
- The severity of the maltreatment
- The specifics of the events, injuries and conditions present.

2. What are the circumstances surrounding the child maltreatment?

- The caretakers' explanation of what happened, the injuries and related conditions including the child's condition.
- History and duration of the situation
- Co-existing factors and conditions such as substance abuse or mental health
- Contextual issues, such as use of instruments, acts of discipline, threats, and caregiver intentions
- Caregiver acknowledgement and attitude about the maltreatment

3. How does the child function on a daily basis?

- Capacity for attachment
- General mood and temperament
- Intellectual functioning
- Communication and social skills
- Expressions of emotions/feelings
- Behavior
- Peer relations
- School performance
- Physical and mental health
- Vulnerability
- Functioning within cultural norms

4. What are the disciplinary approaches and typical context used by the caregiver?

- Disciplinary methods
- Concept and purpose of discipline
- Context in which discipline occurs
- Cultural practices

5. What are the overall pervasive parenting practices used by caregivers?

- Satisfaction in being a caregiver
- Caregiver knowledge and skill in parenting and child development
- Caregiver expectations and empathy for a child
- Decision making in parenting practices
- Parenting style
- History of parenting behavior
- Protectiveness

6. How does the caregiver function with respect to daily life management and general adaptation including substance use and mental health functioning?

- Communication and social skills
- Coping and stress management
- Self-control
- Problem solving
- Judgment and decision making
- Independence
- Home and financial management
- Employment
- Rationality
- Substance use
- Mental health
- Physical health and capacity
- Functioning within cultural norms

See the Child and Family Assessment and Service Planning Tool (CFASP) – Initial Assessment, Safety Assessment and Safety Planning.

16. Assesses the family situation to make a case determination about maltreatment, present and impending safety concerns and future risk of maltreatment. Uses the following steps to complete this assessment. The information gathered through these interviews, observations, records review, etc. will provide the information necessary to answer the six assessment questions described in #15.

Note: the order of these specific steps may vary given the specific needs of an investigation.

a. Interviews the alleged victim(s), parents (mothers and fathers), alleged perpetrator, siblings, collateral contacts, and any other involved party. Interviews family in home setting and observes interaction between and among family members. Interviews an absent or non-resident parent or documents why the absent/non-resident parent cannot be interviewed and/or involved in the investigation. Reviews information on agency automated system (Human Services and Economic Services), for indicated and unfounded case information and in agency paper files.

Note: Discusses with resident or custodial parent (usually mother) that father involvement is good for children.

Children with involved fathers:

- show more confidence and less anxiety,
- perform better in school, and
- are less likely to be involved in destructive behaviors.

Father involvement benefits mothers. An involved father:

- teaches sons to respect women,
- is more likely to have positive communication with the mother, and
- is more likely to provide economic support.

Fathers benefit too by knowing they are having a lifelong impact on a child's life and by enjoying an irreplaceable relationship. All this supports and enhances the opportunity for positive interaction with a family.

b. Considers the safety of all other children in the home and in alternative placement, including children in the family who are placed at Department of Juvenile Justice (DJJ), and assesses the need to investigate suspected abuse or neglect of children not named in the original report.

Initiates reports as appropriate and necessary. Contacts DJJ staff to gather information, to include but not limited to family history, any safety concerns known, evaluations completed by DJJ, child's release date, court involvement and to arrange for interviews with child at DJJ regarding the allegations of abuse or neglect and any other pertinent information.

c. Gathers information to consider any issues of domestic violence, substance abuse, mental illness and/or criminal activity and the impact of these behaviors on the child's immediate safety and future risk of maltreatment.

Note: The GAIN-SS screening tool should be used by those counties trained in its use to screen for substance and alcohol use, mental health concerns, and criminal behavior. The GAIN-SS is formatted for use with adolescents and other tools should be used for adults.

When conducting the safety assessment, considers the following indicators of alcohol and drug involvement as part of the on-site investigation. If there are indications of alcohol or drug abuse, a comprehensive evaluation from a qualified substance abuse counselor should be considered.

1. substance use is part of the CPS report
2. paraphernalia is found in the home (syringe kit, pipes, charred spoon, foils, large number of liquor or beer bottles, etc.)
3. home or parents smell of alcohol, marijuana, or drugs
4. a child reports alcohol or other drug use by parents or other adults in the home
5. a parent or other adult appears to be actively under the influence of alcohol or drugs (slurred speech, inability to mentally focus, physical balance is affected, extremely lethargic or hyperactive, etc.)
6. parent shows signs of addiction (needle tracks, skin abscesses, burns on inside of lips, etc.)
7. parent admits to abuse of substances or alcohol (see guide for indicators of use, abuse, or dependence in Section 702, item #3)

8. parents shows or reports experiencing physical effects of addiction or being under the influence, including withdrawal (nausea, euphoria, slowed thinking, hallucinations, or other symptoms)

d. When screening adults, uses the following simple screening questions to guide decision to refer for formal AOD assessment when substance or alcohol use is not clear from indicators present in the home or at any time deemed appropriate by the situation.

**The CAGE Questionnaire (amended for drug use)**

C - Have you ever felt the need to Cut down on your drinking or drug use?

A - Have you ever felt Annoyed by people criticizing your drinking or drug use?

G - Have you ever felt bad or Guilty about your drinking or drug use?

E - Have you ever had a drink or used a drug first thing in the morning to steady your nerves or get rid of a hangover? (Eye-opener)

Scoring: If the answer is “yes” to one or more questions, the responder should receive a formal alcohol and drug assessment. Answering “yes” to one or two questions may indicate alcohol and drug-related problems. Answering “yes” to three or four questions may indicate alcohol or drug dependence.

OR

**UNCOPE (for both drinking and drug use)**

U - Have you spent more time drinking or Using than you intended?

N - Have you ever Neglected some of your usual responsibilities because of alcohol or drug use?

C - Have you ever felt you wanted or needed to Cut down on your drinking or drug use in the past year?

O - Has your family, a friend, or anyone else ever told you they Objected to your alcohol or drug use?

P - Have you found yourself thinking a lot about drinking or using? (Preoccupied)

E - Have you ever used alcohol or drugs to relieve Emotional discomfort, such as sadness, anger, or boredom?

Scoring: Two or more positive responses indicate possible abuse or dependence and a need for further assessment by a Substance Use Disorder treatment provider.

e. With the assistance of and consultation with drug abuse specialists, makes decision about what type of drug test is appropriate under any given set of conditions. The expectation is that DSS staff will work with drug abuse specialists to determine what tests are necessary and what the test results mean in the context of child safety.

f. Observes and investigates/assesses any other maltreatment which may not have been included in the initial report.

g. Assesses children for indicators of developmental delays or exposure to illegal drugs (withdrawal symptoms or other medical effects from exposure as diagnosed by medical personnel) and considers the impact of a developmental delay and/or illegal substance exposure on the child's safety and well-being. This determination of developmental delays or illegal

substance exposure can come from information obtained:

1. through an analysis by the caseworker and parents of the child's developmental level using the Developmental Milestones Chart;
2. through the required medical screening of a child going into foster care;
3. through an EPSDT screening of any Medicaid eligible child; or
4. any other medical evaluation of a child in the course of a child abuse or neglect investigation.

NOTE: Any child believed to have been exposed to illegal substances (prenatally or after birth) must have a medical examination.

Provides to parents with children under age of three, a BabyNet card with developmental milestones information or DSS Form 30242 and contact number of BabyNet for assistance with voluntary self-referrals.

Completes a BabyNet referral form within 2 working days of determining the need for a referral. (See Section 719.01 for specific guidelines.)

h. Considers the educational needs of children three years of age and older and assists family with referrals to school for special services. Assesses the performance, attendance, and behaviors of the children in the educational setting and considers the impact of educational issues on safety of child. Cross reference Chapter 8, Section 819.03, for specific guidance on educational needs of foster children.

i. Assesses the responses of the parent/guardian to the abuse or neglect to include the acts, omissions or failure to protect by the parent or guardian.

j. Takes or causes to be taken color photographs, appropriate and adequate medical examinations, X-rays, and other tests as required in order to assess a situation and to document child maltreatment. (See Section 750 - S. C. Code of Laws, §63-7-380) If there is suspected injury to the genital area or suspected sexual abuse involving genital contact, the child should be examined by a physician, and photographed as appropriate by or in the presence of medical personnel. If the allegation is about diaper rash on an infant or toddler, the worker may photograph the very young child who has a diaper rash in the genital area in the presence of the parent or other caregiver or medical personnel.

CPS workers should not examine children's genitals. Such examinations are intrusive and potentially traumatic and should be conducted by medical personnel. CPS workers are not medical personnel and are not authorized to conduct medical examinations.

k. Documents observations of adults and/or children present in the household and of siblings placed in alternative placement such as DJJ who may or may not be suspected of being abused or neglected. The assessment should include but not be limited to family history and functioning, the specific abuse, and other components as outlined in the six questions relating to maltreatment, nature of abuse, child functioning, parenting - discipline, parenting - general and adult functioning.

I. Documents information gathered in the assessment in CAPSS dictation.

17. Considers and discusses with the parent or guardian the safety issues identified for the victim child when the abuse or neglect is determined to have been perpetrated by a person who is not responsible for the child's welfare as defined by §63-7-20, and facilitates or refers the parent to appropriate service provider to meet identified treatment needs for the child and family.

18. As more information about the family and situation is gathered and as any additional present or impending danger threats are identified, revises the existing Safety Plan as needed or develops a safety plan with the family's active participation and agreement. The Safety Plan describes the specific actions to be taken to control for the safety threats that are identified as part of the assessment. Documents the specifics of the ongoing Safety Plan in the CAPSS automated system within five working days. The safety plan is a written arrangement between a family and the agency that establishes how present and impending danger threats to child safety will be managed. The safety plan must be implemented and active as long as threats to child safety exist and the caregiver protective capacities are insufficient to assure a child is safe. The safety plan should:

- a. identify a protector who has sufficient protective capacities;
- b. ensure that all parties understand their roles and are capable of carrying out their responsibilities; and
- c. document ways in which the child) must be protected using safety services and actions only, no promissory commitments;
- d. services must have immediate effect, be immediately accessible and available;
- e. document reasonable efforts to prevent removal by identifying the safety services or actions necessary for each child to live safely at home or with a relative or friend. This information will be documented on the Safety Plan. Document on the Safety Plan when a child is at imminent risk of removal by checking YES or NO.

Note: If child is determined to be at imminent risk of removal absent these services (a "candidate" for IV-E foster care), the case must be staffed every three months until risk is reduced and every six months thereafter. A re-assessment of the child's safety must be made at the three month staffing to determine if the child continues to be at imminent risk of removal and what steps the agency must take to address these continuing concerns. Documentation must clearly show this assessment and the determination in order to document IV-E eligibility. Use DSS Form 30229, CPS In-Home Treatment Supervisory Review Checklist as guide for the review and document in the Case Evaluation/Case Closure section.

Note: Reasonable efforts are not required when one or more of the following exists: severe or repeated abuse/neglect; sexual abuse; torture or abandonment; the parent committed or conspired to commit murder, manslaughter or physical abuse resulting in death or hospitalization of a child with subsequent criminal convictions; or parental rights to another child were involuntarily terminated. See S. C. Code of Laws, §63-7-1640), and Section 726, Emergency Protective

Custody.

19. Documents the plan to control for safety on the safety plan and have all parties sign, including the identified protector. Files copy of signed safety plan in paper file, provides original to family (copy to each person if multiple signers). If there is no protector identified and/or the family refuses to participate, assesses immediate safety concerns and the likelihood of future maltreatment to child in the home and initiates appropriate actions to protect, such as request evaluation by LE for emergency protective custody or initiate an Ex Parte action. When the facts support that the child is in present danger or impending danger such that the child would be placed in foster care without effective services to prevent placement, documents this by checking the appropriate box on the form.

NOTE: A Safety Plan cannot modify the provisions of an existing court order. A parent may agree to a safety plan that changes how his rights established in the order are temporarily exercised; however, all parties should understand that the order is not altered by the agreement. If critical to the safety of the children and the affected parent will not agree, DSS can seek an Ex Parte action through family court to temporarily stay the preexisting order or a removal through the emergency protective custody process. Questions regarding existing court orders should be referred to the county attorney.

NOTE: The safety plan should be modified as necessary to control for safety and remain in force as long as there are threats to the child's safety and the caregiver protective capacities are insufficient to assure a child is safe. The safety plan controls the conditions that results in a child being unsafe. The worker must discuss the safety plan with the family every time the worker is with the family to ensure that the safety plan is controlling/managing the identified safety threats.

While it is expected and desired that a child is safe by the time a case decision is made or shortly thereafter, there may continue to be safety threats. Court intervention may be needed if the agency's safety plan does not result in the child being safe.

Treatment cannot begin until the threat is under control. The Treatment Plan is designed to change behavior or conditions that caused the child to be unsafe or at a substantial risk of future harm.

20. If the identified plan to control for safety involves informal **kinship care** placement with relatives (**blood or fictive kin**) to divert the child from foster care, a family meeting must be held within 24 hours to include the parent, guardian, extended family and other relevant persons to discuss the family's problem that led to intervention and possible corrective actions including, but not limited to, a **kinship** caregiver for the child. If a **kinship** caregiver is identified, the following steps must be completed:

a. Provides the **kinship** caregiver with information necessary to support placement, including, but not limited to, the child's condition, financial support information, agency expectations regarding safety and other pertinent information; **Uses the Kinship Care Agreement (DSS-3017) and Child Profile (DSS 3018)**. Provides a copy to the parent(s) and kinship caregiver. Documents in



CAPSS.

**Note:** Completes the placement agreement (DSS 3017) and Child Profile (DSS 3018) at the time of placement or within 24 hours of placement, i.e. the family meeting or site visit.

The Kinship Care Agreement (DSS 3017) is valid for not more than 12 months by which time permanency is established by: (1) the children being reunited safely with the parents or (2) the agency has initiating court action regarding legal custody.

b. Completes evaluation of [kinship](#) caregiver site within 24 hours of placement using DSS Form 30212 and document findings in CAPSS;

c. Obtains signed Affidavit for [Kinship Placement](#) using the DSS Form 3042 from each adult in the home; [document in CAPSS](#) and

d. Completes necessary background checks on relative and all adults in the home to ensure that DSS does not agree to a placement with a person who has a criminal and/or a child abuse or neglect history. Access criminal history as authorized under SC Code of Laws, §63-7-990, (Reference SC Code of Laws, §63-7-990 and local DSS/LE Protocol). [DSS form Request for Criminal History Record Information \(CHRI\) and/or Local Law Enforcement records \(DSS 30261\)](#) is available.

NOTE: do not consider as [Kinship Caregiver](#) any person who uses/abuses/addicted to illegal substances or who abuses or is addicted to legal substances.

e. Summarizes in CAPSS the information documented on the [Kinship Caregiver Site Visit \(DSS 30212\)](#) and the background screenings. Provides a copy to parents and [kinship](#) caregiver.

21. If child cannot be protected in the home and has to be taken into emergency protective custody as part of an out-of-home safety plan, follows procedures in Section 726 and in Chapter 8, Section 817.03, Foster Care. If a relative is identified as placement resource and wants to be licensed, advises the relative of the foster care licensing procedures outlined in Chapter 9, Foster Care Licensing Manual.

Considers placement resources and documents efforts to coordinate with the child's Native American nation or tribe when the victim child is a member of a federally recognized Native American nation or tribe. If not already documented, documents Tribe Affiliation in CAPSS. (Reference Section 754 - Indian Child Welfare Act)

22. As soon as possible, completes a search of the data base and Central Registry on any individual who is named as a protector and not already included in the case record to determine if the individual is named on the Child Abuse and Neglect Central Registry or has other child abuse or neglect history with the agency that might impact on the child's safety.

23. Completes full assessment of family and allegations of abuse or neglect. The use of a safety

plan to assure that the child is in safe placement does not relieve the department of responsibility to complete the assessment and provide services to the family that may be appropriate.

### **Social Service Worker/Supervisor**

24. If the safety threats cannot be controlled by use of an in-home safety plan, pursues an out-of-home safety plan by requesting assistance from law enforcement for Emergency Protective Custody. (See Section 750 - S. C. Code of Laws, §63-7-620; Section 726, Emergency Protective Custody)

Note: Supervisory consultation should take place prior to initiating removal actions or as soon as possible thereafter. Outcome of staffing must be documented in the automated system. Ensures medical testing of children coming into foster care to include testing for AIDS, drugs, etc., if recommended by medical personnel. (See Chapter 8, Foster Care Manual)

### **Social Service Worker**

25. If a child is believed to be unsafe and a safety plan cannot be created that will control or manage the safety threats and a change in custody is anticipated:

- a. Explores possibility of relative placement, including non-custodial parent, by convening a family conference.
- b. Ensures relatives are given advance information to understand the process of becoming licensed as foster parents. (Reference Chapter 9, Foster Care Licensing Manual)
- c. Conducts diligent search for absent parent through the Child Support Enforcement Division by completing DSS Form 2738, Foster Care - Child Support Referral Form. Also, completes a Central Registry and SLED background check, Department of Corrections' Inmate Search at <http://public.doc.state.sc.us/scdc-public/> to search for parents who might be incarcerated.
- d. Considers whether the adult/parent in the home is safe if domestic violence is an issue involving the absent parent. For example, consider if there a restraining order in place against the absent parent.
- e. Considers the safety of and likelihood of future risk to any child at DJJ who will be returning to the home and if removal of this child is indicated by the facts of the family situation.

26. Maintains photographs, X-rays of the child, copies of medical records and psychological reports on the family in the case record. (See Section 750, S. C. Code of Laws, §63-7-380)

27. Reviews with involved medical personnel and consults as needed with other medical experts the findings from any medical procedure or information from medical records.

28. Initiates and coordinates a mandatory multidisciplinary staffing prior to the case decision for a child who is admitted to the hospital due to severe injuries or for situation considered to be near death (diagnosed by medical personnel as serious or critical condition) believed to have been the result of the acts or omissions of the parent, guardian, or other caregiver. Arrangements for this

staffing can be part of the MOA with the Children's Advocacy Center or other similar multidisciplinary abuse assessment center serving the county.

a. Includes, but does not limit the staffing to: the attending physician, pertinent hospital staff, law enforcement and/or military police, other professionals who have information on the case, the DSS caseworker and supervisor.

b. Holds staffing in face to face forum with all involved parties present. If necessary, involved persons listed may be included through telephone conference call.

c. Ensures the sharing of all available information on a child with severe injuries so that a thorough and complete assessment can be made.

d. Documents the outcome of multidisciplinary staffing on DSS Form 3062 with all participants signing document to indicate their agreement, and documents the staffing information fully in CAPSS.

29. Coordinates and reviews case information with involved law enforcement (to include, but not limited to, information contained on the Sex Offenders Registry, contacts with SLED, etc.) or other professionals (to include FI/FS staff - see DSS Form 1600) to ensure the sharing of information.

30. Consults with involved professionals outside the department to ensure communication and clarity of information.

31. If additional information is received during the initial investigation/assessment that alleges a new incident of abuse or neglect, follows procedures as outlined in Section 711, Recurrent Referrals to evaluate the information and determine if a new investigation is necessary.

#### **Social Service Worker/Supervisor**

32. Ensures that a case decision staffing is held so that a case decision is made within 45 days of receipt of the report.

a. Involves county attorney in the staffing for sexual abuse cases so that any decisions about the need for family court petitions can be made at the time of the case decision. Documents reason why attorney is not involved in staffing and what has been or will be done to ensure legal input and timely court actions.

b. If the sexual abuse case is indicated, provides legal staff with necessary documentation and reports so that legal staff can prepare and file a petition for a hearing on the Central Registry question within 60 days of the decision to indicate.

c. Involves county attorney in staffing of any case when it is believed at the time of the staffing that there is a likelihood that the case will go to family court.

d. Ensures that a multidisciplinary staffing or consultation with involved professionals is held before a case decision is made. For example, when the evidence gathered supports that parental/caretaker use or abuse of or dependence on alcohol and/or other drugs has led to endangering the safety and welfare of the child, the staffing or consultation must include, at a minimum, a drug abuse specialist in order to fully consider the impact of the alcohol or drug use/abuse/addiction on the allegations of abuse or neglect. Or in the case of domestic violence or

serious mental health issues, you must include a DV specialist or a mental health specialist in order to have sufficient and accurate information on which to base a decision. The staffing or consultation may be face-to-face or can be by telephone or through other means of communication.

NOTE: The definition of physical neglect consists of two parts – the failure of the parent to do something and that the failure has caused actual harm or has placed the child at substantial risk of physical or mental injury. It is not enough to find that circumstances suggest the parent might engage in conduct in the future that is a failure to supply food, clothing, shelter, etc. for us to indicate maltreatment. (Reference SC Code of Laws Ann., Section 63-7-20(4) (c) and (f)).

33. If necessary, submits justification to the County Director or designee for a one-time extension of 15 days if the decision cannot be made within the 45 days but is reasonably expected to be made within the 60 days. Documentation of a staffing of the case with the supervisor must be included with the justification. An extension may be granted at the discretion of the County Director or designee if:

a. the child or other relevant party who could not be located within the 45 days, despite the best efforts of the department, is expected to be located within the next 15 days; or

b. specific diagnostic information which was initiated or requested within the initial 45 days will not be available within the 45 days, but can reasonably be completed within the next 15 days; or

c. other compelling reasons as presented by staff on a case by case basis that there is a reasonable expectation that the investigation can be completed in an additional 15 days; and

d. the request has been made prior to the 45th day of the investigation. An extension shall not be granted by the County Director or designee if requested on or after the 45th day.

Note: Upon request, the State Director or state/regional designee may grant a one-time good cause extension (not to exceed 60 days from the date of the report) for a request not made prior to the 45th day of the investigative/assessment.

#### **Director/Designee**

34. Based upon the criteria listed above, makes a decision regarding the request for an extension of 15 days to the investigative/assessment period. The decision must be made by the 45th day of the investigative/assessment.

#### **Social Service Worker**

35. Documents extension of time line in the automated case record (CAPSS) within two working days of the decision by the Director/Designee to grant the 15 day extension.

36. In consultation with supervisor, makes an agency finding regarding the validity of the report as soon as all information necessary to make a decision is gathered. A finding must be made within 45 days from receipt of the report (unless an extension is granted).

Notifies the family and perpetrator of the indicated case decision in person within 5 working days of the decision and prior to the mailing of the notice letter. This must be done face to face in

order to assess the parents' response to the case decision and gauge the impact of their response on the child's safety as well as determine the parents' willingness to cooperate with treatment and/or their desire to appeal the decision. The face to face discussion about the indicated decision encourages engagement of the family as it is respectful of families' rights and feelings. It also can set the stage for a more positive introduction of the treatment worker to the family. The parents' responses in this face to face discussion about the case decision will help the worker, supervisor, and county attorney to make decisions about the agency's need to petition family court and therefore determine which notice letter is appropriate for the specific situation.

If the decision is not made before 45 days (no more than 60 days), the agency's decision becomes unfounded according to state statute. The case record dictation must reflect the date and outcome of the agency decision staffing to serve as official documentation of the date of the decision. CAPSS must be updated in 5 days of the case decision staffing to reflect the decision and the information that constitutes the preponderance of evidence.

**Note: The re-reporting of a situation by agency staff because the agency is unable to complete the investigation in the 60 days maximum allowed by state law for an investigation is not supported by state law. State law specifies that the agency must make a decision within 60 days or the decision becomes unfounded.**

SC Code of Laws §63-7-930(A) "By the end of the sixty-day time period, suspected reports must be classified as either unfounded or indicated pursuant to the agency's investigation," and §63-7-930(C) "All reports that are not indicated at the conclusion of the investigation and all records of information for which an investigation was not conducted pursuant to §63-7-310 must be classified as unfounded." (See Section 750, S. C. Code of Laws, §63-7-930)

Reminder: If a child is taken into custody by EPC or Ex Parte action and in order to provide investigative and case planning information to the Family Court at the 35 Day Removal Hearing, the worker should complete the investigation as quickly as possible.

### **Social Service Worker**

37. After the case decision, completes the DSS-3070, Determination Fact Sheet outlining the facts supporting the agency decision. The appropriate notice letter as referenced on the DSS-3070 should be completed after the face to face discussion with the family. The notice letter provides specific information regarding the right to appeal an agency decision and the appropriate process for that appeal given the unique case situation. Both documents are mailed to the subject of the report (person alleged or named as the perpetrator) within five working days of the decision to indicate or unfound.

Persons responsible for the child's welfare as defined under §63-7-20 and who are directly involved in this case which includes the non-residential/non-custodial parent also must be notified of the outcome of the investigation by copy of the DSS-3070 but do not have a legal right to appeal the decision unless they are named as the subject of the report.

NOTE: If the case is not going to be taken to Family Court for oversight on treatment and/or safety issues and the individual found to have abused or neglected the child is not being offered

treatment services, the individual must be offered an administrative appeals under §63-7-1410. The notice letter must be sent by certified mail. (Reference SC Code of Laws, §63-7-1410).

38. Documents the specifics of the case decision staffing in CAPSS automated system in five working days of the decision. Documents routine case activity in CAPSS no later than thirty calendar days after the activity.

### **Social Service Supervisor**

39. Reviews and signs off on the case decision and notification letters as necessary. Ensures case documentation in CAPSS is completed.

### **Social Service Worker**

40. If the report is unfounded, classifies the report as Category I, Category II, or Category III according to the evidence identified. (See Section 750, SC Code of Laws, §63-7-920 and §63-7-20)

a. Informs the subject of the report that the report is unfounded. Also mails the subject of the report a copy of DSS-3070, Determination Fact Sheet and unfounded notice letter within five working days. Updates CAPSS and files a copy of DSS-3070 and notice letter in paper file. Persons responsible for the child's welfare as defined under §63-7-20 and who are directly involved in this case which includes the non-residential/non-custodial parent also must be notified of the outcome of the investigation by copy of the DSS-3070.

b. Notifies FI/FS staff of the case decision immediately using the DSS Form 1600, Referral to Human Services, so that all material about the unfounded case can be removed from the FI/FS case record.

c. Updates data base within five working days of the case decision.

d. Maintains the unfounded case record according to statute. Uses information in unfounded case records only as allowed by statute. All unfounded case material in the paper record will be deleted/purged at the end of five years unless the record has been secured by the Office of General Counsel for legal reasons or a need to maintain the record has been identified by the County office or the Division of Human Services for reasons related to CPS or LE investigations. (See Section 750 - S. C. Code of Laws Ann., §63-7-920 & 930)

e. Makes a referral to BabyNet on a child under age three in an unfounded report who appears to need early intervention services by completing the BabyNet Referral Form within two working days of determining need to refer. Discusses with family the BabyNet service and why a referral is believed to be appropriate. This determination of developmental delays can come from information obtained:

1. by an analysis by the caseworker of the child relative to the Developmental Milestones Chart - DSS Form 30242;
2. through the required medical screening of a child going into foster care;
3. through an EPSDT screening of any Medicaid eligible child; or
4. any other medical evaluation of a child in the course of a child abuse or neglect investigation.

BabyNet will assess and evaluate a child referred by DSS to determine if early intervention services are appropriate for that particular child. BabyNet services are not coercive services and the parents have the right to refuse to participate.

41. If the report is classified as "indicated" for abuse or neglect by a preponderance of the evidence: (See Section 750, S. C. Code of Laws Ann., §63-7-920 and §63-7-20)

a. Informs family of case decision. Discusses with the family the impact of the indicated case decision, any planned court action (to include a request to family court to order person's name be placed on the Central Registry and the potential impact of this action on individual), and the treatment planning process. Provides any information requested or needed to help the family understand DSS intervention.

b. Notifies law enforcement within 24 hours when the facts indicating child abuse or neglect also appear to indicate a violation of criminal law for the purposes of police investigation. Refers a case to law enforcement if there is evidence of drug manufacture, drug dealing, the presence of illegal drugs in the home, or other illegal use of drugs. (See Section 750 - SC Code of Laws §63-7-920)

c. Discusses with the family the agency's responsibility for providing or coordinating services and the need for the family's cooperation and participation.

d. Makes the federally mandated referral to BabyNet on any child under age three who is identified as the victim of child abuse or neglect in a substantiated (indicated) case of child abuse or neglect or who is identified as affected by illegal substance abuse or withdrawal symptoms resulting from prenatal drug exposure by completing the BabyNet Referral Procedure as outlined in Section 719.01. If the parents refuse to participate with BabyNet, the worker must pursue alternative services for concerns identified as safety issues that will be addressed within the service plan. The parents have the right to refuse to participate with BabyNet and DSS must then assess if alternative services are necessary.

e. Provides the family with a copy of the DSS-3070, Determination Fact Sheet, and other notice letters as appropriate within five working days of the case decision.

**Social Service Worker/OHAN Investigator**

f. Notifies the subject of the report by certified mail that for cases indicated pursuant to §63-7-920 which are not going to Family Court, or for those cases indicated under §20-7-670, the individual determined to have abused or neglected the child may appeal the decision as outlined in Section 725, Appeals Process. (See Section 750, SC Code of Laws Ann., §63-7-1410)

NOTE: It is the policy of the Department that in cases indicated under §63-7-920 where there are safety threats and/or where treatment services are to be provided or are reasonably expected to be provided and the individual or family disagrees with the indicated decision and/or the decision to deliver services, the case MUST be taken to Family Court. There can be little effective treatment and the safety of the child is in question when there is no acknowledgement of the acts or omissions that led to the abuse or neglect. This process allows Family Court to consider the facts

of the situation in totality whereas the Administrative Appeals process cannot coerce treatment nor address child safety.

g. Notifies service providers such as DJJ, DMH, DHEC, etc., of the outcome of the investigation/assessment in order to coordinate services as needed. When treatment services are appropriate for a family, and the subject of the report disagrees with the results of the investigation, the case should be taken to Family Court under §63-7-1650 for CPS intervention. In this action, DSS must present evidence to support its case determination and the proposed treatment services. This will provide the subject of the report with an opportunity to contest the case decision and is the individual's avenue of appeal.

h. For OHAN cases needing treatment services (for example, licensed foster parents with biological children who are found to be abused or neglected), transfers the case to the county of residence for follow up treatment services. (See Section 721 – Out Of Home Abuse Investigations)

### **Social Service Worker**

i. If the subject of the report challenges the agency decision that he/she abused or neglected the child, or if the Department needs to take the case to family court to compel services, and/or to request that an individual's name be listed on the Central Registry, presents case to DSS attorney for intervention. (See Section 750, S. C. Code of Laws Ann., §63-7-920 and §63-7-1650)

j. Informs the family that at any time during the delivery of services by the agency, the department may petition the Family Court in its jurisdiction for authority to intervene and provide protective services without removal of the child. This step must be taken in instances where the family indicates a refusal to participate and the agency determines by a preponderance of the evidence that the child cannot be protected from harm without intervention. (See Section 750, S. C. Code of Laws, §63-7-1650)

k. Discusses with the family possible outcomes of a hearing pursuant to §63-7-1650.

l. Informs the family of the time frame for the destruction of the record containing their names and other identifying information. Information in unfounded records will be maintained and used by the department in assessment of risk in subsequent reports for not less than five years. Indicated case information will be maintained for seven years from the date services are terminated. The names of individuals legally on the Central Registry as of June 7, 2002, will continue to be listed. (See Section 750, S. C. Code of Laws, §63-7-920 and §63-7-1910)

m. If a court hearing is deemed necessary, follows requirements of statute. (See Section 750, S. C. Code of Laws, §63-7-1650)

n. Completes DSS-3058, Court Information Sheet, or equivalent summary as needed and appropriate to provide information to the DSS attorney to prepare for the court hearing.

. Immediately notifies FI/FS staff of the case decision using the DSS Form 1600, Referral to Human Services.



### **County Office Staff**

p. Files copies of signed forms, medical or psychological evaluations, court documents or other pertinent information that must be preserved in a paper file. Maintains the case record (paper file) for seven years from the date services are terminated including the actual record and CPS Log. (See Section 750, S. C. Code of Laws, §63-7-920 and §63-7-1910)

q. Updates the Central Registry to reflect any court order pursuant to §63-7-920 or appeals process action pursuant to §63-7-1410 that results from a county case action.

r. Maintains a county tracking system to ensure compliance with all court orders to include entering a person's name in the Central Registry. Designates a person to have direct responsibility for this task. Uses the tracking system to ensure that when the agency determines that there is a preponderance of evidence that a person committed an act of sexual abuse, the case is taken to Family Court for consideration of the Central Registry listing and any other treatment concerns.

### **State Office Program Staff**

42. Monitors indicated sex abuse cases and Central Registry for compliance with state statute. Notifies program technical assistance or county operations staff of any concerns that may require follow up with county offices.

### **State Office Central Registry Staff**

43. Receives DSS Form 30165, a copy of the indictment and the sentencing order from county clerks of court and enters into the Central Registry the names of individuals ordered onto the Central Registry of Child Abuse and Neglect by the criminal court pursuant to SC Code of Laws 17-25-135.

### **Social Service Worker or Assigned Staff**

44. In situations where the department has an interest in receiving information regarding persons who are incarcerated due to a conviction on abuse or neglect charges, pursuant to §16-3-1520 and §16-3-1530 of the Victim's and Witnesses' Bill of Rights, requests notification of the perpetrator's pending release from the solicitor by completing and forwarding the DSS-3032, Victim Impact Statement for Child Protective Services, to the solicitor and Department of Probation, Parole and Pardon Services.

45. Conducts a search of the Central Registry when contacted by law enforcement investigating abuse/neglect of a child or any other crime against a child, attempting to locate a missing child, investigating or prosecuting the death of a child, or investigating or prosecuting any other crime established in or associated with activities prescribed in the Children's Code. (Reference §63-7-1990) Central Registry information is not subject to HIPAA, so procedures associated with HIPAA do not apply to a request that DSS determine whether a person is on the Central Registry.

### **All Staff**

46. Maintains all information concerning child abuse and neglect reports in a confidential manner ensuring that information is given only to those parties specifically named and authorized in §63-7-1990 and §63-7-920.

47. Ensures that all documentation of actions in a case is completed in the CAPSS automated case record no later than 30 days after the action. Documents critical case activity, such as removals, court actions, or other as directed by supervisor, in no more than 10 days.

48. Ensures that other specified timelines (such as the initiation of investigation, notification of case decision, and documentation of monthly visit in open treatment cases) are met,

### **County Director**

49. Approves any entry into CAPSS that exceeds any established timelines for data entry. Refer to Policy Section 719 #13, #35, and #42, and Section 730 purpose for specific established timelines.

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### **Referenced Documents**

### **Revision Comments**

Update to pages 5, 12 and 13, items 12 and 20 indicating the change in terms from “alternative caregiver” to “kinship caregiver”. Clarification of procedures for Kinship Caregiver Placements.

### 719.01 BabyNet Referrals

#### 719.01 Referrals to BabyNet

Federal law (CAPTA) requires that all states have provisions and procedures for referral of a child under the age of three who is involved in a substantiated (indicated) case of child abuse or neglect for early intervention services funded under Part C of Individuals with Disabilities Act (IDEA). Additional policy clarification issued for CAPTA ([published 5/2/06](#)) defines the mandatory referral to be on the child under age three who is the subject of the substantiated (indicated) report.

IDEA (as reauthorized and effective July 1, 2005) adds that states must have policies and procedures that require the referral for early intervention services under this part of a child under the age of 3 who:

1. is involved in a substantiated (indicated) case of child abuse or neglect and identified as the abused/neglected child; or
2. is identified as affected by illegal substance abuse or withdrawal symptoms resulting from prenatal drug exposure.

This adds to existing IDEA requirements for the referral of children under three who are identified as having suspected developmental delays consistent with 34 CFR 303.321 of IDEA.

It is the intent of this section to provide guidelines for caseworkers and supervisors to assess a child's situation and make an appropriate referral to BabyNet as required. It is not the intent of the agency to require caseworkers to become early intervention specialists. However, the basic assessment of a child's situation is consistent with the overall assessment for immediate safety and the likelihood of future risk that is necessary to make a case decision and plan for services. This is also consistent with the ongoing assessment to address child well-being concerns. The completion of the assessment to make a BabyNet referral provides additional documentation that a child's well-being was thoughtfully and systematically assessed and that appropriate referrals for services made.

#### Social Service Worker

1. Makes the federally mandated referral to BabyNet [when a](#) child under age three:
  - [a.](#) is identified as the abused/neglected child in a substantiated (indicated) case of child abuse or neglect; [and/or](#)
  - [b.](#) is identified as affected by illegal substances or [demonstrates](#) withdrawal symptoms resulting from prenatal drug exposure; [and/or](#)
  - [c.](#) is suspected of having developmental delays.

The decision [to refer the child](#) is based on:

- i. the [agency finding](#) that the child is the substantiated victim of child abuse or neglect ([means investigation has been completed and the case decision has been made that the child was abused or neglected](#)); or
- ii. [through the required medical screening of a child going into foster care](#); [and/or](#)
- iii. [through an EPSDT screening of any Medicaid eligible child](#); [and/or](#)

- iv. any other medical evaluation of a child in the course of a child abuse or neglect investigation; and/or
- v. an analysis by the caseworker of the child relative to the Developmental Milestones Chart found in the DSS Form 30242.

2. Discusses with the parents the assessment information that has led to the decision to refer this child to BabyNet and what the parents can expect from BabyNet along with the contact information. **This should include the specific behaviors or conditions that need to change related to the referral criteria.** Explains to parents that they can refuse the service but that the service can be beneficial to their child.

3. Completes the BabyNet Referral Form **clearly documenting on the form the reason for the referral, contact information for parent and worker,** and submits form to designated local BabyNet office, per federal law, within two working days of identifying the need to refer, (ie. **making case decision that the child is** a victim of child abuse or neglect under the age of three, receiving medical information about exposure to illegal substances or identifying a developmental delay). **Includes the specific behaviors or conditions that need to change related to the referral criteria.**

**Includes a copy of the court order giving DSS custody of a foster child who is the subject of the referral.**

4. Staffs the referral with BabyNet to ensure that the information is clear and sufficient for an evaluation of services.

5. Documents **in CAPSS** the referral to BabyNet and the outcome (ie. parents' agreement/refusal and BabyNet's plan to serve). Based on the information submitted, BabyNet will decide if further assessment and evaluation of the child is necessary to determine if the child is eligible for early intervention services under IDEA Part C.

NOTE: BabyNet services are not coercive services and the parents have to agree to participate. BabyNet will notify DSS if the parents refuse to participate as there may be other actions that DSS will have to take based on the assessment. If the parents do not agree to being served by BabyNet, DSS should consider the safety and well-being of a child referred for early intervention services and determine if the need for the generic service and the issue of parent cooperation should be brought before Family Court just as we would with any other service. We do not ask for Family Court intervention due to parents refusing BabyNet but because the service itself is necessary for the child's safety, well-being or permanency.

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### **Referenced Documents**

January 2009 - This change moves this information from the end of existing Section 719 and creates a unique subsection for BabyNet referral procedures on the Table of Contents. The referral criteria has been clarified.

### **Revision Comments**

## **CHAPTER 7, Child Protective and Preventive Services**

### 719.02 Safety Planning

A Safety Plan is a specific and concrete strategy for controlling threats of imminent harm to a child (ren) and/or supplementing protective capacities of parents. The Safety Plan is implemented immediately when parents' protective capacities are not sufficient to manage immediate safety threats during the completion of the investigation. A Safety Plan is a short term solution to ensure child (ren)'s safety and is not intended to remain in place past the immediate safety threat or ninety (90) days from the initiation of the Safety Plan. The Safety Plan is created in an effort to provide reasonable adult supervision and provide for the safety of the child (ren) and to allow the child (ren), when possible, to remain in their home or the home of a relative or friend during the completion of the investigation.

Once the decision is made that child (ren)'s imminent safety is in question, a Safety Plan is **immediately developed and implemented** or DSS must take action to secure emergency custody of **the child (ren) by Emergency Protective Custody (EPC) by law enforcement or ExParte Order from Family Court.**

A Safety Plan is **not** necessary for every investigation of reported child abuse and/or neglect, only those where threats of safety are identified that are immediate or where serious harm has occurred to the child (ren), the parents' behaviors are out of control or their parental capacity is such that they cannot protect the child from further harm. The safety issue may be identified at the initial contact or at any point during the investigation. In order to adequately assess the safety to the child (ren) and the degree of intervention necessary for protection of the child (ren), the CPS Investigator must consider the following: the danger to the child, the child's vulnerability, the parent's protective capacities, the parent's behaviors that are out of control and the availability of another responsible adult to protect the child (ren) during the investigation.

A Safety Plan is a written agreement between the birth parent, guardian or person acting in the role of parent; the adult who has agreed to act as the responsible person who will provide protection to the child, (referred to as the Child Protector); and DSS. A Safety Plan does not transfer legal custody. It is only effective if all parties agree to the plan and understand that DSS will consider the child unsafe if the parties do not comply with the agreed terms of the plan and DSS will initiate the legal action to protect the child through the removal of the child from the parent's custody and control. The agency must monitor the plan to ensure that the parents and the Child Protector are in compliance and the child is safe from imminent danger. **The Safety Plan arrangement may mean that the Child Protector moves into the home with the child and parent(s).** However if the Safety Plan arrangement requires the child to leave the parental home, a kinship care placement is made in conjunction with the Safety Plan. Refer to Section 719, Item 20 regarding kinship care.

The Safety Plan **may only** be in place a **maximum of ninety (90) days**. If, following the indication of a case, the decision is made that the child cannot be left in the home, but could remain in a Kinship Caregiver's home, the parents, Caregiver and DSS must agree and the Kinship Care Agreement continues. Court intervention may be necessary to ensure cooperation with the plan for a Kinship Caregiver or the agency must remove the child (ren) from the home

and place them in a foster home. The family and Child Protector will be advised of the legal action to be taken by the agency.

**A Safety Plan cannot modify the provisions of an existing court order regarding custody or visitation with non-custodial parents.** A parent may agree to a Safety Plan that changes how his rights established in the order are temporarily exercised; however, all parties should understand that the order is not altered by the agreement. If it is critical to the safety of the children and the affected parent will not agree, DSS can seek an Ex Parte action through family court to temporarily stay the pre-existing order or a removal through the Ex Parte Order or law enforcement's emergency protective custody (EPC) process. Questions regarding existing court orders should be referred to the county attorney.

#### **Procedural Guide:**

1. The CPS Investigator identifies present or imminent danger threats at initial contact or at any point in the investigation using the *Comprehensive Safety and Risk Assessment*.
2. If safety factors are identified which cause concern that the child is in imminent risk and/or impending danger and if **protective actions can control** the immediate threats so that the child can **safely** remain in the home or with a relative/friend, the CPS Investigator must complete a Safety Plan (DSS Form 3087) prior to leaving the child in the home.
3. The CPS Investigator explains to the family the concern for the child's safety and the need to have a responsible adult identified to protect the children from imminent risk and/or impending danger pending the investigation. The CPS Investigator explains that without the identified relative or friend as a Child Protector, the child (ren) will have to be removed from the home by law enforcement (EPC), pending the investigation. The CPS Investigator will explain that the EPC decision is made by law enforcement and that DSS may ask the Family Court for an emergency (Ex Parte) order for custody. The CPS Investigator must make clear that if the parent or the Child Protector does not agree that the child is in need of immediate protective measures, or will not agree to protective measures that will ensure safety for the child, DSS has a duty to take legal action to protect the child. The CPS Investigator must not imply a threat that the parent must sign a Safety Plan to prevent loss of custody. The CPS Investigator does not leave the home until the decision is made regarding a Safety Plan or EPC. If the CPS Investigator is in imminent danger, he/she leaves and immediately notifies law enforcement and his/her CPS Supervisor of the conditions and waits, in a safe place, for law enforcement to accompany CPS Investigator back to the home.
4. The CPS Investigator asks the family to contact a relative or friend, with whom the child has a close relationship, who will serve as the official Child Protector(s) as clearly defined on the Safety Plan. A Child Protector can be someone who comes to live in the home to protect the child while there is a safety concern. This person cannot be the non-offending parent. The child can also be placed outside of the home with a [Kinship Caregiver](#) while there is a concern for the child's safety in the biological home.
5. The CPS Investigator will immediately contact the relative or friend and ask for their cooperation in acting as the Child Protector. The Child Protector is asked to come to the home or scene of the interview for an explanation of the need for a Child Protector and their emotional, behavioral and cognitive protective capacity. The CPS Investigator must explain to the Child Protector the following: The Child Protector has to agree to and provide information for safety checks which include: CPS CAPSS data, law enforcement and sex offender registry checks **of all**

**persons over the age of 18** in the household. The CPS Investigator will gather the necessary information on the [Kinship Caregiver](#) and all other adults in the home on the Affidavit for [Kinship Caregiver](#), (DSS Form 3042). The CPS Investigator must complete law enforcement background checks on all adults in the home for the preceding five years in the jurisdiction in which the person resides, and to the extent reasonably possible, other jurisdictions in which the person has resided during that period. These background checks are to include: local law enforcement reports and/or SLED checks; checks of the sex offender registry and any other on-line resources available to the county. These background checks can be obtained from local Law Enforcement by faxing the information to the Law Enforcement office. The information that needs to be included is the adult's name, DOB and SSN (if available). Any on-line resources that are available such as the Sex Offender Registry and the Public Index for your county should be used. If a report is returned with a criminal conviction, a staffing with the CPS Supervisor must be conducted to determine if the conviction presents a safety threat to the child. Children's needs, immediate and enduring safety and well-being must take precedence over the comfort of all involved adults. The CPS Investigator must continuously assess for safety at every visit with the child [and Kinship Caregiver](#).

Using the practice framework of Signs of Safety the CPS Investigator must consider the following questions when making visits to the family members, the children and the [Kinship Caregivers](#):

1. What are we worried about?
2. What is working well?
3. What needs to happen?

Providing for child safety is the core mission of public child welfare agencies. Children are entitled to live in a safe and permanent home with their own families whenever possible. When families are unable or unwilling to remedy the conditions that threaten the safety of their child (ren), it is the mandate of designated public child welfare agencies to take the necessary action to secure the child's safety.

The following tools can and should be used to ensure the child's safety:

1. The Child Safety Assessment
2. The Risk Assessment Matrix
3. Safety Roundtables
4. Guided Supervision

The CPS Investigator must ensure that the [Kinship Caregiver](#) has the protective capacities to care for the child (ren) and to keep child (ren) safe who have been entrusted to their care. The CPS Investigator must also continue to assess for safety, risk and services (i.e.: the Benefit Bank, child-only TANF information, [and the 211 system](#)) for the caregiver at every visit. [When a child is placed with kin \(kinship care\) as a part of the investigation, the kinship care placement agreement \(DSS 3017\) and child profile \(DSS 2018\) are completed and copies of the kinship brochure \(DSS 1003\) and kinship care guide \(DSS 30268\) are provided to the parents and caregiver.](#)

DSS must not agree to a placement with a caregiver if the caregiver or any adult in the household has a criminal history or a child abuse or neglect history that would prevent foster care or

adoptive placement (See SC Code Section 63-7-2350 as amended in 2012 by Act 238.) In addition to the Section 63-7-2350, history that prevents placement, DSS must evaluate other criminal history and/or records that show a history of child abuse and/or neglect to fully assess whether the potential [Kinship Caregiver](#) or any adult in the household poses a significant risk to the safety, health or well-being of the child. If significant risk to the safety, health or well-being of the child is present, placement must not occur. DSS must assess the capacity of the Child Protector to support the needs of the child such as health and well-being.

NOTE: Pursuant to SC Code Section 63-7-990, local law enforcement is obligated as follows: “Notwithstanding any other provision of law, upon request of the department, a criminal justice agency having custody of or access to state or local law enforcement records or county sex offender registries shall provide the department with information pertaining to the criminal history of an adult residing in the home of a child who is named in a report of suspected child abuse or neglect or in a home in which it is proposed that the child be placed. This information shall include conviction data, non-conviction data, arrests, and incident reports accessible to the agency. The department shall not be charged a fee for this service.”

The CPS Investigator can access the Sex Offender Registry through the website of the SC Law Enforcement Division without payment of a fee.

DSS is establishing two categories related to criminal and CA/N history. (1) the crimes listed in 63-7-2350 and a “substantiated history” (term used in 63-7-2350) of child abuse or neglect will prevent placement; (2) other criminal and child abuse/neglect history will prevent placement if they reveal a “significant risk.”

- A. Child Protector must agree to a walk-through of their home to assess for immediate danger issues and capacity for the child (ren).
- B. Child Protector is asked about their personal history with any drug or alcohol usage.
- C. Child Protector has to acknowledge concern for the children and an acknowledgement that the child (ren) will not be safe if left in the care of the offending parent.
- 6. The CPS Investigator must assess the parent(s), guardian, or custodian and the Child Protector and make a professional judgment as to their willingness and capability to agree to and abide by the terms of the Safety Plan.
- 7. The CPS Investigator, in collaboration with the parent and the Child Protector, develops a Safety Plan which will meet the immediate needs to protect the child (ren). The parent, guardian, or custodian is an integral part of the Safety Plan and should have a prominent role in the development of the plan, but the agency maintains the responsibility to ensure that the steps agreed upon will protect the child.

**The Safety Plan must include the following items:**

- A. The specific present or impending harmful/dangerous behaviors to be controlled,
- B. The parents’ willingness to cooperate,
- C. Name, Address and contact numbers for the Child Protector,
- D. Description of the protective actions that will control the threats, (i.e.: line of sight, supervision and who will sleep where, etc.)
- E. Any special skills or knowledge the Child Protector needs to know regarding the child’s care (i.e. Medical conditions, Medicine, Behavioral Issues),
- F. Visitation/contact with the birth parent if the child is in relative’s home or if perpetrator leaves



the home,

**G.** Oversight/ monitoring by DSS to ensure compliance,

**H.** A begin and end date which is no later than the investigation period or ninety (90) days from the beginning of the Safety Plan,

**I.** Signatures of the parent, the Child Protector and DSS employee,

**J.** Emergency contact numbers for DSS for the Child Protector.

**Types of Safety Plans:**

**1. In-Home Safety Plan:**

A. The child remains in the home and a perpetrator, if one parent, leaves the residence allowing the non-offending parent and the Child Protector to live in the home with the child. In this situation, the Safety Plan must provide the name of a **Child Protector, other than the non-offending parent**, who will ensure compliance with the perpetrator leaving the home or will contact DSS if the perpetrator returns during the investigation.

B. A third party Child Protector, (i.e. grandmother, aunt, or friend), moves into the home of the child during the investigation to prevent the child from having to leave their home. An example is the Child Protector is in the home to ensure an adult with protective capacities is available to supervise and care for the children.

**2. Out-of-Home Safety Plan:**

A. Child and parent move into the home of another relative or friend who will act as the Child Protector during the investigation.

B. The child is moved to a relative or fictive kin, without the parent, during the investigation.

**The Safety Plan should employ the least restrictive (least disruptive to the children) strategies possible while providing for the child's safety.**

3. The CPS Investigator convenes a Family Team Meeting, as soon as possible, to engage other family members in the assistance of monitoring the Safety Plan and establishing any other protective actions as needed or identified by the team.

4. The CPS Investigator and CPS Supervisor participate in the seven day staffing using the Guided Supervision Tool.

5. As the CPS Investigator completes a full assessment of the family and allegations of abuse or neglect, the Safety Plan can and should be modified whenever necessary. This may occur for many reasons as a result of changes in the situation, including because the plan has been proven to be insufficient or because a less restrictive Safety Plan may now be appropriate. Any change in a Safety Plan requires CPS Supervisory oversight. This oversight must be provided using Guided Supervision which will allow for an assessment of present and impending danger and any current safety concerns to the child (ren). A CPS Supervisor's signature is required for any change in the Safety Plan.

6. The CPS Investigator will monitor weekly for the compliance of the Safety Plan by all parties. If the Family Team Meeting did not successfully gain the support of extended family members to assist in monitoring the Safety Plan, the CPS Investigator must increase their frequency of unannounced visits and other professional contacts such as school or day care providers to ensure the child is safe during the investigation. The CPS Investigator will search for extended family members through Seneca Search (reference Informational Memo dated 8-23-2012).

7. The CPS Investigator, upon completion of the assessment and case decision, advises the parent(s), the Child Protector and child (if age appropriate) of the case decision. If the case decision is to indicate the case and the action steps in the Safety Plan need to remain in place, these actions will be transferred to the Treatment Plan.

8. Immediately following the indication of the case, a transfer staffing is held between the CPS Investigator, the CPS Supervisor, the Treatment Supervisor and the Treatment worker to discuss why a Safety Plan was in place and what actions need to be taken within the remainder of the ninety (90) days to ensure that the Treatment Plan includes the provisions for the safety factors. The CPS Investigator should share suggestions as to what action steps need to be documented in the Treatment Plan that is to be developed with the parents within the next thirty (30) days; which is still within the ninety (90) days the Safety Plan is in effect.

If the children are in a [Kinship Caregiver](#) placement that is to continue, the Treatment worker will ensure that the [Kinship Caregiver](#) is assessed for services to continue to support the placement of the child in [kinship care](#).

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### **Referenced Documents**

#### **South Carolina Children's Code; Policy 719**

DSS Form 3087, DSS 30251, DSS Form 3042, Informational Memo 8-23-2012

**NOTE: All forms are located in the Master Form Index.**

#### **Revision Comments-**

Name change from Alternative Caregiver to Kinship Caregiver.

**CHAPTER 7, Child Protective and Preventive Services**

**Revision Number: 03-01**

**Effective Date: 09/04/2003**

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**720 Refer to Section 721, Out of Home Investigations.**

Effective August 1, 2002, this section is deleted. Refer to Section 21, Out of Home Investigations.

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**Referenced Documents**

**Revision Comments**

## **721 Out of Home Investigations of Residential Institutions and Child Care Facilities**

This section explains policy and procedures for the State Office Out of Home Abuse and Neglect (OHAN) Unit.

### **Policy Statement**

SCDSS, per state statute, (Reference S. C. Code of Laws, §63-7-1210) will investigate all allegations of abuse and/or neglect that occur in residential group homes and/or institutions and child care facilities. The responsibility for the investigation of such allegations must be from a unit not responsible for licensing the facilities; SCDSS has assigned these investigations to a centralized location known as the Out of Home Abuse and Neglect Unit (OHAN). The investigation must include collaboration with the licensing and regulatory units of the agency as the reported abuse or neglect may only address one victim child however, the threat or danger for such abuse or neglect could affect multiple children in the facility or institution. The OHAN Unit/investigator will report each allegation to the Licensing and Regulatory Unit. The Licensing / Regulatory Unit will evaluate for regulatory violations which might also be occurring as a result of the alleged abuse and/or neglect. Any corrective action steps must be communicated between the two divisions, as well as, communication between foster care workers and staff who have children placed in the facility or institution.

The OHAN division must work in collaboration with the group home and institutional managers/owners to ensure the protection of not only the victim child, but to ensure that steps are taken to alleviate any concerns for other children in the facility/institution during the investigation. The Licensing and/or Regulatory Division will assist in the development of a corrective action plan for the facility and will assist in the monitoring of that plan with the OHAN investigator. As appropriate, foster care staff must be informed when concerns arise in order that they can evaluate the safety of the children they have placed in the group home or institution.

All aspects of the timeliness to investigate a report must be met. The initial contact must be made within twenty-four (24) hours of the acceptance of the report. The investigation is to be completed within forty-five (45) days or request for a fifteen (15) day extension made and approved with justification for the extension. Upon the case decision a notice will be mailed to the individual named in the report as the alleged perpetrator and the facility director as to the case decision within five (5) working days.

The OHAN Unit must work closely with the Office of General Counsel, (OGC), to assure compliance with Child Protective Services requirements and required reports to the Central Registry are accurate and timely, as well as, assist with any appeal the individual might make regarding the finding. In addition, the Licensing and Regulatory Divisions in consultation with OGC and OHAN Unit will work collaboratively regarding any action needed for licensing or regulatory violations.

For purposes of this policy, the term "residential institution" refers to residential group homes and child caring institutions, as those terms are defined in SC Regs. 114-590. This policy also includes investigations of reports of child abuse and/or neglect in residential treatment facilities licensed by Department of Health and Environmental Control (DHEC).

The intake function for all out of home abuse or neglect will be handled centrally in the state office unit. Reports alleging abuse or neglect in a licensed foster home as authorized under SC Code of Laws 63-7-1210 will be investigated by a county DSS office not involved in the licensing of that foster home. The assignment for county investigation is the responsibility of the designated county offices called Star Counties. The Star Counties are not responsible for any follow up with the investigating county, for policy technical assistance or for quality assurance of investigations. Please Reference Section 721 of Chapter 7 for foster home investigation policy.

### **Departmental Values**

Children have a right to be protected and safe. Children's needs, immediate and enduring safety and well-being must take precedence over the comfort of all involved adults. Children in residential institutions and child care facilities must not experience any maltreatment, therefore, the agency's investigation and/or response to a report of child abuse, maltreatment and/or neglect must receive urgency to protect the child while making every effort to minimize the disruption in the child's life and ensure the child's safety. When an allegation of abuse and/ or neglect is made within a licensed group home facility or institution, the child will be best protected by the investigation being completed by an impartial person who is not responsible for the licensure or regulation of the facility.

### **Which Children will be Affected by this Policy?**

The Department of Social Services is authorized to receive and investigate reports of abuse and neglect of children who reside in or receive care or supervision in residential institutions, foster homes, therapeutic foster homes, and child care facilities. The Department must investigate an allegation of abuse and/or neglect of a child where the child is in the custody of or a resident of a residential treatment facility or intermediate care facility for the mentally challenged licensed by the Department of Health and Environmental Control or operated by the Department of Mental Health.

### **Operational Impact**

Impartial investigations of a licensed residential institution, group home, and/or child care facility will require a higher degree of protection for the victim child and will assure the safety and well-being of the child. Safety of the child is paramount in all decisions regarding the investigation of any facility or institution. No unit or individual responsible for the licensure of such a facility will be involved in the abuse or neglect investigation; however, that individual or unit will be informed of the allegation and case decision of abuse or neglect and will assist in the assessment of any potential licensing violations. Collaborative efforts to ensure the safety of all children involved with the facility will be the paramount concern of OHAN and the licensing units.

Roles of various DSS staff are discussed in this section so as to ensure that not only the alleged victim is safe from abuse or neglect, but any child residing or receiving services in the residential or child care facility is also protected. Throughout this section, there are requirements for staffings and communication among OHAN staff, licensing staff, and case managers for children in DSS custody. Reports which include an allegation that a child has perpetrated a sexual assault or physical assault on another child in a child care facility or residential institution are investigated by OHAN when the allegations suggest involvement by facility staff or failure to provide adequate supervision (neglect) by facility staff. Whether or not OHAN accepts a report or ultimately determines the report to be indicated, licensing staff need information about the

incident or incidents to investigate and/or address any possible regulatory violations, particularly those related to oversight/supervision of children. Case managers must have the information in order to make decisions regarding the child's placement based upon safety, risk, quality of care and well-being. During a regulatory or licensing visit either by Child Care Licensing or Regulatory/ Licensing worker, an OHAN report will be made immediately upon observation of or learning of a situation which may involve abuse and/or neglect on the part of staff of the facility or institution.

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**Procedures to Accomplish:**  
**State Office (SO) Central Intake Worker**

1. The central intake worker receives allegations relating to child abuse and neglect and evaluates by applying the three screening criteria to determine whether the allegations meet the statutory definitions that authorize DSS action:

a. the victim or subject of the alleged abuse is younger than 18 years of age

b. there must be an allegation or a description of actual harm that has occurred to a child or is occurring concurrently with the report, or the acts or omissions present a significant risk of harm in the immediate or foreseeable future to the child as defined by SC Code 63-7-20;

c. The alleged perpetrator is a person responsible for the child's welfare. This includes a foster parent, an operator, employee, or caregiver or a public or private residential home, institution, agency, or childcare facility, or an adult who has assumed the role and responsibility of a parent or guardian for the child, but who does not necessarily have legal custody of the child. A person whose only role is as a caregiver and whose contact is only incidental with a child, such as a babysitter or a person who has only incidental contact but may not be a caretaker, has not assumed the role or responsibility of a parent or guardian. According to the SC Children's Code 63-7-20 "An investigation, pursuant to Section 63-7-920, must be initiated when the information contained in the report otherwise is sufficient under this section does not establish whether the person has assumed the role or responsibility of a parent or guardian of the child. " That is to say DSS is to investigate a report when the agency has sufficient information based upon the report alone to determine that a child has possibly been abused and/or neglected but cannot readily determine whether the alleged perpetrator has assumed the role or responsibility of a parent or guardian.

d. Reports which include an allegation that a child has perpetrated a sexual assault or physical assault on another child in a child care facility or residential institution are investigated by OHAN when the allegations suggest involvement by or failure to provide adequate supervision (neglect) by facility staff.

2. The central intake worker conducts an interview of the reporter to determine the nature of the alleged harm, the urgency of response needed, and location of the child. The intake worker advises the reporter that the information about the reporter is confidential and will not be shared with the staff person or facility. The intake worker uses the intake interview guide to ensure a thorough interview.

3. The central intake worker notifies the appropriate state or local law enforcement agency within twenty-four (24) hours of any report alleging:

a. sexual abuse/sexual assault;

b. child exploitation (substance abuse or contributing to the delinquency of a minor);

c. severe injuries (requiring professional medical attention) resulting from caretaker's acts or omissions;

d. any other case as required by the local DSS/ Law Enforcement Protocol

e. child has perpetrated a physical assault on another child for whom the agency feels criteria meet the standard of criminal activity due to such factors as the age difference, the developmental differences of the victim to the perpetrator, severity of the injuries, or the circumstances appear to be bullying or gang-like, etc.

4. The central intake worker immediately initiates referral process on the automated system to check all agency records pertinent to the report of abuse and neglect. This should include but not limited to previously screen out referrals and any prior agency involvement, checks with licensing/regulatory to determine if any Corrective Action Plans are in place which might have impact upon the suspected neglect or abuse.

5. The central intake worker consults with supervisor/designee and makes a decision to pend, screen out, or accept the referral and enters the intake referral and decision in CAPSS, per procedures, within twenty four hours of receipt of the intake.

#### **State Office Supervisor for Central Intake/ OHAN**

Intake OHAN Supervisor/designee reviews the intake and in consultation with the intake worker assesses the degree of risk to the child(ren). Through consultation with the intake worker, determines if the risk is present danger, impending or imminent danger to determine the response time for the assignment of the investigation. The supervisor makes the decision to "pend" the referral, screen out or assign based upon the criteria and information obtained from the reporter.

#### **Pended Referrals**

1. If the reporter does not have sufficient information for a screening decision (e.g., needs time to gather more information or can provide no identity for the child):

a. places the referral in pending for up to 24 hours while gathering more information and

b. checks to see if DSS has had previous involvement with the child, family, or alleged perpetrator or facility (by checking OHAN files, calling county CPS or other agencies, consulting CPS data base, Central Registry, other agency automated systems, or records as appropriate and available, to include Family Assistance records); and

c. Within 24 hours of receiving the call, accepts referral for investigation or screens out referral, using the screening criteria and/or makes referral to any other appropriate entity for follow-up (i.e. Law enforcement, licensing, DHEC etc.).

#### **Screened Out Referrals**

1. The OHAN supervisor/designee reviews screened out referrals within 24 hours for appropriateness of decision, completes referral decision in CAPSS, if he/she concurs with decision, and enters information as Unfounded Category IV.

2. If the referral does not meet the child protection screening criteria, but there is a concern such as a licensing violation, specific service need, or criminal activity, immediately contacts the following appropriate entity, by telephone if the situation is an emergency, or in writing within 24 hours for non-emergency situations as the report dictates:

a. county staff

b. regional staff (Child Care Licensing, Adoptions, IFCCS);

c. appropriate State Office Licensing staff;

d. other involved agencies such as DHEC, DDSN, DJJ; and

e. law enforcement

3. If the referral does not meet the criteria because the alleged victim is age 18 or over, or

because the alleged abuser is not "a person responsible for the child's welfare", and if there is possible violation of the law, the OHAN intake worker refers the information in writing within 24 hours of receipt of the referral, to the appropriate law enforcement agency

The OHAN supervisor/ designee immediately consults with Adult Protective Services to determine if the situation should be referred for APS investigation.

If the 18 year old victim is in a residential institution, the situation is assessed for safety of other minor residents who also reside in the institution, to determine whether the situation is isolated to the alleged 18 year old or is a safety factor for other children.

4. The supervisor/designee notifies the unit director if CAPSS shows that more than two (2) reports have been screened out within ninety (90) days on the same facility or institution.

The unit director/designee schedules a staffing to be held within twenty (20) days of the most recent screened out report. The committee members will include the following: state office management, a supervisor other than the one who made the screen out decisions, a third person with child protective services experience and a regulatory/licensing supervisor

The committee reviews the screened out reports to assess the appropriateness of the screened out decision and to confirm that concerns for the safety of the children were addressed during the intake process. Should there be any other concerns that rise to the level of child abuse and/or neglect criteria, another OHAN report will be made by the committee. If there appear to be additional regulatory concerns, the appropriate licensing staff will be notified and required to address them.

5. If a screened out report involves a child harming another child, OHAN informs licensing/regulatory staff as appropriate. If the report occurred in a residential institution, the OHAN supervisor assesses the severity of the harm and risk to other children in the institution and informs DSS management staff of the circumstances. OHAN will follow up with the licensing staff to determine the provider's response and efforts to address the allegation to determine what other steps should be addressed for the safety of children placed within the facility. OHAN will make the report to management as to what the provider's actions were to address the allegation and ensure the safety of the other children.

### **Accepted Reports**

1. The OHAN supervisor notifies the Office of General Counsel immediately, in cases of child fatalities and/or near deaths.

2. The OHAN supervisor enters assigned worker and other pertinent information in CAPSS per procedures.

3. If the referral is accepted on a residential institution or child care facility, the OHAN supervisor assigns the investigation to a State Office OHAN Investigator. The OHAN supervisor assists in planning the initial contact to include an agreement about the imminent danger and determination of the initial contact time within two (2) to twenty-four (24) hours as dictated by the danger to the child. Notifies by telephone, immediately if warranted, and sends a copy of the referral information within three working days to the following entities:

a. county staff

b. regional staff (Adoptions and IFCCS) if they have case management of the child /victim involved or child named in the allegation

c. appropriate State Office Licensing staff

d. other involved agencies such as DDSN, DJJ, DHEC as appropriate

### **OHAN Investigator**



1. The OHAN investigator initiates a fair and impartial investigation within two (2) to twenty-four (24) hours of receipt of the report, with a face to face contact with the alleged victim child. If, per the information provided by the reporter, the situation appears to indicate imminent or present danger to the child, the face to face must be initiated within two (2) hours. Should the OHAN investigator not be able to physically get to the location within the designated time period, the OHAN investigator or supervisor secures the assistance of the CPS staff in the county of the institution or child care facility to ensure the child is seen within the two (2) hour time frame. Exceptions to the standard requiring face to face contact by the investigating worker are:

- a. If another certified county CPS or foster care worker is first to see the child, the OHAN Investigative Worker must make contact as soon as possible with the person who made initial contact, to be briefed before assuming lead responsibility for the investigation;
- b. the person making initial contact must document that contact in CAPSS within forty-eight (48) hours;

2. The OHAN investigator notifies the subjects, (Institution Director/ Manager, Social Worker, House Parent, Child Care Director and/or Staff) of the report that an allegation of child maltreatment is being investigated. Provides information in this notice about the following, without releasing any identifying information about the reporter:

- a. the allegations;
- b. the CPS process; and
- c. the rights of those involved in the investigation, including a copy of DSS Brochure 3053, *Child Protective Services: A Guide for Out of Home Caregivers* and a copy of DSS Booklet 30253, *Child Abuse, Child Neglect: What Out of Home Caregivers Should Know if They Are Investigated*

The OHAN investigator ensures that the notice includes the nature of the allegations, the name and phone number of the OHAN investigator assigned, the protective measures taken, the legal and due process considerations for the alleged perpetrator and that they will be notified in writing of the findings at the conclusion of the investigation.

Those to be notified by the OHAN investigator of the report are the following:

- a. the subject of a report (defined as a person who is alleged or determined to have abused and/or neglected the child);
- b. child(ren) who were determined to be the victims and their parents;
- c. agencies/counties/regional staff who now have custody of the child;
- d. the GAL of the victim child;
- e. all parents of children at risk in the home; and/or
- f. in an ICPC case where SCDSS has knowledge or supervision of the placement, the ICPC unit is notified and is to notify the child's state of origin.

3. The OHAN investigator conducts an investigation to include a safety assessment which includes, but is not limited to:

- a. An on-site visit to the physical premises where the incident is alleged to have occurred;
- b. Private interviews with the child(ren) (before talking with staff in most cases), as appropriate for their developmental levels and abuse histories. Arrange for an interpreter or other special assistance if child has an impairment which would require such assistance, for example sign language skills or if the child's primary language is not English. If following the interview with the child, circumstances merit that the parents of the victim should be interviewed, OHAN arranges for said interview to be completed as part of the investigation.
- c. Arrangements for emergency medical treatment, consultation, or examinations (e.g., physical exam, radiological work, psychological evaluation) as appropriate to the child's needs and the

integrity of the CPS investigation. Obtain parental consent for medical exams of children who are not in the state's custody.

d. Interviews medical professionals, reviews medical records and arranges medical examinations, to include but not limited to Children's Advocacy Centers, as necessary when a child is seen during the course of the investigation;

e. Interviews the alleged perpetrator(s), witnesses, others with pertinent information (e.g., parents of alleged victims);

f. Explains the allegations, the CPS process and the possible consequences to the caretaker face to face, while protecting reporter's identity and enlisting the caretaker's cooperation;

g. Reviews documents or records related to the incident;

h. Records all interviews, evidence, impressions and observations in a manner consistent with training and CPS performance standards (including preservation of physical evidence and photos - document when taken, by whom and number of photos, body part, and child's name). The investigator does not alter or change, in any way, physical evidence collected or photographs taken;

i. Assesses the risks of further maltreatment to all children in the setting, using the approved risk assessment references and documents observations in the dictation;

j. OHAN may request the child care licensing record or the institutional licensing file to determine if there are any patterns of regulatory issues that might have contributed to the neglect or abuse and consults with the appropriate licensing worker/specialist as needed;

k. Completes other actions as required to ensure a comprehensive investigation as defined in CPS performance standards.

4. The OHAN investigator requests the proper authorities (law enforcement, licensing staff, county staff or parents in the situation of child care facility) to take the necessary steps to ensure the safety of the children immediately upon discovering that any of the children are in imminent danger of abuse and/or neglect. The OHAN investigator remains on the physical premises until the proper authorities arrive and assists with supervision of children.

a. In the case of children in the DSS custody, notifies the county of case management foster care worker, supervisor, or program director to assist with removal of the child and placement in safe environment. Should legal action be needed for removal and placement, the OHAN worker will work with the legal department of the county to testify and provide evidence as necessary.

b. In the case of children not in DSS custody, requests county office assistance to coordinate with law enforcement for emergency physical/protective custody.

c. In a child care setting contacts regulatory/licensing unit for coordination with the director of the facility to assure all parents are notified of the imminent danger and children are appropriately supervised until parents arrive on the premises for the children. The OHAN investigator and Regulatory/ Licensing Unit will assist in follow up with necessary legal action if necessary.

d. In the case of a residential facility or a child care facility, requests the Regulatory/Licensing Unit to take appropriate licensing action.

e. Notifies ICPC (Interstate Compact of Placement of Children) Unit to inform child's state of residence should the child need to be returned to another state or alternative placement must be located, work with local law enforcement and county for decisions on the immediate removal of a child from another state placed through ICPC.

f. In a DDSN community program, requests the assistance of the facility administrator or department personnel in taking the appropriate protective action, or petitions the court for

injunctive action.

g. If a child/youth is placed in the institution by DJJ, OHAN contacts DJJ for assistance in placement planning and appropriate protective action for the child/youth.

5. Should one of the following situations be present during the investigation that has not been reported to law enforcement during the intake process, the OHAN investigator notifies the appropriate state or local law enforcement agency within 24 hours of learning about allegations of:

a. sexual abuse/ sexual assault;

b. child exploitation (substance abuse or contributing to the delinquency of a minor);

c. severe injuries (requiring professional medical attention) resulting from caretaker's acts or omissions;

d. any other case as required by the local DSS/ Law Enforcement Protocol;

e. child has perpetrated a physical assault on another child for whom the agency feels criteria meets the standard of criminal activity due to such factors as the age difference, the developmental differences of the victim to the perpetrator, severity of the injuries or the circumstances appear to be bullying or gang-like, etc.

The notification must initially be made by telephone with a follow up in writing which describes the CPS intake report and any assessments completed by the OHAN investigator at the point the referral is made to law enforcement.

These reports are also investigated by OHAN for involvement of or failure to provide adequate supervision (neglect) by facility staff.

6. The OHAN investigator documents the date and time of initial contact and other pertinent information in the dictation in CAPSS within Forty-eight (48) hours of receiving the report.

7. If the victim child is in the custody of DSS the OHAN investigator notifies by phone, fax or e-mail:

a. the county or regional office with custodial responsibility for each alleged child victim in the residential facility or child care facility;

b. notifies the birth parents, (if the TPR has not occurred) by phone or in person that a report is being investigated. The OHAN worker follows up with a letter to the birth parents of alleged victims within 3 working days after receiving the report. A copy of the letter should be provided to the case manager for the child.

c. The case manager for the child will notify the GAL of the report and ongoing OHAN investigation. The GAL is to be provided with the name and number of the OHAN investigator.

8. The OHAN investigator documents in the case dictation the date and time the verbal and written notifications were made.

9. The OHAN investigator informs the residential institution or child care facility staff and any other persons deemed necessary to the investigation of their obligation to be available and cooperate fully with the agency in its attempt to discover the facts of the incident which is alleged to have occurred.

10. The OHAN investigator assesses risk to all children residing in the residential institution or being cared for at the child care facility.

a. The OHAN investigator informs the unit director of imminent risk factors to other children in the institution. The unit director notifies state office management, licensing unit, and county/regional staff who have children placed within the residential institution that a risk factor

exists and requests a staffing to address the safety and placement of children pending the full investigation.

b. The staffing must result in decisions about any actions case managers are to take regarding safety for and placement of the children pending the full investigation. Management will ensure that all staff/agencies, with children in said facility, have been informed of the agency's decision regarding actions to ensure safety.

11. The OHAN investigator reports observations to the county CPS office of the child's residence, when information suggests that children other than those being named as the victim in the investigation may have been harmed or threatened with harm, for the county to assess as appropriate. An example might be the birth child of the alleged perpetrator or a child for whom they may have custody/guardianship.

12. Before leaving the setting, if there are children in the facility or institutional setting who are viewed at risk of danger, the OHAN investigator negotiates and documents a mutually satisfactory Corrective Action Plan in conjunction with the person who is judged to have protective capacity in the residential institution or child care facility and who is most capable of ensuring the children's well-being. This CAP is to ensure the safety of the child and other children during the investigation. The CAP must be signed by the Director or Executive Manager of the institution/facility and the person who is designated to act in a protective capacity role. A second CAP may be developed later which addresses with the facility /institution any regulatory issues as identified during the investigation. Coordination of the plan is with the Foster Care Staff and the regulatory/licensing staff who assist in determining the best interest of the continued placement of the child in the facility/institution pending the results of the investigation. If the victim child is believed to be at risk of imminent danger, the child's case manager will assist in making other placement plans for the child pending the investigation.

The Corrective Action Plan is based upon the following:

a. 1) The safety threats and/or risk factors that, in the worker's judgment, pose severe or immediate threat to the child's safety; 2) what specific steps will be taken to alleviate said risks, and 3) who specifically is responsible for ensuring the steps are followed;

b. The best interests for safety, emotional and developmental well-being of all children at risk in the setting;

c. The reasonable expectations of the child's birth parent or legal guardian;

d. The child's attachment to the caretaker and the assessment of any potential for harm after negotiated safety measures are in place;

e. The Corrective Action Plan is shared with the facility director/management, the primary person named in the plan, the regulatory/ licensing unit, the Foster Care worker, and child or youth as age and developmentally appropriate. Every person listed above is to ask the institutional /facility staff if they are aware of the CAP and if they believe it is being implemented. DSS staff, listed above, are to observe the facility to ensure that the Corrective Action Plan is being implemented during visits while the CAP is in place. The licensing/regulatory worker will communicate with the director of the facility/institution to obtain updates on the CAP and to receive documentation of action step completions as noted in the plan.

13. The OHAN investigator schedules a staffing to discuss the information of the investigation with involved parties, to include but not limited to: regulatory/licensing, and county or regional staff responsible for the victim child. Prior to the staffing, the OHAN investigator should contact the victim child's GAL to obtain any additional information which might impact the investigation. OHAN shares information gathered from the investigation to analyze facts discovered and determine what other information may be needed in order to make a case decision. This staffing ensures that all involved parties have an opportunity to provide information. The staffing is

recommended to occur **between 20 to 30 days** into the investigation to give sufficient time to coordinate and obtain additional information as needed. The staffing may be face to face or arranged through other means. This staffing may occur sooner if determined to be in the best interest of the child. Additional staffings may be held as needed, to be determined by the necessity of the findings and facts of the case, and to ensure coordination of services to the child. The staffing addresses any Corrective Action Plans and the staff's observations of issues since the Corrective Action Plan has been in place.

14. Prior to a determination decision:

- a. The OHAN investigator arranges a multidisciplinary staffing of involved persons in all cases when a child is hospitalized due to injuries received; initiates and coordinates a multidisciplinary staffing in those cases where a child has suffered severe injuries believed to result from abuse or neglect even if the child did not require hospitalization, but the injuries were severe; and invite forensic interviewers, medical, mental health, law enforcement, state office management staff and county staff who have custody of the child to attend the staffing.
- b. The OHAN investigator considers any additional information the alleged perpetrator (or facility administrator) may provide after the initial interview.
- c. The OHAN investigator consults with the proper regulatory/licensing personnel to discuss possible violations of standards and to review the corrective action history of the setting.
- d. The OHAN investigator consults with county CPS and Foster Care or regional office case managers to discuss the child's vulnerability, abuse history, and the circumstances surrounding the child's placement.
- e. The OHAN investigator schedules a pre-decision preliminary administrative review with the alleged perpetrator in cases that are likely to result in a decision to "indicate" for abuse or neglect.

To protect the individual's due process rights, the OHAN investigator notifies the alleged perpetrator in writing, which is mailed both by regular mail and certified mail, just prior to case decision of the individual's opportunity to request a limited scope preliminary administrative review of the evidence that seems to support the decision to indicate. This notice should be provided to the individual no later than the 35th day of the investigation. However, with good cause shown, such as awaiting results of a forensic report, medicals, or additional interviews to be scheduled, the notice for such a preliminary review may be extended until the 40th day. The individual will have five (5) days to provide information to the agency. If the individual states they plan to provide information that will take longer than the forty-five (45) day investigative period or if the review will extend past the 45th day, the worker will apply for a fifteen (15) day extension. This request is considered a compelling reason for the approval of an extension.

At a minimum, the notice will include the following information:

- a. That the preliminary administrative review is separate from the case decision staffing and will take place before the official case decision is made in order to preserve the individual's due process rights.
- b. That the review process will allow the alleged perpetrator or their representative an opportunity to provide additional information about the incident that the alleged perpetrator feels is important for DSS to know.
- c. That the individual can present information to the agency by telephone, e-mail, and facsimile message, or by US mail.

- d. That the preliminary review process cannot delay the statutory timelines set for completing investigations or for the appeals process.
- e. That the agency staff person who conducts the preliminary review will be a child welfare supervisor or manager who is not involved in the investigation. The supervisor or manager who conducts the review can affirm or overturn the preliminary case decision or can return the case for further investigation.
- f. That the individual will be promptly notified of the outcome of the administrative review and subsequent official agency case decision.

15. The OHAN Investigator completes the Out of Home Investigative Summary using information gathered.

- a. Describes the evidence supporting and/or refuting the allegations in a draft of DSS-3070, Determination Fact Sheet (Form 3070).
- b. Utilization of the analysis of the facts as appropriate from law enforcement, the child's county case manager, medical and mental health practitioners, the agency's administrator, the GAL and the OHAN supervisor.
- c. Documents staffing in CAPSS case record dictation and on DSS Form 3062 with participants' signatures. If the staffings are held by telephone conference, the OHAN investigator faxes the form 3062 to the persons attending for signature before filing in OHAN record and child's file.

16. The determination decision is made using the totality of the information gathered, by application of the statutory criteria, and the preponderance of evidence as the standard of proof of the facts.

#### **OHAN Supervisor/Designee**

1. The OHAN supervisor ensures that the case determination is documented in CAPSS within forty-five (45) days of the date the case was accepted as a report for CPS/OHAN investigation.

2. The OHAN supervisor requests a one-time extension of fifteen (15) days to the Deputy Director if the decision cannot be made within the forty-five (45) days, but is reasonably expected to be made within the fifteen (15) day extension. The request for the extension must include documentation of the staffing of the case with the supervisor which includes the justification for the extension. An extension may be granted at the discretion of the Deputy Director or designee if:

- a. the child or other relevant party who could not be located within forty-five (45) days despite the best efforts of the department, is expected to be located within the next fifteen (15) days; or
- b. specific diagnostic information which was initiated or requested within the initial forty-five (45) days, has not been received and due to circumstances beyond the control of the department, will not be available within the forty-five (45) days, but can reasonably be expected to be completed within the next fifteen (15) days; or
- c. other compelling reasons as presented by staff on a case by case basis that there is a reasonable expectation that the investigation can be completed in an additional fifteen (15) days, such as completion of the preliminary administrative review.

3. If there are more than two (2) unfounded case decisions on the same residential institution or child care facility and the investigations occurred within six (6) months, the OHAN supervisor will notify the unit director.

- a. The unit director /designee is to schedule a staffing to be held within thirty (30) days of the last unfounded case decision. The committee members will include state office management, a supervisor other than the one who was involved in the case decisions, the licensing units and the staff from the county or region who have placed children in the institution.
- b. The committee discusses any concerns or patterns involving the facility or institution staff and how the concerns should be addressed from each division's perspective during face to face visits to the facility, as well as any placement and planning issues for children in the facility/

institution. All Corrective Action Plans will be reviewed and evaluated for effectiveness at elimination of the noted concerns. If additional concerns regarding child abuse and/or neglect are revealed during this staffing, a new report will be made to OHAN.

**OHAN Investigator's responsibilities following the decision of the investigation:**

1. Within five (5) working days of the case determination of an indicated case decision, the OHAN investigator notifies the subjects of the report by certified mail of the indicated case determination. The DSS forms 3061 and 3070 are to be used for this purpose. This notice must include the perpetrator's right to appeal the case decision and that the perpetrator's name is being placed on the Central Registry. The letter must exclude any information identifying the reporter.

2. For an Unfounded case decision, the OHAN investigator, notifies the subject of the report by mail of the case determination within five (5) working days of the case determination using DSS form 3065. CAPPs must be updated as to the case decision and classified as Category I, II, or III.

3. Those to be notified of the case decision are as follows:

a. The subject of a report (defined as a person who is alleged or determined to have abused or neglected the child);

b. The child alleged as the victim who is age and developmentally appropriate;

c. County/regional DSS or other agencies that have custody of the child;

d. The GAL of victim child;

e. All parents of children at risk in the institution or facility who were notified of the receipt of the report;

f. Directors/owners or the facility administrator regarding the staff member named as alleged perpetrators;

g. the licensing unit or regulatory entity that issued the license;

h. county or regional staff that have case management of the victim child or other children in the facility that may be affected by the indicated decision;

i. ICPC staff when the victim child is a child whose placement is subject to ICPC approval.

This notice/letter advises that a determination has been reached and whether the allegations were indicated or unfounded. It also provides the name and phone number of the OHAN investigator.

4. Updates CAPPs with case decision and enters the name of the perpetrator in indicated reports into the Central Registry, both within five (5) working days of the case decision.

5. At the point of case decision and when completing the investigative documentation, reviews intake to determine if the reporter requested feedback. If so, notifies the reporter of the determination decision and whether services were provided, if such is in the best interest of the child, and if the reporter has legal responsibility for the child. The OHAN investigator notifies the mandated reporters of the case decision.

6. Notifies the appropriate law enforcement agency if the facts indicating abuse or neglect that also appear to indicate a violation of criminal law. This would include all indicated reports of severe injuries resulting from abuse, neglect, or exploitation.

7. Prepares and presents the department's case at an Appeals Hearing should the perpetrator

request an appeal. The OHAN investigator documents the findings of the appeals hearing in case record/CAPSS. If the case decision is overturned, removes the name of the individual from the Central Registry immediately upon receipt of the appeal decision. If the case decision is upheld, maintains case record intact. **See Section 725, Appeals Process.**

8. Participates in any family court hearings to testify to findings of the investigation, as needed.

**OHAN Worker / Supervisor /Licensing or Regulatory Worker**

Participates in a multidisciplinary team staffing to assess and develop a Corrective Action Plan with the facility administrator or a designee.

Licensing/ Regulatory unit provides the terms of the Corrective Action Plan (CAP) to the facility's administrator/designee. Licensing assures that the CAP is signed by the director/administrator or designee. If the owner/ director is not available to sign/receive a copy of the CAP on site, it is mailed to the Facility Director or Manager within five (5) working days of the completion of the CAP.

If a CAP was developed during the investigation by OHAN to ensure immediate safety of children by the facility, OHAN and Licensing re-evaluate the CAP to determine if any of the items listed in the original CAP need to be included in the Regulatory CAP that is being developed by licensing to alleviate deficiencies.

Regulatory and licensing division ensures CAP is monitored on a monthly basis or quarterly basis (dependent upon the severity of the violation and frequency stated in the CAP). Licensing staff will document that the facility is in compliance with regulations and safety factors as they are being completed.

Licensing / Regulatory will provide a copy of the CAP to County/ Regional IFCCS /or Adoption staff who have the victim children in the facility. These case managers will be asked to report any lack of cooperation or compliance of the facility to the regulatory unit immediately. The licensing / regulatory unit will collaborate with other DSS staff going into the facility for elaboration on the efforts that the provider has made to comply and cooperate with the CAP.

**OHAN Worker/Supervisor**

Should the perpetrator appeal the indicated case decision, the OHAN Investigator will meet with Office of General Counsel to prepare for testimony at the appeals hearing. Requests the assistance of the Office of General Counsel for any appeals in residential institution, or child care facilities, or requests the assistance of the county attorney for family court activity involving out of home investigations. **See Section 725 for specifics of the Appeals Process.**

**Reviewer for Interim Review (designated by the State Director as Assistant Director of Division of Human Services) or (Director of Safety and Permanency Management)**

1. A person appointed by the State Director conducts an interim review of the case record within fourteen (14) days of receipt of the request to appeal the agency's decision to determine if there is a "preponderance of the evidence" that the child was abused and/or neglected and that the appellant committed the abuse or neglect.

a. Upon determination that the indicated finding that the appellant abused and/or neglected the child is not supported by a preponderance of evidence, converts case to unfounded and removes the appellants name from the Central Registry. Notifies Office of Appeals Hearings (OAH) and the appellant or appellant's representative in writing that the Interim Review found the appellant did not abuse or neglect the child and that the case decision is overturned. The OAH then dismisses the appeal. **OR**

b. Upon determination that the appellant did not abuse or neglect the child but that the child was abused or neglected by someone else or person unknown, maintains the indicated case finding but removes the appellant's name as perpetrator of the abuse or neglect and removes the appellant's name from the Central Registry. Notifies the appellant or appellant's representative



and OAH that the case remains indicated but the appellant will not be listed as perpetrator. The OAH then dismisses the appeal. **OR**

c. Upon determination that the indicated finding is supported by a preponderance of the evidence that the appellant abused or neglected the child, notifies the appellant or appellant's representative in writing that the finding is upheld and the appeals process will continue. A copy of the letter is sent to the OAH.

2. The person appointed by the State Director documents the findings of the interim review in the case record on CAPSS. Based on the interim review decision, ensures that the appropriate changes are made to the Central Registry and to CAPSS by removing name of individual from Central Registry if found not to be the perpetrator and converting decision to unfounded if child found not to have been abused or neglected. (Reference Section 725 - Administrative Appeals Process)

### **OHAN Supervisor/Designee**

1. The OHAN supervisor ensures that all information which must be maintained in a paper file is preserved; ensures the case summary narrative report is completed within 10 days of the case determination; verifies that all required documents are in the file, all relevant parties have been interviewed and notified, and documentation supports the case decision.

2. The OHAN supervisor destroys information related to unfounded reports five years from the date the report was determined to be unfounded provided no new reports are received in the five years. The OHAN supervisor uses any old information available if a new report is received prior to five years.

3. The OHAN supervisor maintains **indefinitely** the records of all indicated cases.

### **County Worker with Case Management of Child**

1. The case manager assists the OHAN investigator when appropriate in establishing a rapport with the child to assure the child feels protected during the investigation from any negative consequences.

2. If needed, the case manager makes necessary placement changes for the child pending the investigation. The decision to move the child during the investigation should be determined primarily by the safety risks to the child, while taking into account the child's emotional attachment to the staff and any emotional harm a move may cause.

3. The case manager arranges counseling services and/or medical services as needed for the victim child as appropriate.

4. The case manager ensures the victim child's birth parents are informed of the report of abuse or neglect at the institution and the name and contact information of the OHAN investigator are given to the parents. **If the parental rights have been terminated the birth parents are not entitled to notice.**

5. The case manager for the child will notify the GAL of the report and ensuing OHAN investigation. The GAL is to be provided with the name and number of the OHAN investigator.

6. The case manager assists with monitoring the improvements or conditions specified in the corrective action plan, should the child remain in the facility.

7. The case manager reports any non-compliance with the corrective action plan to the regulatory/licensing unit for further review of continuation of the license

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### **Referenced Documents**

SC Code of Laws Section 63-7-490, 63-7-650, 63-7-670, 63-7-920, 63-7-1210, 63-7-1960, 63-7-1990, SC Reference Code Ann. Regs. 114-4520

DSS Brochures:

3053 Child Protective Services: A Guide for Out of Home Caregivers

30253 Child Abuse, Child Neglect: What Out of Home Caregivers Should Know if They Are Investigated

2416 Know your Civil Rights in Social Services Programs

DSS Forms:

3027 Intake/ Central Registry

3061 Central Registry Information for Indicated Child Protective Services in Foster Homes, Residential Facilities or Childcare Facilities and Notice of Your Right to Appeal the Department's Findings

3065 Notice of Unfounded Investigations/ Assessments

3070 Determination Fact Sheet

### **Revision Comments**

This section has been revised to reflect changes in the OHAN process.

## CHAPTER 7, Child Protective and Preventive Services

Revision Number: 10-01

Effective Date: 01/14/2010

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### **722 Investigation of Medical Neglect of Disabled Infants**

Purpose: To provide procedures to be followed when a report of suspected medical neglect of a disabled infant is received as required by Public Law 98-457.

**NOTE:** These procedures are relevant only to cases involving infants in hospitals or other health care facilities regarding withholding of nourishment and medically beneficial treatment **solely on the basis of the child's present or anticipated mental or physical impairment. Reference [§63-7-950](#), S. C. Code of Laws**, for county responsibilities related to suspected medical neglect for religious or other reasons, reflecting an exercise of judgment by the child's parent or guardian.

#### **State Office Investigator/Social Service Worker**

1. Receives report of suspected neglect of a hospitalized disabled infant.
2. Refers information to State Office Out of Home Abuse and Neglect Unit.

#### **State Office Investigator**

3. Initiates investigation as described in **Section 721**.
4. Contacts hospital liaison and designated medical consultant to notify them of report.
5. Conducts interviews with medical personnel and parents.
6. Schedules staffing of liaison and medical consultant, and others as deemed appropriate to share information regarding the child's condition, as well as appropriate medical records. (Reference [§63-7-950](#), S. C. Code of Laws)

#### **State Office Investigator**

7. If **indicated**:
    - a. coordinates legal efforts to provide needed treatment with the department's legal representative and the local Department of Social Services of child's residence; and
    - b. transfers case to county for delivery of treatment services.
  8. If **unfounded**, documents records as appropriate and makes referrals, as needed.
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### **Referenced Documents**

#### **Revision Comments**

Revises statute cites.

## **723 Cases Involving Indian (Native American) Children**

Purpose: To outline specific requirements and responsibilities under the Indian Child Welfare Act. **(See Section 754, Indian Child Welfare Act.)**

### **Social Service Worker**

1. Determines through interviews with parents, guardians, or from tribal enrollment lists that the subject child meets the definition of an "Indian child" as defined in the **Indian Child Welfare Act, 25 USCA, Section 1903**.
  2. Investigates allegations involving Indian children as outlined in **Section 719, Child Protective Services Investigation**.
  3. Notifies the agency legal representative if an Indian child is to be removed from his/her custodian, or if a voluntary placement is to be signed.
  4. In the event that a petition involving a child custody action is filed with the Family Court, forwards notice of pending action to the parent or Indian custodian and the Indian child's tribe by registered mail with return receipt requested **(See Section 754, Indian Child Welfare Act, 24 USCA, Section 1912)**.
  5. Places an Indian child who must be removed for reasons of protection, in the least restrictive setting which most approximates a family and in which his/her special needs, if any, may be met. The child shall also be placed within reasonable proximity to his or her home **(See Section 754, Indian Child Welfare Act, 25 USCA, Section 1915)**.
  6. Considers that in any foster care or pre-adoptive placement, preference shall be given in the absence of good cause to the contrary, to a placement with:
    - a. a member of the Indian child's extended family;
    - b. a foster home licensed, approved or specified by the Indian child's tribe;
    - c. an Indian foster home licensed or approved by an authorized non-Indian licensing authority; or
    - d. an institution for children approved by an Indian tribe or operated by an Indian organization which has a program suitable to meet the Indian child's needs **(See Section 754, Indian Child Welfare Act, 25 USCA, Section 1915)**.
  7. Follows procedures in Chapter 8, Foster Care Manual, for placement [and Chapter 9, Foster Home Licensing for licensing of home as appropriate](#).
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## **Referenced Documents**

### **Revision Comments**

September 2006 - deleted notation of "Reference Data Section". Section 754 is added to the Lotus Notes Manual.

## **CHAPTER 7, Child Protective and Preventive Services**

Revision Number: 10-01

Effective Date: 01/14/2010

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### **724 Client Opposition to Intervention**

Purpose: To outline steps to be taken by staff and/or supervisor when the client refuses to admit the worker to the home or becomes overtly hostile and orders the worker to leave before completion of an interview or appointment. **(See Reference Data--Section [740](#), Worker Safety)**

#### **Social Service Worker**

1. If appropriate, restates his/her interest in the child's well-being and the mandate of the agency.
2. If the client orders the worker to leave, the worker shall leave the premises immediately and consult with the supervisor regarding the current situation.

#### **Social Service Supervisor**

3. Upon consultation with the worker, decides whether or not to request assistance from law enforcement or Family Court in order to complete the investigation. **(See Section 750, S. C. Code of Laws, [§63-7-1650](#))**

#### **Social Service Worker**

4. Contacts law enforcement or DSS legal representative for assistance to request an inspection warrant pursuant to [§63-7-920](#) if required in order to complete an investigation.
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### **Referenced Documents**

#### **Revision Comments**

January 2009- revises statute citations.

## **CHAPTER 7, Child Protective and Preventive Services**

Revision Number: 10-01

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### **725 Appeals Process**

Purpose: To outline the procedures for the Department's appeals process for those reports

indicated and entered into the Central Registry pursuant to Section 20-7-670 and for other indicated cases pursuant to Section 20-7-650 not being brought before Family Court for disposition. **(See SC Code of Laws, [§63-7-1410](#), 27 SC Code Ann Regs 114-130)**

An individual is provided due process protection through either Family Court or the Administrative Appeals hearing. The Administrative Appeals process is provided for cases not being brought before Family Court.

It is the policy of the Department that in cases where the individual disagrees with or challenges the case decision and the safety of the child is in question in any way, the case must be taken to Family Court as the process by which the individual can appeal the decision.

It is the policy of the Department that in cases where treatment services are to be provided or are reasonably expected to be provided and the individual or family disagrees with the indicated decision and/or the decision to deliver services, those cases **MUST** be taken to Family Court as the process by which the individual or family can appeal the decision.

There can be little effective treatment and the safety of the child is in question when there is no acknowledgement of the abuse or neglect. Given this position, it should be a rare situation when a county CPS case is referred to the administrative appeals process.

#### **State Director/Designee**

1. Appoints a hearing officer to conduct a contested case hearing. Insures that the hearing officer is not a person who was involved in making the case decision or the person who conducted the interim review.

Responsible Staff (County or OHAN)

2. Notifies individuals in writing by use of the appropriate case decision notice letter (DSS Form 3061 (OHAN) or DSS Form 30200 for county case) of their right to appeal the case decision within thirty days. [Sends notice by certified mail as required by law in order to track the statutory timelines.](#) (Reference Chapter 7, Sections 719 and 721)

#### **Office of Administrative Hearings (OAH):**

3. Receives a request for an appeal from the person named as perpetrator/subject of report and notifies the case manager (either county DSS or Out of Home Abuse unit (OHAN)) within 48 hours of receipt of request for an appeal.

4. Determines if the request for an appeal is within the required time frames **(Reference [§63-7-1410](#), S. C. Code of Laws)**

5. Schedules the hearing date, time and place.

#### **Responsible Staff (County or OHAN)**

6. Sends the DSS-3070, Determination Fact Sheet, and the DSS-3058, Court Information Sheet, or equivalent summary, to OAH within ten days of receipt of notification from OAH of the hearing request.

#### **Hearing Officer**

7. Notifies appellant or appellant's representative and the department's attorney of the proposed

hearing date, time and place.

**Responsible Staff (County or OHAN)**

8. Makes the case record (with identifying information on reporter and attorney/ client privileged information deleted) available to the appellant or his/her representative. Case record includes all referral and case information on data base, signed notices, medical or mental health information, court orders, law enforcement or school and other documents as pertinent. Confers with agency attorney to determine if any information should be redacted prior to releasing the case record.

9. If requested, provides a free copy of the case record to the appellant or his/her representative.

**Reviewer for Interim Review (designated by the State Director as County Director for county cases and Assistant Director of Division of Human Services (CPS Program Manager) for OHAN cases)**

10. Conducts an interim review of the case record within 14 days of receipt of the request to determine if there is a "preponderance of the evidence" that the child was abused or neglected and that the appellant committed the abuse or neglect.

a. Determines that the indicated finding that the appellant abused or neglected this child is not supported by a preponderance of evidence, converts case to unfounded and maintains case record as provided in SC Code of Laws Ann. [§63-7-940](#). Notifies OAH and the appellant or appellant's representative in writing that the Interim Review found the appellant did not abuse or neglect the child and that the case decision is overturned. The OAH then dismisses the appeal.

b. Determines that the appellant did not abuse or neglect the child but that the child was abused or neglected by someone else or person unknown. Maintains the indicated case finding but removes the appellant's name as perpetrator of the abuse or neglect. Notifies the appellant or appellant's representative and OAH that the case remains indicated but the appellant will not be listed as perpetrator. The OAH then dismisses the appeal.

c. Determines that the indicated finding is supported by a preponderance of the evidence that the appellant abused or neglected the child. Notifies the appellant or appellant's representative in writing that the finding is upheld and the appeals process will continue.

For county cases that are upheld, the County Director and staff must decide if the upheld case requires services to keep the child safe. If so, files a petition pursuant to SC Code of Laws [§63-7-1650](#) or [63-7-1660](#) to request oversight by the Family Court.

A copy of the letter is sent to the OAH.

11. Documents the findings of the interim review in the case record on CAPSS. Based on the interim review decision, ensures that the appropriate changes are made to the Central Registry and to CAPSS by removing name of individual from Central Registry if found not to be the perpetrator and converting decision to unfounded if child found not to have been abused or neglected.

**Hearing Officer**

12. Upon notification of a reversal at the Interim Review, dismisses the appeal. If the decision is



upheld, holds hearing as scheduled. [If petition for Family Court oversight is filed in upheld case, stays the appeals hearing until the Family Court hearing is concluded.](#)

**Appellant and/or DSS Attorney**

13. Notifies the Appeals Unit if the proposed hearing date is not suitable.

**Hearing Officer**

14. Arranges adequate meeting facilities for 8-12 people to accommodate the hearing.

15. Receives and rules on any request for continuance.

16. Reschedules hearing and notifies appellant/representative and department attorney of new hearing date and time.

**Appellant if not represented by Attorney**

17. Requests the OAH to subpoena documents or witnesses at least 14 (fourteen) working days before the hearing. The request must include addresses of the witnesses and any needed documentation to be brought to the hearing (i.e. school records).

**Appellant's Attorney and DSS Attorney**

18. Issues subpoenas and ensures compliance with any applicable state and federal law. Mileage and fees, if any, are the responsibility of the appellant or DSS, depending on who secured testimony of the witness.

**Hearing Officer**

19. Issues subpoenas for appellant without attorney if requested.

20. Administers the witness' oath or affirmation.

21. Conducts the hearing.

**DSS Attorney**

22. Represents the agency and coordinates the appearance of the OHAN investigator or county case manager.

**Appellant/Appellant's Attorney**

23. Presents his/her case at the hearing.

**Hearing Officer**

24. Accepts testimony and written evidence.

25. Rules on objections.

26. Questions the witnesses.

27. Limits the number of persons in attendance at the hearing if space limitations exist and/or a request for sequestration is submitted. May sequester the witnesses upon his/her own motion.

28. Allows both parties to question or refute any testimony or evidence and provides the opportunity to confront and cross-examine witnesses.

29. Allows both parties to submit evidence in accordance with law to establish all pertinent facts and circumstances in the case.

30. Constructs a hearing record as required by the South Carolina Administrative Procedures Act.

31. Considers all allowable testimony and evidence and provides a draft order to the Director or the Director's Designee. The Director/Director's Designee reviews the record and determines whether or not the abuse or neglect by the appellant occurred.

32. Notifies the appellant/appellant's representative and the department's attorney of the hearing decision.

33. Notifies the appellant/appellant's representative of the right to seek judicial review.

#### **Responsible Staff**

34. Implements the decision of the appeals hearing.

35. Updates the database and the Child Abuse and Neglect Central Registry as appropriate.

36. Sends written notice to the appellant/representative of the action taken to implement the decision.

#### **Appellant**

37. Files an appeal for judicial review with Family Court within 30 days of the decision if still dissatisfied with the department action.

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#### **Referenced Documents**

#### **Revision Comments**

June 2009 - Updates statute citation numbers.

## 726 Emergency Protective Custody

Purpose: To outline steps to be taken pursuant to [§63-7-620 through §63-7-720](#), S. C. Code of Laws, when a law enforcement officer has taken a child into emergency protective custody. These procedures are general and must be considered in conjunction with **Section 719** and [§63-7-620 through §63-7-720](#) and written protocols developed by DSS and law enforcement as required by [§63-7-760](#). When making reasonable efforts to preserve and reunify the family and when assessing what efforts are most appropriate, the Department always has the child's health and safety as its greatest concern (Reference Chapter 8, Foster Care Manual).

### **Social Service Worker**

1. Upon receipt of the referral, begins the intake process and initiates an investigation as provided in Section 719, if the allegations constitute suspected child abuse and/or neglect, and meets law enforcement at agreed upon location **within two hours** to assume physical control of the child. If the child is in need of medical treatment, meets the officer at the health care facility or accompanies the officer and child to the health care facility. If the child is not in need of medical treatment, places the child in a licensed foster home or shelter. **(Reference local Law Enforcement/DSS Protocol and Chapter 8, Foster Care Manual)**
2. Consults with the supervisor as soon as possible and as necessary and immediately begins the 24 hour Preliminary Investigation as required in [§63-7-640](#) to determine what actions are necessary regarding the placement of the child. Implements reasonable efforts to prevent removal or documents basis for dispensing with reasonable efforts (see factors listed in [§63-7-1640](#)), or documents the lack of opportunity to provide reasonable efforts due to emergency situation. Reference Section 719, CPS Investigation/Assessment.
3. Gathers information from the law enforcement officer taking emergency protective custody about the situation, reason for the action, whether legal custody must be assumed now, and if any medical treatment is needed. **Consults local Law Enforcement/DSS Protocol for procedural guidance. (Reference [§63-7-620](#), S. C. Code of Laws)**
4. When a child is taken into foster care, requests a State Law Enforcement Division records check on parents to determine if:
  - a. grounds for termination of parental rights exist as defined by [§63-7-2570](#);
  - b. DSS should ask the court to dispense with reasonable efforts pursuant to [§63-7-1640](#); and
  - c. information in the parents' background check has bearing on their ability to care for the child or on services.
5. If there is reason to suspect the child may have been adjudicated delinquent for, or has pled guilty to or been convicted of a sex offense, checks with SLED Sex Offenders Registry or local law enforcement to confirm conviction. Refer to Chapter 8, Foster Care Manual, regarding

placement issues and Section 819.02 and 821.

6. If the family has a child incarcerated at DJJ, communicates with DJJ staff to obtain information regarding the nature of the offense, release status, services provided, and other relevant information to assess safety and post-incarceration living arrangements. Considers the impact on the family of the child's return to the home from DJJ and if that child will be safe or if removal of the incarcerated sibling is necessary. Shares information pertinent to child with DJJ staff. Refer to Chapter 8, Foster Care Manual, regarding placement issues and Section 819.02 and 821.

7. Receives and files in paper case file copy of law enforcement incident report as soon as it is available.

8. Notifies the child's parent/guardian as soon as possible of the child's location. **Note:** The location of the child should not be disclosed if there is reason to believe that such disclosure would be contrary to the best interest of the child (i.e., possible unauthorized contact with the child in placement). Staff must decide on a case by case basis and in consultation with the care provider how much information should be disclosed and document justification for the decision. **(Reference [§63-7-630](#), S. C. Code of Laws, and Section 817.01, Foster Care Manual)**

9. As notice of the investigation, provides to and discusses with parents DSS Brochure 3034, Child Protective Services: A Guide For Parents, which provides information about the process, parents' rights and responsibilities, and possible court action as a result of this situation as required in [§63-7-920\(D\)](#). Also provides to parents with handbook on legal rights [DSS Booklet 30230](#) entitled Child Abuse, Child Neglect - What Parents Should Know If They Are Investigated.

10. Convenes, if possible within the 24 hours, a family meeting with the child's parents or guardian and other appropriate family members as described in [§63-7-640](#). [Engages the family to identify family and extended family members who should be invited to participate.](#) Participants must be instructed to maintain confidentiality of information disclosed by the agency. **(Reference [§63-7-1990\(L\)](#), S. C. Code of Laws)**

11. Within 24 hours of the time the child was taken into emergency protective custody, and in consultation with the supervisor, considers information gathered to decide whether:

a. grounds for assuming legal custody exist; or

b. the child can go back home or to some other placement. **(Reference [§63-7-660](#), S. C. Code of Laws)**

12. Consults with supervisor and law enforcement, and follows procedures outlined in [§63-7-650](#) prior to placing a child in any placement other than a licensed facility or shelter. Documents actions in dictation.

13. If an investigation pursuant to Section 719 has been initiated, makes a decision as to whether there is reason to believe that the child has been abused/neglected as defined in [§63-7-20](#). **(Reference Sections 710, Intake, and 719, CPS Investigation)**

14. If the department concludes through the preliminary investigation that the "imminent and substantial danger" no longer exists and the child can return home or to an alternative

placement, implements a Safety Plan if safety factors are identified and follows requirements of [§63-7-670](#). (Reference **S. C. Code of Laws, Section 750**)

a. If relative placement appears appropriate, implements a safety plan, secures parental consent if possible, and an affidavit from the individual who is to care for the child and any other adults in the home regarding any criminal (check LE records) or child abuse or neglect history (check Central Registry, data base, unfounded case information) as well as considering other pertinent information on a case by case basis.

b. Within 24 hours of the time the child was taken into emergency protective custody, consults with the officer who took the child and asks for the officer's position on the department's decision to return the child. Documents in the record the discussion and decision. (**Reference local DSS/Law Enforcement Protocol**)

c. If unable to contact law enforcement officer, refers to local DSS/Law Enforcement Protocol for alternative arrangement in order to secure law enforcement input on decision to return child home. (**Reference [§63-7-760](#), S. C. Code of Laws**)

d. Requests that law enforcement conduct records check on relatives. If law enforcement is unable to complete, retains child in emergency protective custody for an additional 24 hours (**Reference [§63-7-670](#)**) while law enforcement conducts check.

e. If the family and agency agree to a specific relative placement and additional time is required by the specified relative to prepare for placement, retains child in emergency protective custody for up to five additional days after the first 24 hours. (**Reference [§63-7-690](#), S. C. Code of Laws**)

**Note:** Advises parents that they have the right to make a written request for a probable cause hearing as provided in [§63-7-690](#), S. C. Code of Laws. A probable cause hearing is not required unless the placement fails to occur as planned within the five-day period or the child's parent or guardian makes a written request for a hearing to the department.

15. If the department concludes through the preliminary investigation that the child should remain in care or if law enforcement approval to return the child is not obtained within 24 hours of the emergency protective custody, department assumes legal custody of the child. (**Reference [§63-7-660](#), [§63-7-670](#), S. C. Code of Laws**)

a. Refers to Law Enforcement/DSS Protocol for alternative procedures for contacting law enforcement officer.

b. Consults with supervisor and DSS attorney.

c. Requests that DSS legal representative initiate, by complaint, a removal proceeding on or before the next working day in the appropriate Family Court to include a request for child support. (**See Section 750, Reference Data - S. C. Code of Laws, [§63-7-700](#), and Chapter 8, Foster Care Manual**)

d. Updates CPS Legal Actions in automated system.

### **Social Service Supervisor**

16. \_Convenes a staffing with CPS assessment and foster care staff to determine the recommendation to be made at the probable cause hearing: for the children to remain in agency custody in foster care or for the children to be reunified with custody to the parent/caretaker.

**(Reference Chapter 8, Foster Care Manual)**

**Social Service Worker**

17. If the officer directs at removal, assumes legal custody of a child pursuant to an emergency protective custody by law enforcement, and immediately begins the 72 hour Preliminary Investigation as required in [§63-7-700](#).

18. Initiates a complete and thorough investigation of the allegations of abuse and neglect which gave rise to the removal as outlined in Section 719, Child Protective Services Investigation. **(Reference [§63-7-700](#))**

19. Receives and files in paper case file copy of law enforcement incident report describing allegations of abuse or neglect as soon as it is available.

20. Determines the child's level of safety, assesses risk, prepares recommendations for alternate placements or other appropriate action to be brought before the court at the probable cause hearing.

**Social Service Worker/Supervisor**

21. Schedules and/or participates in the staffing to determine the recommendations to be made at the probable cause hearing. **(Reference Section 810.01, Intake, Foster Care Manual)**

**DSS Attorney**

22. Schedules the probable cause hearing within 72 hours of the time the child was taken into emergency protective custody.

**Social Service Worker**

23. Completes the DSS-3058, Court Information Sheet, or equivalent court summary for the DSS legal representative. Updates legal information on automated system.

24. If not named as a party in the complaint, notifies the non-custodial parent of the removal and the date and time of hearing. **(Reference [§63-7-700](#))**

**Social Service Supervisor**

25. Consults with the worker and DSS Attorney regarding the situation and seeks guidance or assistance as needed.

**DSS Attorney**

26. Prepares and files all court documents needed for removal proceedings.

27. Reviews court documents with DSS staff.

**Social Service Worker/Supervisor**

28. Participates as appropriate in the court proceedings.

29. If the case is determined to be unfounded prior to the probable cause hearing, staff may return physical custody of the child to the parent, parents, guardian, immediate family member, or relative, with the department retaining legal custody pending the probable cause hearing. **(Reference [§63-7-700](#))**

30. If child is retained in custody, proceeds to complete the investigation prior to the 35 Day Removal Hearing so that the investigative findings and case plan can be presented in family court at the hearing.

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### **Referenced Documents**

### **Revision Comments**

May 2009 - Revised statute citations.

### **727 Emergency Protective Custody by Ex Parte Order**

Purpose: To outline the steps to be taken pursuant to §20-7-610, S. C. Code of Laws, when there is sufficient time for the county department to ask the family court for an emergency removal order because department staff has probable cause to believe that a situation of imminent and substantial danger to the child exists, or upon notification that the family court has ordered Ex Parte that the child be taken into emergency protective custody. **(See Section 750, S. C. Code of Laws, [§63-7-740](#) and [§63-7-1660](#), and Section 810.01, Foster Care Manual)**

#### Social Service Worker/Supervisor

1. Consults with supervisor to verify that probable cause exists to believe that the child is in imminent and substantial danger to life, health, or physical safety and there is sufficient time to obtain an Ex Parte Order.

**Note:** If sufficient time is not available, law enforcement should be contacted for assistance with emergency protective custody. **(Reference Section 726 and [§63-7-620](#), S. C. Code of Laws)**

2. Requests that DSS legal representative complete the Ex Parte pleadings to include the description of the child's situation and a request for child support. **(Reference Section 810.01, Foster Care Manual)**

#### DSS Attorney

3. Prepares the Ex Parte pleadings and Ex Parte Order.

#### Social Service Supervisor

4. Upon consultation with the department's legal representative and worker, reviews pleading and other documents for Family Court.

#### Social Service Worker

5. Requests that DSS legal representative file pleadings in the appropriate Family Court and present the pleadings to the Family Court judge.

6. Completes the DSS-3058, Court Information Sheet, or equivalent court summary to be given to the DSS legal representative. Updates legal information on automated system.

7. Completes affidavit to support the Ex Parte pleadings, if requested.

#### DSS Attorney

8. Presents pleadings to the family court. Obtains signature on Ex Parte Order.

#### Social Service Worker

9. Upon notification that the Family Court has issued an Ex Parte Order, contacts law enforcement for assistance in service of Ex Parte Order and removal of the child. **(Reference**



local Law Enforcement/DSS Protocol)

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### **Referenced Documents**

### **Revision Comments**

May 2009 - Revised statute citations.

**CHAPTER 7, Child Protective and Preventive Services**

**Revision Number: 03-01**

**Effective Date: 09/04/2003**

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**728 Working With Legal Representation**

Purpose: To guide interaction between the agency and legal representatives of the child and family.

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**Referenced Documents**

**Revision Comments**

## CHAPTER 7, Child Protective and Preventive Services

Revision Number: 10-01

Effective Date: 01/14/2010

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### 728.01 Attorney for Parent

The following steps must be taken when the attorney for the parent requests to review the record on an indicated case. (Record is defined as all material in paper file in addition to copies of data base information, excluding any identifying information on reporter.) (See S. C. Code of Laws, [§63-7-1990](#))

#### Social Service Worker

1. Requests the attorney to provide worker with confirmation of his standing in the case (signed release, court order, letter from attorney on attorney's letterhead, or verbal confirmation from parents).
  2. After receipt of the authorization, provides the parent's attorney with a copy of the report if requested during the investigative phase, but withholds all identifying information on the reporter.
  3. After receipt of the authorization, provides the parent's attorney with a copy of the record if requested after completion of the investigation or any time during the delivery of services, but withholds all identifying information on the reporter.
  4. Shares confidential information from medical care providers and mental health care providers under provisions of [§63-7-1990\(D\)](#). Consults with DSS attorney if unfounded case information is requested.
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### Referenced Documents

#### Revision Comments

Revised statute cites.

## CHAPTER 7, Child Protective and Preventive Services

Revision Number: 10-01

Effective Date: 01/14/2010

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### 728.02 Attorney or Guardian Ad Litem

Purpose: The following steps must be taken when the child's attorney or Guardian Ad Litem requests to review the record **(See Section 750, S. C. Code of Laws Ann. [§63-7-1620](#) and [§63-7-1990](#))**

#### Social Service Worker

1. Makes available a copy of the indicated case record and provides information as requested by the guardian ad litem or child's attorney. The guardian ad litem and attorney **are not** entitled to identity of reporter. **(See [§63-7-1990\(E\)](#))** Record is defined as all material in paper file in addition to copies of data base information, excluding any identifying information on reporter.

2. Consults with DSS attorney if unfounded case information is requested. **(Reference [S. C. Code of Laws Ann. §63-7-940\(A\)](#))**

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#### **Referenced Documents**

#### **Revision Comments**

May 2009 - Revised statute citations.

## 729 Child Protective Services (CPS) Alerts

Purpose: To provide procedures for protective services staff who are trying to locate persons listed in reports or findings of child abuse or neglect when staff have exhausted all efforts to locate the family at the local level or there is reason to believe that the family has left the area. **Because of confidentiality laws, alerts can be sent only** to other agencies with responsibility for child protection investigations which may include law enforcement.

### County Social Service Supervisor/or Designee

1. In consultation with staff, determines the need to search for a child or family and assesses the **safety concerns** in a specific situation. **This includes, but is not limited to, situations where the family physically moves from or are temporarily inaccessible at the known address. If a family moves during the investigation, CPS must make diligent search efforts until the end of the 45 day investigative period and document all the efforts made to locate the family prior to unfounding Category III for loss of contact. If there are specific reasons to expect that the family can be located with an additional 15 days, requests the one-time extension through the county director. (See Section 719 for specifics for one-time extension.)**

Given the mobility of families involved in CPS treatment services, county staff have the responsibility to search CAPSS and make other diligent search efforts monthly for a minimum of three months prior to closing a treatment case due to loss of contact. All efforts to locate must be documented in CAPSS. This information will provide for continuity of services should the family apply for services in another SC county office or otherwise come to the attention of DSS.

2. Prior to initiating an alert and if there is not already confirmation that the family has left the area, ensures that staff **make every effort to locate the family in the county and in South Carolina**, to include but is not limited to the following actions:

- a. searches agency data bases and other records **for statewide search to include CAPSS and CHIPS;**
- b. checks with utility companies;
- c. contacts schools, other service providers;
- d. interviews relatives, neighbors, other collaterals; and
- e. requests assistance from law enforcement.

3. **Immediately** contacts by telephone, the CPS agency or law enforcement of another **SC county**, another state or **local** jurisdiction where the family is believed to have moved and provides information necessary for an emergency response when a child is believed to be in imminent **and present danger or if impending safety threats have been identified placing the**

child at significant risk of harm. Provides to the SC county the case and person ID numbers for CAPSS case which contains the details of agency involvement with the family.

4. Immediately follows up within 24 hours of the phone call to provide the following information in writing to another state or local jurisdiction and a copy to State Office Assistant Director for Child Protection, Division of Human Services, for auditing purposes:
  - a. Names of victims, perpetrator(s) or family members to be in the alert, all known demographic information, including physical descriptions;
  - b. Circumstances requiring an alert: allegations, risks and special considerations (court orders), immediate medical needs, law enforcement involvement;
  - c. Description of the vehicle, license tag number or other mode of travel, if known;
  - d. Any information regarding the possible destination of the family in order to focus the search;
  - e. Instructions as to the disposition of victim(s) if found, e.g., take into protective custody, inform alert requester;
  - f. The name and phone number of a contact person during and after office hours, if different.
5. In other non-emergency situations when staff know where the family is likely to be, contacts the CPS agency in that county or state jurisdiction by telephone within two working days to give information necessary to initiate actions as appropriate. Follows up in writing with information outlined in item #4 above within five working days, and faxes a copy to Assistant Director for Child Protection, Division Human Services, fax number (803) 898-7641, for auditing purposes.
6. In situations where there is insufficient information to target the alert and a general alert to multiple jurisdictions outside of South Carolina is necessary, requests that a protective services alert be initiated by faxing a confidential memo containing the information as outlined in item #4 above to the Assistant Director for Child Protection, Division of Human Services at (803) 898-7641. Includes in this request any specific information about the family's possible destination in order to focus the alert distribution.

#### **State CPPS Staff**

7. Receives from the county office the request to initiate an alert as described under #6, sends the alert to CPS agencies in other states as deemed appropriate.
8. Receives from another state or jurisdiction outside of South Carolina, the request to initiate a protective services alert when the family's location is unknown and takes the following steps:
  - a. Logs the alert by the name of the subjects; date of birth; referral state and date alert received;
  - b. Conducts an initial search of the agency's statewide computerized records to determine if the subjects have applied for assistance or are the subject of a CPS investigation. Notifies the requesting agency in writing of the results of the initial search to confirm receipt of the alert and to advise the state that SCDSS will conduct a search of agency records once a month for three months with the alert automatically terminating at that time unless the requesting state makes an additional request;

c. Maintains the protective services alert for **three** months and conducts **monthly** searches of the agency's computerized records as specified in item b;

d. Notifies requesting agency if information is received as to the location of the subjects of the alert. **Immediately notifies the SC county office of the location of the family and child believed to be in need of child protective services so that the county can make contact to assess safety and current needs of child and family;**

e. **If no information is located on the family after three month period, terminates alert unless the requesting state agency has made an additional request to maintain the search.**

### **Social Services Worker**

**9.** At the end of the investigative period, unfounds in Category III those reports where the family cannot be located after a diligent search. This information will remain on the data system for not less than five years **for the purpose of reopening the investigation if the family is located.**

**10.** In open treatment cases, documents efforts to locate family and outcome of search in dictation. Staff case with supervisor when family cannot be located and evaluates for other actions and/or closure. **Makes diligent search efforts monthly for minimum of three months before treatment case can be closed due to loss of contact.**

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### **Referenced Documents**

#### **Revision Comments**

Feb. 2008 - Revised to clarify that county offices are to search agency automated records for families when the family moves from known location, and revised timelines for search period.

### **730 Family Assessment**

Purpose: To ensure the ongoing safety of all children in the home(s) of the alleged victim(s) and/or under the control of the alleged perpetrator and to assist the family to identify risk factors and underlying causes of behavior which contributed to the abuse and/or neglect. The family assessment is: 1) an in-depth study of the family's current situation and history; 2) individualized for each member; 3) focuses on better understanding the reasons that the family is functioning in ways that contribute to their child being unsafe and on strengths and needs for individuals and family group; 4) determines resources with family; 5) geared toward development of ongoing plan and delivery of services; and, 6) in itself, intervention that impacts on the entire family and its members. A family assessment must be completed even if child has been diverted to a relative under a safety plan.

Family assessments must include all family members if they are accessible and do not pose a threat to other family members. Document why a specific person is not involved.

#### **Social Service Worker**

1. Staffs case information with assessment/investigating worker and/or supervisor.
2. Reviews and completes documentation as required.
3. Completes the individualized family assessment using Section 2: Comprehensive Family Centered Risk Assessment and Case Planning of the Child and Family Assessment and Service Planning tool to guide this assessment as soon as possible after a report has been indicated. The assessment should be completed within 30 days following indication.

Note: The additional family assessment information is gathered through interviews with family, collaterals, and other professionals. Interviews during the family assessment and treatment phases of a CPS case can be scheduled as the expectation is that by this point in the life of the case, the worker and family have developed a relationship that would allow for planned visits and other interactions without putting the child at further risk of harm.

4. Completes the assessment on the child, parent, family and environmental factors by:
  - a. Reviewing all written information, records and documents;
  - b. Contacting the family to inform them of the assessment, its purpose, and how it will be completed;
  - c. Interviewing every involved member of the immediate family, including any sibling incarcerated at DJJ or in other out-of-home placement;
  - d. Interviewing and observing the family together, particularly observing children under three for developmental delays and coordinating services with BabyNet to meet identified needs;



e. Interviewing extended family and other significant individuals as appropriate; (For children belonging to federally recognized Native American nations or tribes, this will include members of the nation or tribe as designated by the nation or tribe.)

f. Reviewing available medical records on all involved children;

g. Scheduling appointments with professionals for medical, psychological or psychiatric evaluations on family members as deemed appropriate by worker and/or immediate supervisor and other collateral contacts as appropriate;

h. Assesses the educational needs of the children and the performance, attendance, and behaviors of the children in the educational setting. Considers the relationship of these factors to the reason for agency involvement (i.e., abuse and neglect affects child's school performance or attendance). Meets with school officials as appropriate and facilitates parental involvement as necessary and maintains educational records in file. Cross reference Chapter 8, Section 819.03, for guidance on educational needs of foster children.

i. Documenting observations in behavioral terms; and

j. Considers the willingness of the parent/guardian to participate in treatment planning for the return of the incarcerated sibling following discharge and considers the impact of the child's return home on the family functioning. Provides DSS records to DJJ per Child Abuse Prevention and Treatment Act (CAPTA) requirements and coordinates with DJJ to plan for return of the incarcerated child to the family. Updates DJJ at six month review and prior to closure if sibling remains incarcerated.

5. Considers for closure where the plan has been achieved, desired outcomes reached, and there is little to no risk to child. Using Child Safety Assessment, Section 1 of the CFASP, completes a safety assessment and a re-assessment of risk using the Family Centered Risk Assessment and Case Planning tool to determine if child is now safe and if the likelihood of future maltreatment has been reduced. Case closure requires that the parental behaviors that led to the child being unsafe have been changed and the agency can articulate the reasons that support the belief that the child is now safe in the parent's care. This requires intensive planning, cooperation and communication between DSS, the family, and treatment providers.

In order to close a CPS treatment case with the child in the home when parents have been abusing or are dependent on alcohol and other drugs and/or when any other factors such as domestic violence or mental health problems have caused the child to be unsafe, there must be documentation in the agency record of the following:

1. The parent/caregiver in question must be involved in a treatment program designed to change the behaviors that made the child unsafe and demonstrated significant progress on the treatment plan goals and there is a second person in the home who is the protective caregiver **and** DSS case consultation has taken place with the treatment provider(s) and sufficient changes in behavior have been made that eliminate the safety threats and reduce risk of future harm.

**OR**

2. The parent/caregiver has completed treatment and the caregiver has demonstrated observable behavioral changes in their ability to keep the child safe

**and**

DSS case consultation has taken place with specific treatment provider(s) and sufficient

changes in behavior have been made that eliminate the safety threats and reduce risk of future harm.

6. Staffs case information with supervisor and DSS attorney to determine need to petition family court for authority to intervene.

7. When appropriate, requests that DSS attorney file a petition with the Family Court for authority to intervene and provide protective services as authorized by [§63-7-1650](#) and [§63-7-1670](#), S. C. Code of Laws. (See Section 750, S. C. Code of Laws)

a. Assesses the appropriateness of including in the petition, siblings in alternative placements such

as siblings incarcerated at DJJ. Notifies service providers as appropriate, including DJJ staff of pending court hearing.

b. Staff cases with mutual clients with DJJ on a quarterly basis to ensure information sharing and joint planning.

### **Social Service Supervisor**

8. Reviews with staff and signs off on the comprehensive family assessment as documented in the Comprehensive Family Centered Risk Assessment and Case Planning.

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### **Referenced Documents**

#### **Revision Comments**

August 2008 - Reiterates need to involve extended family members. Extended family for individuals who claim membership in federally recognized native American tribes or nations will involve other tribe members. Revises statute citations.

South Carolina Department of Social Services  
Human Services Policy and Procedure Manual

CHAPTER 7, Child Protective and Preventive Services

Revision Number: HSP 14-07

Effective Date: 07/17/2014

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731 Case Work Treatment Process

Purpose: To outline actions to be taken to assist the family and/or family network to reduce risk factors which contributed to abuse and/or neglect and enable the family to provide a safe environment for their children without the involuntary services of DSS. (See Section 750, S. C. Code of Law, §63-7-1650) Uses the Child and Family Assessment and Service Planning Tool to guide the treatment planning and assessment process.

Note: The policy and practice standard of the Department is that Child Protective Services staff will conduct at least one face to face interview per calendar month with the victim child, siblings and any other children who reside in the home, and parents, protective adult, and/or other caregiver during the time a case is open for in-home child protective services. More contact must be held when necessitated by safety concerns or developments in the case. The primary purpose of this contact is to assess safety and future risk of maltreatment to the child, as well as review the progress of the plan. The majority (over 50%) of visits must be conducted in the family home in order to assess the child and caregivers' interaction and the overall safety of the home environment. Documentation of the monthly visit must be entered into CAPSS by the end of the month of that visit.

The home visits and other interviews necessary to continue to assess for safety and to deliver treatment services can be arranged with the family, collaterals, and other professionals. Interviews and visits during the family assessment and treatment phases of a CPS case can be scheduled with the family as the expectation is that by this point in the life of the case, the worker and family have developed a relationship that would allow for planned visits and other interactions without putting the child at further risk of harm. Planning for visits demonstrates a respect for the family and an effort on the part of the agency to include the family in all aspects of the case. The need for unannounced visits should be determined on a case by case basis with worker and supervisor evaluating the specific issues of each case.

Staff will conduct at least one face to face interview with a sibling who is incarcerated and maintain contact with DJJ staff to share and gather relevant information regarding the sibling and to coordinate services as necessary.

Note: Child protection and child well-being are the paramount considerations of the agency.

If, at any time during a treatment/family preservation case, a worker receives an allegation that a child has been subjected to abuse, neglect or exploitation by his/her parent or person acting in the parental capacity such as the caretaker, guardian or other persons, the treatment/family preservation worker shall notify the county intake office of the suspected abuse, neglect or

exploitation immediately but no later than within 24 hours of the worker's receipt of the allegation. Further, if the information involves the sexual abuse of a child, or contains any other allegations where the facts indicating abuse and neglect also appear to indicate a violation of criminal law, the worker shall notify the local law enforcement entity immediately but no later than within 24 hours. This notification can be verbally but must also be in writing.

If the worker receives allegations that a child has been subjected to abuse, neglect or exploitation by someone other than a parent, guardian or other person acting in a parental capacity, the worker shall notify law enforcement within 24 hours.

#### Social Service Worker

1. Consults with the clients and other professionals to arrive at an appropriate and accurate understanding of the case dynamics and likely outcomes or alternatives, makes it clear to the team the specific safety threats that have been identified, what they look like behaviorally in the family and how their intervention needs to focus on changing those specific behaviors. Exchanges information with DJJ staff for a sibling incarcerated at DJJ and coordinate contact per interagency protocols.

2. Discusses with the family every time the worker is with the family any Safety Plan still in place to ensure that it is controlling/managing the identified safety threats. The safety plan stays in place until 1) the safety threat no longer exists or **ninety (90) days from the initiation of the Safety Plan** or 2) an alternative plan (such as out of home placement) is required to control/manage the safety threats. Also discuss family progress in changing behaviors that caused children to be unsafe EVERY time the worker is with the family.

Note: In order to accurately and adequately assess child safety, the majority (**over 50%**) of these discussions must take place in the family home for first-hand observations of parent-child interactions and the physical environment.

3. Concurrent with ongoing safety assessment and within 30 days of the indicated case decision, assists the family to complete the Family's Story in Section II of the Family Centered Comprehensive Assessment and Case Plan. This provides an opportunity for the family to express in their own words how they feel about being involved in the system so that their fears and concerns can be addressed. Uses all the information gathered about the family situation to complete the comprehensive family assessment and service planning analysis with the family.

4. Building on the comprehensive family assessment, prepares with the family (specifically, with mother, father, age appropriate children, significant other persons) and appropriate service providers, a family centered treatment plan which details any changes which must be made in parental behaviors or home conditions that make children unsafe and any services which will be provided to the family to assist in the behavioral changes.

With the assistance of and consultation with drug abuse specialists, makes decision about what type of drug test is appropriate under any given set of conditions. The expectation is that DSS staff will work with drug abuse specialists to determine what tests are necessary and what the test results mean in the context of child safety. This is also true for mental health, domestic violence

and other conditions which require input and consultation with professionals in order to decide about treatment services and testing to guide appropriate services.

5. Makes reasonable efforts to engage the nonresidential parent in the treatment plan as appropriate based on the safety assessment of that individual and any existing court orders. The nonresidential parent is usually the father but that may not always be the case.

Note: While the objections of the custodial or residential parent need to be considered in any plan to involve the non-custodial/nonresidential parent, CPS has a duty to discuss with the custodial parent the potential benefits that this involvement might have for the children and to attempt to engage the absent or nonresidential parent in planning for their children.

Discusses with resident or custodial parent (usually Mother) that Father involvement is good for children. Research has validated the following areas of benefit and can serve as basis for discussion.

Children with involved fathers:

- show more confidence and less anxiety,
- perform better in school, and
- are less likely to be involved in destructive behaviors.

Father involvement benefits mothers. An involved father:

- teaches sons to respect women,
- is more likely to have positive communication with the mother, and
- is more likely to provide economic support.

Fathers benefit too by knowing they are having a lifelong impact on a child's life and by enjoying an irreplaceable relationship. All this supports and enhances the opportunity for positive interaction with a family.

If a child has been assessed to be at imminent risk of removal due to present or impending danger (a candidate for IV-E foster care) without effective preventive services, this determination must be documented in the case plan.

Note: If child has not been removed but was determined to be at imminent risk of removal absent these services (a candidate for IV-E foster care), a decision about whether the child continues to be at imminent risk of removal must be made at the three month case staffing for high risk situations. This decision and the steps the agency is taking to address these continuing concerns must be documented in the case record. The case must be staffed every three months until risk is reduced and every six months thereafter. Documentation must clearly show this assessment for IV-E eligibility.

If the child must come into foster care, specific information will be needed for the IV-E eligibility determination. See DSS Forms 1905 and 1903 to help guide information gathering.

The plan must include documentation of time frames for completing the treatment goals and schedules for evaluation and review of the treatment plan.

Note: The treatment plan may be updated to continue services initiated during the investigation/assessment period.

Note: Service planning must involve all members of the family (to include but not limited to, mothers, fathers, step parents, significant others) and any age appropriate children. Document efforts to involve all family members and why a specific person is not involved.

6. Arranges and coordinates services provided by non-Child Protective Services agency personnel.
7. Arranges for and refers to specific services such as financial assistance, housing and family support.
8. Refers clients who appear to meet criteria for need and income to Medicaid office for assistance in applying. Note that the client must provide proof of citizenship and personal identity as part of the application process. Other eligibility criteria remain the same.
9. Monitors delivery of treatment services which includes, at a minimum, contacting other service providers, seeing the child and parents once a month and making a home visit to continue to assess safety, risk and progress on the treatment plan. Documents in CAPSS the family's activities over the past month relating to the treatment plan.

Maintains contact with DJJ regarding services provided to a sibling incarcerated at DJJ, to include quarterly staffings on mutual clients. See Chapter 8, Foster Care, Section 819.02 and 821. Coordinates with BabyNet when early intervention services are being provided to a child under three years of age.

For situations where family members involved in the treatment plan leave the state, a substitute contact can be made and documented in CAPSS as a successful face to face monthly visit ONLY if the child is seen by a professional in CPS or related field, such as, state child protection worker, mental health therapist or medical professional engaged in treating the child, law enforcement office or school personnel directly involved with the child AND there is supervisory concurrence that this contact meets the requirement to assess the child's current condition.

If the adult or child resides in South Carolina and is geographically distant, the DSS office with case management can make arrangements with another DSS county office for face to face contact. If the client is in some sort of facility (prison, hospital, DJJ), the worker can use contact with the facility's case management/social work staff who does have direct contact with the child as a substitute for face to face contact with that child but must still see the parents once a month for continuity and joint case planning purposes.

10. Completes case management activities including: service planning; coordination; referral; monitoring; reassessment; and evaluation.
11. Provides other casework services and activities to clients as needed.

12. Documents treatment planning activities on the automated system (CAPSS) to include in addition to ongoing and routine activity with the family but not limited to, the rationale for removing a person from the treatment case if formerly related, added in error, deceased, multiple person codes, etc. Completes the plan itself using the CFASP treatment plan. Provides a copy to the family and files a copy in paper file.

13. Notifies supervisor immediately when there is loss of contact with the family for any reason to discuss how to locate. Makes diligent search monthly for minimum of three months prior to closing case. Documents in CAPSS monthly efforts to locate family. If there is evidence to suggest where the family has moved, immediately contacts the other SC county, other state or jurisdiction to provide information for recommended follow-up.

The plan to locate should include, but not be limited to:

- \* varying contact times with the family;
- \* requesting that law enforcement assist in locating [and documenting results in accordance with agency requirements in Section 717 and 719.](#)
- \* making contact with a client on their job site;
- \* sending registered letters to the last known address;
- \* contacting the post office, utility companies, schools, or other such entities;
- \* contacting known relatives and associates;
- \* contacting other involved community agencies; and
- \* requesting a CPS Alert when there is evidence that the person and/or family has moved out of state.

Social Service Supervisor

14. Reviews treatment plan to assure that the social service worker's performance meets policy, procedure and legal mandates.

15. Provides oversight and concurrence as appropriate to alternative methods of monthly face to face contact and determines with worker when individual should no longer be associated with a case for the purposes of the treatment plan and specific CAPSS documentation (use of the "Formerly Related" role code).

16. Provides opportunities for professional development.

17. Provides consultation to social service worker regarding service delivery and treatment strategies.

Social Service Worker

18. Consults with supervisor during treatment plan evaluations.

19. Reviews and updates the family assessment once every six months at a minimum or when significant changes occur within the family.

NOTE: The family assessment on the automated system must be reviewed every six months at a minimum, more often based on the level of risk to the child. The worker must discuss with the

family the safety plan every time the worker meets with the family to ensure that the safety plan is controlling/managing the identified safety threats. The safety plan stays in place until 1) the safety threat no longer exists or 2) an alternative plan (such as out of home placement) is required to control/manage the safety threats.

20. Completes a comprehensive evaluation and progress review with the family, service providers and supervisor at a minimum of every six months, but more often if needed based on the facts of the case. This comprehensive case evaluation will focus on recognizing the changes in behavior that have occurred in the family members over time that are needed to create a safe environment for children and identifying any other changes needed. Documents this comprehensive evaluation in CAPSS using the summary format on the Case Evaluation section and updates the treatment plan as appropriate. Prints copy for client signatures and provides a copy for family.

21. Convenes family meeting within three to five days of the case review to discuss the progress or lack of progress toward completing the treatment plan as well as the well-being of the children in alternative caregiver placement or potential alternative caregiver placement, The family meeting should include, at a minimum, the father, mother, age appropriate children, and extended family and other persons significant to the family if they have or will have a role in supportive services, treatment, or protection.

#### Social Service Supervisor

22. Conducts case record review within the first three months that a case is open to assess:

- whether services are based on comprehensive assessment and are designed to eliminate the safety threats and reduce risk of future harm by changing the behavior that led to child being unsafe;

- appropriateness of any informal relative placement and delivery of any services in the relative's home;

- the efforts to involve the family in planning.

23. Reviews with the worker the ongoing assessment of the family every six months (or every three months if high risk situation) and evaluates the need to revise or continue the treatment plan. Evaluates whether a child initially assessed to be at imminent risk of removal (candidate for IV-E foster care) continues to be at risk of removal and what actions have been taken to reduce risk of removal. Reviews with the worker the safety assessment and considers the impact on the child and family. Considers any children in an alternative caregiver arrangement, specifically, the plan to get the child back home and evaluation of prognosis for parental change that will allow child to return home or any planned court involvement. Uses the CPS In-Home Treatment Supervisory Review Checklist DSS Form 30229, as guide for this review. Documents the review in CAPSS.

24. Reviews treatment plan and ongoing assessment of child's need and case plan and approves or gives further instruction for completion.

#### Social Service Worker

25. When the family refuses to cooperate with the treatment plan and the agency determines there is a preponderance of evidence to believe protective services are necessary to protect the



child from harm without removal of custody, consults with supervisor and agency attorney to initiate a complaint with the Family Court to request continued intervention.

26. Consults DJJ staff to consider the need for and coordinate a meeting to discuss the incarcerated sibling's needs and to share information regarding the outcome of the family meeting. (See Section 750, S. C. Code of Laws, §63-7-920 and §63-7-1650) Updates automated system.

27. If information is gathered or discovered during the treatment process that differs significantly from previous findings, or alleges a new incident of suspected abuse/neglect, initiates a new report to allow for a thorough investigation of the new allegations. (Reference Sections 711, Screening of Recurrent Referrals, and 719, Child Protective Services Investigation)

28. Staffs case with all involved service providers, including but not limited to DJJ, according to the time frames set forth in the treatment plan and documents in automated system.

29. When the monthly progress reports and periodic evaluations support that the family has progressed so that safety threats are controlled, risk factors have been reduced, and the behaviors of the parents that led to the abuse or neglect have changed, staffs the case for closure with the involved service providers and the family. This requires intensive planning, cooperation and communication between DSS, the family, and treatment providers.

In order to close a CPS treatment case with the child in the home when parents have been abusing or are dependent on alcohol and other drugs and/or when any other factors such as domestic violence or mental health problems have caused the child to be unsafe, there must be documentation in the agency record of the following:

1. The parent/caregiver in question must be involved in a treatment program designed to change the behaviors that made the child unsafe and demonstrated significant progress on the treatment plan goals and there is a second person in the home who is the protective caregiver and DSS case consultation has taken place with the treatment provider(s) and sufficient changes in behavior have been made that eliminate the safety threats and reduce risk of future harm.

OR

2. The parent/caregiver has completed treatment and the caregiver has demonstrated observable behavioral changes in their ability to keep the child safe

AND

DSS case consultation has taken place with specific treatment provider(s) and sufficient changes in behavior have been made that eliminate the safety threats and reduce risk of future harm.

In general, case closure requires that the parental behaviors that led to the child being unsafe have been changed and the agency can articulate the reasons that support the belief that the child is now safe in the parent's care.

Social Service Supervisor

30. Ensures that before a treatment case is closed, there is a staffing or consultation with the family and with the professionals involved in delivery of services to the family. For example, if

caregivers are involved with illegal substances, one of the professionals must be a drug abuse specialist in order to fully consider the impact of the drug use/abuse/addiction on the caregivers' ability to provide safe care for the child. If the issues involved domestic violence or mental health concerns, the DV and/or mental health professional is to be involved. This staffing or consultation can be face to face, telephone or other means of communication.

Social Service Supervisor/Technical Assistance Consultant

31. Prior to the end of the 18th month, staffs active case with county worker and supervisor as deemed appropriate and document case staffing in automated system.

Note: Reference Section 734, Case Plan - Treatment Services, for steps to be taken to close a case.

731.01 Treatment Cases Shared With Intensive Foster Care and Clinical Services (IFCCS)

Purpose: To coordinate services when CPS/IFCCS jointly serve the same family.

County Social Service Worker

1. When a youth in foster care is being case managed by Intensive Foster Care and Clinical Services (IFCCS) and the family is or becomes a CPS treatment family, or if there are siblings at home who are listed on the court order, provides all CPS services to the family.

2. Arranges regular staff meetings with IFCCS to coordinate services, including, for example, treatment plans, Family Court hearings, and Foster Care Review Board Meetings.

IFCCS Service Coordinator

3. Serves the youth in foster care until such time as the youth leaves foster care or is transferred back to the county or to Adoptions.

County Director/IFCCS Regional Director

4. In the event there is a disagreement about plans, services or responsibilities that cannot be resolved by caseworkers and supervisors, the County Director and IFCCS Regional Director are to resolve the difference.

Note: For clarification of the roles of IFCCS, refer to Chapter 8, Section 822.01.

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### Referenced Documents

[Human Services Manual Section 717](#)

[Human Services Manual Section 721](#)

### Revision Comments

October 2008 - Establishes requirement to staff cases prior to closure with involved professionals, particularly drug abuse specialists. Revises statute citations.

[July 2014 - Adding clarifications of reporting requirements of allegations of abuse and neglect](#)

for open family preservation (treatment) program services.

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### **732 Emergency Assistance Services (EAS) Eligibility Determination, Authorization and Tracking Process**

Purpose: To provide procedures in determining a family's eligibility for EAS as defined by criterion authorizing these services and tracking expenditures and outcomes (**See Reference Data - Section 761**). **Note:** The following procedures are contingent upon the availability of resources.

#### **Social Service Worker**

1. Initiates the application on every family on whom a CPS report has been taken or child placed in foster care. Diagnostic services necessary to the case decision, such as medical X-rays or sexual abuse protocols, may be paid during the time prior to completing the application. If funds are used for these diagnostic exams, the application must be approved and authorized for the time period services were utilized.
2. Determines there is a need for EAS to prevent placement or reunify the family and the family meets the stated requirements as defined in Section 761.04.
3. Determines that if needs are met:
  - a. placement in out-of-home care due to abuse and neglect can be prevented; or
  - b. a child who has been in substitute care for less than six months can be reunited with his/her family; or
  - c. if substitute care placement cannot be prevented, then child is in need of service for up to 365 days from the time of removal from the home of a specified relative. One year is defined as 365 days.
4. Documents on the Safety Plan how the expenditure will control for safety and thereby prevent placement.
5. Checks the Child and Adult Protective Services System (CAPSS) and *database* to determine if client has been authorized for EAS in the last twelve months.
6. Completes DSS-30157, Emergency Assistance Services Application/ Justification Form, and:
  - a. has parent, guardian or representative sign the DSS-30157;
  - b. indicates the reason for no client signature in the signature section of the DSS-30157 for children in substitute care or whose parent(s) refuse to sign the application;
  - c. If any questions on the DSS-30157 are answered negatively, denies the EAS application;

- d. If all questions are answered affirmatively, approves the EAS application;
  - e. Documents compliance with the general requirements.
7. Files the denied application, DSS-30157, in a file separate from the unfounded CPS record and maintains for three years for federal auditing.
  8. Ensures that the authorization period is completed within 30 days of application approval.
  9. Ensures that services do not exceed 365 days.
  10. Ensures authorized expenditures do not exceed the maximum funding limits of \$5000 per family per 365 day (**Reference Section 761.01.05**).
  11. Ensures availability of services.
  12. Forwards DSS-30157 to immediate supervisor if county funds are authorized.

### **Social Service Supervisor**

13. Reviews DSS-30157 and 30156 and documentation to ensure EAS eligibility criteria are met:
  - a. If criteria are not met, returns DSS-30157 to social service specialist with appropriate instructions.
  - b. If criteria are met, proceeds with application/justification.
  - c. Files a copy of the DSS-30157 in the case record (**Reference Section 761.01.07**).
14. Signs and dates the local fund authorization report and ensures that county expenditures do not exceed \$5,000 per family. (Does not include substitute care costs paid from State Office).
15. Coordinates with and informs County Director as deemed appropriate by individual county operating procedures.
16. Returns original to social service worker to be filed in case record.

### **Social Service Worker**

17. Follows county procedures to request a check from the county bookkeeper.
18. Authorizes Service Code 2000 for client by accessing CAPSS screen to enter data. (**Reference Casework Management Policy and Procedure Manual, Section 150, Casework Management Process and Section 761.01.03**).

**NOTE:** The head of the family should be the primary client. If a child has already been placed in foster care, the foster child is the primary client.

### **County Bookkeeper**

19. Processes payment of EAS funds following instructions in the DSS Manual of County Office Accounting. Notifies worker that check has been written.

### **Social Service Worker/County Bookkeeper**

20. Records dollars spent for approved services (sub codes) by entering data on CAPSS. Enters dollars spent in the month in which expenditure occurs. Records only funds for which county office writes checks. Does not include funds paid from State Office (such as foster care board payments and administrative costs). **Reference Section 761.01.06 and 761.01.11.**

21. Completes by the 5th day of the month and forwards to the State Office Program Development Unit the Human Services Statistical and Financial Reporting form. There is no need to send a copy of the general ledger to the State Office Coordinator. Attach a copy of the general ledger to the Human Services Statistical and Financial reports as indicated in the instructions.

22. Provides the County Director with a copy of the Human Services Statistical and Financial Reporting form.

### **State Office Coordinator**

23. Receives and reviews financial reports from county offices:

a. Reviews county expenditures records;

b. Retains documents of transactions for statistical analysis.

24. Receives the County Human Services Statistical and Financial Report for evaluation and planning.

25. Compiles statistics from EAS County Flex Funds Cumulative Records for evaluation and planning.

26. Alerts Program Specialists of possible problems and assists with corrective action:

a. Purpose of EAS funds; and

b. Services authorized.

27. Monitors and evaluates statistical and programmatic reports for the state and individual counties. Performs county case reviews to monitor program compliance.

28. Prepares quarterly reports:

a. Data analysis;

b. Trends in placement, prevention, expenditures and services rendered;

c. Outcome for family due to provision of EAS; and

d. Recommendations.

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## Referenced Documents

## Revision Comments

### **732.01 Social Service Block Grant (SSBG) Flex Funds**

Purpose: This section provides the procedures for the use of Social Service Block Grant (SSBG) Flex Funds. The procedures are consistent with the funding source requirements and are to be implemented in conjunction with Appendix Section 761.02.

SSBG funds are to be used to serve:

1. Families with children at risk of placement due to child abuse or neglect.
2. Child Protective Services families and families of children in foster care less than six months.
3. Families of children who have been in foster care more than six months where early reunification is possible.
4. Foster families and children in foster care to prevent disruption and/or enable the families to meet special needs of the children.
5. Adoptive families to facilitate the adoption process.

**Note:** The following procedures are contingent upon the availability of funds.

#### **County Director, Regional Administrator and/or Designee**

1. Develops county or regional office plan for utilizing and administering Flex Funds within guidelines and ensures staff compliance. The plan should at a minimum include approval process, fiscal tracking for budget, and documentation in CAPSS. DSS Form 30156 and/or DSS Form 30157 may be used by the county to assist with tracking as part of the county plan.

#### **Social Service Worker**

2. Determines, on a case by case basis, that there is a need for Flex Funds:
  - a. rules out Medicaid, private insurance, or other personal or agency funding as source to meet the need;
  - b. determines that the client meets eligibility criteria (**Section 761.02.04**);
  - c. that the client is within Target Group (**Section 761.02.05**); and
  - d. the expenditure will meet one of Flex Funds goals (**Section 761.02.07**).
3. Ensures availability of an approved service that will address the need and is clearly related to the safety threats and /or behavioral changes identified in the case family assessment and treatment plan and will meet one of the goals in the family or child's case plan and is clearly related to a Flex Funds goal.
4. Completes an application with the client in face-to-face interview, to include signing DSS Form 3795, Declaratory Statement for non-CPS or Foster Care cases.
5. Staffs the request for funds with immediate supervisor according to county plan for authorization of funds. Provides copy of DSS Form 30156 or other written application to



supervisor for sign off as defined by county plan.

6. Documents in CAPSS the information that supports the conclusion that the person or family is eligible for Flex Funds, to include but not limited to, the target group, income eligibility and service needs. The documentation includes how the service(s) to be paid for by Flex Funds relate to the Treatment Plan. The CPS or Foster Care client is provided services without regard to income. The items on DSS Form 30156 provide the minimum information that is to be documented in CAPSS. This information can be summarized.

#### **Immediate Supervisor or County Director or Regional Administrator**

7. Reviews DSS-30156 or other documentation to ensure Flex Funds eligibility criteria are met (See Sections 761.02.04, 761.02.05 and 761.02.06) and that county plan procedures are met.

8. Signs and dates the Authorization Section IV of the DSS-30156 or other authorization as defined by the county plan.

#### **Immediate Supervisor**

9. Returns signed authorization to Social Service Worker.

#### **Social Service Worker**

10. [Completes dictation in CAPSS to document the decision to provide Flex Funds for this client.](#) Follows established county procedures to request a check from the county bookkeeper.

11. Authorizes Service Code 2000 for client by completing CAPSS documentation to authorize the service line. **NOTE:** The head of the family must **always** be the primary client. The foster child is considered the primary client if the child is in foster care.

#### **County or Regional Office Bookkeeper**

12. Processes payment of Flex Funds following instructions in the DSS Manual of County Office Accounting.

13. Reconciles CAPSS report of expenditure data with actual expenditures to ensure accuracy and makes corrections when there is a difference.

County or Regional Office Bookkeeper/Social Service Worker (as specified by county or regional office policy)

14. Records monthly dollars spent for specific approved services (subcodes) per operating procedures.

15. Provides reports of expenditures to County Director or Regional Administrator per county or regional office plan to ensure fiscal oversight.

#### **Social Service Worker**

16. Provides documentation to county or regional office bookkeeper as required by county or

regional office plan for fiscal tracking.

17. Staffs cases with supervisor to determine if use of funds were instrumental in meeting SSBG goals identified for the client and if the use of the funds clearly supported the family's case plan.

18. Documents in the monthly progress notes and/or case evaluation with the family whether or not the service was successful in achieving the desired outcome and expected behavioral changes. And if not, there is a need to modify the service plan in order to better accomplish family goals.

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### **Referenced Documents**

### **Revision Comments**

Revisions were made to make section consistent with Section 761.02 and current SSBG Guidelines.

### **733 Non-Emergency Removal Hearings**

Purpose: To describe the procedures to be followed when the case must be heard by Family Court for hearings held pursuant to **S. C. Code of Laws, §63-7-1660**. **NOTE: Section 718, Referral to the Court**, details procedure to be followed. At any time during the delivery of services, the department may petition the Family Court for authority to intervene and provide protective services without removal of the child.

#### **Social Service Worker**

1. In consultation with supervisor, requests DSS attorney to petition Family Court pursuant to **§63-7-1660, S. C. Code of Laws**, to consider removal of a child when the department determines by a preponderance of the evidence a child is an abused or neglected child and the child cannot be protected from unreasonable risk of harm to life, physical health or safety or mental well-being. Considers the safety of a child at DJJ who will be returning to the home upon release and if it is appropriate to ask the court for custody of that child. Documents in record this analysis.
2. If the abuse or addiction to drugs or alcohol by the parents or guardians is an issue, refers to **§63-7-1660(F)** for guidance on presumption of child abuse and neglect.

#### **DSS Attorney**

3. Ensures that a complaint complying with the requirements of **§63-7-1660** is completed and filed with the Family Court.

#### **Social Service Worker**

4. Completes Part Two in the Child and Family Assessment and Service Planning tool, DSS Form 30231, for a comprehensive family assessment identifying the family strengths and concerns needing to be addressed and completes Part Three and Part Four to build a treatment plan with the mother and father and with age appropriate children. Plans are individualized for each child based on the assessment/ongoing assessment of child's needs. The case plan should include recommendations from DJJ regarding the incarcerated sibling and the impact on the family assessment. Updates automated system.
5. Prepares a treatment services/placement plan to present to court in anticipation of removal as required by **§63-7-1680**. Ensures that case plan addresses treatment services to include visitation, placement issues and needs of the incarcerated sibling.
6. Upon a finding that the child shall remain in the home and protective services shall continue, modifies the treatment plan:
  - a. to address any immediate danger to the child; and
  - b. services to the parents so that the child is not endangered further. (Reference **§63-7-1670, S. C. Code of Laws**)

7. Ensures either plan describes:

a. any changes in parental behavior or home conditions which must be made; and

b. any services which will be provided to the family to ensure that the child will not be endangered, to include, visitation, placement issues and needs of the incarcerated sibling.

8. Reviews the treatment plan with the CPS supervisor to specifically consider goals, objectives, services and expected outcomes which are designed to alleviate any danger to the child and to aid the parent to prevent further abuse.

**Social Service Worker/DSS Attorney**

9. If changes to the plan are made by the court, submits the revised plan according to the time table ordered by the court but no later than seven days and ensures compliance with requirements of [§63-7-1680](#). (See Section 750, - S. C. Code of Laws) Updates automated system.

**Social Service Worker**

10. Completes or updates the initial individual comprehensive family assessment and child assessment/case plan prior to any subsequent court intervention which may be required.

**Social Service Worker**

11. Upon a finding by Family Court that the child must be removed from the home, places the child in accordance with the order of the court and requirements of law and policy. (Reference Chapter 8, Permanency Planning Manual.)

**Social Service Worker/DSS Attorney**

12. Presents to the court the Placement Plan as required by §20-7-764. (Reference [§63-7-1680](#), S. C. Code of Laws)

13. Notifies DJJ of family court findings in cases involving same child served by both agencies.

14. Updates case activities in automated system.

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**Referenced Documents**

**Revision Comments**

May 2009 - Revised statute citations.

### **733.01 Hearings to Compel Services**

Purpose: To describe the procedures to be followed when the case must be heard by Family Court for hearings pursuant to **S. C. Code of Laws Ann. §63-7-1650**. **Note:** At any time during the delivery of services, the department may petition the Family Court for authority to intervene and provide protective services without removal of the child.

#### **Social Service Worker**

1. In consultation with supervisor and all involved service providers, decides whether to initiate a court proceeding.

#### **DSS Attorney**

2. Petitions Family Court for a hearing to be held within thirty-five days pursuant to [§63-7-1650](#), **S. C. Code of Laws Ann.**

3. Completes complaint with a full description of the department's basis for believing that the child cannot be protected adequately without intervention as required in §20-7-738(B).

#### **Social Service Worker**

4. Completes the initial comprehensive and child assessment/ongoing assessment of child's need/case plan prior to court intervention and updates the initial comprehensive family assessment and child assessment/case plan. **(Reference Section 730, Family Assessment)**  
Updates the dictation on automated system.

5. Reviews the treatment plan with the CPS supervisor to specifically consider goals, objectives, services and expected outcomes which are designed to alleviate danger to the child and to aid the parent to prevent further abuse and updates the Case Plan - Treatment Services as appropriate.

#### **Social Service Supervisor**

6. Consults with the department's legal representative.

7. Reviews complaint and other documents which support the department's position.

8. Provides support and assistance to the worker in preparing court case.

#### **DSS Attorney**

9. Presents to the court at the hearing the department's rationale for believing that intervention must be ordered.

10. Presents to the court at the hearing, a copy of the Case Plan - Treatment Services screen, or appropriate equivalent which includes:

a. the identified goals and objectives to bring about changes in the parents' behavior or home condition which must be made to reduce risk;

b. the anticipated time frames;

c. services to be provided;

d. involvement of the parents, child, sibling placed in alternative placements such as incarcerated at DJJ and other service providers in the preparation of the case plan - treatment services; and any other considerations regarding the process;

**Note:** If the court orders revision to the plan, the revised plan must be submitted to the court within two weeks (**Reference [§63-7-1670](#), S. C. Code of Laws Ann.**). Notifies DJJ of the court ordered revisions to treatment plan.

### **Social Service Worker**

11. Provides the CPS supervisor with information as to the status of all case reviews, the findings and the subsequent decisions.

12. Documents all consultation in automated system to include dates, times, relevant issues and decisions.

### **DSS Attorney**

13. Schedules a review hearing at least once every twelve months and/or as court ordered to determine if services continue to be needed.

### **Social Service Worker**

14. Notifies involved service providers, including DJJ staff, of pending hearings. Obtain status of incarcerated sibling including an updated assessment, services provided, changes in behavior, parental participation and recommendations regarding integrating the child back into the family. Coordinates staffing to ensure consensus on recommendations to family court with appropriate follow-up. (**See Section 733.02, Judicial Review Hearings**)

15. Terminates protective services:

a. when court orders an end to court jurisdiction; or

b. automatically at eighteen months unless an extension of services is ordered by the court.

(**See S. C. Code of Laws Ann. [§63-7-1670](#)**)

c. If case closure is appropriate, closes case on automated system and documents any other actions on automated system. Reference CAPSS Handbook.

**Note:** Notifies service providers, including DJJ, of case closure.

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### **Referenced Documents**

#### **Revision Comments**

May 2009 - Revised statute citations.

### **733.02 Judicial Review Hearings**

Purpose: To describe the procedures to be followed when the case must be reviewed by Family Court for Review Hearings pursuant to **S. C. Code of Laws Ann. §63-7-1670**, which follows hearings held pursuant to [§63-7-1650](#) or [§63-7-1660](#) when the child is to remain in the home and protective services are to continue.

#### **Social Service Worker**

1. Requests DSS legal representative to schedule a hearing within twelve months of the original action, or as dictated by the needs of the family, or as the court orders subsequent to a [§63-7-1650](#) or [§63-7-1660](#) hearing to establish whether the conditions which required the initial intervention continue to exist.

**Note:** If conditions do not exist, the court will terminate protective services and court jurisdiction will end.

2. Provides the CPS supervisor with information regarding the status of all case reviews, the findings and the subsequent decisions, to include recommendations from service providers including DJJ regarding a sibling incarcerated at their facility.

3. Documents all consultation in the case record to include dates, times, relevant issues and decisions on the automated system. Updates automated system.

4. Contacts DSS local legal representative to schedule a review hearing at least once every twelve months to determine if services continue to be needed.

#### **DSS Attorney**

5. Provides information to the court as required by [§63-7-1670](#).

#### **Social Service Worker/Supervisor/DSS Attorney**

6. If the department assesses the need to continue services past 18 months, obtains in a court order prior to expiration of 18 months, a finding that there is clear and convincing evidence that the child is threatened with harm without continued services.

#### **Social Service Worker**

7. Terminates protective services as specified by the family court or upon termination of jurisdiction.

8. If case closure is appropriate, closes on automated system as required by the automated system guide, Chapter 3-23 and document any other actions on automated system. Notifies all professionals providing services, to include DJJ, when a sibling is incarcerated, of case closure.

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## **Referenced Documents**

## **Revision Comments**

May 2009 - Revised statute citations.



### **734 Case Plan - Treatment Services**

Purpose: To outline actions to be taken to evaluate the department's efforts to assist the family and/or family network to **eliminate the safety threats and to** reduce the risk factors which contributed to the abuse and/or neglect and the progress toward enabling the family to provide a safe environment for their children without the involuntary services of DSS.

#### **Social Service Worker**

1. Using the Child and Family Assessment and Service Planning tool, completes a review of case plan for treatment services at a minimum of every six months or when significant events occur, updates the initial comprehensive family assessment/ child assessment/ongoing assessment of child's need/case plan and updates the case plan for treatment services. Reviews and evaluates the plan at three months for high risk situations until risk has been reduced, then every six months.

**Note:** A review and evaluation of a case means to consider whether the services planned and delivered address the concerns identified and have the effect of reducing the likelihood of future risk and have improved the immediate safety for the child.

2. Measures the goals and achievement criteria against those in the original treatment plan to determine the level of progress.

3. Consults with the family (both mother and father and age appropriate children and significant others as identified by the family), supervisor, clients and other professionals in evaluating and determining progress. Presents case as needed and appropriate to multidisciplinary teams for assistance.

4. Makes home visit to discuss with the client the decision to continue the original plan or alter the plan with each evaluation.

5. Considers whether or not to involve the court or greatly revise the case plan if no progress has been made and it appears no progress will be made.

6. Discusses recommended changes in plan with supervisor for approval.

7. Completes update of the treatment plan, initial comprehensive family assessment and case evaluation summary form. Note: Print copy of the treatment plan for signatures and provide copy to client.

8. Documents review finding on automated system.

9. If a family moves out of the state and has an open treatment case, assesses the motive for the move and its impact on the safety of children in the home and:

a. notifies all involved parties in South Carolina to include, but not limited to, guardian ad litem, family court, and law enforcement, of the change in circumstances;

b. notifies, by telephone, the state/ jurisdiction to which the family moved of the case situation, the level of risk and need for services;

c. follows up with written information to include, but not limited to, case summary, court orders and law enforcement reports.

10. Staffs possible case closure with immediate supervisor and documents staffing on the automated system. Completes a safety assessment in Part One of the CFASP to consider if safety is still a concern ~~and Completes the Family Strengths and Risk Assessment tool~~ to determine if the level of risk of future harm has been reduced to support closing the case.

11. Considers issues of closure specific to a case where a child is living with an alternative caregiver. A case should not be closed solely based on the alternative living arrangement, rather on the movement by the parents to change the circumstances that led to the abuse or neglect and the alternative living arrangement. If the parents cannot make the changes necessary to ensure the child's safety, family court involvement is required to determine the child's permanent living arrangements. The agency must not leave a child in a temporary alternative living arrangement but must bring the family to closure on the issues that brought the family to the agency's attention.

12. Conducts home visit to discuss case closure with client. Discusses closure with other service providers.

13. Closes the case or moves toward closure when:

a. the parents/family have made progress to the extent that the child is no longer at a level of risk requiring state intervention and the parents are providing minimum care; or

b. the family has made inconsistent, little, or no progress, there is no reason to believe that they will, but there is little risk to the child; or

c. there is not sufficient evidence to take the matter to court, the parent refuses further services, and there is little risk to the child; or

d. the agency has lost contact with the clients or the clients have died; or

e. the current problems are not of a child protective services nature; or

f. Judicial Order directs the case to be closed.

**Social Service Supervisor**

14. Approves or disapproves case closure; or

15. Offers worker alternatives in continuing work with the family.

**DSS Attorney**

16. Brings the case to court for review for closure if the case is under the jurisdiction of the court and if prior court orders do not authorize closure without further review.

**Social Service Worker**

17. Documents case closure on the automated system as required by the automated system guide, Chapter 3-23.

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**Referenced Documents****Revision Comments**

May 2009 - clarified risk assessment.

### **735 Decision to Return the Child Home**

Purpose: To guide the process of evaluating the appropriateness of the decision to request the return home of a child following the probable cause (72 hour) and merits (35 day) hearing.

#### **Social Service Worker**

1. In consultation with supervisor, reexamines the [safety threats](#) which existed when the child was removed, identifying the specific factors which contributed to the [threat](#), to determine the [child's safety](#) and the degree to which the likelihood of future risk has been reduced. Completes a safety assessment to document the reducing of threats to the child's safety.
2. Determines if, and to what extent, the risk factors have subsided and how the reduction in risk was achieved.
3. Identifies new strengths and controls developed by the family and considers impact on the child and on the family functioning.
4. Explores attitudes, concerns and desires for restored parent-child contact.
5. Assesses the nature of the parent-child contact during placement if contact has occurred.
6. Assesses the effects of return on the child, the family, and the continuing treatment plan.
7. Consults with the supervisor, DSS Attorney, other participating professionals, the foster parents, guardian ad litem, and the placement committee regarding return of the child.
8. Arranges a face to face staffing of all involved parties for cases originally or subsequently assessed to be high risk prior to closure.
9. Documents activity in automated system. Uses DSS-3062 when other participants' signatures are needed, files copy in paper file.

#### **Social Service Supervisor**

10. Reviews the case.
11. Participates with the placement committee to make recommendations as to continued status of the child.
12. Provides consultation to worker regarding additional treatment strategies to be used with the family if placement committee recommends continued placement.

#### **Social Service Worker**

13. Documents process in automated system and updates CAPSS/CPS LEGAL as appropriate.

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## **Referenced Documents**

## **Revision Comments**

December 2007 - clarifies issues of safety and risk.

### **736 Death of a Child**

Purpose: To set forth procedures to guide action when the department has reason to believe or receives a report that any child has died as a result of child abuse or neglect, or that a child has died while receiving agency services. **(Reference §20-7-520, S. C. Code of Laws; and the Department's Protocol for Cases Involving Child Deaths).**

#### **Social Service Supervisor**

1. Immediately reports the death to the appropriate medical examiner or coroner **(See Section 751, Reference Data - S.C. Code of Laws, §20-7-520).**

#### **County Director or Designee**

2. Analyzes the information to assess risk to other children in the household or facility and to determine additional actions necessary.

a. If the child is known to DSS, as defined in the Child Death Protocol, ensures that notification and record security procedures in the Protocol are followed.

b. If there are allegations that the child's death was related to abuse and/or neglect by a foster parent, or an employee or caregiver of a public or private residential home, institution, or agency, **or child care facility**, immediately makes a referral to the State Office Out of Home Abuse and Neglect Unit for the purpose of investigation.

c. If there are allegations that the child's death was related to abuse and/or neglect by any other "person responsible for the child's welfare", immediately makes a referral to the CPS Intake Office or to the appropriate county office for the purpose of investigation.

#### **Social Service Worker**

3. Investigates reports of abuse and neglect which resulted in the death of a child when there are other children in the home, a resident of the home is pregnant or the alleged perpetrator is a person responsible for another child regardless of whether that child lives in the home. If the death is determined to be abuse/neglect related, pursues order in family court to place name of perpetrator on Central Registry (Reference §20-7-650).

#### **OHAN Investigator**

4. Investigates all deaths in out of home setting which are suspected to be related to abuse and neglect by caregiver and coordinates with law enforcement.

#### **Social Service Worker**

5. Notifies the appropriate law enforcement agency of the facts indicating a violation of criminal law **(See Section 750, Reference Data - S. C. code of Laws, §20-7-650).**

6. Immediately reviews department records to determine prior involvement.

7. Contacts the Office of General Counsel, Special Investigations, telephone number (803) 898-7673, within one working day after learning of a death to provide relevant information regarding the death and the process being followed. Notice must be provided to Special Investigations

whether or not the death is believed to fall within the Child Death Protocol. The Office of General Counsel will notify the State Director, CPS and others as appropriate.

### **Special Investigations Unit**

8. Contacts county as described in Child Death Protocol and notifies CPS Division.

### **CPS Technical Assistance**

9. In the event of a death in an open case Staff where there is an allegation of abuse and/or neglect, provides technical assistance to county staff as needed.

10. Provides technical assistance as needed on a case by case basis for deaths in other situations (i.e. closed CPS, other Human Services and Economic Services cases).

### **Social Service Worker/Supervisor**

11. Shares with the coroner and law enforcement appropriate case information on the current situation and the department's past involvement with the family, if any. [Notifies DJJ of the death of a child in an open case where there is an allegation of abuse and/or neglect and a sibling is incarcerated to coordinate services to family.](#)

### **Social Service Worker**

12. If an autopsy has been initiated:

a. requests that the coroner keep DSS informed of the preliminary and final reports from the pathologists;

b. offers to assist the coroner in obtaining any court orders that may be necessary to prevent a burial before the performance of the autopsy.

13. Documents in **dictation** the decisions of law enforcement and/or Solicitor's Office and any other action concerning the case.

14. [Obtains copies of all final reports such as coroner's report, autopsy, and death certificate records from the coroner's office.](#)

### **All Staff**

15. Cooperates with the State Law Enforcement Division - Department of Child Fatalities, to provide information and access to any department records concerning the child (**See Section 750, Reference Data - S. C. Code of Laws, §20-7-5915**).

16. Refers inquiries by the press to the [Office of General Counsel](#).

Note: In addition to this action, county staff shall immediately advise the county director of all inquiries by the press.

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## **Referenced Documents**

## **Revision Comments**

This section has been revised to include the notification of DJJ staff when the death of a child

occurs in an open case and there is an allegation of abuse/neglect and a sibling is incarcerated;  
referring inquiries regarding the death of a child to the Office of General Counsel.



## **CHAPTER 7, Child Protective and Preventive Services**

**Revision Number: 10-01**

**Effective Date: 01/14/2010**

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### **737 Use of Volunteers**

Purpose: To provide guidance in instances where volunteers are being used to augment agency services. Coordinate with Volunteer Services the arranging for and clearance of volunteers. **(Reference Section 750, S. C. Code of Laws, [§63-7-1990](#))**

#### **Social Service Worker/Volunteer Coordinator**

1. Provides an appropriate orientation to all volunteers, including an explanation of matters involving confidentiality. **(Reference [§63-7-1990](#), S. C. Code of Laws)** Reviews with volunteer this statement of confidentiality.

#### **Social Service Worker**

2. Shares information with the volunteer which is pertinent to their involvement with the case.
3. Involves the volunteer in staffings as appropriate in order to assure that their involvement with the client continues to be supportive of the treatment plan.
4. Gathers information, observations, and documentation regarding volunteer's activities with the family and analyzes its impact on the case plan.
5. Documents activities relating to a case in automated system.

#### **Social Service Supervisor**

6. Offers the volunteer needed support and guidance.
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### **Referenced Documents**

#### **Revision Comments**

May 2009 - Revised statute citations.

## **CHAPTER 7, Child Protective and Preventive Services**

Revision Number: 03-01

Effective Date: 09/04/2003

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### **738 Referrals to Child Support Enforcement Division and Establishing Paternity in Child Abuse and Neglect Hearings**

Purpose: To reference procedures to be followed by child protective services staff in consultation with the DSS Attorney when a child is removed and child support is sought or to establish paternity when the issue is raised in child abuse and neglect court proceedings.

#### **Social Service Worker/DSS Attorney**

1. At the point that custody of a child has been requested, [makes](#) child support [referral](#), [DSS 2738](#), [within two days of entry into care and utilizes the Office of Child Support Enforcement Guidelines in court recommendations](#).
  2. In cases where paternity is questioned in child abuse and neglect proceedings, [contacts the Office of Child Support Enforcement to determine if child's case is already on file and if paternity has already been established. If paternity not yet established, consults with the Office of Child Support Enforcement in getting needed testing](#).
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#### **Referenced Documents**

#### **Revision Comments**

## **CHAPTER 7, Child Protective and Preventive Services**

Revision Number: 10-01

Effective Date: 01/14/2010

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### **739 CPS Investigations and Ongoing Services in Event of Natural or Man-Made Disaster**

[Purpose: To outline procedures to guide the response to new child protective services reports in areas adversely affected by a man-made or natural disaster, as well as for providing ongoing services as necessary. In the event of a disaster where communication and transportation systems are disrupted or an evacuation is ordered, routine services may be suspended and only emergency services available. In the event of a mandatory evacuation order due to a disaster, such as a hurricane or act of terrorism, the employees of the department will follow directions as given by the agency in authority and prescribed by the DSS Disaster Plan. Nothing in this section should be seen as supplanting the agency disaster plan.](#)

#### **Social Services Worker/Supervisor**

### **New Reports**

1. Ensures that all reports of an emergency nature received during a time of disaster are coordinated through local law enforcement to assist CPS to respond. State statute provides that reports of suspected child abuse and neglect can be made to law enforcement as well as to the Department of Social Services. Local law enforcement routinely provides coverage for after normal business hours emergency reports and this system is established in all counties. Reports of concern for a child's safety will be made to the local law enforcement emergency number. Child Protective Services offices will continue to have on-call staff that will be available to assist if the need arises.

Situations reported during a disaster can be anticipated to be of an emergency nature as everyone in the community will be affected by the disaster. Law Enforcement and other emergency services personnel may be the only people who are allowed to be at their place of work and law enforcement will likely be needed to make the necessary response to imminent danger, such as emergency protective custody action. If a child must come into care, this process segues into the foster care system as described in Chapter 8.

### **On-going Treatment Cases**

2. Ensures that ongoing services to a family in an active in-home treatment case are triaged during the disaster period so that emergency services are provided, with other situations responded to as soon as the immediate crisis is reduced. It is anticipated that few other routine services will be available during the time of disaster so the focus must be on responding to emergencies.

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### **Referenced Documents**

#### **Revision Comments**

May 2009 - creates new section on responding to natural or man-made disasters.

## **740 Worker Safety Procedures for Child Welfare Field Visits**

Purpose: to outline procedures to assist workers in maximizing their personal safety while making home visits or carrying out other job-related functions.

Every CPS case has the potential for unexpected confrontation due to the involuntary nature of investigations and assessments. It is important for caseworkers to understand and acknowledge the nature of CPS intervention and the client's view of their role in order to protect themselves.

While difficulties may occur at any point in the process, threats and volatile situations are more likely to occur during the initial assessment or investigation, during crisis situations, and when dramatic action is taken (e.g., removal of a child or informing the family of the decision to take a case to court).

The first step in ensuring caseworker safety is to assess the risk of the situation before the initial contact. Consider all information known at intake or discovered through the records search as part of your preparations for the initial contact. Worker safety is very important as an unsafe worker is not likely to be able to ensure the safety of a child in the home. Use the following information to guide the decision to ask law enforcement or a coworker to accompany you on the initial contact.

### **Social Service Worker and Supervisor:**

1. Considers all information available at intake or at other points in life of case to make best decision about worker safety and how to approach the family.

A dangerous situation may be one where:

- a. There is a serious allegation and immediate danger threat to the child.
- b. There is previous history of law enforcement involvement, family violence or spouse abuse.
- c. The report or LE records search notes violent or aggressive behavior of family members.
- d. There are firearms/weapons noted in the report along with the belief that they are used in aggressive behavior towards others.
- e. The family's geographical location is isolated or dangerous.
- f. The family members belong to or identify with a "hate group" or other organization that advocates violence.
- g. There have been multiple reports on this family.
- h. The family has lived at the present address less than six months.
- i. The initial contact would be made after regular working hours.

2. Considers following questions in analysis of worker safety:

Are the subjects violent or hostile?

Does the situation involve family violence, including partner, elder, or child abuse?

Does the situation involve physical or sexual abuse or a fatality?

Are the family members exhibiting behaviors that indicate mental illness?

Are the family members presently abusing or selling substances?

Are the parents or caregivers involved in ritualistic abuse or cult practices?

Does the information note life-threatening or serious injuries to the children?  
Will the children be removed from the family situation on this visit?  
Is the family's geographic location potentially dangerous?  
Will the caseworker go into an area with limited available supports?  
Is the area known for high crime or drug activity?  
Does the housing situation or neighborhood increase concerns for staff personal safety?  
Does anyone in the home have a previous history of violence or multiple referrals?  
Have there been previous involuntary removals of family members?

### **Social Service Worker**

3. Takes preventive measures to ensure personal safety by the following:

Families experiencing multiple issues (e.g., Substance Use Disorders, mental health problems, domestic violence, criminal behavior) can make it more dangerous for CPS caseworkers going into homes to investigate cases of child maltreatment. While on a home visit, caseworkers should remember the following safety tips:

Ensure that the CPS supervisor knows the time and place of the appointment and the expected time of return.

Dress appropriately and in a manner that blends into the community.

Walk close to buildings or close to the curb in an effort to have at least one safe side. Stay away from bushes, alleys, and dark corners, if possible.

Know the route in and out of the area by examining a map or by talking with others beforehand.

Do not wander or appear lost or confused.

Park as close to the home as possible and in a way that helps ensure an easy exit. Keep the car keys in hand while entering and exiting the home so they are easily available.

Be aware of your surroundings at all times. Enter and leave homes carefully, noticing doors, windows, neighbors, loiterers, and anything or anyone that may be a risk to safety.

If unsure of the safety or surroundings of the location, move to another spot by suggesting taking a break or getting a cup of coffee and finish talking there.

Attempt to keep a clear path to an exit.

Be aware of dogs that may pose a threat.

Follow intuition and take action if feeling afraid or threatened. Leave the home or call 911 if necessary.

Have access, if possible, to technology that may assist with safety issues (e.g., GPS systems, cell phones).

Assess whether it is safe to accept refreshments.

Learn how to decline offers of food or other refreshments tactfully.

### **In cases where drugs and alcohol may be an issue in the family or the surrounding community:**

Go to the home with another caseworker or law enforcement officer, particularly if the home is in an area known for drug dealing.

a) Know the local signs that indicate a drug deal is occurring. In such situations, do not enter the home without law enforcement personnel.

b) Be aware of homes or other living environments that may be used as a clandestine drug factory. Do not attempt to investigate such places alone, and immediately contact the police or sheriff if such a lab is suspected.

c) Anyone without proper training and protective gear should stay at least 500 feet away from

any suspected laboratory. The following are signs of a possible lab:

- o Strong or unusual chemical odors
- o Laboratory equipment, such as glass tubes, beakers, funnels, and Bunsen burners
- o Chemical drums or cans in the yard
- o A high volume of automobile or foot traffic, particularly at odd hours
- o New, high fences with no visible livestock or other animals.

If one or both parents appear to be intoxicated, high, incoherent, or passed out, ensure the safety and supervision of the children. Once that has been accomplished, it is appropriate to reschedule the appointment. It may be appropriate to call the supervisor for guidance.

**Remember - When in doubt; take law enforcement or a coworker with you if the report information suggests a dangerous situation.**

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### **Referenced Documents**

#### **Revision Comments**

Jan. 2009 - New section created to outline issues to consider in worker safety as well as preventive measures.

**South Carolina Department of Social Services  
Human Services Policy and Procedure Manual**

**CHAPTER 7, CHILD PROTECTION AND PERMANENCY**

**Revision Number: HSP-14-20  
9/17/2014**

**Effective Date:**

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**750 Title 63 - South Carolina Children's Code**

**SECTION 63-7-10. Purpose.**

(A) Any intervention by the State into family life on behalf of children must be guided by law, by strong philosophical underpinnings, and by sound professional standards for practice. Child welfare services must be based on these principles:

- (1) Parents have the primary responsibility for and are the primary resource for their children.
- (2) Children should have the opportunity to grow up in a family unit if at all possible.
- (3) State and community agencies have a responsibility to implement prevention programs aimed at identifying high risk families and to provide supportive intervention to reduce occurrence of maltreatment.
- (4) Services for families should be accessible and designed to encourage and enable families to adequately deal with their problems within their own family system.
- (5) All child welfare intervention by the State has as its primary goal the welfare and safety of the child.
- (6) Child welfare intervention into a family's life should be structured so as to avoid a child's entry into the protective service and foster care systems if at all possible.
- (7) The state's child welfare system must be designed to be child-centered, family-focused, community-based, and culturally competent in its prevention and protection efforts.

(8) Neighborhoods and communities are the primary source of opportunities and supports for families and have a primary responsibility in assuring the safety and vitality of their members.

(9) The Department of Social Services shall collaborate with the community to identify, support, and treat families in a nonthreatening manner, in both investigative and family assessment situations.

(10) A family assessment approach, stressing the safety of the child, building on the strengths of the family, and identifying and treating the family's needs is the appropriate approach for cases not requiring law enforcement involvement or the removal of the child.

(11) Only a comparatively small percentage of current child abuse and neglect reports are criminal in nature or will result in the removal of the child or alleged perpetrator.

(12) Should removal of a child become necessary, the state's foster care system must be prepared to provide timely and appropriate placements for children with relatives or in licensed foster care settings and to establish a plan which reflects a commitment by the State to achieving permanency for the child within reasonable timelines.

(13) The Department of Social Services staff who investigates serious child abuse and neglect reports with law enforcement must be competent in law enforcement procedures, fact finding, evidence gathering, and effective social intervention and assessment.

(14) Services should be identified quickly and should build on the strengths and resources of families and communities.

(B) It is the purpose of this chapter to:

(1) acknowledge the different intervention needs of families;

(2) establish an effective system of services throughout the State to safeguard the well-being and development of endangered children and to preserve and stabilize family life, whenever appropriate;

(3) ensure permanency on a timely basis for children when removal from their homes is necessary;

(4) establish fair and equitable procedures, compatible with due process of law to intervene in family life with due regard to the safety and welfare of all family members; and

(5) establish an effective system of protection of children from injury and harm while living in public and private residential agencies and institutions meant to serve them.



**SECTION 63-7-20.** Definitions.

When used in this chapter or Chapter 9 or 11 and unless the specific context indicates otherwise:

(1) "Abandonment of a child" means a parent or guardian wilfully deserts a child or wilfully surrenders physical possession of a child without making adequate arrangements for the child's needs or the continuing care of the child.

(2) "Affirmative determination" means a finding by a preponderance of evidence that the child was abused or neglected by the person who is alleged or determined to have abused or neglected the child and who is mentioned by name in a report or finding. This finding may be made only by:

(a) the court;

(b) the Department of Social Services upon a final agency decision in its appeals process; or

(c) waiver by the subject of the report of his right to appeal. If an affirmative determination is made by the court after an affirmative determination is made by the Department of Social Services, the court's finding must be the affirmative determination.

(3) "Child" means a person under the age of eighteen.

(4) "Child abuse or neglect" or "harm" occurs when the parent, guardian, or other person responsible for the child's welfare:

(a) inflicts or allows to be inflicted upon the child physical or mental injury or engages in acts or omissions which present a substantial risk of physical or mental injury to the child, including injuries sustained as a result of excessive corporal punishment, but excluding corporal punishment or physical discipline which:

(i) is administered by a parent or person in loco parentis;

(ii) is perpetrated for the sole purpose of restraining or correcting the child;

(iii) is reasonable in manner and moderate in degree;

(iv) has not brought about permanent or lasting damage to the child; and

(v) is not reckless or grossly negligent behavior by the parents.

(b) commits or allows to be committed against the child a sexual offense as defined by the laws of this State or engages in acts or omissions that present a substantial risk that a sexual offense as defined in the laws of this State would be committed against the child;

(c) fails to supply the child with adequate food, clothing, shelter, or education as required under Article 1 of Chapter 65 of Title 59, supervision appropriate to the child's age and development, or health care though financially able to do so or offered financial or other reasonable means to do so and the failure to do so has caused or presents a substantial risk of causing physical or mental injury. However, a child's absences from school may not be considered abuse or neglect unless the school has made efforts to bring about the child's attendance, and those efforts were unsuccessful because of the parents' refusal to cooperate. For the purpose of this chapter "adequate health care" includes any medical or nonmedical remedial health care permitted or authorized under state law;

(d) abandons the child;

(e) encourages, condones, or approves the commission of delinquent acts by the child and the commission of the acts are shown to be the result of the encouragement, condonation, or approval; or

(f) has committed abuse or neglect as described in subsections (a) through (e) such that a child who subsequently becomes part of the person's household is at substantial risk of one of those forms of abuse or neglect.

(5) "Child protective investigation" means an inquiry conducted by the department in response to a report of child abuse or neglect made pursuant to this chapter.

(6) "Child protective services" means assistance provided by the department as a result of indicated reports or affirmative determinations of child abuse or neglect, including assistance ordered by the family court or consented to by the family. The objectives of child protective services are to:

(a) protect the child's safety and welfare; and

(b) maintain the child within the family unless the safety of the child requires placement outside the home.

(7) "Court" means the family court.

(8) "Department" means the Department of Social Services.

(9) "Emergency protective custody" means the right to physical custody of a child for a temporary period of no more than twenty-four hours to protect the child from imminent danger.

Emergency protective custody may be taken only by a law enforcement officer pursuant to this chapter.

(10) "Guardianship of a child" means the duty and authority vested in a person by the family court to make certain decisions regarding a child, including:

(a) consenting to a marriage, enlistment in the armed forces, and medical and surgical treatment;

(b) representing a child in legal actions and to make other decisions of substantial legal significance affecting a child; and

(c) rights and responsibilities of legal custody when legal custody has not been vested by the court in another person, agency, or institution.

(11) "Indicated report" means a report of child abuse or neglect supported by facts which warrant a finding by a preponderance of evidence that abuse or neglect is more likely than not to have occurred.

(12) "Institutional child abuse and neglect" means situations of known or suspected child abuse or neglect where the person responsible for the child's welfare is the employee of a public or private residential home, institution, or agency.

(13) "Legal custody" means the right to the physical custody, care, and control of a child; the right to determine where the child shall live; the right and duty to provide protection, food, clothing, shelter, ordinary medical care, education, supervision, and discipline for a child and in an emergency to authorize surgery or other extraordinary care. The court may in its order place other rights and duties with the legal custodian. Unless otherwise provided by court order, the parent or guardian retains the right to make decisions of substantial legal significance affecting the child, including consent to a marriage, enlistment in the armed forces, and major nonemergency medical and surgical treatment, the obligation to provide financial support or other funds for the care of the child, and other residual rights or obligations as may be provided by order of the court.

(14) "Mental injury" means an injury to the intellectual, emotional, or psychological capacity or functioning of a child as evidenced by a discernible and substantial impairment of the child's ability to function when the existence of that impairment is supported by the opinion of a mental health professional or medical professional.

(15) "Party in interest" includes the child, the child's attorney and guardian ad litem, the natural parent, an individual with physical or legal custody of the child, the foster parent, and the local foster care review board.

(16) "Person responsible for a child's welfare" includes the child's parent, guardian, foster parent, an operator, employee, or caregiver, as defined by Section 63-13-20, of a public or private residential home, institution, agency, or childcare facility or an adult who has assumed the role or responsibility of a parent or guardian for the child, but who does not necessarily have legal custody of the child. A person whose only role is as a caregiver and whose contact is only incidental with a child, such as a babysitter or a person who has only incidental contact but may not be a caretaker, has not assumed the role or responsibility of a parent or guardian. An investigation pursuant to Section 63-7-920 must be initiated when the information contained in a report otherwise sufficient under this section does not establish whether the person has assumed the role or responsibility of a parent or guardian for the child.

(17) "Physical custody" means the lawful, actual possession and control of a child.

(18) "Physical injury" means death or permanent or temporary disfigurement or impairment of any bodily organ or function.

(19) "Preponderance of evidence" means evidence which, when fairly considered, is more convincing as to its truth than the evidence in opposition.

(20) "Probable cause" means facts and circumstances based upon accurate and reliable information, including hearsay, that would justify a reasonable person to believe that a child subject to a report under this chapter is abused or neglected.

(21) "Protective services unit" means the unit established within the Department of Social Services which has prime responsibility for state efforts to strengthen and improve the prevention, identification, and treatment of child abuse and neglect.

(22) "Subject of the report" means a person who is alleged or determined to have abused or neglected the child, who is mentioned by name in a report or finding.

(23) "Suspected report" means all initial reports of child abuse or neglect received pursuant to this chapter.

(24) "Unfounded report" means a report made pursuant to this chapter for which there is not a preponderance of evidence to believe that the child is abused or neglected. For the purposes of this chapter, it is presumed that all reports are unfounded unless the department determines otherwise.

**SECTION 63-7-30.** Seeking assistance.

A person seeking assistance in meeting child care responsibilities may use the services and facilities established by this chapter, including the single statewide telephone number and local child protective services where available. These persons must be referred to appropriate community resources or agencies, notwithstanding whether the problem presented involves child abuse or neglect.

**SECTION 63-7-40.** Safe haven for abandoned babies.

(A) A safe haven in this State must, without a court order, take temporary physical custody of an infant who is voluntarily left with the safe haven by a person who does not express an intent to return for the infant and the circumstances give rise to a reasonable belief that the person does not intend to return for the infant. If the safe haven is a hospital or hospital outpatient facility, the hospital or hospital facility shall perform any act necessary to protect the physical health or safety of the infant; any other safe haven shall, as soon as possible, but no later than six hours after receiving an infant, transport the infant to a hospital or hospital outpatient facility. The person leaving the infant is not required to disclose his or her identity; however, the person must leave the infant in the physical custody of a staff member or employee of the safe haven.

(B)(1) The safe haven must offer the person leaving the infant information concerning the legal effect of leaving the infant with the safe haven.

(2) The safe haven must ask the person leaving the infant to identify any parent of the infant other than the person leaving the infant with the safe haven. The safe haven also must attempt to obtain from the person information concerning the infant's background and medical history as specified on a form provided by the Department of Social Services. This information includes, but is not limited to, information concerning the use of a controlled substance by the infant's mother, provided that information regarding the use of a controlled substance by the infant's mother is not admissible as evidence of the unlawful use of a controlled substance in any court proceeding. The safe haven shall give the person a copy of the form and a prepaid envelope for mailing the form to the Department of Social Services if the person does not wish

to provide the information to the safe haven. These materials must be provided to safe havens by the department.

(3) Any identifying information disclosed by the person leaving the infant must be kept confidential by the safe haven and disclosed to no one other than the department. However, if a court determines that the immunity provisions of subsection (H) do not apply, the safe haven may disclose the information as permitted by confidentiality protections applicable to records of the safe haven, if the safe haven has such confidentiality protections for records. The department shall maintain confidentiality of this information in accordance with Section 63-7-1990.

(C) Not later than the close of the first business day after the date on which a hospital or hospital outpatient facility takes possession of an infant pursuant to subsection (A), the hospital or hospital outpatient facility shall notify the department that it has taken temporary physical custody of the infant. The department has legal custody of the infant immediately upon receipt of the notice. The department shall assume physical control of the infant as soon as practicable upon receipt of the notice, but no later than twenty-four hours after receiving notice that the infant is ready for discharge from the hospital or hospital outpatient facility. Assumption of custody by the department pursuant to this subsection does not constitute emergency protective custody, and the provisions of Subarticle 3 of Article 3 do not apply. The department is not required to initiate a child protective services investigation solely because an infant comes into its custody under this subsection.

(D) Immediately after receiving notice from a hospital or hospital outpatient facility pursuant to subsection (C), the department shall contact the South Carolina Law Enforcement Division for assistance in assuring that the infant is not a missing infant. The South Carolina Law Enforcement Division shall treat the request as ongoing for a period of thirty days and shall contact the department if a missing infant report is received that might relate to the infant.

(E)(1) Within forty-eight hours after taking legal custody of the infant, the department shall publish notice, in a newspaper of general circulation in the area where the safe haven that initially took the infant is located, and send a news release to broadcast and print media in the area. The notice and the news release must state the circumstances under which the infant was left at the safe haven, a description of the infant, and the date, time, and place of the permanency planning hearing provided for in subsection (E)(2). The notice and the news release must also state that any person wishing to assert parental rights in regard to the infant must do so at the hearing. If the person leaving the infant identified anyone as being a parent of the infant, the notice must be sent by certified mail to the last known address of the person identified as a parent at least two weeks prior to the hearing.

(2) Within forty-eight hours after obtaining legal custody of the infant, the department shall file a petition alleging that the infant has been abandoned, that the court should dispense with reasonable efforts to preserve or reunify the family, that continuation of keeping the infant in the home of the parent or parents would be contrary to the welfare of the infant, and that termination of parental rights is in the best interest of the infant. A hearing on the petition must be held no earlier than thirty and no later than sixty days after the department takes legal custody of the infant. This hearing is the permanency planning hearing for the infant. If the court approves the permanent plan of termination of parental rights, the order must also provide that a petition for termination of parental rights on the grounds of abandonment must be filed within ten days after receipt of the order by the department.

(F) The act of leaving an infant with a safe haven pursuant to this section is conclusive evidence that the infant has been abused or neglected for purposes of Department of Social Services' jurisdiction and for evidentiary purposes in any judicial proceeding in which abuse or neglect of an infant is an issue. It is also conclusive evidence that the requirements for termination of parental rights have been satisfied as to any parent who left the infant or acted in concert with the person leaving the infant.

(G) A person who leaves an infant at a safe haven or directs another person to do so must not be prosecuted for any criminal offense on account of such action if:

(1) the person is a parent of the infant or is acting at the direction of a parent;

(2) the person leaves the infant in the physical custody of a staff member or an employee of the safe haven; and

(3) the infant is not more than thirty days old or the infant is reasonably determined by the hospital or hospital outpatient facility to be not more than thirty days old.

This subsection does not apply to prosecution for the infliction of any harm upon the infant other than the harm inherent in abandonment.

(H) A safe haven and its agents, and any health care professionals practicing within a hospital or hospital outpatient facility, are immune from civil or criminal liability for any action authorized by this section, so long as the safe haven, or health care professional, complies with all provisions of this section.

(I) The department, either alone or in collaboration with any other public entity, shall take appropriate measures to achieve public awareness of the provisions of this section.

(J) For purposes of this section:

(1) "infant" means a person not more than thirty days old; and

(2) "safe haven" means a hospital or hospital outpatient facility, a law enforcement agency, a fire station, an emergency medical services station, or any staffed house of worship during hours when the facility is staffed.

(K) Annually the department shall submit a report to the General Assembly containing data on infants who come into the custody of the department pursuant to this section. The data must include, but are not limited to, the date, time, and place where the infant was left, the hospital to which the infant was taken, the health of the infant at the time of being admitted to the hospital, disposition and placement of the infant, and, if available, circumstances surrounding the infant being left at the safe haven. No data in the report may contain identifying information.

### ARTICLE 3.

#### IDENTIFICATION, INVESTIGATION, AND INTERVENTION

##### SUBARTICLE 1.

#### IDENTIFYING AND REPORTING CHILD ABUSE AND NEGLECT

##### **SECTION 63-7-310.** Persons required to report.

(A) A physician, nurse, dentist, optometrist, medical examiner, or coroner, or an employee of a county medical examiner's or coroner's office, or any other medical, emergency medical services, mental health, or allied health professional, member of the clergy including a Christian Science Practitioner or religious healer, school teacher, counselor, principal, assistant principal, school attendance officer, social or public assistance worker, substance abuse treatment staff, or childcare worker in a childcare center or foster care facility, foster parent, police or law enforcement officer, juvenile justice worker, undertaker, funeral home director or employee of a funeral home, persons responsible for processing films, computer technician, judge, or a



volunteer non-attorney guardian ad litem serving on behalf of the South Carolina Guardian Ad Litem Program or on behalf of Richland County CASA must report in accordance with this section when in the person's professional capacity the person has received information which gives the person reason to believe that a child has been or may be abused or neglected as defined in Section 63-7-20.

(B) If a person required to report pursuant to subsection (A) has received information in the person's professional capacity which gives the person reason to believe that a child's physical or mental health or welfare has been or may be adversely affected by acts or omissions that would be child abuse or neglect if committed by a parent, guardian, or other person responsible for the child's welfare, but the reporter believes that the act or omission was committed by a person other than the parent, guardian, or other person responsible for the child's welfare, the reporter must make a report to the appropriate law enforcement agency.

(C) Except as provided in subsection (A), a person, including, but not limited to, a volunteer non-attorney guardian ad litem serving on behalf of the South Carolina Guardian Ad Litem Program or on behalf of Richland County CASA, who has reason to believe that a child's physical or mental health or welfare has been or may be adversely affected by abuse and neglect may report, and is encouraged to report, in accordance with this section.

(D) Reports of child abuse or neglect may be made orally by telephone or otherwise to the county department of social services or to a law enforcement agency in the county where the child resides or is found.

**SECTION 63-7-315.** *Prohibit retaliation against employees for reports child abuse or neglect.*

(A) An employer must not dismiss, demote, suspend, or otherwise discipline or discriminate against an employee who is required or permitted to report child abuse or neglect pursuant to Section 63-7-310 based on the fact that the employee has made a report of child abuse and neglect.

(B) An employee who is adversely affected by conduct that is in violation of subsection (A) may bring a civil action for reinstatement and back pay. An action brought pursuant to this subsection may be commenced against an employer, including the State, a political subdivision of the State, and an office, department, independent agency, authority, institution, association,

or other body in state government. An action brought pursuant to this subsection must be commenced within three years of the date the adverse personnel action occurred.

(C) In an action brought pursuant to subsection (B), the court may award reasonable attorney's fees to the prevailing party; however, in order for the employer to receive reasonable attorney's fees pursuant to this subsection, the court must make a finding pursuant to Section 63-7-2000 that: (1) the employee made a report of suspected child abuse or neglect maliciously or in bad faith; or (2) the employee is guilty of making a false report of suspected child abuse or neglect pursuant to Section 63-7-440."

**SECTION 63-7-320.** Notification and transfer.

(A) Where reports are made pursuant to Section 63-7-310 to a law enforcement agency, the law enforcement agency shall notify the county department of social services of the law enforcement's response to the report at the earliest possible time.

(B) Where a county or contiguous counties have established multicounty child protective services, the county department of social services immediately shall transfer reports pursuant to this section to the service.

**SECTION 63-7-330.** Confidentiality of information.

(A) The identity of the person making a report pursuant to this section must be kept confidential by the agency or department receiving the report and must not be disclosed except as provided for in subsection (B) or (C) or as otherwise provided for in this chapter.

(B) When the department refers a report to a law enforcement agency for a criminal investigation, the department must inform the law enforcement agency of the identity of the person who reported the child abuse or neglect. The identity of the reporter must only be used by the law enforcement agency to further the criminal investigation arising from the report, and the agency must not disclose the reporter's identity to any person other than an employee of the agency who is involved in the criminal investigation arising from the report. If the reporter testifies in a criminal proceeding arising from the report, it must not be disclosed that the reporter made the report.

(C) When a law enforcement agency refers a report to the department for an investigation or other response, the law enforcement agency must inform the department of the identity of the person who reported the child abuse or neglect. The department must not disclose the identity of the reporter to any person except as authorized by Section 63-7-1990.

**SECTION 63-7-340.** Previous reports.

When a report is referred to the department for an investigation or other response, the department must determine whether previous reports have been made regarding the same child or the same subject of the report. In determining whether previous reports have been made, the department must determine whether there are any suspected, indicated, or unfounded reports maintained pursuant to Section 63-7-930 regarding the same child or the same subject of the report.

**SECTION 63-7-350.** Reports for lack of investigation.

If the department does not conduct an investigation as a result of information received pursuant to this subarticle, the department must make a record of the information and must classify the record as a Category IV unfounded report in accordance with Section 63-7-930. The department and law enforcement are authorized to use information recorded pursuant to this section for purposes of assessing risk and safety if additional contacts are made concerning the child, the family, or the subject of the report.

**SECTION 63-7-360.** Mandatory reporting to coroner.

A person required under Section 63-7-310 to report cases of suspected child abuse or neglect, including workers of the department, who has reason to believe a child has died as the result of child abuse or neglect, shall report this information to the appropriate medical examiner or coroner. Any other person who has reason to believe that a child has died as a result of child abuse or neglect may report this information to the appropriate medical examiner or coroner. The medical examiner or coroner shall accept the report for investigation

and shall report his findings to the appropriate law enforcement agency, circuit solicitor's office, the county department of social services and, if the institution making a report is a hospital, to the hospital.

**SECTION 63-7-370.** Domestic violence reporting.

The law enforcement officer upon receipt of a report of domestic violence may report this information to the Department of Social Services. The department may treat the case as suspected report of abuse and may investigate the case as in other allegations of abuse in order to determine if the child has been harmed.

**SECTION 63-7-380.** Photos and x-rays without parental consent.

A person required to report under Section 63-7-310 may take, or cause to be taken, color photographs of the areas of trauma visible on a child who is the subject of a report and, if medically indicated, a physician may cause to be performed a radiological examination or other medical examinations or tests of the child without the consent of the child's parents or guardians. Copies of all photographs, negatives, radiological, and other medical reports must be sent to the department at the time a report pursuant to Section 63-7-310 is made, or as soon as reasonably possible after the report is made.

**SECTION 63-7-390.** Reporter immunity from liability.

A person required or permitted to report pursuant to Section 63-7-310 or who participates in an investigation or judicial proceedings resulting from the report, acting in good faith, is immune from civil and criminal liability which might otherwise result by reason of these actions. In all such civil or criminal proceedings, good faith is rebuttably presumed. Immunity under this section extends to full disclosure by the person of facts which gave the person reason to believe that the child's physical or mental health or welfare had been or might be adversely affected by abuse or neglect.

**SECTION 63-7-400.** Department of Social Services immunity from liability.

An employee, volunteer, or official of the Department of Social Services required or authorized to perform child protective or child welfare-related functions or an individual with whom the department has contracted to convene family group conferences or a law enforcement officer required or authorized to perform child protective or child welfare related functions is immune from civil or criminal liability which might otherwise result by reason of acts or omissions within the scope of the official duties of the employee, volunteer, convener, officer, or official, as long as the employee, volunteer, convener, officer, or official acted in good faith and was not reckless, wilful, wanton, or grossly negligent. In all such civil or criminal proceedings good faith is rebuttably presumed. This grant of immunity is cumulative to and does not replace any other immunity provided under the South Carolina Tort Claims Act.

**SECTION 63-7-410.** Failure to report; penalties.

A person required to report a case of child abuse or neglect or a person required to perform any other function under this article who knowingly fails to do so, or a person who threatens or attempts to intimidate a witness is guilty of a misdemeanor and, upon conviction, must be fined not more than five hundred dollars or imprisoned not more than six months, or both.

**SECTION 63-7-420.** Abrogation of privileged communication; exceptions.

The privileged quality of communication between husband and wife and any professional person and his patient or client, except that between attorney and client or clergy member, including Christian Science Practitioner or religious healer, and penitent, is abrogated and does not constitute grounds for failure to report or the exclusion of evidence in a civil protective proceeding resulting from a report pursuant to this article. However, a clergy member, including Christian Science Practitioner or religious healer, must report in accordance with this subarticle except when information is received from the alleged perpetrator of the abuse and neglect during a communication that is protected by the clergy and penitent privilege as provided for in Section 19-11-90.

**SECTION 63-7-430.** Civil action for bad faith reporting.

(A) If the family court determines pursuant to Section 63-7-2000 that a person has made a report of suspected child abuse or neglect maliciously or in bad faith or if a person has been found guilty of making a false report pursuant to Section 63-7-440, the department may bring a civil action to recover the costs of the department's investigation and proceedings associated with the investigation, including attorney's fees. The department also is entitled to recover costs and attorney's fees incurred in the civil action authorized by this section. The decision of whether to bring a civil action pursuant to this section is in the sole discretion of the department.

(B) If the family court determines pursuant to Section 63-7-2000 that a person has made a false report of suspected child abuse or neglect maliciously or in bad faith or if a person has been found guilty of making a false report pursuant to Section 63-7-440, a person who was subject of the false report has a civil cause of action against the person who made the false report and is entitled to recover from the person who made the false report such relief as may be appropriate, including:

- (1) actual damages;
- (2) punitive damages; and
- (3) a reasonable attorney's fee and other litigation costs reasonably incurred.

**SECTION 63-7-440.** Knowingly making false report.

(A) It is unlawful to knowingly make a false report of abuse or neglect.

(B) A person who violates subsection (A) is guilty of a misdemeanor and, upon conviction, must be fined not more than five thousand dollars or imprisoned not more than ninety days, or both.

**SECTION 63-7-450.** Department of Social Services to provide information to public.

(A) The Department of Social Services Protective Services shall inform all persons required to report under this subarticle of the nature, problem, and extent of child abuse and neglect and of their duties and responsibilities in accordance with this article. The department also, on a continuing basis, shall conduct training programs for department staff and appropriate training for persons required to report under this subarticle.

(B) The department, on a continuing basis, shall inform the public of the nature, problem, and extent of the child abuse and neglect and of the remedial and therapeutic services available to children and their families. The department shall encourage families to seek help consistent with Section 63-7-30.

(C) The department, on a continuing basis, shall actively publicize the appropriate telephone numbers to receive reports of suspected child abuse and neglect, including the twenty-four hour, statewide, toll-free telephone service and respective numbers of the county department offices.

### SUBARTICLE 3.

#### EMERGENCY PROTECTIVE CUSTODY

#### **SECTION 63-7-610.** Statewide jurisdiction.

(A) A law enforcement officer investigating a case of suspected child abuse or neglect or responding to a request for assistance by the department as it investigates a case of suspected child abuse or neglect has authority to take emergency protective custody of the child pursuant to this subarticle in all counties and municipalities.

(B) Immediately upon taking emergency protective custody, the law enforcement officer shall notify the local office of the department responsible to the county in which the activity under investigation occurred.

(C) The department shall designate by policy and procedure the local department office responsible for procedures required by this subarticle when a child resides in a county other

than the one in which the activity under investigation occurred. The probable cause hearing required by Section 63-7-710 may be held in the county of the child's residence or the county of the law enforcement officer's jurisdiction.

**SECTION 63-7-620.** Emergency protective custody.

(A) A law enforcement officer may take emergency protective custody of a child without the consent of the child's parents, guardians, or others exercising temporary or permanent control over the child if:

(1) the officer has probable cause to believe that by reason of abuse or neglect the child's life, health, or physical safety is in substantial and imminent danger if the child is not taken into emergency protective custody, and there is not time to apply for a court order pursuant to Section 63-7-1660. When a child is taken into emergency protective custody following an incident of excessive corporal punishment, and the only injury to the child is external lesions or minor bruises, other children in the home shall not be taken into emergency protective custody solely on account of the injury of one child through excessive corporal punishment. However, the officer may take emergency protective custody of other children in the home if a threat of harm to them is further indicated by factors including, but not limited to, a prior history of domestic violence or other abuse in the home, alcohol or drug abuse if known or evident at the time of the initial contact, or other circumstances indicative of danger to the children;

(2) the child's parent, parents, or guardian has been arrested or the child has become lost accidentally and as a result the child's welfare is threatened due to loss of adult protection and supervision; and

(a) in the circumstances of arrest, the parent, parents, or guardian does not consent in writing to another person assuming physical custody of the child;

(b) in the circumstances of a lost child, a search by law enforcement has not located the parent, parents, or guardian.

(B)(1) If the child is in need of emergency medical care at the time the child is taken into emergency protective custody, the officer shall transport the child to an appropriate health care facility. Emergency medical care may be provided to the child without consent, as provided in Section 63-5-350. The parent or guardian is responsible for the cost of emergency medical care that is provided to the child. However, the parent or guardian is not responsible for the cost of medical examinations performed at the request of law enforcement or the department



solely for the purpose of assessing whether the child has been abused or neglected unless it is determined that the child has been harmed as defined in this chapter.

(2) If the child is not in need of emergency medical care, the officer or the department shall transport the child to a place agreed upon by the department and law enforcement, and the department within two hours shall assume physical control of the child and shall place the child in a licensed foster home or shelter within a reasonable period of time. In no case may the child be placed in a jail or other secure facility or a facility for the detention of criminal or juvenile offenders. While the child is in its custody, the department shall provide for the needs of the child and assure that a child of school age who is physically able to do so continues attending school.

**SECTION 63-7-630.** Notification of Department of Social Services.

When an officer takes a child into emergency protective custody under this subarticle, the officer immediately shall notify the department. The department shall notify the parent, guardian, or other person exercising temporary or permanent control over the child as early as reasonably possible of the location of the child unless there are compelling reasons for believing that disclosure of this information would be contrary to the best interests of the child.

**SECTION 63-7-640.** Preliminary investigation.

The department shall conduct within twenty-four hours after the child is taken into emergency protective custody by law enforcement or pursuant to ex parte order a preliminary investigation to determine whether grounds for assuming legal custody of the child exist and whether reasonable means exist for avoiding removal of the child from the home of the parent or guardian or for placement of the child with a relative and means for minimizing the emotional impact on the child of separation from the child's home and family. During this time the department, if possible, shall convene a meeting with the child's parents or guardian, extended family, and other relevant persons to discuss the family's problems that led to intervention and possible corrective actions, including placement of the child.

**SECTION 63-7-650.** Risk assessment before placement.

Before agreeing to or acquiescing in a corrective action that involves placement of the child with a relative or other person or making an interim placement with a relative while retaining custody of the child or as soon as possible after agreeing to or acquiescing in a corrective action, the department shall secure from the relative or other person and other adults in the home an affidavit attesting to information necessary to determine whether a criminal history or history of child abuse or neglect exists and whether this history indicates there is a significant risk that the child would be threatened with abuse or neglect in the home of the relative or other person. As soon as possible, the department shall confirm the information supplied in the affidavit by checking the Central Registry of Child Abuse and Neglect, other relevant department records, county sex offender registries, and records for the preceding five years of law enforcement agencies in the jurisdiction in which the relative or other person resides and, to the extent reasonably possible, jurisdictions in which the relative or other person has resided during that period. The department must not agree to or acquiesce in a placement if the affidavit or these records reveal information indicating there is a significant risk that the child would be threatened with abuse or neglect in the home of the relative or other person. The relative or other person must consent to a check of the above records by the department.

**SECTION 63-7-660.** Assumption of legal custody.

If the department determines after the preliminary investigation that there is probable cause to believe that by reason of abuse or neglect the child's life, health, or physical safety is in imminent and substantial danger, the department may assume legal custody of the child without the consent of the child's parent, guardian, or custodian. The department shall make every reasonable effort to notify the child's parent, guardian, or custodian of the location of the child and shall make arrangements for temporary visitation unless there are compelling reasons why visitation or notice of the location of the child would be contrary to the best interests of the child. The notification must be in writing and shall include notice of the right to a hearing and right to counsel pursuant to this article. Nothing in this section authorizes the department to physically remove a child from the care of the child's parent or guardian without an order of the court. The department may exercise the authority to assume legal custody only after a law enforcement officer has taken emergency protective custody of the child or the family court has granted emergency protective custody by ex parte order, and the department has conducted a preliminary investigation pursuant to Section 63-7-640.

**SECTION 63-7-670.** Returning child to parents; alternative procedures.

If emergency protective custody of the child was taken by a law enforcement officer pursuant to this subarticle, and the department concludes after the preliminary investigation that the child should be returned to the child's parent, guardian, or custodian, the department shall consult with the law enforcement officer who took emergency protective custody unless the department and the law enforcement agency have agreed to an alternative procedure. If the officer objects to the return of the child, the department must assume legal custody of the child until a probable cause hearing can be held. The alternative procedure agreed to by the department and the law enforcement agency may provide that the child must be retained in custody if the officer cannot be contacted, conditions under which the child may be returned home if the officer cannot be contacted, other persons within the law enforcement agency who are to be consulted instead of the officer, or other procedures. If no alternative procedure has been agreed to and the department is unable to contact the law enforcement officer after reasonable efforts to do so, the department shall consult with the officer's designee or the officer's agency.

**SECTION 63-7-680.** Emergency protective custody extension.

The period of emergency protective custody may be extended for up to twenty-four additional hours if:

- (1) the department concludes that the child is to be placed with a relative or other person instead of taking legal custody of the child;
- (2) the department requests the appropriate law enforcement agency to check for records concerning the relative or other person, or any adults in that person's home; and
- (3) the law enforcement agency notifies the department that the extension is needed to enable the law enforcement agency to complete its record check before the department's decision on whether to take legal custody of the child.

**SECTION 63-7-690.** Relative placement.

(A) If within the twenty-four hours following removal of the child:

(1) the department has identified a specified relative or other person with whom it has determined that the child is to be placed instead of the department's taking legal custody of the child; and

(2) both the relative or other person with whom the child is to be placed and the child's parent or guardian have agreed to the placement, the department may retain physical custody of the child for no more than five additional days if necessary to enable the relative or other person to make travel or other arrangements incident to the placement.

(B) A probable cause hearing pursuant to Section 63-7-710 shall not be held unless the placement fails to occur as planned within the five-day period or the child's parent or guardian makes a written request for a hearing to the department. The department must give the child's parent or guardian written notice of the right to request a probable cause hearing to obtain a judicial determination of whether removal of the child from the home was and remains necessary. Upon receipt of a written request for a hearing from the child's parent or guardian, the department shall schedule a hearing for the next date on which the family court is scheduled to hear probable cause hearings.

(C) If the placement does not occur as planned within the five-day period, the department immediately must determine whether to assume legal custody of the child and file a petition as provided in Section 63-7-700(B). The department shall assure that the child is given age-appropriate information about the plans for placement and any subsequent changes in those plans at the earliest feasible time.

**SECTION 63-7-700.** Emergency protective custody proceedings.

(A) If a law enforcement officer clearly states to the department at the time the officer delivers physical control of the child to the department that the child is not to be returned to the home or placed with a relative before a probable cause hearing regardless of the outcome of a preliminary investigation, the department immediately must take legal custody of the child. In this case, at a minimum, the department shall conduct a preliminary investigation as provided in Section 63-7-640 within seventy-two hours after the child was taken into emergency protective custody and shall make recommendations concerning return of the child to the home or placement with a relative or other person to the family court at the probable cause hearing or take other appropriate action as provided in this chapter.

(B)(1) The department, upon assuming legal custody of the child, shall begin a child protective investigation, including immediate attention to the protection of other children in the home, or other setting where the child was found. The department shall initiate a removal proceeding in the appropriate family court pursuant to Section 63-7-1660 on or before the next working day after initiating the investigation. If a noncustodial parent is not named as a party, the department shall exercise every reasonable effort to promptly notify the noncustodial parent that a removal proceeding has been initiated and of the date and time of any hearings scheduled pursuant to this subarticle.

(2) Upon a determination by the department before the probable cause hearing that there is not a preponderance of evidence that child abuse or neglect occurred, the department may place physical custody of the child with the parent, parents, guardian, immediate family member, or relative, with the department retaining legal custody pending the probable cause hearing.

(3) When the facts and circumstances of the report clearly indicate that no abuse or neglect occurred, the report promptly must be determined to be unfounded, and the department shall exercise reasonable efforts to expedite the placement of the child with the parent, parents, guardian, immediate family member, or relative.

(C) If the child is returned to the child's parent, guardian, or custodian following the preliminary investigation, a probable cause hearing must be held if requested by the child's parent, guardian, or custodian or the department or the law enforcement agency that took emergency protective custody of the child. The request must be made in writing to the court within ten days after the child is returned. A probable cause hearing pursuant to Section 63-7-710 must be scheduled within seven days of the request to determine whether there was probable cause to take emergency physical custody of the child.

**SECTION 63-7-710.** Probable cause hearing.

(A) The family court shall schedule a probable cause hearing to be held within seventy-two hours of the time the child was taken into emergency protective custody. If the third day falls upon a Saturday, Sunday, or holiday, the probable cause hearing must be held no later than the next working day. If there is no term of court in the county when the probable cause hearing must be held, the hearing must be held in another county in the circuit. If there is no term of family court in another county in the circuit, the probable cause hearing may be heard in another court in an adjoining circuit.

(B) The probable cause hearing may be conducted by video conference at the discretion of the judge.

(C) At the probable cause hearing, the family court shall undertake to fulfill the requirements of Section 63-7-1620 and shall determine whether there was probable cause for taking emergency protective custody and for the department to assume legal custody of the child and shall determine whether probable cause to retain legal custody of the child remains at the time of the hearing.

(D) At the probable cause hearing, the respondents may submit affidavits as to facts which are alleged to form the basis of the removal and to cross-examine the department's witnesses as to whether there existed probable cause to effect emergency removal.

(E) The hearing on the merits to determine whether removal of custody is needed, pursuant to Section 63-7-1660, must be held within thirty-five days of the date of receipt of the removal petition. At the probable cause hearing, the court shall set the time and date for the hearing on the merits. A party may request a continuance that would result in the hearing being held more than thirty-five days after the petition was filed, and the court may grant the request for continuance only if exceptional circumstances exist. If a continuance is granted, the hearing on the merits must be completed within sixty-five days following receipt of the removal petition. The court may continue the hearing on the merits beyond sixty-five days without returning the child to the home only if the court issues a written order with findings of fact supporting a determination that the following conditions are satisfied, regardless of whether the parties have agreed to a continuance:

(1) the court finds that the child should remain in the custody of the department because there is probable cause to believe that returning the child to the home would seriously endanger the child's physical safety or emotional well-being;

(2) the court schedules the case for trial on a date and time certain which is not more than thirty days after the date the hearing was scheduled to be held; and

(3) the court finds that exceptional circumstances support the continuance or the parties and the guardian ad litem agree to a continuance.

(F) The court may continue the case past the date and time certain set forth in subsection (E) only if the court issues a new order as required in subsection (E).

(G) The court may continue the case because a witness is unavailable only if the court enters a finding of fact that the court cannot decide the case without the testimony of the witness. The court shall consider and rule on whether the hearing can begin and then recess to have the

witness' testimony taken at a later date or by deposition. The court shall rule on whether the party offering the witness has exercised due diligence to secure the presence of the witness or to preserve the witness' testimony.

(H) This section does not prevent the court from conducting a pendente lite hearing on motion of any party and issuing an order granting other appropriate relief pending a hearing on the merits.

(I) If the child is returned to the home pending the merits hearing, the court may impose such terms and conditions as it determines appropriate to protect the child from harm, including measures to protect the child as a witness.

(J) When a continuance is granted pursuant to this section, the family court shall ensure that the hearing is rescheduled within the time limits provided in this section and give the hearing priority over other matters pending before the court except a probable cause hearing held pursuant to this section, a detention hearing held pursuant to Section 63-19-830, or a hearing held pursuant to Section 63-19-1030 or 63-19-1210 concerning a child who is in state custody pursuant to Chapter 19. An exception also may be made for child custody hearings if the court, in its discretion, makes a written finding stating compelling reasons, relating to the welfare of the child, for giving priority to the custody hearing.

**SECTION 63-7-720.** Reasonable efforts to prevent removal.

(A) An order issued as a result of the probable cause hearing held pursuant to Section 63-7-710 concerning a child of whom the department has assumed legal custody shall contain a finding by the court of whether reasonable efforts were made by the department to prevent removal of the child and a finding of whether continuation of the child in the home would be contrary to the welfare of the child. The order shall state:

(1) the services made available to the family before the department assumed legal custody of the child and how they related to the needs of the family;

(2) the efforts of the department to provide services to the family before assuming legal custody of the child;

(3) why the efforts to provide services did not eliminate the need for the department to assume legal custody;

(4) whether a meeting was convened as provided in Section 63-7-640, the persons present, and the outcome of the meeting or, if no meeting was held, the reason for not holding a meeting;

(5) what efforts were made to place the child with a relative known to the child or in another familiar environment;

(6) whether the efforts to eliminate the need for the department to assume legal custody were reasonable including, but not limited to, whether services were reasonably available and timely, reasonably adequate to address the needs of the family, reasonably adequate to protect the child and realistic under the circumstances, and whether efforts to place the child in a familiar environment were reasonable.

(B) If the court finds that reasonable services would not have allowed the child to remain safely in the home, the court shall find that removal of the child without services or without further services was reasonable.

**SECTION 63-7-730.** Expedited placement of child with relative.

(A) If the court finds at the probable cause hearing that the department made reasonable efforts to prevent removal of the child and that continuation of the child in the home would be contrary to the welfare of the child, the court may order expedited placement of the child with a grandparent or other relative of the first or second degree. In making this expedited placement decision, the court shall consider the totality of the circumstances including, but not limited to, the individual's suitability, fitness, and willingness to serve as a placement for the child. A parent who complies with these requirements must be the first relative considered by the court for expedited placement. The court shall require the department to check the names of all adults in the home against the Central Registry of Child Abuse and Neglect, other relevant records of the department, county sex abuse registers, and records for the preceding five years of law enforcement agencies in the jurisdiction in which the person resides and, to the extent reasonably possible, jurisdictions in which the person has resided during that period. The court may hold open the record of the probable cause hearing for up to twenty-four hours to receive these reports. Nothing in this section precludes the department from requesting or the court from ordering pursuant to the department's request either a full study of the individual's home before placement or the licensing or approval of the individual's home before placement.



(B) If the court orders expedited placement of the child with a grandparent or other relative of the first or second degree, the individual may be added as a party to the action for the duration of the case or until further order of the court.

**SECTION 63-7-740.** Ex parte emergency protective custody.

(A) The family court may order ex parte that a child be taken into emergency protective custody without the consent of parents, guardians, or others exercising temporary or permanent control over the child if:

(1) the family court judge determines there is probable cause to believe that by reason of abuse or neglect there exists an imminent and substantial danger to the child's life, health, or physical safety; and

(2) parents, guardians, or others exercising temporary or permanent control over the child are unavailable or do not consent to the child's removal from their custody.

(B) If the court issues such an order, the department shall conduct a preliminary investigation and otherwise proceed as provided in this subarticle.

**SECTION 63-7-750.** Doctor or hospital may detain child; civil immunity.

(A) A physician or hospital to which a child has been brought for treatment may detain the child for up to twenty-four hours without the consent of the person responsible for the child's welfare if the physician or hospital:

(1) has reason to believe that the child has been abused or neglected;

(2) has made a report to a law enforcement agency and the department pursuant to Section 63-7-310, stating the time the physician notified the agency or department that the child was being detained until a law enforcement officer could arrive to determine whether the officer should take emergency physical custody of the child pursuant to Subarticle 3; and

(3) has reason to believe that release of the child to the child's parent, guardian, custodian, or caretaker presents an imminent danger to the child's life, health, or physical safety. A

hospital must designate a qualified person or persons within the hospital who shall have sole authority to detain a child on behalf of the hospital.

(B) A physician or hospital that detains a child in good faith as provided in this section is immune from civil or criminal liability for detaining the child.

**SECTION 63-7-760.** Protocols.

The department and local law enforcement agencies shall develop written protocols to address issues related to emergency protective custody. The protocols shall cover at a minimum information exchange between the department and local law enforcement agencies, consultation on decisions to assume legal custody, and the transfer of responsibility over the child, including mechanisms and assurances for the department to arrange expeditious placement of the child.

SUBARTICLE 5.

INTAKE AND INVESTIGATION DUTIES OF THE DEPARTMENT OF SOCIAL SERVICES

**SECTION 63-7-900.** Purpose of the subarticle.

(A) It is the purpose of this subarticle to encourage the voluntary acceptance of any service offered by the department in connection with child abuse and neglect or another problem of a nature affecting the stability of family life.

(B) The department must be staffed adequately with persons trained in the investigation of suspected child abuse and neglect and in the provision of services to abused and neglected children and their families.

(C) The department actively must seek the cooperation and involvement of local public and private institutions, groups, and programs concerned with matters of child protection and welfare within the area it serves.

(D) In all instances, the agency must act in accordance with the policies, procedures, and regulations promulgated and distributed by the State Department of Social Services pursuant to this chapter.

**SECTION 63-7-910.** Duties of the department.

(A)(1) The Department of Social Services may maintain a toll-free number available to persons throughout the State for the referral of family-related problems, including:

- (a) the reporting of known or suspected cases of child abuse or neglect;
- (b) other problems of a nature which may affect the stability of family life.

(2) This telephone service shall operate continuously. Upon receipt of a call involving suspected abuse or neglect, the Department of Social Services shall transmit the full contents of the report to the appropriate county department office. Immediately upon transmitting the report the department shall destroy the contents of the suspected report. Upon receipt of a call involving other problems of a nature which may affect the stability of family life, the department shall refer the call to the appropriate county department office or other service agency where appropriate.

(B) The department shall have within it a separate organizational unit administered within the department with qualified staff and resources sufficient to fulfill the purposes and functions assigned to it by this article.

(C) The department's responsibilities shall include, but are not limited to:

- (1) assigning and monitoring initial child protection responsibility through periodic review of services offered throughout the State;
- (2) assisting in the diagnosis of child abuse and neglect;
- (3) coordinating referrals of known or suspected child abuse and neglect;
- (4) measuring the effectiveness of existing child protection programs and facilitating research, planning, and program development; and

(5) establishing and monitoring a statewide Central Registry for Child Abuse and Neglect.

(D) The department may contract for the delivery of protective services, family preservation services, foster care services, family reunification services, adoptions services, and other related services or programs. The department shall remain responsible for the quality of the services or programs and shall ensure that each contract contains provisions requiring the provider to deliver services in accordance with departmental policies and state and federal law.

(E) The department may promulgate regulations and formulate policies and methods of administration to carry out effectively child protective services, activities, and responsibilities.

**SECTION 63-7-920.** Investigations and case determination.

(A)(1) Within twenty-four hours of the receipt of a report of suspected child abuse or neglect or within twenty-four hours after the department has assumed legal custody of a child pursuant to Section 63-7-660 or 63-7-670 or within twenty-four hours after being notified that a child has been taken into emergency protective custody, the department must begin an appropriate and thorough investigation to determine whether a report of suspected child abuse or neglect is "indicated" or "unfounded".

(2) The finding must be made no later than forty-five days from the receipt of the report. A single extension of no more than fifteen days may be granted by the director of the department, or the director's designee, for good cause shown, pursuant to guidelines adopted by the department.

(3) If the investigation cannot be completed because the department is unable to locate the child or family or for other compelling reasons, the report may be classified as unfounded Category III and the investigation may be reopened at a later date if the child or family is located or the compelling reason for failure to complete the investigation is removed. The department must make a finding within forty-five days after the investigation is reopened.

(B) The department may file with the family court an affidavit and a petition to support issuance of a warrant at any time after receipt of a report. The family court must issue the warrant if the affidavit and petition establish probable cause to believe the child is an abused or neglected child and that the investigation cannot be completed without issuance of the warrant. The warrant may authorize the department to interview the child, to inspect the condition of the child, to inspect the premises where the child may be located or may reside, and to obtain copies of medical, school, or other records concerning the child.

(C) The department or law enforcement, or both, may interview the child alleged to have been abused or neglected and any other child in the household during the investigation. The interviews may be conducted on school premises, at childcare facilities, at the child's home or at other suitable locations and in the discretion of the department or law enforcement, or both, may be conducted outside the presence of the parents. To the extent reasonably possible, the needs and interests of the child must be accommodated in making arrangements for interviews, including time, place, method of obtaining the child's presence, and conduct of the interview. The department or law enforcement, or both, shall provide notification of the interview to the parents as soon as reasonably possible during the investigation if notice will not jeopardize the safety of the child or the course of the investigation. All state, law enforcement, and community agencies providing child welfare intervention into a child's life should coordinate their services to minimize the number of interviews of the child to reduce potential emotional trauma to the child.

(D) The department must furnish to parents or guardians on a standardized form the following information as soon as reasonably possible after commencing the investigation:

(1) the names of the investigators;

(2) the allegations being investigated;

(3) whether the person's name has been recorded by the department as a suspected perpetrator of abuse or neglect;

(4) the right to inspect department records concerning the investigation;

(5) statutory and family court remedies available to complete the investigation and to protect the child if the parent or guardian or subject of the report indicates a refusal to cooperate;

(6) how information provided by the parent or guardian may be used;

(7) the possible outcomes of the investigation; and

(8) the telephone number and name of a department employee available to answer questions.

(E) This subarticle does not require the department to investigate reports of child abuse or neglect which resulted in the death of the child unless there are other children residing in the home, or a resident of the home is pregnant, or the subject of the report is the parent, guardian, or person responsible for the welfare of another child regardless of whether that child resides in the home.

**SECTION 63-7-930.** Classification categories.

(A) Reports of child abuse and neglect must be classified in the department's data system and records in one of three categories: Suspected, Unfounded, or Indicated. If the report is categorized as unfounded, the entry must further state the classification of unfounded reports as set forth in subsection (C). All initial reports must be considered suspected. Reports must be maintained in the category of suspected for no more than sixty days after the report was received by the department. By the end of the sixty-day time period, suspected reports must be classified as either unfounded or indicated pursuant to the agency's investigation.

(B)(1) Indicated findings must be based upon a finding of the facts available to the department that there is a preponderance of evidence that the child is an abused or neglected child. Indicated findings must include a description of the services being provided the child and those responsible for the child's welfare and all relevant dispositional information.

(2) If the family court makes a determination or the process described in Subarticle 9 results in a determination that the indicated finding is not supported by a preponderance of evidence that there was any act of child abuse or neglect, the case classification must be converted to unfounded and Section 63-7-940 applies.

(3) If the family court makes a specific determination, or the process described in Subarticle 9 results in a determination that there is not a preponderance of evidence that the person who was the subject of the report committed an act of child abuse or neglect, but that the child was abused or neglected by an unknown person, the department must maintain the case as an indicated case and access to records of the case may be granted as provided in Section 63-7-1990. The department shall not delete from its data system or records information indicating that the person was the subject of the report. The department's data system and records must clearly record the results of the court or administrative proceeding. If the case record and data system included a designation with the name of the subject of the report indicating that the person committed the abuse or neglect, that designation must be removed following the determination that there is not a preponderance of evidence that the subject of the report committed an act of child abuse or neglect.

(C) All reports that are not indicated at the conclusion of the investigation and all records of information for which an investigation was not conducted pursuant to Section 63-7-350 must be classified as unfounded. Unfounded reports must be further classified as Category I, Category II, Category III, or Category IV.

(1) Category I unfounded reports are those in which abuse and neglect were ruled out following the investigation. A report falls in this category if evidence of abuse or neglect as defined in this chapter was not found regardless of whether the family had other problems or was in need of services.

(2) Category II unfounded reports are those in which the investigation did not produce a preponderance of evidence that the child is an abused or neglected child.

(3) Category III unfounded reports are those in which an investigation could not be completed because the department was unable to locate the child or family or for some other compelling reason.

(4) Category IV unfounded reports are records of information received pursuant to Section 63-7-350, but which were not investigated by the department.

**SECTION 63-7-940.** Use of unfounded case information.

(A) Information concerning reports classified as unfounded contained in the statewide data system and records must be maintained for not less than five years after the finding. Information contained in unfounded cases is not subject to disclosure under the Freedom of Information Act as provided for in Chapter 4, Title 30. Access to and use of information contained in unfounded cases must be strictly limited to the following purposes and entities:

(1) a prosecutor or law enforcement officer or agency, for purposes of investigation of a suspected false report pursuant to Section 63-7-440;

(2) the department or a law enforcement officer or agency, for the purpose investigating allegations of abuse or neglect;

(3) the department or a law enforcement officer or agency, when information is received that allows the reopening of a Category III unfounded report pursuant to Section 63-7-920(A);

(4) as evidence in a court proceeding, if admissible under the rules of evidence as determined by a judge of competent jurisdiction;

(5) a person who is the subject of a report in an action brought by a prosecutor or by the department, if otherwise subject to discovery under the applicable rules of procedure;

(6) the department, for program improvement, auditing, and statistical purposes;

(7) as authorized in Section 63-7-2000;

(8) the Department of Child Fatalities pursuant to Section 63-11-1960; and

(9)(a) the director or his designee who may disclose information to respond to an inquiry by a committee or subcommittee of the Senate or the House of Representatives or a joint committee of the General Assembly, which is engaged in oversight or investigating the activities of the department, provided that such information is reviewed in closed session and kept confidential. Notwithstanding the provisions of Chapter 4, Title 30, meetings to review information disclosed pursuant to this subitem must be held in closed session and any documents or other materials provided or reviewed during the closed session are not subject to public disclosure.

(b) The department shall state that the case was unfounded when disclosing information pursuant to this item.”

(B) Except as authorized in this section, no person may disseminate or permit dissemination of information maintained pursuant to subsection (A). A person who disseminates or permits dissemination in violation of this subsection is guilty of a misdemeanor and, upon conviction, must be fined not more than one thousand five hundred dollars or imprisoned not more than one year, or both. A person aggrieved by an unlawful dissemination in violation of this subsection may bring a civil action to recover damages incurred as a result of the unlawful act and to enjoin its dissemination or use.

**SECTION 63-7-950.** Withholding health care.

(A) Upon receipt of a report that a parent or other person responsible for the welfare of a child will not consent to health care needed by the child, the department shall investigate pursuant to Section 63-7-920. Upon a determination by a preponderance of evidence that adequate health care was withheld for religious reasons or other reasons reflecting an exercise of judgment by the parent or guardian as to the best interest of the child, the department may enter a finding that the child is in need of medical care and that the parent or other person responsible does not consent to medical care for religious reasons or other reasons reflecting an exercise of judgment as to the best interests of the child. The department may not enter a finding by a preponderance of evidence that the parent or other person responsible for the child has abused or neglected the child because of the withholding of medical treatment for



religious reasons or for other reasons reflecting an exercise of judgment as to the best interests of the child. However, the department may petition the family court for an order finding that medical care is necessary to prevent death or permanent harm to the child. Upon a determination that a preponderance of evidence shows that the child might die or suffer permanent harm, the court may issue its order authorizing medical treatment without the consent of the parent or other person responsible for the welfare of the child. The department may move for emergency relief pursuant to family court rules when necessary for the health of the child.

(B) Proceedings brought under this section must be considered child abuse and neglect proceedings only for purposes of appointment of representation pursuant to Section 63-7-1620.

(C) This section does not authorize intervention if the child is under the care of a physician licensed under Chapter 47, Title 40, who supports the decision of the parent or guardian as a matter of reasonable medical judgment.

**SECTION 63-7-960.** Consolidation and delivery of services.

The department is charged with providing, directing, or coordinating the appropriate and timely delivery of services to children found to be abused or neglected and those responsible for their welfare or others exercising temporary or permanent control over these children. Services must not be construed to include emergency protective custody provided for in Subarticle 3.

**SECTION 63-7-970.** Children of incarcerated women.

The local office of the department responsible for the county of the mother's legal residence must provide, direct, or coordinate the appropriate and timely delivery of services to children born of incarcerated mothers where no provision has been made for placement of the child outside the prison setting. Referral of these cases to the appropriate local office is the responsibility of the agency or institution having custody of the mother.

**SECTION 63-7-980.** Cooperation between the department and law enforcement.

(A) The department must cooperate with law enforcement agencies within the area it serves and establish procedures necessary to facilitate the referral of child protection cases to the department.

(B)(1) Where the facts indicating abuse or neglect also appear to indicate a violation of criminal law, the department must notify the appropriate law enforcement agency of those facts within twenty-four hours of the department's finding for the purposes of police investigation. The law enforcement agency must file a formal incident report at the time it is notified by the department of the finding.

(2) When the intake report is of alleged sexual abuse, the department must notify the appropriate law enforcement agency within twenty-four hours of receipt of the report to determine if a joint investigation is necessary. The law enforcement agency must file a formal incident report at the time it is notified of the alleged sexual abuse.

(C) The law enforcement agency must provide to the department copies of incident reports generated in any case reported to law enforcement by the department and in any case in which the officer responsible for the case knows the department is involved with the family or the child. The law enforcement officer must make reasonable efforts to advise the department of significant developments in the case, such as disposition in summary court, referral of a juvenile to the Department of Juvenile Justice, arrest or detention, trial date, and disposition of charges.

(D) The department must include in its records copies of incident reports provided under this section and must record the disposition of charges.

**SECTION 63-7-990.** Access to sex offender registry.

Notwithstanding any other provision of law, upon request of the department, a criminal justice agency having custody of or access to state or local law enforcement records or county sex offender registries shall provide the department with information pertaining to the criminal history of an adult residing in the home of a child who is named in a report of suspected child abuse or neglect or in a home in which it is proposed that the child be placed. This information

shall include conviction data, nonconviction data, arrests, and incident reports accessible to the agency. The department shall not be charged a fee for this service.

## SUBARTICLE 7.

### INSTITUTIONAL ABUSE AND NEGLECT

#### **SECTION 63-7-1210.** Department investigation of institutional abuse.

(A) The Department of Social Services is authorized to receive and investigate reports of abuse and neglect of children who reside in or receive care or supervision in residential institutions, foster homes, and childcare facilities. Responsibility for investigating these entities must be assigned to a unit or units not responsible for selecting or licensing these entities. In no case does the Department of Social Services have responsibility for investigating allegations of abuse and neglect in institutions operated by the Department of Social Services.

(B) Foster homes subject to this section are those which are supervised by or recommended for licensing by the department or by child placing agencies. Indicated reports must be based upon a finding that abuse or neglect is supported by a preponderance of the evidence available to the department.

(C) The Department of Social Services may initiate proceedings in the circuit court to enjoin the operations of a foster home, an institution, or a child placing agency or to require other corrective action if necessary for the safety of the children. The department shall take whatever steps it considers necessary to inform potential reporters of abuse and neglect of its responsibilities under this section.

(D) The Department of Social Services must investigate an allegation of abuse or neglect of a child where the child is in the custody of or a resident of a residential treatment facility or intermediate care facility for persons with intellectual disability licensed by the Department of Health and Environmental Control or operated by the Department of Mental Health.

(E) The Department of Social Services has access to facilities for the purpose of conducting investigations and has authority to request and receive written statements, documents, exhibits, and other information pertinent to an investigation including, but not limited to,

hospital records. The appropriate officials, agencies, departments, and political subdivisions of the State must assist and cooperate with the court and the Department of Social Services in furtherance of the purposes of this section.

(F) The Department of Social Services may file with the family court an affidavit and a petition to support issuance of a warrant at any time during an investigation. The family court must issue the warrant if the affidavit and petition establish probable cause to believe the child is an abused or neglected child and that the investigation cannot be completed without issuance of the warrant. The warrant may authorize the department to interview the child, to inspect the premises of the child, to inspect the premise where the child may be located or may reside, and to obtain copies of medical, school, or other records necessary for investigation of the allegations of abuse or neglect.

(G) The department shall promulgate regulations consistent with this authority. The regulations shall cover at a minimum investigation of reports, notice to the institutions and sponsoring agencies, and remedial action.

**SECTION 63-7-1220.** South Carolina Law Enforcement Division investigation of Department of Juvenile Justice and Department of Social Services institutional abuse cases.

The State Law Enforcement Division is authorized to receive and investigate reports of institutional abuse and neglect alleged to have occurred in any institution or foster home operated by the Department of Juvenile Justice and any institution or childcare facility operated by the Department of Social Services. The State Law Enforcement Division may promulgate regulations consistent with this authority to investigate these reports and take remedial action, if necessary.

**SECTION 63-7-1230.** Immediate entry in Central Registry of name of person determined to have abused child; notification; challenge.

When the investigation performed pursuant to this subarticle results in a determination that an individual has harmed a child or threatened a child with harm, as defined in Section 63-7-20, the name of that individual must be entered immediately in the Central Registry of Child Abuse and Neglect. The department must notify the individual in writing by certified mail that his

name has been entered in the registry, of his right to request an appeal of the decision to enter his name in the registry, and of the possible ramifications regarding future employment and licensing if he allows his name to remain in the registry. The procedures set forth in Subarticle 9 apply when an individual challenges the entry of his name in the registry and challenges of the entry in the registry pursuant to this section must be given expedited review in the appellate process.

## SUBARTICLE 9.

### ADMINISTRATIVE APPEAL OF INDICATED CASES

#### **SECTION 63-7-1410.** Purpose.

The purpose of this subarticle is to provide a child protective services appeals process for reports that have been indicated pursuant to Subarticles 5 and 13 and are not being brought before the family court for disposition and for reports indicated and entered in the Central Registry pursuant to Section 63-7-1230 and not being brought before the family court for disposition. The appeals hearing must be scheduled and conducted in accordance with the department's fair hearing regulations. This process is available only to the person determined to have abused or neglected the child.

#### **SECTION 63-7-1420.** Appeal of judicial determinations.

If a person requests an appeal under this subarticle and the family court has determined that the person is responsible for abuse or neglect of the child, an appeal pursuant to this subarticle is not available. If the family court reaches such a determination after the initiation of the appeal provided for in this subarticle, the department shall terminate the appeal upon receipt of an order that disposes of the issue. If a proceeding is pending in the family court that may result in a finding that will dispose of an appeal under this subarticle, the department shall stay the appeal pending the court's decision.

**SECTION 63-7-1430.** Notice and opportunity to be heard.

(A) If the department determines that a report of suspected child abuse or neglect is indicated and the department is not taking the case to the family court for disposition, or if the case was entered in the Central Registry pursuant to Section 63-7-1230 and the department is not taking the case to family court for disposition, the department shall provide notice of the case decision by certified mail to the person determined to have abused or neglected the child. The notice must inform the person of the right to appeal the case decision and that, if he intends to appeal the decision, he must notify the department of his intent in writing within thirty days of receipt of the notice. The notice also must advise the person that the appeal process is for the purpose of determining whether a preponderance of evidence supports the case decision that the person abused or neglected the child. If the person does not notify the department of his intent to appeal in writing within thirty days of receipt of the notice, the right to appeal is waived by the person and the case decision becomes final.

(B) Within fourteen days after receipt of a notice of intent to appeal, an appropriate official of the department designated by the director must conduct an interim review of case documentation and the case determination. The interim review may not delay the scheduling of the contested case hearing. If the official conducting the interim review decides that the determination against the appellant is not supported by a preponderance of evidence, this decision must be reflected in the department's case record and database as provided in Section 63-7-930(B)(2) or (3). If the person's name was in the Central Registry as a result of a determination pursuant to Section 63-7-1230 and the interim review results in a reversal of the decision that supports that entry, the person's name must be removed from the Central Registry.

(C) The state director shall appoint a hearing officer to conduct a contested case hearing for each case decision appealed. The hearing officer shall prepare recommended findings of fact and conclusions of law for review by the state director or the state director's designee who shall render the final decision. The designee under this subsection must not be a person who was involved in making the original case decision or who conducted the interim review of the original case decision. The purpose of the hearing is to determine whether there is a preponderance of evidence that the appellant was responsible for abuse or neglect of the child.

(D) After a contested case hearing, if the state director or the director's designee decides that the determination against the appellant is not supported by a preponderance of evidence, this decision must be reflected in the department's case record and database as provided in Section

63-7-930(B)(2) or (3). If the person's name was in the Central Registry as a result of a determination pursuant to Section 63-7-1230 and the state director or the director's designee reverses the decision that supports that entry, the person's name must be removed from the Central Registry. If the state director or the director's designee affirms the determination against the appellant, the appellant has the right to seek judicial review in the family court of the jurisdiction in which the case originated.

**SECTION 63-7-1440.** Judicial review.

An appellant seeking judicial review shall file a petition in the family court within thirty days after the final decision of the department. The appellant shall serve a copy of the petition upon the department. The family court shall conduct a judicial review in accordance with the standards of review provided for in Section 1-23-380. The court may enter judgment upon the pleadings and a certified transcript of the record which must include the evidence upon which the findings and decisions appealed are based. The judgment must include a determination of whether the decision of the department that a preponderance of evidence shows that the appellant abused or neglected the child should be affirmed or reversed. The appellant is not entitled to a trial de novo in the family court.

SUBARTICLE 11.

JUDICIAL PROCEEDINGS

**SECTION 63-7-1610.** Jurisdiction and venue.

(A) The family court has exclusive jurisdiction over all proceedings held pursuant to this article.

(B) The county in which the child resides is the legal place of venue.

**SECTION 63-7-1620.** Legal representation of children.

In all child abuse and neglect proceedings:

(1) Children must be appointed a guardian ad litem by the family court. A guardian ad litem serving on behalf of the South Carolina Guardian ad Litem Program or Richland County CASA must be represented by legal counsel in any judicial proceeding pursuant to Section 63-11-530(C).

(2) The family court may appoint legal counsel for the child. Counsel for the child may not be the same as counsel for:

- (a) the parent, legal guardian, or other person subject to the proceeding;
- (b) any governmental or social agency involved in the proceeding;
- (c) the child's guardian ad litem.

(3) Parents, legal guardians, or other persons subject to any judicial proceeding are entitled to legal counsel. Those persons unable to afford legal representation must be appointed counsel by the family court.

(4) The interests of the State and the Department of Social Services must be represented by the legal representatives of the Department of Social Services in any judicial proceeding.

**SECTION 63-7-1630.** Notice of hearings.

The department shall provide notice of a hearing held in connection with an action filed or pursued under Subarticle 3 or Section 63-7-1650, 63-7-1660, 63-7-1670, 63-7-1680, 63-7-1700, or 63-7-2550 to the foster parent, the preadoptive parent, or the relative who is providing care for a child. The notice must be in writing and may be delivered in person or by regular mail. The notice shall inform the foster parent, preadoptive parent, or relative of the date, place, and time of the hearing and of the right to attend the hearing and to address the court concerning the child. Notice provided pursuant to this section does not confer on the foster parent, preadoptive parent, or relative the status of a party to the action.



**SECTION 63-7-1640.** Family preservation.

(A) When this chapter requires the department to make reasonable efforts to preserve or reunify a family and requires the family court to determine whether these reasonable efforts have been made, the child's health and safety must be the paramount concern.

(B) The family court may rule on whether reasonable efforts to preserve or reunify a family should be required in hearings regarding removal of custody, review of amendments to a placement plan, review of the status of a child in foster care, or permanency planning or in a separate proceeding for this purpose. The court may consider this issue on the motion of a named party, the child's guardian ad litem, or the foster care review board, provided that the foster care review board has reviewed the case pursuant to Section 63-11-720 or the child has previous entry into foster care.

(C) The family court may authorize the department to terminate or forego reasonable efforts to preserve or reunify a family when the records of a court of competent jurisdiction show or when the family court determines that one or more of the following conditions exist:

(1) the parent has subjected the child or another child while residing in the parent's domicile to one or more of the following aggravated circumstances:

- (a) severe or repeated abuse;
- (b) severe or repeated neglect;
- (c) sexual abuse;
- (d) acts the judge finds constitute torture; or
- (e) abandonment;

(2) the parent has been convicted of or pled guilty or nolo contendere to murder of another child, or an equivalent offense, in this jurisdiction or another;

(3) the parent has been convicted of or pled guilty or nolo contendere to voluntary manslaughter of another child, or an equivalent offense, in this jurisdiction or another;

(4) the parent has been convicted of or pled guilty or nolo contendere to aiding, abetting, attempting, soliciting, or conspiring to commit murder or voluntary manslaughter of the child or another child while residing in the parent's domicile, or an equivalent offense, in this jurisdiction or another;

(5) physical abuse of a child resulted in the death or admission to the hospital for in-patient care of that child and the abuse is the act for which the parent has been convicted of or pled guilty or nolo contendere to committing, aiding, abetting, conspiring to commit, or soliciting:

(a) an offense against the person, as provided for in Title 16, Chapter 3;

(b) criminal domestic violence, as defined in Section 16-25-20;

(c) criminal domestic violence of a high and aggravated nature, as defined in Section 16-25-65; or

(d) the common law offense of assault and battery of a high and aggravated nature, or an equivalent offense in another jurisdiction;

(6) the parental rights of the parent to another child of the parent have been terminated involuntarily;

(7) the parent has a diagnosable condition unlikely to change within a reasonable time including, but not limited to, alcohol or drug addiction, mental deficiency, mental illness, or extreme physical incapacity, and the condition makes the parent unable or unlikely to provide minimally acceptable care of the child;

(8) other circumstances exist that the court finds make continuation or implementation of reasonable efforts to preserve or reunify the family inconsistent with the permanent plan for the child.

(D) The department may proceed with efforts to place a child for adoption or with a legal guardian concurrently with making efforts to prevent removal or to make it possible for the child to return safely to the home.

(E) If the family court's decision that reasonable efforts to preserve or reunify a family are not required results from a hearing other than a permanency planning hearing, the court's order shall require that a permanency planning hearing be held within thirty days of the date of the order.

(F) In determining whether to authorize the department to terminate or forego reasonable efforts to preserve or reunify a family, the court must consider whether initiation or continuation of reasonable efforts to preserve or reunify the family is in the best interests of the child. If the court authorizes the department to terminate or forego reasonable efforts to preserve or reunify a family, the court must make specific written findings in support of its conclusion that one or more of the conditions set forth in subsection (C)(1) through (8) are shown to exist, and why continuation of reasonable efforts is not in the best interest of the

child. If the court does not authorize the department to terminate or forego reasonable efforts where one or more of the conditions set forth in subsection (C)(1) through (8) are shown to exist, the court must make specific written findings in support of its conclusion that continuation of reasonable efforts is in the best interest of the child. The court must not consider the availability or lack of an adoptive resource as a reason to deny the request to terminate or forego reasonable efforts.

(G) In any case in which the court authorizes the department to terminate or forego reasonable efforts to preserve or reunify a family, the department shall file a petition for termination of parental rights within sixty days, unless there are compelling reasons why termination of parental rights would be contrary to the best interests of the child.

**SECTION 63-7-1650. Services without removal.**

(A) Upon investigation of a report under Section 63-7-920 or at any time during the delivery of services by the department, the department may petition the family court for authority to intervene and provide protective services without removal of custody if the department determines by a preponderance of evidence that the child is an abused or neglected child and that the child cannot be protected from harm without intervention.

(B) The petition shall contain a full description of the basis for the department's belief that the child cannot be protected adequately without department intervention, including a description of the condition of the child, any previous efforts by the department to work with the parent or guardian, treatment programs which have been offered and proven inadequate, and the attitude of the parent or guardian towards intervention and protective services.

(C) Upon receipt of a petition under this section, the family court shall schedule a hearing to be held within thirty-five days of the filing date to determine whether intervention is necessary.

(D) The parties to the petition must be served with a summons and notices of right to counsel and of the hearing date and time along with the petition. Personal jurisdiction over the parties is effected if they are served at least seventy-two hours before the hearing. No responsive pleading to the petition is required. The court may authorize service by publication in appropriate cases and may waive the thirty-five days requirement when necessary to achieve service. A party may waive service or appear voluntarily.

(E) Intervention and protective services must not be ordered unless the court finds that the allegations of the petition are supported by a preponderance of the evidence including a finding

that the child is an abused or neglected child as defined in Section 63-7-20 and the child cannot be protected from further harm without intervention.

**SECTION 63-7-1660.** Services with removal.

(A) Upon investigation of a report received under Section 63-7-310 or at any time during the delivery of services by the department, the department may petition the family court to remove the child from custody of the parent, guardian, or other person legally responsible for the child's welfare if the department determines by a preponderance of evidence that the child is an abused or neglected child and that the child cannot be safely maintained in the home in that he cannot be protected from unreasonable risk of harm affecting the child's life, physical health, safety, or mental well-being without removal. If a noncustodial parent is not named as a party in the removal petition, the agency shall exercise every reasonable effort to promptly notify the noncustodial parent that a removal proceeding has been initiated and of the date and time of any hearings scheduled pursuant to this section.

(B)(1) The petition shall contain a full description of the reasons why the child cannot be protected adequately in the custody of the parent or guardian, including facts supporting the department's allegation that the child is an abused or neglected child as defined in Section 63-7-20 and that retention of the child in or return of the child to the home would place the child at unreasonable risk of harm affecting the child's life, physical health or safety, or mental well-being and the child cannot reasonably be protected from this harm without being removed, a description of the condition of the child, any previous efforts to work with the parent or guardian, in-home treatment programs which have been offered and proven inadequate, and the attitude of the parent or guardian towards placement of the child in an alternative setting. The petition also shall contain a statement of the harms the child is likely to suffer as a result of removal and a description of the steps that will be taken to minimize the harm to the child that may result upon removal.

(2) The petition for removal may include a petition for termination of parental rights. The petition for removal must include a petition for termination of parental rights if court records or other evidence indicate the existence of one or more of the conditions set forth in Section 63-7-1640(C)(1) through (8), unless there are compelling reasons for believing that termination of parental rights would be contrary to the best interests of the child.

(C)(1) Whether or not the petition for removal includes a petition for termination of parental rights, the petition shall contain a notice informing the parents of the potential effect of the

hearing on their parental rights and a notice to all interested parties that objections to the sufficiency of a placement plan, if ordered, or of any recommendations for provisions in the plan or court order must be raised at the hearing. The notice must be printed in boldface print or in all upper case letters and set off in a box.

(2) If the petition includes a petition for termination of parental rights, the notice shall state: "As a result of this hearing, you could lose your rights as a parent".

(3) If the petition does not include a petition for termination of parental rights, the notice shall state: "At this hearing the court may order a treatment plan. If you fail to comply with the plan, you could lose your rights as a parent".

(D) Upon receipt of a removal petition under this section, the family court shall schedule a hearing to be held within thirty-five days of the date of receipt to determine whether removal is necessary. The parties to the petition must be served with a summons and notices of right to counsel and the hearing date and time along with the petition. Personal jurisdiction over the parties is effected if they are served at least seventy-two hours before the hearing. No responsive pleading to the petition is required. The court may authorize service by publication in appropriate cases and may waive the thirty-five days requirement when necessary to achieve service. A party may waive service or appear voluntarily.

(E) The court shall not order that a child be removed from the custody of the parent or guardian unless the court finds that the allegations of the petition are supported by a preponderance of evidence including a finding that the child is an abused or neglected child as defined in Section 63-7-20 and that retention of the child in or return of the child to the home would place the child at unreasonable risk of harm affecting the child's life, physical health or safety, or mental well-being and the child cannot reasonably be protected from this harm without being removed.

(F)(1) It is presumed that a newborn child is an abused or neglected child as defined in Section 63-7-20 and that the child cannot be protected from further harm without being removed from the custody of the mother upon proof that:

(a) a blood or urine test of the child at birth or a blood or urine test of the mother at birth shows the presence of any amount of a controlled substance or a metabolite of a controlled substance unless the presence of the substance or the metabolite is the result of medical treatment administered to the mother of the infant or the infant, or

(b) the child has a medical diagnosis of fetal alcohol syndrome; and

(c) a blood or urine test of another child of the mother or a blood or urine test of the mother at the birth of another child showed the presence of any amount of a controlled substance or a metabolite of a controlled substance unless the presence of the substance or the metabolite was the result of medical treatment administered to the mother of the infant or the infant, or

(d) another child of the mother has the medical diagnosis of fetal alcohol syndrome.

(2) This presumption may be rebutted by proof that the father or another adult who will assume the role of parent is available and suitable to provide care for the child in the home of the mother. The father or the other adult must be made a party to the action and subject to the court's order establishing the conditions for maintaining the child in the mother's home. This statutory presumption does not preclude the court from ordering removal of a child upon other proof of alcohol or drug abuse or addiction by the parent or person responsible for the child who has harmed the child or threatened the child with harm.

(G) If the court removes custody of the child, the court's order shall contain a finding by the court of whether reasonable efforts were made by the department to prevent removal of the child and a finding of whether continuation of the child in the home would be contrary to the welfare of the child. The order shall state:

(1) the services made available to the family before the removal of the child and how they related to the needs of the family;

(2) the efforts of the agency to provide these services to the family before removal;

(3) why the efforts to provide services did not eliminate the need for removal; and

(4) whether the efforts to eliminate the need for removal were reasonable including, but not limited to, whether they were reasonably available and timely, reasonably adequate to address the needs of the family, reasonably adequate to protect the child and realistic under the circumstances. If the department's first contact with the child occurred under such circumstances that reasonable services would not have allowed the child to remain safely in the home, the court shall find that removal of the child without services or without further services was reasonable.

**SECTION 63-7-1670.** Treatment plan.

(A) At the close of a hearing pursuant to Section 63-7-1650 or 63-7-1660 and upon a finding that the child shall remain in the home and that protective services shall continue, the family court shall review and approve a treatment plan designed to alleviate any danger to the child and to aid the parents so that the child will not be endangered in the future.

(B) The plan must be prepared by the department and shall detail any changes in parental behavior or home conditions that must be made and any services which will be provided to the family to ensure, to the greatest extent possible, that the child will not be endangered. Whenever possible, the plan must be prepared with the participation of the parents, the child, and any other agency or individual that will be required to provide services. The plan must be submitted to the court at the hearing. If any changes in the plan are ordered, the department shall submit a revised plan to the court within two weeks of the hearing, with copies to the parties and legal counsel. Any dispute regarding the plan must be resolved by the court. The terms of the plan must be included as part of the court order. The court order shall specify a date when treatment goals must be achieved and court jurisdiction ends, unless the court specifically finds that the matter must be brought back before the court for further review before the case may be closed. If the order requires further court review before case closure, the order shall specify a time limit for holding the next hearing.

(C)(1) Unless services are to terminate earlier, the department shall schedule a review hearing before the court at least once every twelve months to establish whether the conditions which required the initial intervention exist. If the conditions no longer exist, the court shall order termination of protective services, and the court's jurisdiction shall end. If the court finds that the conditions which required the initial intervention are still present, it shall establish:

(a) what services have been offered to or provided to the parents;

(b) whether the parents are satisfied with the delivery of services;

(c) whether the department is satisfied with the cooperation given to the department by the parents;

(d) whether additional services should be ordered and additional treatment goals established; and

(e) the date when treatment goals must be achieved and court jurisdiction ends.

(2) The court order shall specify a date upon which jurisdiction will terminate automatically, which must be no later than eighteen months after the initial intervention. Jurisdiction may be extended pursuant to a hearing on motion by any party, if the court finds

that there is clear and convincing evidence that the child is threatened with harm absent a continuation of services.

**SECTION 63-7-1680.** Approval or amendment of plan.

(A) If the court orders that a child be removed from the custody of the parent or guardian, the court must approve a placement plan. A plan must be presented to the court for its approval at the removal hearing or within ten days after the removal hearing. If the plan is presented subsequent to the removal hearing, the court shall hold a hearing on the plan if requested by a party. The plan must be a written document prepared by the department. To the extent possible, the plan must be prepared with the participation of the parents or guardian of the child, the child, and any other agency or individual that will be required to provide services in order to implement the plan.

(B) The first section of the plan shall set forth the changes that must occur in the home and family situation before the child can be returned. These changes must be reasonably related to the reasons justifying removal of the child from the custody of the parents or guardian. This section of the plan must contain a notice to the parents or guardian that failure to make the indicated changes within six months may result in termination of parental rights.

(C) The second section of the plan shall set forth:

- (1) specific actions to be taken by the parents or guardian of the child; and
- (2) social or other services to be provided or made available to the parent or guardian of the child.

This section of the plan must include time frames for commencement or completion of specific actions or services. This section must contain a notice to the parents or guardian that completion of the indicated actions will not result in return of the child unless the changes set forth in section one of the plan have occurred.

(D) The third section of the plan shall set forth rights and obligations of the parents or guardian while the child is in custody including, but not limited to:

- (1) the responsibility of the parents or guardian for financial support of the child during the placement; and
- (2) the visitation rights and obligations of the parents or guardian during the placement.



The department may move before the family court for termination or suspension of visits between the parent or guardian and the child. The family court may order termination or suspension of the visits if ongoing contact between the parent or guardian and the child would be contrary to the best interests of the child. This section of the plan must include a notice to the parents or guardian that failure to support or visit the child as provided in the plan may result in termination of parental rights.

(E) The fourth section of the plan must address matters relating to the placement of the child including, but not limited to, the following:

(1) the nature and location of the placement of the child, unless there are compelling reasons for concluding that disclosure of the location of the placement to the parents, guardian, or other person would be contrary to the best interests of the child. The placement must be as close to the child's home as is reasonably possible, unless there are compelling reasons for concluding that placement at a greater distance is necessary to promote the child's well-being. In the absence of good cause to the contrary, preference must be given to placement with a relative or other person who is known to the child and who has a constructive and caring relationship with the child;

(2) visitation or other contact with siblings, other relatives, and other persons important to the child. The plan shall provide for as much contact between the child and these persons as is reasonably possible and consistent with the best interests of the child;

(3) social and other supportive services to be provided to the child and the foster parents, including counseling or other services to assist the child in dealing with the effects of separation from the child's home and family; and

(4) the minimum number and frequency of contacts that a caseworker with the department will have with the child, which must be based on the particular needs and circumstances of the individual child but which must not be less than once a month for a child placed in this State.

(F) The court shall approve the plan only if it finds that:

(1) the plan is consistent with the court's order placing the child in the custody of the department;

(2) the plan is consistent with the requirements for the content of a placement plan set forth in subsections (B) through (E);

(3) if the parents or guardian of the child did not participate in the development of the plan, that the department made reasonable efforts to secure their participation; and

(4) the plan is meaningful and designed to address facts and circumstances upon which the court based the order of removal.

If the court determines that any of these criteria are not satisfied, the court shall require that necessary amendments to the plan be submitted to the court within a specified time but no later than seven days. A hearing on the amended plan must be held if requested by a party.

(G) The court shall include in its order and shall advise defendants on the record that failure to remedy the conditions that caused the removal within six months, may result in termination of parental rights, subject to notice and a hearing as provided in Article 7. Before the court orders return of the child, the court must find that the changes in the home and family situation specified in section one of the plan have occurred and that the child can be safely returned to the home. Completion of the tasks specified in section two of the plan is not in itself sufficient basis for return of the child.

(H) The department immediately shall give a copy of the plan to the parents or guardian of the child, and any other parties identified by the court, including the child if the court considers it appropriate. If a copy of the plan is not given to the child, the department shall provide the child with age-appropriate information concerning the substance of the plan unless the court finds that disclosure of any part of the plan to the child would be inconsistent with the child's best interests. A copy of any part of the plan that directly pertains to the foster family or the foster child must be provided to the foster parents.

(I) The plan may be amended at any time if all parties agree to the revisions, and the revisions are approved by the court. The amended plan must be submitted to the court with a written explanation for the proposed change. The plan also may be amended by the court upon motion of a party after a hearing based on evidence demonstrating the need for the amendment. A copy of the amended plan immediately must be given to the parties specified in subsection (H).

(J) Any objections to the sufficiency of a plan or the process by which a plan was developed must be made at the hearing on the plan. Failure to request a hearing or to enter an objection at the hearing constitutes a waiver of the objection. The sufficiency of the plan or of the process for developing the plan may not be raised as an issue in a proceeding for termination of parental rights under Article 7.

(K) Upon petition of a party in interest, the court may order the state or county director or other authorized representative of the department to show cause why the agency should not be required to provide services in accordance with the plan. The provisions of the plan must be incorporated as part of a court order issued pursuant to this section. A person who fails to comply with an order may be held in contempt and subject to appropriate sanctions imposed by the court.

**SECTION 63-7-1690.** Placement plans; substance abuse issues.

(A) When the conditions justifying removal pursuant to Section 63-7-1660 include the addiction of the parent or abuse by the parent of controlled substances, the court may require as part of the placement plan ordered pursuant to Section 63-7-1680:

(1) the parent to successfully complete a treatment program operated by the Department of Alcohol and Other Drug Abuse Services or another treatment program approved by the department before return of the child to the home;

(2) any other adult person living in the home who has been determined by the court to be addicted to or abusing controlled substances or alcohol and whose conduct has contributed to the parent's addiction or abuse of controlled substances or alcohol to successfully complete a treatment program approved by the department before return of the child to the home; and

(3) the parent or other adult, or both, identified in item (2) to submit to random testing for substance abuse and to be alcohol or drug free for a period of time to be determined by the court before return of the child. The parent or other adult identified in item (2) must continue random testing for substance abuse and must be alcohol or drug free for a period of time to be determined by the court after return of the child before the case will be authorized to be closed.

(B) Results of tests ordered pursuant to this section must be submitted to the department and are admissible only in family court proceedings brought by the department.

**SECTION 63-7-1700.** Permanency planning.

(A) The family court shall review the status of a child placed in foster care upon motion filed by the department to determine a permanent plan for the child. The permanency planning hearing must be held no later than one year after the date the child was first placed in foster care. At the initial permanency planning hearing, the court shall review the status of the child and the progress being made toward the child's return home or toward any other permanent plan approved at the removal hearing. The court's order shall make specific findings in accordance with this section. An action for permanency planning must be brought for a child who enters the custody of the department by any mechanism, including subarticle 3 or Section

63-7-1660 or 63-9-330. If the child enters the custody of the department pursuant to Section 63-9-330 and no action is pending in the family court concerning the child, the department may initiate the permanency planning hearing with a summons and petition for review. All parties must be served with the motion or the summons and petition at least ten days before the hearing, and no responsive pleading is required.

(B) The department shall attach a supplemental report to the motion or summons and petition which must contain at least:

(1) that information necessary to support findings required in subsections (C) through (H), as applicable;

(2) the recommended permanent plan and suggested timetable for attaining permanence;

(3) a statement of whether or not the court has authorized the department to forego or terminate reasonable efforts pursuant to Section 63-7-1640; and

(4) any reports of the local foster care review board which pertain to the child.

The department may use the same form for the supplemental report, reports from the department to the local foster care review board, and reports compiled for internal department reviews.

(C) At the permanency planning hearing, the court shall review the department's plan for achieving permanence for the child. If the department's plan is not reunification with the parents, custody or guardianship with a fit and willing relative, or termination of parental rights, the department must show compelling reasons for the selection of another permanent plan. If the court approves a plan that is not reunification with the parents, custody or guardianship with a fit and willing relative, or termination of parental rights, the court must find compelling reasons for approval of the plan and that the plan is in the child's best interests.

(D) If the court determines at the permanency planning hearing that the child may be safely maintained in the home in that the parent has remedied the conditions that caused the removal and the return of the child to the child's parent would not cause an unreasonable risk of harm to the child's life, physical health, safety, or mental well-being, the court shall order the child returned to the child's parent. The court may order a specified period of supervision and services not to exceed twelve months. [When determining whether the child should be returned, the court shall consider all evidence; if the removal of the child from the family was due to drug use by one or both parents, then a drug test must be administered to the parent or both parents, as appropriate, and the results must be considered with all other evidence in determining whether the child should be returned to the parents' care; and the supplemental](#)

report including whether the parent has substantially complied with the terms and conditions of the plan approved pursuant to Section 63-7-1680.”

(E) Unless subsection (C), (F), or (G) applies, if the court determines at the permanency planning hearing that the child should not be returned to the child's parent at that time, the court's order shall require the department to file a petition to terminate parental rights to the child not later than sixty days after receipt of the order. If a petition to terminate parental rights is to be filed, the department shall exercise and document every reasonable effort to promote and expedite the adoptive placement and adoption of the child, including a thorough adoption assessment and child-specific recruitment. Adoptive placements must be diligently sought for the child and failure to do so solely because a child is classified as "special needs" is expressly prohibited. An adoption may not be delayed or denied solely because a child is classified as "special needs". For purposes of this subsection:

(1) "thorough adoption assessment" means conducting and documenting face-to-face interviews with the child, foster care providers, and other significant parties; and

(2) "child specific recruitment" means recruiting an adoptive placement targeted to meet the individual needs of the specific child including, but not be limited to, use of the media, use of photo listings, and any other in-state or out-of-state resources which may be utilized to meet the specific needs of the child, unless there are extenuating circumstances that indicate that these efforts are not in the best interest of the child.

(F) If the court determines that the criteria in subsection (D) are not met but that the child may be returned to the parent within a specified reasonable time not to exceed eighteen months after the child was placed in foster care, the court may order an extension of the plan approved pursuant to Section 63-7-1680 or may order compliance with a modified plan, but in no case may the extension for reunification continue beyond eighteen months after the child was placed in foster care. An extension may be granted pursuant to this section only if the court finds:

(1) that the parent has demonstrated due diligence and a commitment to correcting the conditions warranting the removal so that the child could return home in a timely fashion;

(2) that there are specific reasons to believe that the conditions warranting the removal will be remedied by the end of the extension;

(3) that the return of the child to the child's parent would not cause an unreasonable risk of harm to the child's life, physical health, safety, or mental well-being;

(4) that, at the time of the hearing, initiation of termination of parental rights is not in the best interest of the child; and

(5) that the best interests of the child will be served by the extended or modified plan.

(G) If after assessing the viability of adoption, the department demonstrates that termination of parental rights is not in the child's best interests, the court may award custody or legal guardianship, or both, to a suitable, fit, and willing relative or nonrelative if the court finds this to be in the best interest of the child; however, a home study on the individual whom the department is recommending for custody of the child must be submitted to the court for consideration before custody or legal guardianship, or both, are awarded. The court may order a specified period of supervision and services not to exceed twelve months, and the court may authorize a period of visitation or trial placement prior to receiving a home study.

(H) If at the initial permanency planning hearing the court does not order return of the child pursuant to subsection (D), in addition to those findings supporting the selection of a different plan, the court shall specify in its order:

(1) what services have been provided to or offered to the parents to facilitate reunification;

(2) the compliance or lack of compliance by all parties to the plan approved pursuant to Section 63-7-1680;

(3) the extent to which the parents have visited or supported the child and any reasons why visitation or support has not occurred or has been infrequent;

(4) whether previous services should continue and whether additional services are needed to facilitate reunification, identifying the services, and specifying the expected date for completion, which must be no longer than eighteen months from the date the child was placed in foster care;

(5) whether return of the child can be expected and identification of the changes the parent must make in circumstances, conditions, or behavior to remedy the causes of the child's placement or retention in foster care;

(6) whether the child's foster care is to continue for a specified time and, if so, how long;

(7) if the child has attained the age of sixteen, the services needed to assist the child to make the transition to independent living;

(8) whether the child's current placement is safe and appropriate;

(9) whether the department has made reasonable efforts to assist the parents in remedying the causes of the child's placement or retention in foster care, unless the court has previously authorized the department to terminate or forego reasonable efforts pursuant to Section 63-7-1640; and

(10) the steps the department is taking to promote and expedite the adoptive placement and to finalize the adoption of the child, including documentation of child specific recruitment efforts.

(l) If after the permanency planning hearing, the child is retained in foster care, future permanency planning hearings must be held as follows:

(1) If the child is retained in foster care and the agency is required to initiate termination of parental rights proceedings, the termination of parental rights hearing may serve as the next permanency planning hearing, but only if it is held no later than one year from the date of the previous permanency planning hearing.

(2) If the court ordered extended foster care for the purpose of reunification with the parent, the court must select a permanent plan for the child other than another extension for reunification purposes at the next permanency planning hearing. The hearing must be held on or before the date specified in the plan for expected completion of the plan; in no case may the hearing be held any later than six months from the date of the last court order.

(3) After the termination of parental rights hearing, the requirements of Section 63-7-2580 must be met. Permanency planning hearings must be held annually, starting with the date of the termination of parental rights hearing. No further permanency planning hearings may be required after filing a decree of adoption of the child.

(4) If the court places custody or guardianship with the parent, extended family member, or suitable nonrelative and a period of services and supervision is authorized, services and supervision automatically terminate on the date specified in the court order. Before the termination date, the department or the guardian ad litem may file a petition with the court for a review hearing on the status of the placement. Filing of the petition stays termination of the case until further order from the court. If the court finds clear and convincing evidence that the child will be threatened with harm if services and supervision do not continue, the court may extend the period of services and supervision for a specified time. The court's order must specify the services and supervision necessary to reduce or eliminate the risk of harm to the child.

(5) If the child is retained in foster care pursuant to a plan other than one described in items (1) through (4), future permanency planning hearings must be held at least annually.

(J) A named party, the child's guardian ad litem, or the local foster care review board may file a motion for review of the case at any time. Any other party in interest may move to intervene in the case pursuant to the rules of civil procedure and if the motion is granted, may move for review. Parties in interest include, but are not limited to, the individual or agency with legal custody or placement of the child and the foster parent. The notice of motion and motion for review must be served on the named parties at least ten days before the hearing date. The motion must state the reason for review of the case and the relief requested.

(K) The pendency of an appeal concerning a child in foster care does not deprive the court of jurisdiction to hear a case pursuant to this section. The court shall retain jurisdiction to review the status of the child and may act on matters not affected by the appeal.

**SECTION 63-7-1710.** Standards for terminating parental rights.

(A) When a child is in the custody of the department, the department shall file a petition to terminate parental rights or shall join as party in a termination petition filed by another party if:

(1) a child has been in foster care under the responsibility of the State for fifteen of the most recent twenty-two months;

(2) a court of competent jurisdiction has determined the child to be an abandoned infant;

(3) a court of competent jurisdiction has determined that the parent has committed murder, voluntary manslaughter, or homicide by child abuse of another child of the parent;

(4) a court of competent jurisdiction has determined that the parent has aided, abetted, conspired, or solicited to commit murder, voluntary manslaughter, or homicide by child abuse of another child of the parent;

(5) a court of competent jurisdiction has determined that the parent has committed a felony assault that has resulted in serious bodily injury to the child or to another child of the parent; or

(6) a court of competent jurisdiction has found the parent to be in wilful contempt on two occasions over a twelve-month period for failure to comply with the terms of the treatment plan or placement plan established pursuant to subarticle 11.”



(B) Concurrently with filing of the petition, the department shall seek to identify, recruit, process, and approve a qualified family for adoption of the child if an adoptive family has not yet been selected and approved.

(C) This section does not apply:

(1) to a child for whom the family court has found that initiation of termination of parental rights is not in the best interests of the child, after applying the criteria of Section 63-7-1700(C), (D), (F), or (G) and entering the findings required to select a permanent plan for the child from Section 63-7-1700(C), (D), (F), or (G). For this exemption to apply, the court must find that there are compelling reasons for selection of a permanent plan other than termination of parental rights;

(2) if the family court finds that the department has not afforded services to the parents provided for in the treatment plan approved pursuant to Section 63-7-1680 in a manner that was consistent with the time periods in the plan or that court hearings have been delayed in such a way as to interfere with the initiation, delivery, or completion of services, but only if:

(a) the parent did not delay the court proceedings without cause or delay or refuse the services;

(b) successful completion of the services in question may allow the child to be returned as provided for in Section 63-7-1700(F) within the extension period; and

(c) the case is not one for which the court has made a determination that reasonable efforts to preserve or reunify the family are not necessary pursuant to Section 63-7-1640.

**SECTION 63-7-1720.** Clerk of court and court administration progress reports.

(A) Beginning on January 1, 2000, or on the date of compliance with subsection (D), whichever is later, and on the first day of each month thereafter, each county clerk of court must make a report to Court Administration concerning each child protection case pending in family court in which a permanency planning order has not been filed. The report must include the case caption, the filing date, and, if applicable, the date of the permanency planning hearing and the permanency planning order. The clerk is not required to make a report concerning a case after a permanency planning order has been filed in the case.

(B) Court Administration must provide the administrative judge of the family court of each circuit with the information reported concerning cases pending in the circuit.

(C) On August fifteenth of each year, the Director of Court Administration must file with the Chief Justice of the South Carolina Supreme Court, with copies to the Department of Social Services and the Governor, a written report summarizing the information reported by the clerks of court pursuant to this section. The report shall contain, at a minimum, the following information summarized by county, by circuit, and by state:

(1) the number of new cases brought by the department during the preceding twelve months; and

(2) the number of cases filed more than twelve months in which a permanency planning order has not been filed.

The annual report must contain an analysis of the progress of these cases through the family court, identify impediments to complying with statutory mandates, and make recommendations for improving compliance.

(D) No later than January 1, 2000, Court Administration must institute the use of a separate code to identify child protection cases in its data systems. However, if the Chief Justice, upon recommendation of Court Administration, determines that there is a compelling reason why it is not feasible to institute the use of a separate code by January 1, 2000, compliance with this subsection may be deferred for up to twelve months, as necessary, for making adjustments in the data systems. The date of compliance and the compelling reason for any delay beyond January 1, 2000, shall be included in the report required by subsection (E).

(E) Court Administration shall conduct a study of the feasibility of collecting additional data necessary to monitor and ensure compliance with statutory time frames for conducting hearings in department cases, and no later than July 1, 2000, shall submit a report to the Chief Justice, with copies to the Department of Social Services and the Governor, containing recommendations for instituting the necessary data collection system.

#### SUBARTICLE 13.

#### CENTRAL REGISTRY OF CHILD ABUSE AND NEGLECT

**SECTION 63-7-1910.** Purpose.

The purpose of this subarticle is to establish a system for the identification of abused and neglected children and those who are responsible for their welfare, to provide a system for the coordination of reports concerning abused and neglected children, and to provide data for determining the incidence and prevalence of child abuse and neglect in this State. To further these purposes, the department must maintain one or more statewide data systems concerning cases reported to it pursuant to this article.

**SECTION 63-7-1920.** Department to maintain Central Registry.

(A) The Department of Social Services must maintain a Central Registry of Child Abuse and Neglect within the department's child protective services unit in accordance with this subarticle and Subarticles 5 and 7 and Section 17-25-135. Perpetrators of child abuse and neglect must be entered in the registry only by order of a court as provided for in this subarticle and Section 17-25-135, or as provided for in Section 63-7-1230. Each entry in the registry must be accompanied by information further identifying the person including, but not limited to, the person's date of birth, address, and any other identifying characteristics, and describing the abuse or neglect committed by the person.

(B) The Central Registry of Child Abuse and Neglect must not contain information from reports classified as unfounded. Other department records and databases must treat unfounded cases as provided for in Section 63-7-930.

**SECTION 63-7-1930.** Petition for placement in Central Registry.

(A) At any time following receipt of a report, the department may petition the family court for an order directing that the person named as perpetrator be entered in the Central Registry of Child Abuse and Neglect. The petition must have attached a written case summary stating facts sufficient to establish by a preponderance of evidence that the person named as perpetrator abused or neglected the child and that the nature and circumstances of the abuse indicate that the person named as perpetrator would present a significant risk of committing physical or sexual abuse or wilful or reckless neglect if placed in a position or setting outside of the person's home that involves care of or substantial contact with children. The department must serve a copy of the petition and summary on the person named as perpetrator. The petition must include a statement that the judge must rule based on the facts stated in the

petition unless the clerk of court or the clerk's designee receives a written request for a hearing from the person named as perpetrator within five days after service of the petition. The name, address, and telephone number of the clerk of court or the clerk's designee must be stated in the petition. If the person named as perpetrator requests a hearing, the court must schedule a hearing on the merits of the allegations in the petition and summary to be held no later than five working days following the request.

(B) The department must seek an order placing a person in the Central Registry pursuant to subsection (A) in all cases in which the department concludes that there is a preponderance of evidence that the person committed sexual abuse.

**SECTION 63-7-1940.** Court order for placement in Central Registry.

(A) At a hearing pursuant to Section 63-7-1650 or 63-7-1660, at which the court orders that a child be taken or retained in custody or finds that the child was abused or neglected, the court:

(1) shall order, **without possibility of waiver by the department**, that a person's name be entered in the Central Registry of Child Abuse and Neglect if the court finds that there is a preponderance of evidence that the person:

(a) physically **abused the child**; however, if the only form of physical abuse that is found by the court is excessive corporal punishment, the court only may order that the person's name be entered in the Central Registry if item (2) applies;

(b) **sexually abused the child**;

(c) **wilfully or recklessly neglected the child**; or

(d) **gave birth to the infant and the infant tested positive for the presence of any amount of controlled substance, prescription drugs not prescribed to the mother, metabolite of a controlled substance, or the infant has a medical diagnosis of neonatal abstinence syndrome, unless the presence of the substance or metabolite is the result of a medical treatment administered to the mother of the infant during birth or to the infant**;

(2) may, except as provided in item (1), order that the person's name be entered in the Central Registry if the court finds by a preponderance of evidence **that**:

(a) the person abused or neglected the child in any manner, including the use of excessive corporal punishment; and

(b) the nature and circumstances of the abuse indicate that the person would present a significant risk of committing physical or sexual abuse or wilful or reckless neglect if the person were in a position or setting outside of the person's home that involves care of or substantial contact with children.

(B) At the probable cause hearing, the court may order that the person be entered in the Central Registry if there is sufficient evidence to support the findings required by subsection (A).

**SECTION 63-7-1950.** Updated records requested.

In cases where a person has been placed in the Central Registry of Child Abuse and Neglect, the outcome of any further proceedings must be entered immediately by the department into the Central Registry of Child Abuse and Neglect. If it is determined that a report is unfounded, the department must immediately purge information identifying that person as a perpetrator from the registry and from department records as provided in Sections 63-7-1920 and 63-7-1960.

**SECTION 63-7-1960.** Destruction of certain records.

The names, addresses, birth dates, identifying characteristics, and other information unnecessary for auditing and statistical purposes of persons named in department records of indicated cases other than the Central Registry of Child Abuse and Neglect must be destroyed seven years from the date services are terminated. This section does not prohibit the department from maintaining an "indicated case" which contains identifying information on the child who is the subject of the indicated report and those responsible for the child's welfare without identifying a person as perpetrator, and it does not prohibit the department from providing child protective services to the child who is the subject of an indicated report and those responsible for the child's welfare.

**SECTION 63-7-1970.** Release of information.

Information in the central registry and other department records may be released only as authorized in Section 63-7-1990 or as otherwise specifically authorized by statute. Information in records of the department other than the Central Registry of Child Abuse and Neglect must not be used for screening potential employees or volunteers of any public or private entity, except as specifically provided by Section 63-7-1990 or as otherwise provided by statute. However, nothing in this section prevents the department from using other information in its records when making decisions associated with administration or delivery of the department's programs and services.

**SECTION 63-7-1980.** Screening against the Central Registry.

(A) When a statute or regulation makes determination of a person's history of child abuse or neglect a condition for employment or volunteer service in a facility or other entity regulated by the department, the person must be screened against the Central Registry of Child Abuse and Neglect before employment or service in the volunteer role. The person must be screened each time the license, registration, or other operating approval of the facility or other entity is renewed.

(B) When a statute or regulation makes determination of an applicant's history of child abuse or neglect, a condition for issuance of a license, registration, or other operating approval by the department, the applicant must be screened against the Central Registry of Child Abuse and Neglect before issuance of the initial license, registration, or other approval and each time the license, registration, or other operating approval is renewed.

**SECTION 63-7-1990.** Confidentiality and release of records and information.

(A) All reports made and information collected pursuant to this article maintained by the Department of Social Services and the Central Registry of Child Abuse and Neglect are confidential. A person who disseminates or permits the dissemination of these records and the information contained in these records except as authorized in this section, is guilty of a misdemeanor and, upon conviction, must be fined not more than one thousand five hundred dollars or imprisoned not more than one year, or both.

(B) The department is authorized to grant access to the records of indicated cases to the following persons, agencies, or entities:

- (1) the ombudsman of the office of the Governor or the Governor's designee;
- (2) a person appointed as the child's guardian ad litem, the attorney for the child's guardian ad litem, or the child's attorney;
- (3) appropriate staff of the department;
- (4) a law enforcement agency investigating or prosecuting known or suspected abuse or neglect of a child or any other crime against a child, attempting to locate a missing child, investigating or prosecuting the death of a child, or investigating or prosecuting any other crime established in or associated with activities authorized under this article;
- (5) a person who is named in a report or investigation pursuant to this article as having abused or neglected a child, that person's attorney, and that person's guardian ad litem;
- (6) a child fourteen years of age or older who is named in a report as a victim of child abuse or neglect, except in regard to information that the department may determine to be detrimental to the emotional well-being of the child;
- (7) the parents or guardians of a child who is named in a report as a victim of child abuse or neglect;
- (8) county medical examiners or coroners who are investigating the death of a child;
- (9) the State Child Fatality Advisory Committee and the Department of Child Fatalities in accordance with the exercise of their purposes or duties pursuant to Article 19, Chapter 11;
- (10) family courts conducting proceedings pursuant to this article;
- (11) the parties to a court proceeding in which information in the records is legally relevant and necessary for the determination of an issue before the court, if before the disclosure the judge has reviewed the records in camera, has determined the relevancy and necessity of the disclosure, and has limited disclosure to legally relevant information under a protective order;
- (12) a grand jury by subpoena upon its determination that access to the record is necessary in the conduct of its official business;
- (13) authorities in other states conducting child abuse and neglect investigations or providing child welfare services;

(14) courts in other states conducting child abuse and neglect proceedings or child custody proceedings;

(15) the director or chief executive officer of a childcare facility, child placing agency, or child caring facility when the records concern the investigation of an incident of child abuse or neglect that allegedly was perpetrated by an employee or volunteer of the facility or agency against a child served by the facility or agency;

(16) a person or agency with authorization to care for, diagnose, supervise, or treat the child, the child's family, or the person alleged to have abused or neglected the child;

(17) any person engaged in bona fide research with the written permission of the state director or the director's designee, subject to limitations the state director may impose;

(18) multidisciplinary teams impaneled by the department or impaneled pursuant to statute;

(19) circuit solicitors and their agents investigating or prosecuting known or suspected abuse or neglect of a child or any other crime against a child, attempting to locate a missing child, investigating or prosecuting the death of a child, or investigating or prosecuting any other crime established in or associated with activities authorized under this article;

(20) prospective adoptive or foster parents before placement;

(21) the Division for the Review of the Foster Care of Children, Office of the Governor, for purposes of certifying in accordance with Section 63-11-730 that no potential employee or nominee to and no member of the state or a local foster care review board is a subject of an indicated report or affirmative determination;

(22) employees of the Division for the Review of the Foster Care of Children, Office of the Governor and members of local boards when carrying out their duties pursuant to Article 7 of Chapter 11; the department and the division shall limit by written agreement or regulation, or both, the documents and information to be furnished to the local boards;

(23) The Division of Guardian ad Litem, Office of the Governor, for purposes of certifying that no potential employee or volunteer is the subject of an indicated report or an affirmative determination.

(C) The department may limit the information disclosed to individuals and entities named in subsection (B)(13), (14), (15), (16), (17), (18), and (20) to that information necessary to accomplish the purposes for which it is requested or for which it is being disclosed. Nothing in



this subsection gives to these entities or persons the right to review or copy the complete case record.

(D) When a request for access to the record comes from an individual identified in subsection (B)(5), (6), or (7) or that person's attorney, the department shall review any reports from medical care providers and mental health care providers to determine whether the report contains information that does not pertain to the case decision, to the treatment needs of the family as a whole, or to the care of the child. If the department determines that these conditions exist, before releasing the document, the department shall provide a written notice identifying the report to the requesting party and to the person whose treatment or assessment was the subject of the report. The notice may be mailed to the parties involved or to their attorneys or it may be delivered in person. The notice shall state that the department will release the report after ten days from the date notice was mailed to all parties and that any party objecting to release may apply to the court of competent jurisdiction for relief. When a medical or mental health provider or agency furnishes copies of reports or records to the department and designates in writing that those reports or records are not to be further disclosed, the department must not disclose those documents to persons identified in subsection (B)(5), (6), or (7) or that person's attorney. The department shall identify to the requesting party the records or reports withheld pursuant to this subsection and shall advise the requesting party that he may contact the medical or mental health provider or agency about release of the records or reports.

(E) A disclosure pursuant to this section shall protect the identity of the person who reported the suspected child abuse or neglect. The department also may protect the identity of any other person identified in the record if the department finds that disclosure of the information would be likely to endanger the life or safety of the person. Nothing in this subsection prohibits the department from subpoenaing the reporter or other persons to court for the purpose of testimony if the department determines the individual's testimony is necessary to protect the child; the fact that the reporter made the report must not be disclosed.

(F) The department is authorized to summarize the outcome of an investigation to the person who reported the suspected child abuse or neglect if the person requests the information at the time the report is made. The department has the discretion to limit the information disclosed to the reporter based on whether the reporter has an ongoing professional or other relationship with the child or the family.

(G) (1) The state director of the department or the director's designee may disclose to the media information contained in child protective services records if the disclosure is limited to discussion of the department's activities in handling the case including information placed in the public domain by other public officials, a criminal prosecution, the alleged perpetrator or

the attorney for the alleged perpetrator, [the party in interest](#) or other public judicial proceedings. For purposes of this subsection, information is considered "placed in the public domain" when it has been reported in the news media, is contained in public records of a criminal justice agency, is contained in public records of a court of law, or has been the subject of testimony in a public judicial proceeding.

(2) [The director or his designee shall disclose information in records required to be kept confidential pursuant to subsection \(A\) to respond to an allegation made by the alleged perpetrator, the attorney for the alleged perpetrator, the party in interest, or other public officials in public testimony before a committee or subcommittee of the Senate or the House of Representatives or a joint committee of the General Assembly, which is engaged in oversight or investigating the activities of the department. The department's response is limited to discussion of the department's activities in handling the case relating to the allegation made in public testimony.](#)

(3) [For all other information not subject to disclosure pursuant to subsection \(G\)\(2\), the director or his designee shall disclose information in records required to be kept confidential pursuant to subsection \(A\) to respond to an inquiry from a committee or subcommittee of the Senate or the House of Representatives or a joint committee of the General Assembly, which is engaged in oversight or investigating the activities of the department. The information must be reviewed in a closed session and kept confidential. Notwithstanding the provisions of Chapter 4, Title 30, meetings to review information disclosed pursuant to this item must be held in closed session and any documents or other materials provided or reviewed during the closed session are not subject to public disclosure."](#)

(H) The state director or the director's designee is authorized to prepare and release reports of the results of the department's investigations into the deaths of children in its custody or receiving child welfare services at the time of death.

(I) The department is authorized to disclose information concerning an individual named in the Central Registry of Child Abuse and Neglect as a perpetrator when screening of an individual's background is required by statute or regulation for employment, licensing, or any other purposes, or a request is made in writing by the person being screened. Nothing in this section prevents the department from using other information in department records when making decisions concerning licensing, employment, or placement, or performing other duties required by this act. The department also is authorized to consult any department records in providing information to persons conducting preplacement investigations of prospective adoptive parents in accordance with Section 63-9-520.

(J) The department is authorized to maintain in its childcare regulatory records information about investigations of suspected child abuse or neglect occurring in childcare facilities.

(1) The department must enter child abuse or neglect investigation information in its regulatory record from the beginning of the investigation and must add updated information as it becomes available. Information in the regulatory records must include at least the date of the report, the nature of the alleged abuse or neglect, the outcome of the investigation, any corrective action required, and the outcome of the corrective action plan.

(2) The department's regulatory records must not contain the identity of the reporter or of the victim child.

(3) The identity of the perpetrator must not appear in the record unless the family court has confirmed the department's determination or a criminal prosecution has resulted in conviction of the perpetrator.

(4) Nothing in this subsection may be construed to limit the department's authority to use information from investigations of suspected child abuse or neglect occurring in childcare facilities to pursue an action to enjoin operation of a facility as provided in Chapter 13.

(5) Record retention provisions applicable to the department's child protective services case records are not applicable to information contained in regulatory records concerning investigations of suspected child abuse or neglect occurring in childcare facilities.

(K) All reports made available to persons pursuant to this section must indicate whether or not an appeal is pending on the report pursuant to Subarticle 9.

(L) The department may disclose to participants in a family group conference relevant information concerning the child or family or other relevant information to the extent that the department determines that the disclosure is necessary to accomplish the purpose of the family group conference. Participants in the family group conference must be instructed to maintain the confidentiality of information disclosed by the agency.

(M) Nothing in this section may be construed to waive the confidential nature of the case record, to waive any statutory or common law privileges attaching to the department's internal reports or to information in case records, to create a right to access under the Freedom of Information Act, or to require the department to search records or generate reports for purposes of the Freedom of Information Act.

**SECTION 63-7-2000.** Retention and disclosure of records of unfounded cases.

(A) Notwithstanding other provisions of the law affecting confidentiality of child protective services records and use and disclosure of records of unfounded cases, records concerning unfounded reports must be retained and disclosed as provided in this section.

(B) The alleged perpetrator in an unfounded report who has reason to believe that the report was made maliciously or in bad faith has the right to request in writing that records of the report be retained by the department for up to two years from the date of the case decision. The written request must be received by the department within thirty days of the person's receiving notice of the case decision. A person exercising this right may request a copy of the record of the unfounded case and the department shall provide a copy of the record, subject to subsection (C).

(C) The department shall disclose to persons exercising the rights afforded them under this section whether the report was made anonymously. However, the identity of a reporter must not be made available to the person except by order of the family court.

(D) An alleged perpetrator in an unfounded case who believes the report was made maliciously or in bad faith may petition the family court to determine whether there is probable cause to believe that the reporter acted maliciously or in bad faith. The court shall determine probable cause based on an in camera review of the case record and oral or written argument, or both. If the court finds probable cause, the identity of the reporter must be disclosed to the moving party.

(E) Notwithstanding other provisions of the law affecting confidentiality of child protective services records and use and disclosure of records of unfounded cases, a court conducting civil or criminal proceedings resulting from disclosures authorized by this section may order the department to release the record to any party to the case or the law enforcement.

**SECTION 63-7-2010.** Annual reports.

The Department of Social Services must furnish annually to the Governor and the General Assembly a report on the incidence and prevalence of child abuse and neglect in South Carolina, the effectiveness of services provided throughout the State to protect children from this harm, and any other data considered instructive.

ARTICLE 5.

FOSTER CARE

**SECTION 63-7-2310.** Protecting and nurturing children in foster care.

(A) To protect and nurture children in foster care, the Department of Social Services and its employees shall:

(1) adhere strictly to the prescribed number of personal contacts, pursuant to Section 63-7-1680(B)(3). These contacts must be personal, face-to-face visits between the caseworker or member of the casework team and the foster child. These visits may be conducted in the foster home and in the presence of other persons who reside in the foster home; however, if the caseworker suspects that the child has been abused or neglected during the placement with the foster parent, the caseworker must observe and interview the child outside the presence of other persons who reside in the foster home;

(2) ensure that a caseworker interviews the foster parent, either in person or by telephone, at least once each month. No less frequently than once every two months, ensure that a caseworker or member of the casework team interviews the foster parent face-to-face during a visit in the foster home;

(3) ensure that a caseworker interviews other adults residing in the foster home, as defined in Section 63-1-40, face-to-face at least once each quarter. A foster parent must notify the department if another adult moves into the home, and the caseworker must interview the adult face-to-face within one month after receiving notice. Interviews of foster parents pursuant to item (2) and of other adults residing in the home pursuant to this item may be conducted together or separately at the discretion of the department;

(4) ensure that its staff visit in the foster home and interview the foster parent or other adults in the home more frequently when conditions in the home, circumstances of the foster children, or other reasons defined in policy and procedure suggest that increased oversight or casework support is appropriate. When more than one caseworker is responsible for a child in the foster home, the department may assign one caseworker to conduct the required face-to-face interview with the other adults residing in the foster home;

(5) provide to the foster child, if age appropriate, a printed card containing a telephone number the child may use to contact a designated unit or individual within the Department of Social Services and further provide an explanation to the child that the number is to be used if problems occur which the child believes his or her caseworker cannot or will not resolve;

(6) strongly encourage by letter of invitation, provided at least three weeks in advance, the attendance of foster parents to all Foster Care Review Board proceedings held for children in their care. If the foster parents are unable to attend the proceedings, they must submit a progress report to the Office of the Governor, Division of Foster Care Review, at least three days prior to the proceeding. Failure of a foster parent to attend the Foster Care Review Board proceeding or failure to submit a progress report to the Division of Foster Care Review does not require the board to delay the proceeding. The letter of invitation and the progress report form must be supplied by the agency;

(7) be placed under the full authority of sanctions and enforcement by the family court pursuant to Section 63-3-530(30) and Section 63-3-530(36) for failure to adhere to the requirements of this subsection.

(B) If the department places a child in foster care in a county which does not have jurisdiction of the case, the department may designate a caseworker in the county of placement to make the visits required by subsection (A).

(C) In fulfilling the requirements of subsection (A), the Department of Social Services shall reasonably perform its tasks in a manner which is least intrusive and disruptive to the lives of the foster children and their foster families.

(D) The Department of Social Services, in executing its duties under subsection (A)(4), must provide a toll free telephone number which must operate twenty-four hours a day.

(E) Any public employee in this State who has actual knowledge that a person has violated any of the provisions of subsection (A) must report those violations to the state office of the Department of Social Services; however, the Governor's Division of Foster Care Review must report violations of subsection (A)(4) in their regular submissions of advisory decisions and recommendations which are submitted to the family court and the department. Any employee who knowingly fails to report a violation of subsection (A) is guilty of a misdemeanor and, upon conviction, must be fined not more than five hundred dollars or imprisoned not more than thirty days, or both.

(F) Foster parents have a duty to make themselves reasonably available for the interviews required by subsection (A)(2) and to take reasonable steps to facilitate caseworkers' interviews with other adults who reside in the home as required by subsection (A)(3). Failure to comply

with either the duties in this subsection or those in subsection (A)(3) constitutes grounds for revocation of a foster parent's license or other form of approval to provide care to children in the custody of the department. Revocation would depend on the number of instances of noncompliance, the foster parents' wilfulness in noncompliance, or other circumstances indicating that noncompliance by the foster parents significantly and unreasonably interferes with the department's ability to carry out its protective functions under this section.

(G) To further this state's long-term goals and objectives on behalf of children in foster care, the Department of Social Services shall give to the General Assembly by January 15, 2000, a report of the status of the foster care system which includes improvements the department has made to ensure the safety and quality of life of South Carolina's foster children. This report must include:

(1) specific standards for the training of foster parents, including the type of training which is provided;

(2) standards which address emergency situations affecting the maximum number of children placed in each foster home;

(3) standards which provide for the periodic determination of the medical condition of a child during his stay in foster care; and

(4) methods the department has developed to encourage the receipt of information on the needs of children in foster care from persons who have been recently emancipated from the foster care system.

**SECTION 63-7-2320.** Kinship Foster Care Program.

(A) As used in this section, unless the context otherwise requires:

(1) "Department" means the Department of Social Services; and

(2) "Foster parent" means any person with whom a child in the care, custody, or guardianship of the department is placed for temporary or long-term care.

(B) There is established a "Kinship Foster Care Program" in the State Department of Social Services.

(C) When a child has been removed from his home and is in the care, custody, or guardianship of the department, the department shall attempt to identify a relative who would be appropriate for placement of the child in accordance with the preliminary investigation requirements of Subarticle 3, Article 3 and in accordance with Section 63-7-1680(B)(6). If the department determines that it is in the best interest of a child requiring out-of-home placement that the child be placed with a relative for foster care, or if a relative advises the department that the relative is interested in providing placement for a child requiring foster care, and the relative is not already licensed to provide foster care, the department shall inform the relative of the procedures for being licensed as a kinship foster parent, assist the foster parent with the licensing process, and inform the relative of availability of payments and other services to kinship foster parents. If the relative is licensed by the department to provide kinship foster care services, in accordance with rules and regulations adopted by the department regarding kinship foster care, and a placement with the relative is made, the relative may receive payment for the full foster care rate for the care of the child and any other benefits that might be available to foster parents, whether in money or in services.

(D) The department shall establish, in accordance with this section and the rules and regulations promulgated hereunder, eligibility standards for becoming a kinship foster parent.

(1) Relatives within the first, second, or third degree to the parent or stepparent of a child who may be related through blood, marriage, or adoption may be eligible for licensing as a kinship foster parent.

(2) The kinship foster parent must be twenty-one years of age or older, except that if the spouse or partner of the relative is twenty-one years of age or older and living in the home, and the relative is between eighteen and twenty-one years of age, the department may waive the age requirement.

(3)(a) A person may become a kinship foster parent only upon the completion of a full kinship foster care licensing study performed in accordance with rules and regulations promulgated pursuant to this section. Residents of the household who are age eighteen years of age or older must undergo the state and federal fingerprint review procedures as provided for in Section 63-7-2340. The department shall apply the screening criteria in Section 63-7-2350 to the results of the fingerprint reviews and the licensing study.

(b) The department shall maintain the confidentiality of the results of fingerprint reviews as provided for in state and federal regulations.

(4) The department shall determine, after a thorough review of information obtained in the kinship foster care licensing process, whether the person is able to care effectively for the foster child.



(E)(1) The department shall involve the kinship foster parents in development of the child's permanent plan pursuant to Section 63-7-1700 and other plans for services to the child and the kinship foster home. The department shall give notice of proceedings and information to the kinship foster parent as provided for elsewhere in this chapter for other foster parents. If planning for the child includes the use of childcare, the department shall pay for childcare arrangements, according to established criteria for payment of these services for foster children. If the permanent plan for the child involves requesting the court to grant custody or guardianship of the child to the kinship foster parent, the department must ensure that it has informed the kinship foster parent about adoption, including services and financial benefits that might be available.

(2) The kinship foster parent shall cooperate with any activities specified in the case plan for the foster child, such as counseling, therapy or court sessions, or visits with the foster child's parents or other family members. Kinship foster parents and placements made in kinship foster care homes are subject to the requirements of Section 63-7-2310.

**SECTION 63-7-2330.** Placement with relatives.

(A) When the Department of Social Services has custody of a child and places that child with a relative who is licensed to provide foster care, the agency must provide the same services and financial benefits as provided to other licensed foster homes. Children placed pursuant to this section are subject to the permanency planning requirements in Section 63-7-1700.

(B) If the department has determined that it is in the best interest of a child requiring foster care that the child be placed with a relative, and the relative is not licensed to provide foster care, or if a relative advises the department that the relative is interested in providing placement for a child requiring foster care, the department shall inform the relative of the procedures for obtaining licensure and the benefits of licensure. The department also shall provide information and reasonable assistance to a relative seeking a foster care license to the same extent that it provides this information and assistance to other persons contacting the department about foster care licensing.

**SECTION 63-7-2340.** Fingerprint review.

(A) A person applying for licensure as a foster parent or for approval for adoption placement and a person eighteen years of age or older, residing in a home in which a person has applied to be licensed as a foster parent or an approved adoption placement, must undergo a state fingerprint review to be conducted by the State Law Enforcement Division to determine any state criminal history and a fingerprinting review to be conducted by the Federal Bureau of Investigation to determine any other criminal history.

(B) Any fee charged by the Federal Bureau of Investigation for the fingerprint review must be paid by the individual.

**SECTION 63-7-2345.** Payment of costs of Federal Bureau of Investigation fingerprint reviews.

Notwithstanding the provisions of Section 63-7-2350, the department is authorized to pay from funds appropriated for foster care the costs of Federal Bureau of Investigation fingerprint reviews for foster care families recruited and selected as potential adoption and foster care providers for children in the custody of the department.

**SECTION 63-7-2350.** Restrictions on foster care or adoption placements.

(A) No child in the custody of the Department of Social Services may be placed in foster care or for adoption with a person if the person or anyone eighteen years of age or older residing in the home:

(1) has a substantiated history of child abuse or neglect; or

(2) has pled guilty or nolo contendere to or has been convicted of:

(a) an "Offense Against the Person" as provided for in Chapter 3, Title 16;

(b) an "Offense Against Morality or Decency" as provided for in Chapter 15, Title 16;

(c) contributing to the delinquency of a minor as provided for in Section 16-17-490;

(d) the common law offense of assault and battery of a high and aggravated nature when the victim was a person seventeen years of age or younger;

(e) criminal domestic violence as defined in Section 16-25-20;

(f) criminal domestic violence of a high and aggravated nature as defined in Section 16-25-65;

(g) a felony drug-related offense under the laws of this State;

(h) unlawful conduct toward a child as provided for in Section 63-5-70;

(i) cruelty to children as provided for in Section 63-5-80;

(j) child endangerment as provided for in Section 56-5-2947; or

(k) criminal sexual conduct with a minor in the first degree as provided for in Section 16-3-655(A).

(B) A person who has been convicted of a criminal offense similar in nature to a crime enumerated in subsection (A) when the crime was committed in another jurisdiction or under federal law is subject to the restrictions set out in this section.

(C) This section does not prevent foster care placement or adoption placement when a conviction or plea of guilty or nolo contendere for one of the crimes enumerated in subsection (A) has been pardoned. However, notwithstanding the entry of a pardon, the department or other entity making placement or licensing decisions may consider all information available, including the person's pardoned convictions or pleas and the circumstances surrounding them, to determine whether the applicant is unfit or otherwise unsuited to provide foster care services.

**SECTION 63-7-2360.** Placement of minor sex offenders.

(A) No agency may place a minor in a foster home if the agency has actual knowledge that the minor has been adjudicated delinquent for, or has pled guilty or nolo contendere to, or has been convicted of a sex offense, unless the placement is in a therapeutic foster home or unless the minor is the only child in the foster home at the time of placement and for the length of that minor's placement in the foster home. Notwithstanding this provision, the placing agency may petition the court for an order allowing the minor to be placed in a foster home, other than a therapeutic home, if good cause is shown. Good cause shall include, but not be limited to, the fact that the minor is being placed in a home with his siblings.

(B) The placing agency must inform the foster parent in whose home the minor is placed of that minor's prior history of a sex offense. For purposes of this section the term "sex offense" means:

- (1) criminal sexual conduct in the first degree, as provided in Section 16-3-652;
- (2) criminal sexual conduct in the second degree, as provided in Section 16-3-653;
- (3) criminal sexual conduct in the third degree, as provided in Section 16-3-654;
- (4) criminal sexual conduct with minors in the first degree, as provided in Section 16-3-655(A);
- (5) criminal sexual conduct with minors in the second degree, as provided in Section 16-3-655(B);
- (6) criminal sexual conduct with minors in the third degree, as provided in Section 16-3-655(C);
- (7) engaging a child for a sexual performance, as provided in Section 16-3-810;
- (8) producing, directing, or promoting sexual performance by a child, as provided in Section 16-3-820;
- (9) assault with intent to commit criminal sexual conduct, as provided in Section 16-3-656;
- (10) incest, as provided in Section 16-15-20;
- (11) buggery, as provided in Section 16-15-120;
- (12) violations of Article 3, Chapter 15 of Title 16 involving a child when the violations are felonies;
- (13) accessory before the fact to commit an offense enumerated in this item and as provided for in Section 16-1-40;
- (14) attempt to commit any of the offenses enumerated herein; or
- (15) any offense for which the judge makes a specific finding on the record that based on the circumstances of the case, the minor's offense should be considered a sex offense.

**SECTION 63-7-2370.** Disclosure of information to foster parents.

The department shall disclose to the foster parent at the time the department places the child in the home all information known by the person making the placement or reasonably accessible to the person making the placement which could affect either the ability of the foster parent to care for the child or the health and safety of the child or the foster family. This information includes, but is not limited to, medical and mental health conditions and history of the child, the nature of abuse or neglect to which the child has been subjected, behavioral problems, and matters related to educational needs. If a person lacking this necessary information made the placement, a member of the child's casework team or the child's caseworker shall contact the foster parent and provide the information during the first working day following the placement. The child's caseworker shall research the child's record and shall supplement the information provided to the foster parent no later than the end of the first week of placement if additional information is found. When the child's caseworker acquires new information which could affect either the ability of the foster parent to care for the child or the health and safety of the child or the foster family, the department shall disclose that information to the foster parent. The obligation to provide this information continues until the placement ends.

**SECTION 63-7-2380.** Foster parent training.

The Department of Social Services shall establish standards for foster parent training so as to ensure uniform preparedness for foster parents who care for abused or neglected children in the custody of the State. These standards shall specifically prohibit the viewing of standard television programs or reading of articles from popular magazines or daily newspapers as complying with the completion of pre-service or annual foster parent training requirements.

**SECTION 63-7-2390.** Loss for uninsured damages.

A state agency which places a child in a foster home may compensate a foster family, who has made its private residence available as a foster home, for the uninsured loss it incurs when its personal or real property is damaged, destroyed, or stolen by a child placed in its home, if the loss is found by the director of the placing state agency, or his designee, to have occurred, to have been caused solely or primarily by the acts of the child placed with the foster family,

and if the acts of the foster family have not in any way caused or contributed to the loss. Compensation may not be in excess of the actual cost of repair or replacement of the damaged or destroyed property but in no case may compensation exceed five hundred dollars for each occurrence.

## ARTICLE 7.

### TERMINATION OF PARENTAL RIGHTS

#### **SECTION 63-7-2510.** Purpose.

The purpose of this article is to establish procedures for the reasonable and compassionate termination of parental rights where children are abused, neglected, or abandoned in order to protect the health and welfare of these children and make them eligible for adoption by persons who will provide a suitable home environment and the love and care necessary for a happy, healthful, and productive life.

#### **SECTION 63-7-2520.** Jurisdiction.

The family court has exclusive jurisdiction over all proceedings held pursuant to this article. For purposes of this article jurisdiction may continue until the child becomes eighteen years of age, unless emancipated earlier.

#### **SECTION 63-7-2530.** Filing procedures.

(A) A petition seeking termination of parental rights may be filed by the Department of Social Services or any interested party.

(B) The department may file an action for termination of parental rights without first seeking the court's approval of a change in the permanency plan pursuant to Section 63-7-1680 and without first seeking an amendment of the placement plan pursuant to Section 63-7-1700.

(C) The hearing on the petition to terminate parental rights must be held within one hundred twenty days of the date the termination of parental rights petition is filed. A party may request a continuance that would result in the hearing being held more than one hundred twenty days after the petition was filed, and the court may grant a continuance in its discretion. If a continuance is granted, the court must issue a written order scheduling the case for trial on a date and time certain.

**SECTION 63-7-2540.** Content of petition.

A petition for the termination of parental rights must set forth the:

- (1) basis of the court's jurisdiction;
- (2) name, sex, date, and place of birth of the child, if known;
- (3) name and address of the petitioner and the petitioner's relationship to the child;
- (4) names, dates of birth, and addresses of the parents, if known;
- (5) names and addresses of a:
  - (a) legal guardian of the child; or
  - (b) person or agency having legal custody of the child; and
- (6) grounds on which termination of parental rights are sought and the underlying factual circumstances.

**SECTION 63-7-2550.** Service of petition.

(A) A summons and petition for termination of parental rights must be filed with the court and served on:

(1) the child, if the child is fourteen years of age or older;

(2) the child's guardian ad litem, appointed pursuant to Section 63-7-2560(B), if the child is under fourteen years of age;

(3) the parents of the child; and

(4) an agency with placement or custody of the child.

(B) The right of an unmarried biological father, as defined in Section 63-9-820, to receive notice of a termination of parental rights action must be governed by the notice provisions of Section 63-9-730(B)(1), (3), (4), (5), and (6), and Subarticle 8, Chapter 9.

**SECTION 63-7-2560.** Representation by counsel; guardian ad litem.

(A) Parents, guardians, or other persons subject to a termination of parental rights action are entitled to legal counsel. Those persons unable to afford legal representation must be appointed counsel by the family court, unless the defendant is in default.

(B) A child subject to any judicial proceeding under this article must be appointed a guardian ad litem by the family court. If a guardian ad litem who is not an attorney finds that appointment of counsel is necessary to protect the rights and interests of the child, an attorney must be appointed. If the guardian ad litem is an attorney, the judge must determine on a case-by-case basis whether counsel is required for the guardian ad litem. However, counsel must be appointed for a guardian ad litem who is not an attorney in any case that is contested.

**SECTION 63-7-2570.** Grounds.

The family court may order the termination of parental rights upon a finding of one or more of the following grounds and a finding that termination is in the best interest of the child:

(1) The child or another child while residing in the parent's domicile has been harmed as defined in Section 63-7-20, and because of the severity or repetition of the abuse or neglect, it is not reasonably likely that the home can be made safe within twelve months. In determining the likelihood that the home can be made safe, the parent's previous abuse or neglect of the child or another child may be considered.



(2) The child has been removed from the parent pursuant to Subarticle 3 or Section 63-7-1660 [and](#) has been out of the home for a period of six months following the adoption of a placement plan by court order or by agreement between the department and the parent, and the parent has not remedied the conditions which caused the removal.

(3) The child has lived outside the home of either parent for a period of six months, and during that time the parent has wilfully failed to visit the child. The court may attach little or no weight to incidental visitations, but it must be shown that the parent was not prevented from visiting by the party having custody or by court order. The distance of the child's placement from the parent's home must be taken into consideration when determining the ability to visit.

(4) The child has lived outside the home of either parent for a period of six months, and during that time the parent has wilfully failed to support the child. Failure to support means that the parent has failed to make a material contribution to the child's care. A material contribution consists of either financial contributions according to the parent's means or contributions of food, clothing, shelter, or other necessities for the care of the child according to the parent's means. The court may consider all relevant circumstances in determining whether or not the parent has wilfully failed to support the child, including requests for support by the custodian and the ability of the parent to provide support.

(5) The presumptive legal father is not the biological father of the child, and the welfare of the child can best be served by termination of the parental rights of the presumptive legal father.

(6) The parent has a diagnosable condition unlikely to change within a reasonable time including, but not limited to, addiction [to alcohol or illegal drugs, prescription medication abuse](#), mental deficiency, mental illness, or extreme physical incapacity, and the condition makes the parent unable or unlikely to provide minimally acceptable care of the child. It is presumed that the parent's condition is unlikely to change within a reasonable time upon proof that the parent has been required by the department or the family court to participate in a treatment program for alcohol or drug addiction, and the parent has failed two or more times to complete the program successfully or has refused at two or more separate meetings with the department to participate in a treatment program.

(7) The child has been abandoned as defined in Section 63-7-20.

(8) The child has been in foster care under the responsibility of the State for fifteen of the most recent twenty-two months.

(9) The physical abuse of a child resulted in the death or admission to the hospital for in-patient care of that child and the abuse is the act for which the parent has been convicted of

or pled guilty or nolo contendere to committing, aiding, abetting, conspiring to commit, or soliciting an offense against the person as provided for in Title 16, Chapter 3, criminal domestic violence as defined in Section 16-25-20, criminal domestic violence of a high and aggravated nature as defined in Section 16-25-65, or [an assault and battery offense as provided in Article 7, Chapter 3, Title 16.](#)

(10) A parent of the child pleads guilty or nolo contendere to or is convicted of the murder of the child's other parent.

(11) Conception of a child as a result of the criminal sexual conduct of a biological parent, as found by a court of competent jurisdiction, is grounds for terminating the rights of that biological parent, unless the sentencing court makes specific findings on the record that the conviction resulted from consensual sexual conduct [when](#) neither the victim nor the actor were younger than fourteen years of age nor older than eighteen years of age at the time of the offense.

[\(12\) The parent of the child pleads guilty or nolo contendere to or is convicted of murder, voluntary manslaughter, or homicide by child abuse, of another child of the parent.”](#)

**SECTION 63-7-2580.** Permanency of order.

(A) If the court finds that a ground for termination, as provided for in Section 63-7-2570, exists, the court may issue an order forever terminating parental rights to the child. Where the petitioner is an authorized agency, the court shall place the child in the custody of the petitioner or other child-placing agency for adoption and shall require the submission of a plan for permanent placement of the child within thirty days after the close of the proceedings to the court and to the child's guardian ad litem. Within an additional sixty days the agency shall submit a report to the court and to the guardian ad litem on the implementation of the plan. The court, on its own motion, may schedule a hearing to review the progress of the implementation of the plan.

(B) If the court finds that no ground for termination exists and the child is in the custody of the Department of Social Services, the order denying termination must specify a new permanent plan for the child or order a hearing on a new permanent plan.

(C) If the court determines that an additional permanency hearing is not needed, the court may order:

(1) the child returned to the child's parent if the parent has counterclaimed for custody and the court determines that the return of the child to the parent would not cause an unreasonable risk of harm to the child's life, physical health or safety, or mental well-being. The court may order a specified period of supervision and services not to exceed twelve months;

(2) a disposition provided for in Section 63-7-1700(E) if the court determines that the child should not be returned to a parent.

(D)(1) If the court determines that an additional permanency hearing is required, the court's order shall schedule a permanency hearing to be held within fifteen days of the date the order is filed. The court's order must be sufficient to continue jurisdiction over the parties without any need for filing or service of pleadings by the department. The permanency hearing must be held before the termination of parental rights trial if reasonably possible.

(2) At the hearing, the department shall present a proposed disposition and permanent plan in accordance with Section 63-7-1700. No supplemental report may be required. The hearing and any order issuing from the hearing shall conform to Section 63-7-1700.

(3) If the court approves retention of the child in foster care pursuant to Section 63-7-1700(E), any new plan for services and placement of the child must conform to the requirements of Section 63-7-1680. Section 63-7-1680 requires the plan to address conditions that necessitated removal of the child, but the plan approved pursuant to this subsection shall address conditions that necessitate retention of the child in foster care.

#### **SECTION 63-7-2590.** Effect of order.

(A) An order terminating the relationship between parent and child under this article divests the parent and the child of all legal rights, powers, privileges, immunities, duties, and obligations with respect to each other, except the right of the child to inherit from the parent. A right of inheritance is terminated only by a final order of adoption.

(B) The relationship between a parent and child may be terminated with respect to one parent without affecting the relationship between the child and the other parent.

#### **SECTION 63-7-2600.** Confidentiality.

All papers and records pertaining to a termination of parental rights are confidential and all court records must be sealed and opened only upon order of the judge for good cause shown.

**SECTION 63-7-2610.** Effect on adoption laws.

The provisions of this article do not, except as specifically provided, modify or supersede the general adoption laws of this State.

**SECTION 63-7-2620.** Construction of law.

This article must be liberally construed in order to ensure prompt judicial procedures for freeing minor children from the custody and control of their parents by terminating the parent-child relationship. The interests of the child shall prevail if the child's interest and the parental rights conflict.

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**Referenced Documents**

Title 63 South Carolina Children's Code

**Revision Comments**

Updated to incorporate Act 281 (Jaidon's Law) and Act 291. See sections [63-7-1680](#), [63-7-1690](#), [63-7-1700](#), [63-7-1710](#), [63-7-1940](#), [63-7-2570](#), [63-7-315](#), [63-7-940](#) and [63-7-1990](#).

## **751 Criminal Sexual Conduct**

### **Section 16-3-651. Criminal sexual conduct definitions.**

For the purposes of Sections 16-3-651 to 16-3-659.1:

- (a) "Actor" means a person accused of criminal sexual conduct;
- (b) "Aggravated coercion" means that the actor threatens to use force or violence of a high and aggravated nature to overcome the victim or another person, if the victim reasonably believes that the actor has the present ability to carry out the threat, or threatens to retaliate in the future by the infliction of physical harm, kidnapping or extortion, under circumstances of aggravation, against the victim or any other person.
- (c) "Aggravated force" means that the actor uses physical force or physical violence of a high and aggravated nature to overcome the victim or includes the threat of use of a deadly weapon.
- (d) "Intimate parts" includes the primary genital area, anus, groin, inner thighs, or buttocks of a male or female human being and the breast of a female human being.
- (e) "Mentally defective" means that a person suffers from a mental disease or defect which renders the person temporarily or permanently incapable of appraising the nature of his or her conduct.
- (f) "Mentally incapacitated" means that a person is rendered temporarily incapable of appraising or controlling his or her conduct whether this condition is produced by illness, defect, the influence of a substance or from some other cause.
- (g) "Physically helpless" means that person is unconscious, asleep, or for any other reason physically unable to communicate unwillingness to act.
- (h) "Sexual battery" means sexual intercourse, cunnilingus, fellatio, anal intercourse, or any intrusion, however slight, of any part of a person's body or of any object into the genital or anal openings of another person's body except when such intrusion is accomplished for medically recognized treatment or diagnostic purposes.
- (i) "Victim" means the person alleging to have been subjected to criminal sexual conduct.

### **Section 16-3-655. Criminal sexual conduct with a minor.**

- (1) A person is guilty of criminal sexual conduct in the first degree if the actor engages in sexual battery with the victim who is less than eleven years of age.
- (2) A person is guilty of criminal sexual conduct in the second degree if the actor engages in sexual battery with a victim who is fourteen years of age or less but who is at least eleven years of age.
- (3) A person is guilty of criminal sexual conduct in the second degree if the actor engages in sexual battery with a victim who is at least fourteen years of age but who is less than sixteen years of age and the actor is in a position of familial, custodial, or official authority to coerce the victim to submit or is older than the victim.

### **Section 16-3-800. Definitions.**

As used in this article.

(1) "Sexual performance" means any performance or part thereof that includes sexual conduct by a child younger than eighteen years of age.

(2) "Sexual conduct" means actual or simulated sexual intercourse, deviate sexual intercourse, sexual bestiality, masturbation, sadomasochistic abuse, or lewd exhibition of the genitals.

(3) "Performance" means any play, motion picture, photograph, dance, or other visual representation that is exhibited before an audience.

(4) "Promote" means to procure, manufacture, issue, sell, give, provide, lend, mail, deliver, transfer, transmit, publish, distribute, circulate, disseminate, present, exhibit, or advertise or to offer or agree to do any of the above.

**Section 16-3-810. Engaging child for sexual performance; penalty.**

(a) It is unlawful for any person to employ, authorize, or induce a child younger than eighteen years of age to engage in a sexual performance. It is unlawful for a parent or legal guardian or custodian of a child younger than eighteen years of age to consent to the participation by the child in a sexual performance.

(b) Any person violating the provisions of subsection (a) of this section is guilty of criminal sexual conduct of the second degree and upon conviction shall be punished as provided in Section 16-3-653.

**Section 16-3-820. Producing, directing or promoting sexual performance by child; penalty.**

(a) It is unlawful for any person to produce, direct, or promote a performance that includes sexual conduct by a child younger than eighteen years of age.

(b) any person violating the provisions of subsection (a) of this section is guilty of criminal sexual conduct of the third degree and upon conviction shall be punished as provided in Section 16-3-654.

**Section 16-3-830. Reasonable belief as to majority of child as affirmative defense.**

It is an affirmative defense to a prosecution under this article that the defendant, in good faith, reasonably believed that the person who engaged in sexual conduct was eighteen years of age or older.

**Section 16-3-840. Methods of judicial determination of age of child.**

When it becomes necessary for the purposes of this article to determine whether a child who participated in sexual conduct was younger than eighteen years of age, the court or jury may make this determination by any of the following:

(1) personal inspection of the child;

(2) inspection of the photograph or motion picture that shows the child engaging in the sexual performance;

(3) oral testimony by a witness to the sexual performance as to the age of the child based on the child's appearance at the time;

(4) expert medical testimony based on the appearance of the child engaging in the sexual performance; or

(5) any other method authorized by law or by rules of evidence.

**Section 16-3-850. Film processor or computer technician to report film or computer**

### **images containing sexually explicit pictures of minors.**

Any retail or wholesale film processor or photo finisher who is requested to develop film, and any computer technician working with a computer who views an image of a child younger than eighteen years of age who is engaging in sexual conduct, sexual performance, or a sexually explicit posture must report the name and address of the individual requesting the development of the film, or of the owner or person in possession of the computer to law enforcement officials in the state and county or municipality from which the film was originally forwarded. Compliance with this section does not give rise to any civil liability on the part of anyone making the report.

### **Section 16-15-20. Incest.**

Any person who shall have carnal intercourse with each other within the following degrees of relationship, to wit:

(1) a man with his mother, grandmother, daughter, granddaughter, stepmother, sister, grandfather's wife, son's wife, grandson's wife, wife's mother, wife's grandmother, wife's daughter, wife's granddaughter, brother's daughter, sister's daughter, father's sister or mother's sister; or

(2) a woman with her father, grandfather, son, grandson, stepfather, brother, grandmother's husband, daughter's husband, granddaughter's husband, husband's father, husband's grandfather, husband's son, husband's grandson, brother's son, sister's son, father's brother or mother's brother;

Shall be guilty of incest and shall be punished by a fine of not less than five hundred dollars or imprisonment not less than one year in the Penitentiary, or both such fine and imprisonment.

### **Section 16-15-140. Committing or attempting lewd act upon child under sixteen.**

It is unlawful for a person over the age of fourteen years to willfully and lewdly commit or attempt a lewd or lascivious act upon or with the body, or its parts, of a child under the age of sixteen years, with the intent of arousing, appealing to, or gratifying the lust or passions or sexual desires of the person or of the child.

A person violating the provisions of this section is guilty of a felony and, upon conviction, must be fined in the discretion of the court or imprisoned no more than fifteen years, or both.

### **Section 16-15-335. Permitting minor to engage in any act constituting violation of this article prohibited; penalties.**

Any individual eighteen years of age or older who knowingly, in any manner, hires, employs, uses, or permits any person under the age of eighteen years to do or assist in doing any act or thing constituting an offense under this article and involving any material, act, or thing he knows or reasonably should know to be obscene within the meaning of 16-15-305 is guilty of a felony and, upon conviction, must be imprisoned for not more than five years.

### **Section 16-15-345. Disseminating obscene material to person under age eighteen prohibited; penalties.**

An individual eighteen years of age or older who knowingly disseminates to a person under the age of eighteen years material which he knows or reasonably should know to be obscene within the meaning of Section 16-15-305 is guilty of a felony and, upon conviction, must be imprisoned for not more than ten years.

**Section 16-15-355.** Disseminating obscene material to minor twelve years of age or younger prohibited; penalties.

Any individual eighteen years of age or older who knowingly disseminates to any minor twelve years of age or younger any material which he knows or reasonably should know to be obscene within the meaning of 16-15-305 is guilty of a felony and, upon conviction, must be imprisoned for not more than ten years.

**Section 16-15-375. Definitions applicable to §§ 16-15-385 through 16-15-425.**

The following definitions apply to Section 16-15-385, disseminating or exhibiting to minors harmful material or performances; Section 16-15-387, employing a person under the age of eighteen years to appear in a state of sexually explicit nudity in a public place; Section 16-15-395, first degree sexual exploitation of a minor; Section 16-15-405, second degree sexual exploitation of a minor; Section 16-15-410, third degree sexual exploitation of a minor; Section 16-15-415, promoting prostitution of a minor; and Section 16-15-425, participating in prostitution of a minor.

- (1) "Harmful to minors" means that quality of any material or performance that depicts sexually explicit nudity or sexual activity and that, taken as a whole, has the following characteristics:
  - (a) the average adult person applying contemporary community standards would find that the material or performance has a predominant tendency to appeal to a prurient interest of minors in sex; and
  - (b) the average adult person applying contemporary community standards would find that the depiction of sexually explicit nudity or sexual activity in the material or performance is patently offensive to prevailing standards in the adult community concerning what is suitable for minors; and
  - (c) to a reasonable person, the material or performance taken as a whole lacks serious literary, artistic, political, or scientific value for minors.
- (2) "Material" means pictures, drawings, video recordings, films, digital electronic files, or other visual depictions or representations but not material consisting entirely of written words.
- (3) "Minor" means an individual who is less than eighteen years old.
- (4) "Prostitution" means engaging or offering to engage in sexual activity with or for another in exchange for anything of value.
- (5) "Sexual activity" includes any of the following acts or simulations thereof:
  - (a) masturbation, whether done alone or with another human or animal;
  - (b) vaginal, anal, or oral intercourse, whether done with another human or an animal;
  - (c) touching, in an act of apparent sexual stimulation or sexual abuse, of the clothed or unclothed genitals, pubic area, or buttocks of another person or the clothed or unclothed breasts of a human female;
  - (d) an act or condition that depicts bestiality, sado-masochistic abuse, meaning flagellation or torture by or upon a person who is nude or clad in undergarments or in a costume which reveals the pubic hair, anus, vulva, genitals, or female breast nipples, or the condition of being fettered, bound, or otherwise physically restrained on the part of the one so clothed;
  - (e) excretory functions;
  - (f) the insertion of any part of a person's body, other than the male sexual organ, or of any object into another person's anus or vagina, except when done as part of a recognized medical procedure.
- (6) "Sexually explicit nudity" means the showing of:



- (a) uncovered, or less than opaquely covered human genitals, pubic area, or buttocks, or the nipple or any portion of the areola of the human female breast; or
- (b) covered human male genitals in a discernibly turgid state.

**Section 16-15-385. Disseminating harmful material to minors and exhibiting harmful performance to minor defined; defenses; penalties.**

(A) A person commits the offense of disseminating harmful material to minors if, knowing the character or content of the material, he:

- (1) sells, furnishes, presents, or distributes to a minor material that is harmful to minors; or
- (2) allows a minor to review or peruse material that is harmful to minors.

A person does not commit an offense under this subsection when he employs a minor to work in a theater if the minor's parent or guardian consents to the employment and if the minor is not allowed in the viewing area when material harmful to minors is shown.

(B) A person commits the offense of exhibiting a harmful performance to a minor if, with or without consideration and knowing the character or content of the performance, he allows a minor to view a live performance which is harmful to minors.

(C) Except as provided in item (3) of this subsection, mistake of age is not a defense to a prosecution under this section. It is an affirmative defense under this section that:

(1) the defendant was a parent or legal guardian of a minor, but this item does not apply when the parent or legal guardian exhibits or disseminates the harmful material for the sexual gratification of the parent, guardian, or minor.

(2) the defendant was a school, church, museum, public, school, college, or university library, government agency, medical clinic, or hospital carrying out its legitimate function, or an employee or agent of such an organization acting in that capacity and carrying out a legitimate duty of his employment.

(3) before disseminating or exhibiting the harmful material or performance, the defendant requested and received a driver's license, student identification card, or other official governmental or educational identification card or paper indicating that the minor to whom the material or performance was disseminated or exhibited was at least eighteen years old, and the defendant reasonably believed the minor was at least eighteen years old.

(D) A person who violates this section is guilty of a felony and, upon conviction, must be imprisoned not more than five years or fined not more than five thousand dollars, or both.

**Section 16-15-387. Unlawful to employ person under eighteen to appear in public place in state of sexually explicit nudity; mistake as to age; violation, penalty.**

It is unlawful for any person to employ a person under the age of eighteen years to appear in a state of sexually explicit nudity, as defined in Section 16-15-375(6), in a public place.

Mistake of age is not a defense to a prosecution under this section. A person who violates this section is guilty of a felony and, upon conviction, must be imprisoned not more than five years or fined not more than five thousand dollars, or both.

**Section 16-15-395. First degree sexual exploitation of a minor defined; presumptions; defenses; penalties.**

(A) An individual commits the offense of first degree sexual exploitation of a minor if, knowing the character or content of the material or performance, he:

(1) uses, employs, induces, coerces, encourages, or facilitates a minor to engage in or assist others to engage in sexual activity for a live performance or for the purpose of producing material that contains a visual representation depicting this activity;

(2) permits a minor under his custody or control to engage in sexual activity for a live performance or for the purpose of producing material that contains a visual representation depicting this activity;

(3) transports or finances the transportation of a minor through or across this State with the intent that the minor engage in sexual activity for a live performance or for the purpose of producing material that contains a visual representation depicting this activity; or

(4) records, photographs, films, develops, duplicates, produces, or creates a digital electronic file for sale or pecuniary gain material that contains a visual representation depicting a minor engaged in sexual activity.

(B) In a prosecution under this section, the trier of fact may infer that a participant in a sexual activity depicted in material as a minor through its title, text, visual representations, or otherwise, is a minor.

(C) Mistake of age is not a defense to a prosecution under this section.

(D) A person who violates this section is guilty of a felony and, upon conviction, must be imprisoned for not less than three years nor more than ten years. No part of the minimum sentence of imprisonment may be suspended nor is the individual convicted eligible for parole until he has served the minimum term of imprisonment. Sentences imposed pursuant to this section shall run consecutively with and commence at the expiration of any other sentence being served by the person sentenced.

**Section 16-15-405.** Second degree sexual exploitation of a minor defined; presumptions; defenses; penalties.

(A) An individual commits the offense of second degree sexual exploitation of a minor if, knowing the character or content of the material, he:

(1) records, photographs, films, develops, duplicates, produces, or creates digital electronic file material that contains a visual representation of a minor engaged in sexual activity; or

(2) distributes, transports, exhibits, receives, sells, purchases, exchanges, or solicits material that contains a visual representation of a minor engaged in sexual activity.

(B) In a prosecution under this section, the trier of fact may infer that a participant in sexual activity depicted in material as a minor through its title, text, visual representations, or otherwise, is a minor.

(C) Mistake of age is not a defense to a prosecution under this section.

(D) A person who violates the provisions of this section is guilty of a felony and, upon conviction, must be imprisoned not less than two years nor more than five years. No part of the minimum sentence may be suspended nor is the individual convicted eligible for parole until he has served the minimum sentence.

**Section 16-15-415.** Promoting prostitution of a minor defined; defenses; Penalties.

(A) An individual commits the offense of promoting prostitution of a minor if he knowingly:

(1) entices, forces, encourages, or otherwise facilitates a minor to participate in prostitution; or

(2) supervises, supports, advises, or promotes the prostitution of or by a minor.

(B) Mistake of age is not a defense to a prosecution under this section.

(C) An individual who violates this section is guilty of a felony and, upon conviction, must be imprisoned for not less than three years nor more than ten years. No part of the minimum sentence may be suspended nor is the individual convicted eligible for parole until he has served the minimum sentence. Sentences imposed pursuant to this section shall run consecutively with and shall commence at the expiration of any other sentence being served by the individual sentenced.

**Section 16-15-425.** Participating in prostitution of a minor defined; defenses; penalties.

(A) An individual commits the offense of participating in the prostitution of a minor if he is not a minor and he patronizes a minor prostitute. As used in this section, "patronizing a minor prostitute" means:

- (1) soliciting or requesting a minor to participate in prostitution;
- (2) paying or agreeing to pay a minor, either directly or through the minor's agent, to participate in prostitution; or
- (3) paying a minor, or the minor's agent, for having participated in prostitution, pursuant to a prior agreement.

(B) Mistake of age is not a defense to a prosecution under this section.

(C) A person who violates the provisions of this section is guilty of a felony and, upon conviction, must be imprisoned not less than two years nor more than five years. No part of the minimum sentence may be suspended nor is the individual convicted eligible for parole until he has served the minimum term. Sentences imposed pursuant to this section shall run consecutively with and shall commence at the expiration of any other sentence being served by the individual sentenced.

**Section 19-11-90, Priest-penitent privilege.**

In any legal or quasi-legal trial, hearing or proceeding before any court, commission or committee no regular or duly ordained minister, priest or rabbi shall be required, in giving testimony, to disclose any confidential communication properly entrusted to him in his professional capacity and necessary and proper to enable him to discharge the functions of his office according to the usual course of practice or discipline of his church or religious body. This prohibition shall not apply to cases where the party in whose favor it is made waives the rights conferred.

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**Referenced Documents**

**Revision Comments**

Sections 16-15-335, 16-15-345, and 16-15-355 were added to this section.

**752 Law Enforcement; Domestic Violence; Arrest With or Without Warrant**

**Section 16-25-70.** (A) A law enforcement officer may arrest, with or without a warrant, a person at the person's place of residence or elsewhere if the officer has probable cause to believe that the person is committing or has freshly committed a misdemeanor or felony under the provisions of Section 16-25-20, 16-25-50, or 16-25-65 even if the act did not take place in the presence of the officer. The officer may, if necessary, verify the existence of an order of protection by telephone or radio communication with the appropriate police department.

(B) A law enforcement officer must arrest, with or without a warrant, a person at the person's place of residence or elsewhere if physical manifestations of injury to the alleged victim are present and the officer has probable cause to believe that the person is committing or has freshly committed a misdemeanor or felony under the provisions of Section 16-25-20, 16-25-50, or 16-25-65 even if the act did not take place in the presence of the officer. The officer may, if necessary, verify the existence of an order of protection by telephone or radio communication with the appropriate police department.

(C) In effecting a warrantless arrest under this section, a law enforcement officer may enter the residence of the person to be arrested in order to effect the arrest where the officer has probable cause to believe that the action is necessary to prevent physical harm or danger to a family or household member.

(D) If a law enforcement officer receives conflicting complaints of domestic or family violence from two or more household members involving an incident of domestic or family violence, the officer shall evaluate each complaint separately to determine who was the primary aggressor. If the officer determines that one person was the primary physical aggressor, the officer must not arrest the other person accused of having committed domestic or family violence. In determining whether a person is the primary aggressor, the officer shall consider:

- (1) prior complaints of domestic or family violence;
- (2) the relative severity of the injuries inflicted on each person taking into account injuries alleged which may not be easily visible at the time of the investigation;
- (3) the likelihood of future injury to each person;
- (4) whether one of the persons acted in self-defense;
- (5) household member accounts regarding the history of domestic violence.

(E) A law enforcement officer must not threaten, suggest, or otherwise indicate the possible arrest of all parties to discourage requests for intervention by law enforcement by a party.

(F) A law enforcement officer who arrests two or more persons for a crime involving domestic or family violence must include the grounds for arresting both parties in the written incident report and must include a statement in the report that the officer attempted to determine which party was the primary aggressor pursuant to this section and was unable to make a determination based upon the evidence available at the time of the arrest.

(G) When two or more household members are charged with a crime involving domestic or family violence arising from the same incident and the court finds that one party was the primary aggressor pursuant to this section, the court, if appropriate, may dismiss charges against the other party or parties.

(H) No evidence other than evidence of violations of this article found as a result of a

warrantless search is admissible in a court of law.

(l) In addition to the protections granted to the law enforcement officer and law enforcement agency under the South Carolina Tort Claims Act, a law enforcement officer is not liable for an act, omission, or exercise of discretion under this section unless the act, omission, or exercise of discretion constitutes gross negligence, recklessness, willfulness, or wantonness.

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## **Referenced Documents**

## **Revision Comments**

**752.01 Entry of Criminal Court Data on the Child Abuse and Neglect Central Registry**

**Section 17-25-135.**

(A) When a person is convicted of or pleads guilty or nolo contendere to an 'Offense Against the Person' as provided for in Title 16, Chapter 3, an 'Offense Against Morality or Decency' as provided for in Title 16, Chapter 15, criminal domestic violence, as defined in Section 16-25-20, criminal domestic violence of a high and aggravated nature as defined in Section 16-25-65, or the common law offense of assault and battery of a high and aggravated nature, and the act on which the conviction or the plea of guilty or nolo contendere is based involved sexual or physical abuse of a child, the court shall order that the person's name, any other identifying information, including, but not limited to, the person's date of birth, address, and any other identifying characteristics, and the nature of the act which led to the conviction or plea be placed in the Central Registry of Child Abuse and Neglect established by Section 20-7-680. The clerk shall forward the information to the Department of Social Services for this purpose in accordance with guidelines adopted by the department.

(B) for purposes of this section:

(1) 'Physical abuse' means inflicting physical injury upon a child or encouraging or facilitating the infliction of physical injury upon a child by any person including, but not limited to, a person responsible for the child's welfare, as defined in Section 20-7-490(5).

(2) 'Sexual abuse' means:

(a) actual or attempted sexual contact with a child; or

(b) permitting, enticing, encouraging, forcing, or otherwise facilitating a child's participation in prostitution or in a live performance or photographic representation of sexual activity or sexually explicit nudity; by any person including, but not limited to, a person responsible for the child's welfare, as defined in Section 20-7-490(5).

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**Referenced Documents**

**Revision Comments**

**752.02 Out of Court Statements by Certain Children**

**SECTION 19-1-180.** Out-of-court statements by certain children.

(A) An out-of-court statement made by a child who is under twelve years of age or who functions cognitively, adaptively, or developmentally under the age of twelve at the time of a family court proceeding brought pursuant to Title 63 concerning an act of alleged abuse or neglect as defined by Section 63-7-20 is admissible in the family court proceeding if the requirements of this section are met regardless of whether the statement would be otherwise inadmissible.

(B) An out-of-court statement may be admitted as provided in subsection (A) if:

(1) the child testifies at the proceeding or testifies by means of videotaped deposition or closed-circuit television, and at the time of the testimony the child is subject to cross-examination about the statement; or

(2)(a) the child is found by the court to be unavailable to testify on any of these grounds:

(i) the child's death;

(ii) the child's physical or mental disability;

(iii) the existence of a privilege involving the child;

(iv) the child's incompetency, including the child's inability to communicate about the offense because of fear;

(v) substantial likelihood that the child would suffer severe emotional trauma from testifying at the proceeding or by means of videotaped deposition or closed-circuit television; and

(b) the child's out-of-court statement is shown to possess particularized guarantees of trustworthiness.

(C) The proponent of the statement shall inform the adverse party of the proponent's intention to offer the statement and the content of the statement sufficiently in advance of the proceeding to provide the defendant with a fair opportunity to prepare a response to the statement before the proceeding at which it is offered. If the child is twelve years of age or older, the adverse party may challenge the professional decision that the child functions cognitively, adaptively, or developmentally under the age of twelve.

(D) In determining whether a statement possesses particularized guarantees of trustworthiness under subsection (B)(2)(b), the court may consider, but is not limited to, the following factors:

(1) the child's personal knowledge of the event;

(2) the age and maturity of the child;

(3) certainty that the statement was made, including the credibility of the person testifying about the statement;

(4) any apparent motive the child may have to falsify or distort the event, including bias, corruption, or coercion;

(5) whether more than one person heard the statement;

(6) whether the child was suffering pain or distress when making the statement;

(7) the nature and duration of any alleged abuse;

(8) whether the child's young age makes it unlikely that the child fabricated a statement that represents a graphic, detailed account beyond the child's knowledge and experience;

(9) whether the statement has a ring of verity, has internal consistency or coherence, and uses terminology appropriate to the child's age;

(10) whether extrinsic evidence exists to show the defendant's opportunity to commit the act complained of in the child's statement.

(E) The court shall support with findings on the record any rulings pertaining to the child's unavailability and the trustworthiness of the out-of-court statement.

(F) Any hearsay testimony admissible under this section shall not be admissible in any other proceeding.

(G) If the parents of the child are separated or divorced, the hearsay statement shall be inadmissible if (1) one of the parents is the alleged perpetrator of the alleged abuse or neglect and (2) the allegation was made after the parties separated or divorced. Notwithstanding this subsection, a statement alleging abuse or neglect made by a child to a law enforcement official, an officer of the court, a licensed family counselor or therapist, a physician or other health care provider, a teacher, a school counselor, a Department of Social Services staff member, or to a child care worker in a regulated child care facility is admissible under this section.

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## **Referenced Documents**

## **Revision Comments**

This revision creates a unique subsection for this information to be consistent with manual format. Content has not changed.



**753 Compulsory School Attendance**

CHAPTER 65.

ATTENDANCE OF PUPILS

ARTICLE 1.

COMPULSORY ATTENDANCE

**SECTION 59-65-10.** Responsibility of parent or guardian; notification by school district of availability of kindergarten; transportation for kindergarten pupils.

(A) All parents or guardians shall cause their children or wards to attend regularly a public or private school or kindergarten of this State which has been approved by the State Board of Education or a member school of the South Carolina Independent Schools' Association or some similar organization, or a parochial, denominational, or church-related school, or other programs which have been approved by the State Board of Education from the school year in which the child or ward is five years of age before September first until the child or ward attains his seventeenth birthday or graduates from high school. A parent or guardian whose child or ward is not six years of age on or before the first day of September of a particular school year may elect for their child or ward not to attend kindergarten. For this purpose, the parent or guardian shall sign a written document making the election with the governing body of the school district in which the parent or guardian resides. The form of this written document must be prescribed by regulation of the Department of Education. Upon the written election being executed, that child or ward may not be required to attend kindergarten.

(B) Each school district shall provide transportation to and from public school for all pupils enrolled in public kindergarten classes who request the transportation. Regulations of the State Board of Education governing the operation of school buses shall apply.

**SECTION 59-65-20.** Penalty for failure to enroll or cause child to attend school.

Any parent or guardian who neglects to enroll his child or ward or refuses to make such child or ward attend school shall, upon conviction, be fined not more than fifty dollars or be imprisoned not more than thirty days; each day's absence shall constitute a separate offense; provided, the court may in its discretion suspend the sentence of anyone convicted of the provisions of this article.

**SECTION 59-65-30.** Exceptions.

The provisions of this article do not apply to:

(a) A child who has been graduated from high school or has received the equivalent of a high school education from a school approved by the State Board of Education, or member school of South Carolina Independent Schools' Association, or a private school in existence at the time of the passage of this article;

(b) A child who obtains a certificate from a psychologist certified by the State Department of Education or from a licensed physician stating that he is unable to attend school because of a physical or mental disability, provided there are no suitable special classes available for such

child in the school district where he resides;

(c) A child who has completed the eighth grade and who is determined by the court to be legally and gainfully employed whose employment is further determined by such court to be necessary for the maintenance of his home;

(d) [Reserved]

(e) A student who has a child and who is granted a temporary waiver from attendance by the district's attendance supervisor or his designee. The district attendance supervisor may grant a temporary waiver only if he determines that suitable day care is unavailable. The student must consult with the district supervisor or his designee in a timely manner to consider all available day care options or the district shall consider the student to be in violation of this chapter.

(f) A child who has reached the age of sixteen years and whose further attendance in school, vocational school, or available special classes is determined by a court of competent jurisdiction to be disruptive to the educational program of the school, unproductive of further learning, or not in the best interest of the child, and who is authorized by the court to enter into suitable gainful employment under the supervision of the court until age seventeen is attained. However, prior to being exempted from the provisions of this article, the court may first require that the child concerned be examined physically and tested mentally to assist the court to determine whether or not gainful employment would be more suitable for the child than continued attendance in school. The examination and testing must be conducted by the Department of Youth Services or by any local agency which the court determines to be appropriate. The court shall revoke the exemption provided in this item upon a finding that the child fails to continue in his employment until reaching the age of seventeen years.

#### **SECTION 59-65-40.** Home schooling programs.

(A) Parents or guardians may teach their children at home if the instruction is approved by the district board of trustees of the district in which the children reside. A district board of trustees shall approve home schooling programs which meet the following standards:

(1) the parent:

(a) holds at least a high school diploma or the equivalent general educational development (GED) certificate and, beginning in the 1989-90 school year, attains a passing score on the basic skills examination developed pursuant to Section 59-26-20(b)(1) after the State Department of Education has validated the test for use with home schooling parents; or

(b) has earned a baccalaureate degree;

(2) the instructional day is at least four and one-half hours, excluding lunch and recesses, and the instructional year is at least one hundred eighty days;

(3) the curriculum includes, but is not limited to, the basic instructional areas of reading, writing, mathematics, science, and social studies and in grades seven through twelve, composition and literature;

(4) as evidence that a student is receiving regular instruction, the parent shall present a system for maintaining and maintain the following records for inspection upon reasonable notice by a representative of the school district:

(a) a plan book, diary, or other written record indicating subjects taught and activities in which the student and parent engage;

(b) a portfolio of samples of the student's academic work; and

(c) a record of evaluations of the student's academic progress. A semiannual progress report including attendance records and individualized assessments of the student's academic progress in each of the basic instructional areas specified in item (3) must be submitted to the school district.

(5) students must have access to library facilities;

(6) students must participate in the annual statewide testing program and the Basic Skills Assessment Program approved by the State Board of Education for their appropriate grade level. The tests must be administered by a certified school district employee either with public school students or by special arrangement at the student's place of instruction, at the parent's option. The parent is responsible for paying the test administrator if the test is administered at the student's home; and

(7) parents must agree in writing to hold the district, the district board of trustees and the district's employees harmless for any educational deficiencies of the student sustained as a result of home instruction.

At any time the school district determines that the parent is not maintaining the home school program in keeping with the standards specified in this section the district board of trustees shall notify the parent to correct the deficiencies within thirty days. If the deficiencies are not corrected within thirty days, the district board of trustees may withdraw its approval.

(B) The district board of trustees shall provide for an application process which elicits the information necessary for processing the home schooling request, including a description of the program, the texts and materials to be used, the methods of program evaluation, and the place of instruction. Parents must be notified in advance of the date, place, and time of the meeting at which the application is considered by the board and parents may be heard at the meeting.

(C) Within the first fifteen instructional days of the public school year, students participating in home instruction and eligible for enrollment in the first grade of the public schools must be tested to determine their readiness for the first grade using the readiness instrument approved by the State Board of Education for public school students. If a student is determined to be "not ready" or is determined to lack the necessary emotional maturity, the parent must be advised by appropriate school district personnel whether a kindergarten or a first grade curriculum should be used for the child. Nothing in this section may be interpreted to conflict with a parent's right to exempt his child from kindergarten as provided in Section 59-65-10(A).

(D) Should a student in a home schooling program score below the test requirements of the promotion standard prescribed for public school students by the State Board of Education for one year, the district board of trustees shall decide whether or not the student shall receive appropriate instructional placement in the public school, special services as a handicapped student, or home schooling with an instructional support system at parental expense. The right of a parent to enroll his child in a private or parochial school as provided in Section 59-65-10(A) is unaffected by this provision.

(E) If a parent is denied permission to begin or continue home schooling by a district board of trustees, the decision of the district board of trustees may be appealed, within ten days, to the State Board of Education. Any appeal from the decision of the State Board of Education must be taken, within thirty days, to the family court.

#### **SECTION 59-65-45. Alternative home schooling requirements.**

In lieu of the requirements of Section 59-65-40, parents or guardians may teach their children at home if the instruction is conducted under the auspices of the South Carolina Association of Independent Home Schools. Bona fide membership and continuing compliance with the academic standards of South Carolina Association of Independent Home Schools exempts the home school from the further requirements of Section 59-65-40.

The State Department of Education shall conduct annually a review of the association standards to insure that requirements of the association, at a minimum, include:

(a) a parent must hold at least a high school diploma or the equivalent general educational development (GED) certificate;

(b) the instructional year is at least one hundred eighty days; and

(c) the curriculum includes, but is not limited to, the basic instructional areas of reading, writing, mathematics, science, and social studies, and in grades seven through twelve, composition and literature.

By January thirtieth of each year, the South Carolina Association of Independent Home Schools shall report the number and grade level of children home schooled through the association to the children's respective school districts.

**SECTION 59-65-46.** Home schooling of foster child.

A foster parent may teach a foster child at home as provided in Sections 59-65-40, 59-65-45, or any other provision of law, if, in addition to any other requirements, home schooling of the child has been approved by the Department of Social Services or other agency having custody of the child.

**SECTION 59-65-47.** Associations for home schools; requirements.

In lieu of the requirements of Section 59-65-40 or Section 59-65-45, parents or guardians may teach their children at home if the instruction is conducted under the auspices of an association for home schools which has no fewer than fifty members and meets the requirements of this section. Bona fide membership and continuing compliance with the academic standards of the associations exempts the home school from the further requirements of Section 59-65-40 or Section 59-65-45.

The State Department of Education shall conduct annually a review of the association standards to ensure that requirements of the association, at a minimum, include:

- (a) a parent must hold at least a high school diploma or the equivalent general educational development (GED) certificate;
- (b) the instructional year is at least one hundred eighty days;
- (c) the curriculum includes, but is not limited to, the basic instructional areas of reading, writing, mathematics, science, and social studies, and in grades seven through twelve, composition and literature; and
- (d) educational records shall be maintained by the parent-teacher and include:
  - (1) a plan book, diary, or other record indicating subjects taught and activities in which the student and parent-teacher engage;
  - (2) a portfolio of samples of the student's academic work; and
  - (3) a semiannual progress report including attendance records and individualized documentation of the student's academic progress in each of the basic instructional areas specified in item (c) above.

By January thirtieth of each year, all associations shall report the number and grade level of children home schooled through the association to the children's respective school districts.

**SECTION 59-65-50.** Nonattendance reported to court having jurisdiction of juveniles.

If the board of trustees of a school district or its designee is unable to obtain the school attendance of a child in the age group specified in Section 59-65-10, the board or its designee shall report such nonattendance in writing to the juvenile court or such other court in the county as may have jurisdiction of juveniles but exclusive of magistrate's courts notwithstanding the provisions of Section 22-3-540; provided, that no one except the board of trustees or its designee shall have the authority to institute the proceedings herein.

**SECTION 59-65-60.** Procedure upon receipt by court of report of nonattendance.

(a) Upon receipt of such report, the court may forthwith order the appearance before such court of the responsible parent or guardian and if it deems necessary, the minor involved, for such action as the court may deem necessary to carry out the provisions of this article.

(b) The court may, after hearing upon ten days' notice, order such parent or guardian to require such child to attend school and upon failure of such parent to comply with such order may punish such parent or guardian as by contempt, provided, that punishment for such contempt cannot exceed fifty dollars or thirty days imprisonment for each offense.

The procedure herein provided shall be alternative to the penalties provided in Section 59-65-20.

**SECTION 59-65-70.** Court empowered to declare child delinquent.

If the court determines that the reported absence occurred without the knowledge, consent or connivance of the responsible parent or guardian or that a bona fide attempt has been made to control and keep the child in school, the court may declare such child to be a delinquent and subject to the provisions of law in such cases.

**SECTION 59-65-80.** Enrollment or attendance of expelled or suspended child not authorized.

Nothing herein shall be construed as granting authority to require enrollment or attendance of a child who has been or may be expelled or suspended by the board of trustees of the district or any other person acting with authority from the board of trustees.

**SECTION 59-65-90.** Rules and regulations.

The State Board of Education shall establish regulations defining lawful and unlawful absences beyond those specifically named in this article and additional regulations as are necessary for the orderly enrollment of pupils so as to provide for uniform dates of entrance. These regulations shall require: (1) that school officials shall immediately intervene to encourage the student's future attendance when the student has three consecutive unlawful absences or a total of five unlawful absences and (2) that the district board of trustees or its designee shall promptly approve or disapprove any student absence in excess of ten days. As used in this section, "intervene" means to identify the reasons for the child's continued absence and to develop a plan in conjunction with the student and his parent or guardian to improve his future attendance.

Provided, however, that nothing within this section shall interfere with the Board's authority to at any time refer a child to a truancy prevention program or to the court pursuant to Section 59-65-50.

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**Referenced Documents**

SC Code of Laws Ann. Section 63-7-20 (old Section 20-7-490)

**Revision Comments**

The section on compulsory school attendance is included in Chapter 7 as this section is referenced in the Section 63-7-20 definitions of child abuse and neglect.



**754 Indian Child Welfare Act  
Indian Child Welfare Act**

**§ 1901. Congressional findings**

Recognizing the special relationship between the United States and the Indian tribes and their members and the Federal responsibility to Indian people, the Congress finds--

(1) that clause 3, section 8, article I of the United States Constitution provides that "The Congress shall have Power \* \* \* To regulate Commerce \* \* \* with Indian tribes [\[FN1\]](#)" and, through this and other constitutional authority, Congress has plenary power over Indian affairs;

(2) that Congress, through statutes, treaties, and the general course of dealing with Indian tribes, has assumed the responsibility for the protection and preservation of Indian tribes and their resources;

(3) that there is no resource that is more vital to the continued existence and integrity of Indian tribes than their children and that the United States has a direct interest, as trustee, in protecting Indian children who are members of or are eligible for membership in an Indian tribe;

(4) that an alarmingly high percentage of Indian families are broken up by the removal, often unwarranted, of their children from them by nontribal public and private agencies and that an alarmingly high percentage of such children are placed in non-Indian foster and adoptive homes and institutions; and

(5) that the States, exercising their recognized jurisdiction over Indian child custody proceedings through administrative and judicial bodies, have often failed to recognize the essential tribal relations of Indian people and the cultural and social standards prevailing in Indian communities and families.

**§ 1902. Congressional declaration of policy**

The Congress hereby declares that it is the policy of this Nation to protect the best interests of Indian children and to promote the stability and security of Indian tribes and families by the establishment of minimum Federal standards for the removal of Indian children from their families and the placement of such children in foster or adoptive homes which will reflect the unique values of Indian culture, and by providing for assistance to Indian tribes in the operation of child and family service programs.

**§ 1903. Definitions**

For the purposes of this chapter, except as may be specifically provided otherwise, the term--

(1) "child custody proceeding" shall mean and include--

(i) "foster care placement" which shall mean any action removing an Indian child from its parent

or Indian custodian for temporary placement in a foster home or institution or the home of a guardian or conservator where the parent or Indian custodian cannot have the child returned upon demand, but where parental rights have not been terminated;

**(ii)** "termination of parental rights" which shall mean any action resulting in the termination of the parent-child relationship;

**(iii)** "pre-adoptive placement" which shall mean the temporary placement of an Indian child in a foster home or institution after the termination of parental rights, but prior to or in lieu of adoptive placement; and

**(iv)** "adoptive placement" which shall mean the permanent placement of an Indian child for adoption, including any action resulting in a final decree of adoption.

Such term or terms shall not include a placement based upon an act which, if committed by an adult, would be deemed a crime or upon an award, in a divorce proceeding, of custody to one of the parents.

**(2)** "extended family member" shall be as defined by the law or custom of the Indian child's tribe or, in the absence of such law or custom, shall be a person who has reached the age of eighteen and who is the Indian child's grandparent, aunt or uncle, brother or sister, brother-in-law or sister-in-law, niece or nephew, first or second cousin, or stepparent;

**(3)** "Indian" means any person who is a member of an Indian tribe, or who is an Alaska Native and a member of a Regional Corporation as defined in [section 1606 of Title 43](#);

**(4)** "Indian child" means any unmarried person who is under age eighteen and is either (a) a member of an Indian tribe or (b) is eligible for membership in an Indian tribe and is the biological child of a member of an Indian tribe;

**(5)** "Indian child's tribe" means (a) the Indian tribe in which an Indian child is a member or eligible for membership or (b), in the case of an Indian child who is a member of or eligible for membership in more than one tribe, the Indian tribe with which the Indian child has the more significant contacts;

**(6)** "Indian custodian" means any Indian person who has legal custody of an Indian child under tribal law or custom or under State law or to whom temporary physical care, custody, and control has been transferred by the parent of such child;

**(7)** "Indian organization" means any group, association, partnership, corporation, or other legal entity owned or controlled by Indians, or a majority of whose members are Indians;

**(8)** "Indian tribe" means any Indian tribe, band, nation, or other organized group or community of Indians recognized as eligible for the services provided to Indians by the Secretary because of their status as Indians, including any Alaska Native village as defined in [section 1602\(c\) of Title 43](#);

**(9)** "parent" means any biological parent or parents of an Indian child or any Indian person who has lawfully adopted an Indian child, including adoptions under tribal law or custom. It does not include the unwed father where paternity has not been acknowledged or established;

**(10)** "reservation" means Indian country as defined in [section 1151 of Title 18](#) and any lands, not covered under such section, title to which is either held by the United States in trust for the benefit of any Indian tribe or individual or held by any Indian tribe or individual subject to a



restriction by the United States against alienation;

**(11)** "Secretary" means the Secretary of the Interior; and

**(12)** "tribal court" means a court with jurisdiction over child custody proceedings and which is either a Court of Indian Offenses, a court established and operated under the code or custom of an Indian tribe, or any other administrative body of a tribe which is vested with authority over child custody proceedings.

### **§ 1911. Indian tribe jurisdiction over Indian child custody proceedings**

(a) Exclusive jurisdiction

An Indian tribe shall have jurisdiction exclusive as to any State over any child custody proceeding involving an Indian child who resides or is domiciled within the reservation of such tribe, except where such jurisdiction is otherwise vested in the State by existing Federal law. Where an Indian child is a ward of a tribal court, the Indian tribe shall retain exclusive jurisdiction, notwithstanding the residence or domicile of the child.

(b) Transfer of proceedings; declination by tribal court

In any State court proceeding for the foster care placement of, or termination of parental rights to, an Indian child not domiciled or residing within the reservation of the Indian child's tribe, the court, in the absence of good cause to the contrary, shall transfer such proceeding to the jurisdiction of the tribe, absent objection by either parent, upon the petition of either parent or the Indian custodian or the Indian child's tribe: *Provided*, That such transfer shall be subject to declination by the tribal court of such tribe.

(c) State court proceedings; intervention

In any State court proceeding for the foster care placement of, or termination of parental rights to, an Indian child, the Indian custodian of the child and the Indian child's tribe shall have a right to intervene at any point in the proceeding.

(d) Full faith and credit to public acts, records, and judicial proceedings of Indian tribes

The United States, every State, every territory or possession of the United States, and every Indian tribe shall give full faith and credit to the public acts, records, and judicial proceedings of any Indian tribe applicable to Indian child custody proceedings to the same extent that such entities give full faith and credit to the public acts, records, and judicial proceedings of any other entity.

### **§ 1912. Pending court proceedings**

(a) Notice; time for commencement of proceedings; additional time for preparation

In any involuntary proceeding in a State court, where the court knows or has reason to know that an Indian child is involved, the party seeking the foster care placement of, or termination of parental rights to, an Indian child shall notify the parent or Indian custodian and the Indian child's tribe, by registered mail with return receipt requested, of the pending proceedings and of

their right of intervention. If the identity or location of the parent or Indian custodian and the tribe cannot be determined, such notice shall be given to the Secretary in like manner, who shall have fifteen days after receipt to provide the requisite notice to the parent or Indian custodian and the tribe. No foster care placement or termination of parental rights proceeding shall be held until at least ten days after receipt of notice by the parent or Indian custodian and the tribe or the Secretary: *Provided*, That the parent or Indian custodian or the tribe shall, upon request, be granted up to twenty additional days to prepare for such proceeding.

(b) Appointment of counsel

In any case in which the court determines indigency, the parent or Indian custodian shall have the right to court-appointed counsel in any removal, placement, or termination proceeding. The court may, in its discretion, appoint counsel for the child upon a finding that such appointment is in the best interest of the child. Where State law makes no provision for appointment of counsel in such proceedings, the court shall promptly notify the Secretary upon appointment of counsel, and the Secretary, upon certification of the presiding judge, shall pay reasonable fees and expenses out of funds which may be appropriated pursuant to [section 13](#) of this title.

(c) Examination of reports or other documents

Each party to a foster care placement or termination of parental rights proceeding under State law involving an Indian child shall have the right to examine all reports or other documents filed with the court upon which any decision with respect to such action may be based.

(d) Remedial services and rehabilitative programs; preventive measures

Any party seeking to effect a foster care placement of, or termination of parental rights to, an Indian child under State law shall satisfy the court that active efforts have been made to provide remedial services and rehabilitative programs designed to prevent the breakup of the Indian family and that these efforts have proved unsuccessful.

(e) Foster care placement orders; evidence; determination of damage to child

No foster care placement may be ordered in such proceeding in the absence of a determination, supported by clear and convincing evidence, including testimony of qualified expert witnesses, that the continued custody of the child by the parent or Indian custodian is likely to result in serious emotional or physical damage to the child.

(f) Parental rights termination orders; evidence; determination of damage to child

No termination of parental rights may be ordered in such proceeding in the absence of a determination, supported by evidence beyond a reasonable doubt, including testimony of qualified expert witnesses, that the continued custody of the child by the parent or Indian custodian is likely to result in serious emotional or physical damage to the child.

**§ 1913. Parental rights; voluntary termination**

(a) Consent; record; certification matters; invalid consents

Where any parent or Indian custodian voluntarily consents to a foster care placement or to

termination of parental rights, such consent shall not be valid unless executed in writing and recorded before a judge of a court of competent jurisdiction and accompanied by the presiding judge's certificate that the terms and consequences of the consent were fully explained in detail and were fully understood by the parent or Indian custodian. The court shall also certify that either the parent or Indian custodian fully understood the explanation in English or that it was interpreted into a language that the parent or Indian custodian understood. Any consent given prior to, or within ten days after, birth of the Indian child shall not be valid.

(b) Foster care placement; withdrawal of consent

Any parent or Indian custodian may withdraw consent to a foster care placement under State law at any time and, upon such withdrawal, the child shall be returned to the parent or Indian custodian.

(c) Voluntary termination of parental rights or adoptive placement; withdrawal of consent; return of custody

In any voluntary proceeding for termination of parental rights to, or adoptive placement of, an Indian child, the consent of the parent may be withdrawn for any reason at any time prior to the entry of a final decree of termination or adoption, as the case may be, and the child shall be returned to the parent.

(d) Collateral attack; vacation of decree and return of custody; limitations

After the entry of a final decree of adoption of an Indian child in any State court, the parent may withdraw consent thereto upon the grounds that consent was obtained through fraud or duress and may petition the court to vacate such decree. Upon a finding that such consent was obtained through fraud or duress, the court shall vacate such decree and return the child to the parent. No adoption which has been effective for at least two years may be invalidated under the provisions of this subsection unless otherwise permitted under State law.

**§ 1914. Petition to court of competent jurisdiction to invalidate action upon showing of certain violations**

Any Indian child who is the subject of any action for foster care placement or termination of parental rights under State law, any parent or Indian custodian from whose custody such child was removed, and the Indian child's tribe may petition any court of competent jurisdiction to invalidate such action upon a showing that such action violated any provision of [sections 1911](#), [1912](#), and [1913](#) of this title.

**§ 1915. Placement of Indian children**

(a) Adoptive placements; preferences

In any adoptive placement of an Indian child under State law, a preference shall be given, in the absence of good cause to the contrary, to a placement with (1) a member of the child's extended family; (2) other members of the Indian child's tribe; or (3) other Indian families.

(b) Foster care or pre-adoptive placements; criteria; preferences

Any child accepted for foster care or pre-adoptive placement shall be placed in the least

restrictive setting which most approximates a family and in which his special needs, if any, may be met. The child shall also be placed within reasonable proximity to his or her home, taking into account any special needs of the child. In any foster care or pre-adoptive placement, a preference shall be given, in the absence of good cause to the contrary, to a placement with--

(i) a member of the Indian child's extended family;

(ii) a foster home licensed, approved, or specified by the Indian child's tribe;

(iii) an Indian foster home licensed or approved by an authorized non-Indian licensing authority;  
or

(iv) an institution for children approved by an Indian tribe or operated by an Indian organization which has a program suitable to meet the Indian child's needs.

(c) Tribal resolution for different order of preference; personal preference considered; anonymity in application of preferences

In the case of a placement under subsection (a) or (b) of this section, if the Indian child's tribe shall establish a different order of preference by resolution, the agency or court effecting the placement shall follow such order so long as the placement is the least restrictive setting appropriate to the particular needs of the child, as provided in subsection (b) of this section. Where appropriate, the preference of the Indian child or parent shall be considered: *Provided*, That where a consenting parent evidences a desire for anonymity, the court or agency shall give weight to such desire in applying the preferences.

(d) Social and cultural standards applicable

The standards to be applied in meeting the preference requirements of this section shall be the prevailing social and cultural standards of the Indian community in which the parent or extended family resides or with which the parent or extended family members maintain social and cultural ties.

(e) Record of placement; availability

A record of each such placement, under State law, of an Indian child shall be maintained by the State in which the placement was made, evidencing the efforts to comply with the order of preference specified in this section. Such record shall be made available at any time upon the request of the Secretary or the Indian child's tribe.

## **§ 1916. Return of custody**

(a) Petition; best interests of child

Notwithstanding State law to the contrary, whenever a final decree of adoption of an Indian child has been vacated or set aside or the adoptive parents voluntarily consent to the termination of their parental rights to the child, a biological parent or prior Indian custodian may petition for return of custody and the court shall grant such petition unless there is a showing, in a proceeding subject to the provisions of [section 1912](#) of this title, that such return of custody is not in the best interests of the child.

(b) Removal from foster care home; placement procedure

Whenever an Indian child is removed from a foster care home or institution for the purpose of further foster care, pre-adoptive, or adoptive placement, such placement shall be in accordance with the provisions of this chapter, except in the case where an Indian child is being returned to the parent or Indian custodian from whose custody the child was originally removed.

**§ 1917. Tribal affiliation information and other information for protection of rights from tribal relationship; application of subject of adoptive placement; disclosure by court**

Upon application by an Indian individual who has reached the age of eighteen and who was the subject of an adoptive placement, the court which entered the final decree shall inform such individual of the tribal affiliation, if any, of the individual's biological parents and provide such other information as may be necessary to protect any rights flowing from the individual's tribal relationship.

**§ 1918. Re-assumption of jurisdiction over child custody proceedings**

(a) Petition; suitable plan; approval by Secretary

Any Indian tribe which became subject to State jurisdiction pursuant to the provisions of the Act of August 15, 1953 (67 Stat. 588), as amended by Title IV of the Act of April 11, 1968 (82 Stat. 73, 78), or pursuant to any other Federal law, may reassume jurisdiction over child custody proceedings. Before any Indian tribe may reassume jurisdiction over Indian child custody proceedings, such tribe shall present to the Secretary for approval a petition to reassume such jurisdiction which includes a suitable plan to exercise such jurisdiction.

(b) Criteria applicable to consideration by Secretary; partial retrocession

**(1)** In considering the petition and feasibility of the plan of a tribe under subsection (a) of this section, the Secretary may consider, among other things:

**(i)** whether or not the tribe maintains a membership roll or alternative provision for clearly identifying the persons who will be affected by the re-assumption of jurisdiction by the tribe;

**(ii)** the size of the reservation or former reservation area which will be affected by retrocession and re-assumption of jurisdiction by the tribe;

**(iii)** the population base of the tribe, or distribution of the population in homogeneous communities or geographic areas; and

**(iv)** the feasibility of the plan in cases of multi-tribal occupation of a single reservation or geographic area.

**(2)** In those cases where the Secretary determines that the jurisdictional provisions of [section 1911\(a\)](#) of this title are not feasible, he is authorized to accept partial retrocession which will enable tribes to exercise referral jurisdiction as provided in [section 1911\(b\)](#) of this title, or, where appropriate, will allow them to exercise exclusive jurisdiction as provided in [section 1911\(a\)](#) of this title over limited community or geographic areas without regard for the reservation status of

the area affected.

(c) Approval of petition; publication in Federal Register; notice; re-assumption period; correction of causes for disapproval

If the Secretary approves any petition under subsection (a) of this section, the Secretary shall publish notice of such approval in the Federal Register and shall notify the affected State or States of such approval. The Indian tribe concerned shall reassume jurisdiction sixty days after publication in the Federal Register of notice of approval. If the Secretary disapproves any petition under subsection (a) of this section, the Secretary shall provide such technical assistance as may be necessary to enable the tribe to correct any deficiency which the Secretary identified as a cause for disapproval.

(d) Pending actions or proceedings unaffected

Assumption of jurisdiction under this section shall not affect any action or proceeding over which a court has already assumed jurisdiction, except as may be provided pursuant to any agreement under [section 1919](#) of this title.

### **§ 1919. Agreements between States and Indian tribes**

(a) Subject coverage

States and Indian tribes are authorized to enter into agreements with each other respecting care and custody of Indian children and jurisdiction over child custody proceedings, including agreements which may provide for orderly transfer of jurisdiction on a case-by-case basis and agreements which provide for concurrent jurisdiction between States and Indian tribes.

(b) Revocation; notice; actions or proceedings unaffected

Such agreements may be revoked by either party upon one hundred and eighty days' written notice to the other party. Such revocation shall not affect any action or proceeding over which a court has already assumed jurisdiction, unless the agreement provides otherwise.

### **§ 1920. Improper removal of child from custody; declination of jurisdiction; forthwith return of child: danger exception**

Where any petitioner in an Indian child custody proceeding before a State court has improperly removed the child from custody of the parent or Indian custodian or has improperly retained custody after a visit or other temporary relinquishment of custody, the court shall decline jurisdiction over such petition and shall forthwith return the child to his parent or Indian custodian unless returning the child to his parent or custodian would subject the child to a substantial and immediate danger or threat of such danger.

### **§ 1921. Higher State or Federal standard applicable to protect rights of parent or Indian custodian of Indian child**

In any case where State or Federal law applicable to a child custody proceeding under State or Federal law provides a higher standard of protection to the rights of the parent or Indian custodian of an Indian child than the rights provided under this subchapter, the State or Federal

court shall apply the State or Federal standard.

### **§ 1922. Emergency removal or placement of child; termination; appropriate action**

Nothing in this subchapter shall be construed to prevent the emergency removal of an Indian child who is a resident of or is domiciled on a reservation, but temporarily located off the reservation, from his parent or Indian custodian or the emergency placement of such child in a foster home or institution, under applicable State law, in order to prevent imminent physical damage or harm to the child. The State authority, official, or agency involved shall insure that the emergency removal or placement terminates immediately when such removal or placement is no longer necessary to prevent imminent physical damage or harm to the child and shall expeditiously initiate a child custody proceeding subject to the provisions of this subchapter, transfer the child to the jurisdiction of the appropriate Indian tribe, or restore the child to the parent or Indian custodian, as may be appropriate.

### **§ 1923. Effective date**

None of the provisions of this subchapter, except [sections 1911\(a\)](#), [1918](#), and [1919](#) of this title, shall affect a proceeding under State law for foster care placement, termination of parental rights, pre-adoptive placement, or adoptive placement which was initiated or completed prior to one hundred and eighty days after November 8, 1978, but shall apply to any subsequent proceeding in the same matter or subsequent proceedings affecting the custody or placement of the same child.

### **§ 1931. Grants for on or near reservation programs and child welfare codes**

(a) Statement of purpose; scope of programs

The Secretary is authorized to make grants to Indian tribes and organizations in the establishment and operation of Indian child and family service programs on or near reservations and in the preparation and implementation of child welfare codes. The objective of every Indian child and family service program shall be to prevent the breakup of Indian families and, in particular, to insure that the permanent removal of an Indian child from the custody of his parent or Indian custodian shall be a last resort. Such child and family service programs may include, but are not limited to--

- (1) a system for licensing or otherwise regulating Indian foster and adoptive homes;
- (2) the operation and maintenance of facilities for the counseling and treatment of Indian families and for the temporary custody of Indian children;
- (3) family assistance, including homemaker and home counselors, day care, afterschool care, and employment, recreational activities, and respite care;
- (4) home improvement programs;
- (5) the employment of professional and other trained personnel to assist the tribal court in the disposition of domestic relations and child welfare matters;
- (6) education and training of Indians, including tribal court judges and staff, in skills relating to

child and family assistance and service programs;

(7) a subsidy program under which Indian adoptive children may be provided support comparable to that for which they would be eligible as foster children, taking into account the appropriate State standards of support for maintenance and medical needs; and

(8) guidance, legal representation, and advice to Indian families involved in tribal, State, or Federal child custody proceedings.

(b) Non-Federal matching funds for related Social Security or other Federal financial assistance programs; assistance for such programs unaffected; State licensing or approval for qualification for assistance under federally assisted program

Funds appropriated for use by the Secretary in accordance with this section may be utilized as non-Federal matching share in connection with funds provided under Titles IV-B and XX of the Social Security Act [[42 U.S.C.A. §§ 620](#) et seq., [1397](#) et seq.] or under any other Federal financial assistance programs which contribute to the purpose for which such funds are authorized to be appropriated for use under this chapter. The provision or possibility of assistance under this chapter shall not be a basis for the denial or reduction of any assistance otherwise authorized under Titles IV-B and XX of the Social Security Act or any other federally assisted program. For purposes of qualifying for assistance under a federally assisted program, licensing or approval of foster or adoptive homes or institutions by an Indian tribe shall be deemed equivalent to licensing or approval by a State.

### **§ 1932. Grants for off-reservation programs for additional services**

The Secretary is also authorized to make grants to Indian organizations to establish and operate off-reservation Indian child and family service programs which may include, but are not limited to--

(1) a system for regulating, maintaining, and supporting Indian foster and adoptive homes, including a subsidy program under which Indian adoptive children may be provided support comparable to that for which they would be eligible as Indian foster children, taking into account the appropriate State standards of support for maintenance and medical needs;

(2) the operation and maintenance of facilities and services for counseling and treatment of Indian families and Indian foster and adoptive children;

(3) family assistance, including homemaker and home counselors, day care, afterschool care, and employment, recreational activities, and respite care; and

(4) guidance, legal representation, and advice to Indian families involved in child custody proceedings.

### **§ 1933. Funds for on and off reservation programs**

(a) Appropriated funds for similar programs of Department of Health and Human Services; appropriation in advance for payments

In the establishment, operation, and funding of Indian child and family service programs, both



on and off reservation, the Secretary may enter into agreements with the Secretary of Health and Human Services, and the latter Secretary is hereby authorized for such purposes to use funds appropriated for similar programs of the Department of Health and Human Services: *Provided*, That authority to make payments pursuant to such agreements shall be effective only to the extent and in such amounts as may be provided in advance by appropriation Acts.

(b) Appropriation authorization under [section 13](#) of this title

Funds for the purposes of this chapter may be appropriated pursuant to the provisions of [section 13](#) of this title.

#### **§ 1934. "Indian" defined for certain purposes**

For the purposes of [sections 1932](#) and [1933](#) of this title, the term "Indian" shall include persons defined in [section 1603\(c\)](#) of this title.

#### **§ 1951. Information availability to and disclosure by Secretary**

(a) Copy of final decree or order; other information; anonymity affidavit; exemption from Freedom of Information Act

Any State court entering a final decree or order in any Indian child adoptive placement after November 8, 1978, shall provide the Secretary with a copy of such decree or order together with such other information as may be necessary to show--

- (1) the name and tribal affiliation of the child;
- (2) the names and addresses of the biological parents;
- (3) the names and addresses of the adoptive parents; and
- (4) the identity of any agency having files or information relating to such adoptive placement.

Where the court records contain an affidavit of the biological parent or parents that their identity remain confidential, the court shall include such affidavit with the other information. The Secretary shall insure that the confidentiality of such information is maintained and such information shall not be subject to the Freedom of Information Act ([5 U.S.C. 552](#)), as amended.

(b) Disclosure of information for enrollment of Indian child in tribe or for determination of member rights or benefits; certification of entitlement to enrollment

Upon the request of the adopted Indian child over the age of eighteen, the adoptive or foster parents of an Indian child, or an Indian tribe, the Secretary shall disclose such information as may be necessary for the enrollment of an Indian child in the tribe in which the child may be eligible for enrollment or for determining any rights or benefits associated with that membership. Where the documents relating to such child contain an affidavit from the biological parent or parents requesting anonymity, the Secretary shall certify to the Indian child's tribe, where the information warrants, that the child's parentage and other circumstances of birth entitle the child to enrollment under the criteria established by such tribe.

## **§ 1952. Rules and regulations**

Within one hundred and eighty days after November 8, 1978, the Secretary shall promulgate such rules and regulations as may be necessary to carry out the provisions of this chapter.

## **§ 1961. Locally convenient day schools**

### **(a) Sense of Congress**

It is the sense of Congress that the absence of locally convenient day schools may contribute to the breakup of Indian families.

### **(b) Report to Congress; contents, etc.**

The Secretary is authorized and directed to prepare, in consultation with appropriate agencies in the Department of Health and Human Services, a report on the feasibility of providing Indian children with schools located near their homes, and to submit such report to the Select Committee on Indian Affairs of the United States Senate and the Committee on Interior and Insular Affairs of the United States House of Representatives within two years from November 8, 1978. In developing this report the Secretary shall give particular consideration to the provision of educational facilities for children in the elementary grades.

## **§ 1962. Omitted.**

## **§ 1963. Severability**

If any provision of this chapter or the applicability thereof is held invalid, the remaining provisions of this chapter shall not be affected thereby.

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## **Referenced Documents**

### **Revision Comments**

The Indian Child Welfare Act in its entirety is added to Chapter 7 as a reference.

**758 Appendix -South Carolina Drug Endangered Children –Investigative Guidelines for Law Enforcement, Child Welfare and Medical Personnel**

**I. OVERVIEW**

The following set of guidelines is suggested for assisting law enforcement, child welfare and medical personnel who are involved in the investigation of reports where children are found, or known to have been present at the scene of a clandestine drug lab or suspected of being exposed to a controlled/dangerous substance. These procedures are informational and are not intended to supersede any applicable statutes, rules, laws or policies or regulations of any governmental agency. The use of these guidelines is voluntary and they are intended to serve only as a multidisciplinary collaborative guide for the professionals charged with the duty to seek safety, placement, medical treatment and care for the children of South Carolina.

**II. DRUG ENDANGERED CHILD, DEFINED**

A drug endangered child (hereinafter DEC) is a person, under the age of eighteen (18), who lives in or is exposed to an environment where drugs, including pharmaceuticals, are used, possessed, trafficked, diverted and/or manufactured illegally and, as a result of that environment:

1. The child experiences, or is at risk of experiencing, physical, sexual or emotional abuse;
2. The child experiences, or is at risk of experiencing, medical, educational, emotional, or physical harm or neglect.
3. The child is harmed or is at risk of being harmed from the inhalation, ingestion, absorption of illegal drugs or access to illegally possessed prescription drugs.
4. The child is harmed or is at risk of being harmed from exposure to intimate partner violence or domestic violence.
5. The child is harmed or is at risk of being harmed by exposure and access to weapons;
6. The child is forced to participate in illegal or sexual activity, (including, but not limited to human trafficking, prostitution and child pornography), of that minor in exchange for drugs or money, likely to be used to purchase drugs.

A DEC may also be a child whose caretaker's substance abuse interferes with the caretaker's ability to provide a safe and nurturing environment resulting in some form of maltreatment, abuse and/or neglect. Effective intervention requires multidisciplinary collaboration that includes prevention, enforcement and treatment and involves law enforcement, solicitors, courts, probation, social services providers, treatment

professionals, the mental health and medical profession, child welfare, education, public health, federal agencies, non-profit organizations, and the community as a whole.

### **III. GUIDELINES OBJECTIVES**

**A. Multidisciplinary Team Approach.** To provide for a coordinated, multidisciplinary team (hereinafter MDT) investigation of reports to law enforcement (hereinafter LE) and/or Department of Social Services (hereinafter DSS) regarding children suspected of being exposed to a controlled/dangerous substance and/or found in proximity to a clandestine drug lab in order to:

- 1) Ensure the immediate safety of the children;
- 2) Determine need and provide for medical assessment/ treatment;
- 3) Determine placement of children;
- 4) Ensure safety of LE, DSS workers, Fire, EMS and medical personnel;
- 5) Ensure that children are informed of the process and their questions are answered:
  - i. “What happens to me?”
  - ii. “What happens to my parent(s) or guardian?”
- 6) Develop coordinated response from service delivery partners to implement education, life skills training, substance abuse training and therapy on a case by case basis.
- 7) Ensure that children are classified as victims on all police incident reports and seek criminal charges against caretakers for child maltreatment when probable cause exists. Even if children are not originally identified as victim(s) on the incident reports then all follow up and supplemental reports are to reflect the children as victim(s) and those records shall be provided to DSS, the local child advocacy center (CAC) and any other agencies involved in the continuing investigation of the case.

**B. Joint Investigation.** It is recommended that DEC investigations be worked jointly by the DSS county office, the appropriate law enforcement agency having jurisdiction, the local fire and emergency departments, the appropriate emergency medical facility, and designated follow-up treatment professionals. All agencies will share information, as appropriate, and respond in a coordinated, collaborative manner throughout the investigative process. A cross reference of information by LE and DSS will broaden the information available on DEC and thereby facilitate a more effective intervention. In all cases, the health and safety of the children involved will take precedence. LE officers, while being aware of this priority, will have the added responsibility of identifying and preserving evidence of child endangerment as they proceed. All individuals involved in this process will take care to be responsive to the potential emotional trauma on the child.

### **IV. Part 1: Pre-Response**

#### **A. LAW ENFORCEMENT**

1. **Make every effort to determine if children will be present.** When LE is conducting a drug investigation, one of the initial steps involve determining if children are or could be in the surroundings where the target of the investigation is located.
2. **Contact a DSS Child Protective Services caseworker.** Whenever LE has advance notice that children may be present at a location where drug manufacturing, use or distribution is suspected, and LE intends to execute a search warrant or conduct a knock-and-talk investigation, they shall, when practicable, contact the on-call DSS caseworker. When LE has been able to obtain approximate ages and/or sizes of children involved and reasonably believes a child or children will be placed in protective custody, they are to provide DSS with this information as soon as possible to allow time for the DSS caseworker to collect supplies needed should children be taken into protective custody, including but not limited to clothing, shoes, blankets, toys, comfort items, etc.
3. **Obtain search warrants.** When drafting warrants, LE should consider the need to search for and seize evidence of danger to children, and share this information with the appropriate solicitor.

## **B. CHILD PROTECTIVE SERVICES - DSS**

1. **Provide LE with relevant information.** Upon request, pull together all relevant information regarding the children suspected to be at the location where the search warrant or knock-and-talk is to be executed. DSS shall provide to LE information from the DSS database regarding prior child abuse or neglect referrals, vital records and other available information insofar as release is allowed by state and federal law concerning the target of the investigation when such information is used in furtherance of a joint LE/DSS child endangerment investigation.
2. **Evaluate potential placements.** Temporary placement of a child is the responsibility of DSS personnel. If practicable, prepare preliminary background checks of known relatives prior to search warrant execution when it is expected a child will be placed in Emergency Protective Custody (EPC). A background check should include, but is not limited to, criminal history and a home visit by LE to alternative caregiver placement. Law enforcement is authorized to provide state criminal history and sex offender registry information, upon request, to DSS pursuant to S.C. Code Ann. §63-7-990;

“Notwithstanding any other provision of law, upon request of the department, a criminal justice agency having custody of or access to state or local law enforcement records or county sex offender registries shall provide the department with information pertaining to the criminal history of an adult residing in the home of a child who is named in a report of suspected child abuse or neglect or in a home in which it is proposed that the child be placed. This information shall include conviction data, nonconviction data, arrests, and incident reports accessible to the agency. The department *shall not* be charged a fee for this service.”

3. **Relative placement.** It is preferred practice for the DSS caseworker to determine the relative placement with the assistance of the involved law enforcement agency. Involving DSS prior to any release to a relative allows for proper screening, tracking and follow-up care of the DEC which is recommended by these guidelines.

**V. Part 2: Responding at the Scene**

**A. Law Enforcement**

1. **Take the lead in securing the scene.** In addition to securing the scene for evidence collection purposes, LE must secure the scene to protect all people present. DSS responders should not approach or enter buildings until the premises are declared safe by LE and LE has completed the necessary sweep and collection of evidence from the scene.
2. **Notify DSS immediately if children are at the scene.** If DSS has not been involved in the pre-operational briefing, notify DSS immediately if children are found at the site. DSS should also be notified if children are not at the scene, but there is reason to believe there have been children exposed to a drug environment. (For example, there is a formula can on the kitchen counter, a pacifier on the coffee table, or even a child's room but no child physically present.)
3. **Protect any children at the scene.** One officer and/or Law Enforcement Victim Advocate (LEVA) should have primary care of and responsibility for ensuring the safety of children at the scene. This officer/LEVA should:
  - a. **Take Emergency Protective Custody (EPC)** of the child. There will need to be a case-by-case determination of whether EPC is warranted. However, even if DSS plans to place the child with a relative, it is important to place the child in EPC if there is imminent and substantial danger to the child.
  - b. **DEC as Victims.** All children found at the scene where any drug related warrant is executed *shall be declared a victim on all police reports*. If at the time of the investigation of the drug lab and collection of evidence it is apparent that probable cause exists to support the conclusion that children were exposed to and/or living in the drug environment, and as a result suffered neglect, abuse and/or maltreatment, then those children shall be entered as victims on the incident report and all subsequent supplemental reports filed by law enforcement in the criminal case.
    - i. Naming the children as victims on the crime incident report OR in a supplemental incident report is a crucial step if those children are to meet eligibility criteria as established by SOVA laws. Those SOVA laws and

requirements must be followed for any consideration of payment. (For more information on SOVA policy and procedure go to [www.sova.sc.gov](http://www.sova.sc.gov))

- c. **Remain with the child until DSS arrives.** If DSS was involved in the pre-operational briefing, the transfer to DSS can be immediate.
4. **Notify EMS as needed.** EMS will evaluate and transport children to a medical facility when urgent health concerns are present.
  - a. In a situation where the drug environment is a clandestine drug lab and there is a risk of exposure to these contaminants by and through handling the children, the local Fire Department shall respond to the children and decontamination shall take place prior to transporting the child to a medical facility. Once decontamination is completed, DSS and EMS can then have direct contact with those children and accompany them to the medical facility. (See *Guidelines for Response to Clandestine Drug Labs*)
5. **Collect Evidence.** (See *Law Enforcement Checklist Form One*)
  - a. Photograph or videotape the location, paying special attention to any drugs, paraphernalia and weapons accessible to children.
  - b. Photograph or videotape the children, making sure to record their general condition and any evidence of abuse, neglect, contamination or other injury.
  - c. Measure and record location/height of drugs, paraphernalia, and/or weapons and other items that may be a danger to children by using a tape measure or ruler and document the ages and height of the children in the home.
  - d. Seize physical evidence pursuant to local evidence handling procedures and appropriate agency protocols and policies.
  - e. Photograph or videotape the conditions of the bathrooms, bedrooms, children's play areas and food supply (e.g. lack of running water, filth, unsafe sleeping conditions, lack of hygiene products, etc.).
6. **Interview children as soon as possible.** Make every effort to interview DEC no later than 48 hours, regarding any harm they may have experienced. This interview should be outside the presence of the caretakers so the children may feel free to answer. If possible, DSS and law enforcement will collaborate with one another to determine the least intrusive method of interviewing the child. They will assist one another in the gathering of relevant information both for the drug investigation and in relation to the child's maltreatment. LE and DSS may determine that the extent of neglect and or abuse of the children require a referral to the local CAC for a forensic interview.
7. **Contact the Solicitor's Office.** At the beginning of the investigation or soon thereafter inquire as to whether or not there are any other charges pending. Inform the Solicitor that

a child was present at the time of the drug raid and that evidence is being collected to assist in the prosecution of potential charges involving abuse and neglect of that child. If probable cause exists, consider the following possible charges: Cruelty to Children (S.C. Code Ann. §63-5-80), Unlawful Conduct towards a child (S.C. Code Ann. §63-5-70), Exposure of the Child to Methamphetamines (S.C. Code Ann. §44-53-378), Contributing to the Delinquency of a Minor (S.C. Code Ann. §16-17-490) or any other relevant criminal statute involving the abuse or neglect of that child. Coordinate with the Solicitor to determine all possible charges in relation to the child victim.

## **B. CHILD PROTECTIVE SERVICES - DSS**

1. **Attend to Children at the Scene.** Once DSS arrives on the scene or at the medical facility treating the child, the DSS caseworker becomes the primary caretaker of any child at the scene. DSS is to remain with the child until a proper placement is found. DSS will explain to the child why he/she is being separated from his/her parents and ensure ongoing services are provided to the child and parents/guardians.
2. **Collect information on children's health history.** Using the relevant, current Intake Form (See *DSS Investigation Checklist Form Two and Medical History Form Three*) collect health history about the children from parents, children, or other adults available at the scene. This form shall become a part of the medical record at the facility evaluating the children. To the extent possible, obtain a signed release from parents or legal guardians for access to all prior medical records for the children.
3. **Collect children's medication from home.** If a search can be safely conducted, check the home for children's medication(s) and medical equipment (e.g. nebulizer, glucometer), glasses, contacts, etc. Thoroughly describe these medical items on the *DSS Investigation Checklist Form Two*.
4. **Accompany children to the medical facility.** If there is no immediate danger of exposing the DSS caseworker to contaminants, the DSS caseworker will stay with the children at all times until proper placement is determined. All documentation acquired in the prior two steps should be relayed to the healthcare provider or primary care provider (hereinafter PCP).<sup>1</sup>
5. **Attend to children not at the scene.** Consideration should be given to whether there are children that may not be at the scene at the time of the arrests, but are normally living in the home. DSS must evaluate these children in cooperation with LE, and promptly attend to their safety and health needs.

## **VI. Part 3: Medical Evaluation and Assessments of Children**

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<sup>1</sup> Primary care provider is a physician, advanced practice registered nurse or physician assistant duly licensed to practice medicine in the state of South Carolina.



A less prescriptive approach is appropriate for all potential drug endangered children that are not found in an active clandestine drug laboratory. This is due to the fact that there is a wide range of potential situations. If the child shows symptoms of a drug exposure; an urgent evaluation at an emergency department is appropriate. The evaluation should be guided by the exposure, symptoms, and potential outcome from exposure.

a) A drug screen may be appropriate for clinical reasons because of the history of exposure and to confirm a diagnostic impression.

b) For forensic purposes, it may be appropriate to collect urine or other specimens for toxicology screening. The responding or investigating officer will be responsible for the chain of custody. All forensic samples of urine, hair or blood should be processed by SLED or a reference lab identified by SLED where all samples shall be sent for processing. Forensic toxicology samples should be obtained within six (6) to twelve (12) hours but no later than twenty-four (24) hours of exposure to the children.

#### **A. Baseline Medical Assessment (within 72 hours)**

If there are no symptoms or concerns of recent exposure, the child should receive a baseline assessment from an appropriate healthcare provider within seventy-two (72) hours. An appropriate healthcare provider is: (a) a healthcare provider affiliated with a regional child advocacy medical assessment center; or (b) a PCP familiar with the SCDEC Guidelines. Prompt medical assessment is warranted due to the risk of toxicological, neurologic, respiratory, dermatologic, or other adverse effects of methamphetamine or other lab exposure, and the high risk of abuse and neglect.

1. The healthcare provider will receive information from the DSS caseworker regarding the conditions in which the child was found (See *DSS Investigation Checklist Form Two*).
2. The healthcare provider will conduct a standard medical review.
3. If appropriate to the medical facility, the healthcare provider will perform the following steps of the Baseline Medical Assessment:
  - a) Review the child's medical history.
  - b) Perform a complete pediatric physical exam paying particular attention to vital signs (temperature, heart/respiratory rate, blood pressure), the neurologic and developmental exams and respiratory status.
  - c) Perform laboratory or imaging testing as indicated by clinical status.
  - d) Follow up with appropriate long-term care where any test results suggest a need on behalf of that child.

#### **V. Part 4: Follow-up Care**

A. **Thirty (30) day visit.** The PCP may perform this care but a referral for follow up to the local children's advocacy center (CAC) to address any pending forensic needs and a mental health assessment and therapy may often be indicated. The CAC staff will maintain a collaboration and line of communication with child's PCP, so PCP is aware of further pediatric, developmental or medical needs of the child pertaining to the exposure

that have been identified and need to be followed up by the PCP. This visit for initial follow-up care should occur within thirty (30) days of the baseline medical assessment to reevaluate comprehensive health status of the child, identify any latent symptoms, and ensure appropriate and timely follow-up of services. If possible, the visit should be scheduled late in the thirty (30) day timeframe for more valid developmental and mental health assessments. At this visit follow-up of abnormal laboratory, imaging, and toxicological testing is indicated.

- B. **Long-term Follow-up Care.** Long term follow-up care is designed to monitor physical, emotional, and developmental health; identify possible late developing problems related to the drug environment (if exposure at the time was a possibility); and provide appropriate intervention. At a minimum, a pediatric visit is required at six (6) and twelve (12) months after the baseline medical assessment. Children considered to be drug exposed or endangered should receive follow-up services at a minimum of eighteen (18) months after identification.

- 1) Follow-up of previously identified problems.
- 2) Perform comprehensive physical exam and diagnostic testing as indicated with particular attention to prior abnormal findings.

- C. **Developmental and Mental Health Assessments.** For many children further developmental and mental health assessments are appropriate. The need for these evaluations can be determined by consultation between the PCP and the CAC staff. The following services require a child psychologist, qualified mental health professional, or licensed therapist.

- 1) Perform a full developmental examination using an age appropriate instrument within thirty (30) days, six (6) months and twelve (12) months, after the baseline medical assessment. If abnormal findings indicated, schedule referral and intervention with appropriate provider.
- 2) Perform a mental health assessment within thirty (30) days, six (6) months, and twelve (12) months, after the baseline medical assessment. If abnormal findings indicated, schedule referral and intervention with appropriate provider.

### **Explanation of Forms**

1. The forms and checklists appended to these guidelines and are intended to be incorporated as part of the SCDEC Guidelines for Response to Clandestine Drug Laboratories. The forms are:

Form One: Law Enforcement Checklist

Form Two: DSS Investigation Checklist

Form Three: Medical History Checklist

Form Four: List of Chemicals

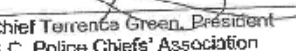
## Endorsements


The following individuals endorse the SCDEC Guidelines on behalf of their agencies or associations.

### Endorsements

The following individuals endorse the SCDEC Guidelines on behalf of their agencies or associations.

  
Lillian Koler, Director  
S.C. Department of Social Services


  
Chief Terrence Green, President  
S.C. Police Chiefs' Association

  
Honorable Alan Wilson, Attorney General  
S.C. Office of the Attorney General


  
Chief Mark A. Keel  
S.C. Law Enforcement Division


  
Jeff Moore, Executive Director  
S.C. Sheriffs' Association

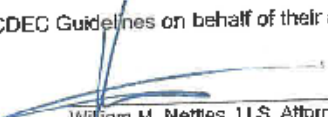
  
Joe H. Palmer, Executive Director  
S.C. Firefighters' Association


  
Dr. Larry Barker, Director  
S.C. State Office of Victim Assistance


  
Leroy Smith, Director  
S.C. Department of Public Safety

  
Laura Hudson, Director  
S.C. Crime Victims' Council

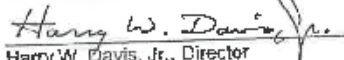
  
Chief Tracy Wallace, President  
S.C. State Association of Fire Chiefs

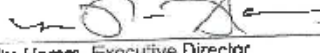
  
William M. Nettles, U.S. Attorney  
The U.S. Attorney's Office, District of S.C.

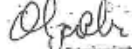
  
Deborah Greenhouse, M.D., President  
American Academy of Pediatrics, S.C.  
Chapter


  
Robert "Bob" C. Toomey, Director  
S.C. Department of Alcohol and Other Drug  
Abuse Services

  
Catherine B. Templeton, Director  
S.C. Department of Health and  
Environmental Control

  
Harry W. Davis, Jr., Director  
Children's Law Center, University of South  
Carolina School of Law

  
Kim Hamm, Executive Director  
S.C. Network of Child Advocacy Centers

  
Olga Rosa, M.D., FAAP, Director  
S.C. Children's Advocacy Medical Response System

  
David M. Ross, Executive Director  
S.C. Commission on Prosecution Coordination

  
Honorable Chrissy Adams, President  
S.C. Solicitor's Association

  
Derek Kinncy, President  
S.C. EMS Association

## Referenced Documents

Until SCDEC **Guideline** Forms are available in the Master Forms Index, Common Non-DSS Forms, use copies of the forms that are included in the manual memo releasing this revision).

**Revision Comments-**

2014-Updated version of document previously known as South Carolina Drug Endangered Children Protocol.

**758 .01 APPENDIX South Carolina Drug Endangered Children Guidelines-Clandestine Drug Laboratory Response**

The SCDEC Guidelines address a narrow but dangerous category of cases: The investigation of a home or other structure where children are exposed to the manufacture of methamphetamine or other hazardous drugs resulting in an environment containing hazardous chemicals and/or residual contamination from the manufacturing process.<sup>2</sup> (Clandestine drug lab) In all such cases, procedures must be in place to protect children exposed to harmful substances, provide medical treatment and follow up care for these children, and to ensure that evidence is collected and preserved in a forensically sound manner. These guidelines address all of these goals.

**DRUG ENDANGERED CHILD, DEFINED**

A drug endangered child (hereinafter DEC) is a person, under the age of eighteen (18), who lives in or is exposed to an environment where drugs, including pharmaceuticals, are used, possessed, trafficked, diverted and/or manufactured illegally and, as a result of that environment:

7. The child experiences, or is at risk of experiencing, physical, sexual or emotional abuse;
8. The child experiences, or is at risk of experiencing, medical, educational, emotional, or physical harm or neglect.
9. The child is harmed or is at risk of being harmed from the inhalation, ingestion, or absorption of illegal drugs or access to illegally possessed prescription drugs.
10. The child is harmed or is at risk of being harmed from exposure to intimate partner violence or domestic violence.
11. The child is harmed or is at risk of being harmed by exposure and access to weapons;
12. The child is forced to participate in illegal or sexual activity, including but not limited to human trafficking, prostitution, and child pornography, of that minor in exchange for drugs or money, likely to be used to purchase drugs.

A DEC may also be a child whose caretaker's substance abuse interferes with the caretaker's ability to provide a safe and nurturing environment resulting in some form of maltreatment, abuse and/or neglect. Effective intervention requires multidisciplinary collaboration that includes prevention, enforcement and treatment and involves law enforcement

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<sup>2</sup> Although tailored to address the methamphetamine problem in our community, these guidelines could be applied to any situation involving children's exposure to hazardous chemicals.

(hereinafter LE), solicitors, courts, probation, social services providers, treatment professionals, the mental health and medical profession, child welfare, education, public health, federal agencies, non-profit organizations, and the community as a whole.

## I. Part One: Pre-Response

### A. Law Enforcement

1. **Make every effort to determine if children will be present.** When conducting a clandestine drug investigation, LE should determine if there is a possibility that children might be in the surroundings where the target of the investigation is located and if so develop a plan to ensure their safety upon entry.
2. **Contact a DSS caseworker.** If practical in the investigation by law enforcement of the clandestine lab, contact a DSS caseworker who is trained in the SCDEC Guidelines to be on standby for the retrieval of children from the drug environment. If notified, the DSS caseworker should attend the operational briefing unless concerns for the safety of law enforcement and the integrity of the investigation are at issue.
3. **Obtain search warrants.** When drafting warrants, keep in mind the need to search for evidence of danger to children. (e.g. chemicals in cupboards and other containers within the reach of children; sexually explicit material that is commonly found among methamphetamine addicts; computers, weapons, etc.).

### B. Child Protective Services - DSS

1. **Gather clothing and comfort items for children.** Create a clothes bank with donations from local merchants or other organizations that are able to provide clothing and items such as blankets, stuffed animals, and games for children. Implement a system for taking the clothes and comfort items to the scene to replace contaminated items or to the medical facility where the children are being treated.
2. **Begin identifying potential foster care placements.** Maintain information for foster parents on caring for children who have been exposed to a clandestine drug lab. Also, if relative placement is determined to be in the best interest of the children, DSS should ensure the relatives are briefed on the necessity of medical care and follow up care for the children.

### C. Fire Department/Emergency Medical Services

1. **Plan decontamination procedure.** Local Fire Department (hereinafter FD) shall prepare a method of decontaminating any person located at the site of a clandestine drug lab. The local FD will respond to the scene of the lab and decontaminate any children found at the lab first. Because the safety and health of first responders and the children are the main concern, the children shall not be turned over to DSS or any other individual or hospital facility until AFTER

decontamination takes place by the FD and personnel working under the authority of the FD, unless all responders involved determine that there was no exposure of the children to hazardous materials/contaminants.

#### **D. Emergency Medical Services (EMS)**

1. For all children who are not obviously critical, EMS is to perform a field medical assessment consisting of: *vital signs* (temperature, heart rate, respirations, blood pressure); and the *pediatric triangle of assessment* (airway, breathing, circulation).
2. Transport any DEC to the hospital immediately if:
  - (a) The lab is actively manufacturing methamphetamine or other hazardous drug at the time of the interdiction;
  - (b) There is an explosion at the lab where children are present;
  - (c) The children appear ill; or
  - (d) There are signs of chemical exposure, including:
    - (i) Breathing difficulty or distress, prolonged coughing, wheezing, gagging, dry or sore throat, pain or tightness in chest;
    - (ii) Red, watering, burning eyes;
    - (iii) Burns or a burning sensation on the skin;
    - (iv) Strong smell of ammonia, cat urine, chlorine, or other chemical odors on the children or clothing;
    - (v) Unusual behavior (e.g., very sleepy or difficult to arouse in the daytime, overly stimulated, fidgeting, trembling, agitated). ***If there are signs of acute chemical irritation, give first aid immediately, including flushing eyes and skin with water and providing cardiorespiratory support as needed.***

## **II. Part Two: Responding at the Scene**

### **A. Law Enforcement**

1. **Take the lead in securing the scene.** In addition to securing the scene for evidence collection purposes, LE must secure the scene to protect all people present. DSS and Fire Department/EMS (FD/EMS) responders should not approach or enter buildings until the premises are declared safe by law enforcement and they have been cleared to enter.
2. **Notify DSS immediately if children are at the scene.** If DSS has not been involved in the pre-operational briefing, notify DSS immediately if children are found at a lab site. LE will also notify DSS if children are not at the scene, but there is reason to believe: (a) children have been exposed to chemicals or drugs from the lab; and (b) a parent or guardian allowed the children to be at the lab site.
3. **Protect any children at the scene.** One officer and/or Law Enforcement Victim Advocate (LEVA) should have primary responsibility for ensuring the safety of children at the scene. This person should:

- (a) Take Emergency Protective Custody (EPC) of the child. A case-by-case determination of EPC is necessary, but virtually every child exposed to the manufacture of methamphetamine or other hazardous drug will be in substantial and imminent danger, therefore, justifying the EPC.

*Note: Even if DSS expects to place the children with a relative, it is important to take EPC of every child who is in imminent and substantial danger to ensure that he/she is properly examined for potential contamination of harmful materials from the drug lab. After the safety and health of each child is properly assessed, then a determination of appropriate placement of the children can be made.*

- (b) Remain with the children until the DSS caseworker arrives. When a DSS caseworker has been involved in the pre-operational briefing, the transfer to DSS care can be immediate unless the children are contaminated with contaminants from the lab.
  - (c) If a DSS caseworker is unable to respond to the scene because of safety concerns or unforeseeable reasons, the officer or LEVA should transport the child to a medical facility when decontamination is not a concern.
4. **Notify EMS immediately** to evaluate and transport children to a healthcare facility when urgent health concerns and/or evidence of contamination of children are present. If contamination is present then decontamination should take place BEFORE transporting those DEC to the healthcare facility in order to prevent exposure to EMS, DSS or hospital employees, and to prevent the spread of contamination to vehicles, equipment, etc.
  5. **Decontaminate children exposed to contaminants.** All children should be decontaminated under the supervision of trained personnel working for or at the direction of the local Fire Department and/or EMS. Each jurisdiction shall have a procedure in place to implement the decontamination of these children in a quick and safe manner as deemed appropriate by that particular agency.
    - (a) Special consideration should be given to children's privacy and dignity during this process and if available, children should be provided age-appropriate clothing.
    - (b) Following decontamination, contaminated clothing should be placed in a plastic bag pursuant to evidence collection procedures.
  6. **Identify chemicals for purposes of children's health care.** Use *List of Chemicals Form Four* to identify chemicals at the scene. A duplicate of this form should accompany children to the medical examination and should become part of the children's health care records.
  7. **Collect evidence.**
    - (a) Photograph or videotape the location. When making a visual record of the location, pay special attention to chemicals, drug paraphernalia and weapons accessible to children (e.g., in or near the kitchen, bedrooms, playrooms, floors).
    - (b) Photograph or videotape the children. Record the general condition of children to show evidence of abuse, neglect, contamination, or other injury.



- (c) Measure and be sure to provide a scale for comparison in the photographs in order to substantiate the ability of children to access these items. Record the location of chemicals and other items which are dangerous to children.
- (d) Seize physical evidence pursuant to evidence handling procedures. Likely items include: computers, weapons, chemicals, blister packs, and sexually explicit materials. Take pictures of everything.

*Note: Follow appropriate agency policies and procedures concerning the collection, storage, and disposal of hazardous materials.*

8. **Rolling labs “shake and bake.”** Children present in a vehicle at the time of a traffic stop where a rolling lab is identified by LE are to be treated in the same manner as if the vehicle was a residence. LE shall EPC the children and notify DSS. The fact that children are in the vehicle and it is an active lab is evidence of unreasonable risk of harm to those children. If no children are in the vehicle at the time of the stop but LE determines that the suspects have children then LE must notify DSS so that those children are located and assessed appropriately for possible exposure and/or neglect.
9. **Interview children.** As soon as possible (usually within 48 hours), refer the children to the local Child Advocacy Center (hereinafter CAC) for a forensic interview pursuant to local interviewing protocols or have a qualified person trained in conducting child friendly investigative interviews do the interview. The purpose of this interview is to gather information from the children about maltreatment, drug activity, illegal activity, weapons, etc. that they may have witnessed in order to avoid multiple and duplicative interviews of the children regarding their experiences.
10. **DEC as victims.** If at the time of the investigation of the clandestine drug lab and collection of evidence it is apparent that probable cause exists to support the conclusion that children were exposed to and/or living in the drug environment, and as a result suffered neglect, abuse and/or maltreatment, then those children shall be entered as victims on the incident report and all subsequent supplemental reports filed by law enforcement in the criminal case.
11. **Prosecution related to child abuse and neglect.** Contact the on-call solicitor and notify him/her of the investigation and evidence collected as it pertains to the children removed from the drug environment. If probable cause exists for a criminal charge addressing the abuse and neglect issues of the children in the environment, prosecution should be pursued. Possible charges: Cruelty to Children (S.C. Code Ann. §63-5-80), Unlawful Conduct toward a Child (S.C. Code Ann. §63-5-70), Exposure of the Child to Methamphetamines (S.C. Code Ann. §44-53-378), Contributing to the Delinquency of a Minor (S.C. Code Ann. §16-17-490) or other relevant criminal statute involving the abuse or neglect of that child.

## ***B. Child Protective Services- DSS***

1. **Attend to children at the scene.** After law enforcement has taken emergency protective custody of any children, the DSS caseworker should assume the primary role with respect to any children at the scene and remain with the children through the medical assessment and until the children are in appropriate placement. The only exception is when the children are exposed to dangerous chemicals from a clandestine lab. When this is determined immediate care of those children will go to the local FD team for decontamination. Upon completion of this process, DSS will take custody of the children or allow EMS to transport the children to the local medical facility where the children will be examined and treated as needed. DSS will remain with the children during this entire process to comfort and reassure the children and also address safety and wellbeing and plan for appropriate placement.
2. **Collect information on children's health history.** Using *Medical History Checklist Form Three*, collect health history information about children from parents, children, or other adults available at the scene. This form should become part of the medical record at the facility evaluating the child.
  - (a) If a search can be safely conducted, check the facility for children's medication, medical equipment (e.g., nebulizer, glucometer), glasses, contacts, and other items. Thoroughly describe all medical equipment on the *DSS Checklist Form Two*. In most cases, medications and medical equipment that have been exposed to contaminants in a clandestine lab will need to be destroyed.
  - (b) To the extent possible, obtain a signed release from parents or legal guardians for access to all prior medical records of children.
3. **Accompany children to the medical facility.**
  - (a) Children who are not in critical condition should be decontaminated at the scene before transported to a medical facility.
  - (b) DSS should inform the healthcare provider of the children's health records, medications, and any health equipment used by the child.
4. **Attend to children not at the scene.** Children who have been exposed to a lab may be at another location at the time of the interdiction. DSS must attend to these children who are not at the scene. In cooperation with law enforcement, DSS should promptly evaluate the safety, well-being and health needs of these children. The medical components of these guidelines should be followed for any children with significant contamination from exposure to the drug sites and LE shall report this as an abuse and/or neglect situation to the county DSS office and DSS shall initiate the investigation.
5. **Coordinate with Law Enforcement during prosecution of case.** DSS shall continue to coordinate with the investigation of this case until the prosecution is completed. DSS will also follow their policies and regulations regarding proper care and placement for the children if removed from the home. If the parents, guardians, or person acting in *loco*

*parentis*, did abuse and or neglect the children in a manner that meets the definition of abuse and or neglect under S.C. Code Ann. §63-7-20, DSS shall seek placement for these persons on the Central Registry of Abuse and Neglect as deemed appropriate by the court.

### **III. Part Three: Medical Assessments**

#### **A. Immediate Care Assessment**

All children should be taken to an appropriate healthcare facility for an immediate care assessment within four (4) hours but no later than six (6) hours, of a child's removal from an active clandestine drug lab or site where it has been determined illegal drugs have been manufactured in the past. The facility used will depend upon the severity of the medical condition, the urgency of the problem, and the time of day. In these circumstances, every effort shall be made to ensure the child is decontaminated before transport to the healthcare facility.

An appropriate healthcare facility includes: (a) a healthcare provider affiliated with a regional child advocacy medical assessment center; (b) a local primary care provider (hereinafter PCP)<sup>3</sup> trained in the SCDEC Guidelines; or (c) an emergency department trained in the SCDEC Guidelines.

1. **Review child's medical history.** The PCP should receive information from the DSS caseworker and law enforcement on the *chemicals* to which children may have been exposed and the children's *medical history* (to the extent this is available). In this setting it is extremely important for responders on site to provide and record samples of chemicals found on site to correlate with what a laboratory test may detect. (See *Medical History Checklist Form Three and List of Chemicals Form Four*)
2. **Review of systems** (standard medical review). This review should focus on neurological and respiratory status.
3. **The Physical Examination.** This should be a thorough evaluation of the child, including but not limited to, an assessment of the respiratory and neurologic status of the child.
4. **Conduct the following evaluations:**
  - (a) Complete blood count;
  - (b) Liver function tests: AST, ALT, Total Bilirubin and Alkaline Phosphatase;
  - (c) Renal function tests: BUN and Creatinine;
  - (d) Electrolytes: Sodium, Potassium, Chloride, and Bicarbonate;
  - (e) Urinalysis;
  - (f) Perform other laboratory or imaging testing as indicated.

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<sup>3</sup> Primary care provider is a physician, advanced practice registered nurse or physician assistant duly licensed to practice medicine in the state of South Carolina.

5. **Contaminated children.** If a child is contaminated but *medically unstable*, decontamination MUST still occur before reaching the medical facility. FD and EMS will utilize a gross contaminant response to the child. In these occasional but very serious circumstances priority must be given to decontaminating them as quickly as possible, ensuring their safety, and bringing the child to the emergency department (ED) without concerns that the ED will be contaminated when accepting and treating the child. While it is understood that care of the child is a priority, if the ED is inadvertently contaminated and results in a shutdown of its facilities, it becomes a hardship and medical concern for the community.

## **B. Toxicology Screens**

Point of care urine screens have limited value in guiding clinical care of children removed from active clandestine laboratories and should be relied on only as an adjunct to other clinical information. Point of care screens are only useful in guiding more definitive toxicology testing for forensic purposes.

1. **Collecting the specimens for toxicology screens.** For forensic purposes it will usually be appropriate to collect urine or other specimens for toxicology screening. The responding or investigating officer will be responsible for the chain of custody and make sure this is documented.
2. **Securing the sample.** All forensic samples of urine, hair or blood should be processed either by SLED or a reference lab identified by SLED where all samples shall be sent for processing.
3. **Timeline for collecting samples.** Urine samples should be obtained within six (6) hours and no later than twelve (12) hours after discovery of the child.

## **C. Baseline Medical Assessment (within 72 hours)**

Within seventy-two (72) hours after a child is identified at a clandestine lab site, the child should receive a baseline assessment from an appropriate healthcare provider. An appropriate healthcare provider is: (a) a provider affiliated with a regional child advocacy medical assessment center; or (b) a local PCP trained or at a minimum familiar with the SCDEC Guidelines. Prompt medical assessment is warranted due to the risk of toxicologic, neurologic, respiratory, dermatologic, or other adverse effects of the methamphetamine or other toxic lab exposure, and the high risk of abuse and neglect.

1. **Review child's medical history.** Department of Social Services to provide *DSS Checklist Form Two* and *Medical History Checklist Form Three*.
2. **Perform a complete pediatric physical exam.** Pay particular attention to vital signs (temperature, heart/respiratory rate, blood pressure) and the *neurologic* and *respiratory status*.

3. **Perform laboratory or imaging testing** as indicated by children's clinical status.
  - (a) May complete any tests recommended pursuant to the Immediate Care Assessment;
  - (b) Evaluate results of urine toxicology screen/confirmatory results done at Immediate Care Assessment;
  - (c) Perform a lead risk assessment questionnaire in children five (5) years of age or younger.
4. **Conduct a developmental screen.** This is an initial age- appropriate screen, not a full-scale assessment; may need referral to a pediatric specialist.
5. **Provide a mental health screen,** as clinically indicated. These services require a qualified pediatrician or mental health professional and may require a visit to a separate facility.
6. **Follow-up.** For any positive findings, follow-up with appropriate care as necessary. All children must be provided long-term follow-up care.

#### **D. Follow-up care**

1. **Thirty (30) day visit.** The healthcare provider or PCP may perform this care but a referral to the local CAC may be necessary to address any pending forensic needs and mental health assessment and therapy. The CAC staff will communicate with the child's PCP, to ensure PCP is aware of further pediatric, developmental or medical needs of the child (as it pertains to the exposure) that have been identified and need to be addressed. This visit for initial follow up care should occur within thirty (30) days of the baseline medical assessment to reevaluate the comprehensive health status of the child, identify any latent symptoms, and ensure appropriate and timely delivery of services. If possible, the visit should be scheduled late in the thirty (30) day time frame for more valid developmental and mental health results. At the visit follow up of abnormal laboratory, imaging, and toxicological testing is indicated.
2. **Long-term follow-up.** Long-term follow-up care is designed to monitor physical, emotional, and developmental health; identify possible late developing problems related to the methamphetamine or contaminated lab environment; and provide appropriate intervention. At a minimum, a pediatric visit is required at six (6) and twelve (12) months after the baseline medical assessment. Children considered to be drug endangered should receive follow-up services at a minimum of eighteen (18) months after identification.
  - (a) Follow-up of previously identified problems.
  - (b) Perform comprehensive physical exam and laboratory examination with particular attention to prior abnormal findings;
3. **Developmental and mental health evaluations.** For many children further developmental and mental health evaluations are appropriate. These evaluations can be determined by consultation between the PCP and the CAC staff. The following services require a child psychologist, qualified mental health professional, or licensed therapist and should be

conducted within thirty (30) days, then at six (6) and twelve (12) months after the baseline medical assessment. If abnormal findings, schedule referral and intervention with appropriate provider;

- (a) A full developmental examination using an age-appropriate instrument;
- (b) A mental health evaluation.

#### **IV. Part Four: Implementing the Guidelines**

##### **A. Training and Dissemination**

1. **Train first responders.** Law enforcement, EMT's, firefighters, emergency medicine and family medicine physicians, pediatricians, and DSS personnel should receive in-depth protocol training in the SCDEC Guidelines. The goal is to train personnel based on their respective disciplines to recognize their duties under the guidelines and to be prepared to respond in a manner that provides state uniformity in the protection, care, and treatment of these children.
2. **Train the child protection community.** Judges, foster parents, school personnel, pediatricians, family medicine and emergency medicine physicians, advanced practice nurse practitioners, physician assistants and guardians' *ad litem* should receive general SCDEC training in order to become familiar with the specific needs of these children and the procedures involved in their protection and care.
3. **Mail to relevant professionals.** Mail the guidelines to all South Carolina hospitals with the request that it be discussed at a staff meeting within the Emergency, Pediatrics, Nursing, and Administration departments. Provide contact information to offer training for those medical facilities requesting assistance with implementing and following the guidelines.

##### **B. Guidelines review**

1. The county DEC team should review all cases of children removed from clandestine lab sites. The DEC team should work closely with the local child abuse multi-disciplinary team (MDT) in conducting these case reviews.
2. A statewide working committee will be established to receive feedback on the guidelines from counties and agencies and make appropriate revisions and updates as needed.
3. Each year the SCDEC Guidelines will be redistributed to the endorsing agencies to ensure that those agencies continue to participate and support the guidelines as a forensically sound and evidence informed procedure for a best practices model in dealing with our state's DEC.

#### **Explanation of Forms**

1. The forms and checklists appended to these guidelines and are intended to be incorporated as part of the SCDEC Guidelines for Response to Clandestine Drug Laboratories. The forms are:

Form One: Law Enforcement Checklist  
Form Two: DSS Investigation Checklist  
Form Three: Medical History Checklist  
Form Four: List of Chemicals Checklist

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### **Referenced Document**

Until SCDEC **Guideline** Forms are available in the Master Forms Index, Common Non-DSS Forms, use copies of the forms that are included in the manual memo releasing this revision).

### **Revision Comments**

**New section.**

### 758.01.03 Excessive Corporal Punishment Guidelines

#### I. HISTORICAL BACKGROUND

The General Assembly of South Carolina has acknowledged that parents have the authority and responsibility to discipline their children but holds that parents do not have the right to abuse their children. Parents should be supported in their efforts to provide for the needs of their children. S. C. Code of Laws Ann. (Supp.1997) Section 20-7-490(3) defines harm to a child and excludes corporal punishment which meets certain guidelines.

Section 20-7-490(3):

'Harm' to a child's health or welfare can occur when the parent, guardian, or other person responsible for the child's welfare:

(a) inflicts or allows to be inflicted upon the child physical or mental injury, **including injuries sustained as a result of excessive corporal punishment, but excluding corporal punishment or physical discipline which:**

**(i) is administered by a parent or person in loco parentis;**

**(ii) is perpetrated for the sole purpose of restraining or correcting the child;**

**(iii) is reasonable in manner and moderate in degree;**

**(iv) has not brought about permanent or lasting damage to the child;**

**(v) is not reckless or grossly negligent behavior by the parents.**

In 1988, in a landmark decision of the case of South Carolina Department of Social Services vs. Father and Mother, 366 S.E.2d 40 (Ct.App.1988), the Court of Appeals of South Carolina held that: (1) corporal punishment inflicted by father, which left large purple contusions on back of child's left thigh and right leg, and a bruise on the temple, was excessive and constituted child abuse under statute, and (2) statute prohibiting such conduct was not unconstitutional on theory that it denied father his right to religious liberty under First Amendment. Although this situation involved a parent administering discipline, the court ruled that the punishment was not reasonable in manner nor moderate in degree because the father beat the child with a belt leaving large purple contusions covering almost the entire back of her left thigh and part of her right leg, even though the child was wearing long pants, and also hit her in the face while he was wearing his college ring, leaving contusions on the right temple. The court found that the child's skin was impaired by beating by the father, so as to constitute impairment of a body organ. Medical testimony stated that a "great deal of force" was necessary to inflict the injuries causing the court to rule that the discipline was not reasonable. While this case has been used to justify indicating reports of excessive corporal punishment dealing with minor bruises, it is important to remember that this situation does not deal with a minor bruise, but excessive force and extensive injuries and a finding that the force used was not "reasonable in manner nor moderate in degree" (Section 20-7-490-(3)(a)(iii)). Minor bruising would not support a finding of excessive corporal punishment if the criteria in Section 20-7-490(3)(a)(iii) are met.

Most medical personnel and psychologists agree that physical discipline should not be used on children who are under 12 months of age. These professionals believe if any corporal punishment is used on a child, the child should be developmentally, emotionally and physically normal. They also agree that punishing children who lack the cognitive skills to understand the



consequences does not get the message across and does not accomplish the purpose of correcting or retraining the child. Generally, children over the age of 12 years do not respond well to corporal punishment and other methods are more effective in achieving the ends of changing behavior.

Children's advocate organizations warn that physical punishments can lead to serious injury or death. Child protection and medical professionals agree that many persons who are found to be physically abusive as adults were also corporally punished as children. However, it is important to remember that not all children who are corporally punished grow up to be abusive adults. While many professionals discourage the use of corporal punishment in many situations, the law in South Carolina does not prohibit it.

## **II. Guidelines for Assessing Excessive Corporal Punishment**

The SC Court of Appeals case of Father and Mother established that the skin is an organ and bruising to the skin can be considered "permanent and lasting damage to a bodily organ" as defined by statute. This case dealt with extensive bruising to the child's legs and thighs as well as a blow to the forehead which left a bruise. These injuries and testimony that they were intentionally inflicted and the blow to the face demonstrated to the Court that the force used by the father was not moderate in degree nor reasonable in manner. The judges did not say that minor bruises with no other indicators of abuse should be determined to be child abuse. All the facts of the situation must be considered and assessed to make a determination of physical abuse due to excessive corporal punishment. Careful attention must be given to the criteria as set forth in Section 20-7-490(3)(a)(iii) and efforts made to determine whether any bruise has been inflicted in a way not "reasonable in manner and moderate in degree".

It is not the purpose of this section to debate the use of corporal punishment, but rather to provide guidelines for staff who are expected to make critical judgments distinguishing appropriate corporal punishment from excessive corporal punishment or physical abuse and then make decisions regarding the level of risk in which the child may be. This can be a very difficult decision for the worker. The following questions are provided to operationalize the statutory guidelines outlined in Section 20-7-490. **Staff are reminded that minor bruises as a result of corporal punishment must be assessed in light of all other factors. Minor bruises should not be the sole reason for indicating a report of excessive corporal punishment nor for requesting the removal of the victim child or siblings. This is not a new requirement but a clarification of existing policy and procedures.**

### **A. Statute Requirements**

#### **(i) is administered by a parent or person in loco parentis;**

Persons who administer corporal punishment to children must be parents, guardians or someone else as defined by the S. C. Code of Laws Ann. Section 20-7-490(5). Persons in this capacity have a unique relationship with the child and the right and responsibility to discipline the child. A person not in this capacity has no authority to discipline a child.

- What is the relationship between the child and the person administering the punishment?
- Does this person have a relationship with the child not defined by statute and society?
- If yes, what is the impact on the child of that relationship?

#### **(ii) is perpetrated for the sole purpose of restraining or correcting the child;**

Corporal punishment must be administered to correct a child's behavior or to restrain a child who is out of control.

- What is the intent of the parent in using the corporal punishment?
- What is the behavior of the child the parent wants to change?
- Is the discipline appropriate to the offense so that the child can make the connection between the misbehavior and the punishment?
- Are other forms of discipline used (i.e. progressive in nature or always use corporal punishment)?

**(iii) is reasonable in manner and moderate in degree;**

The way in which the corporal punishment is administered must be within reasonable limits, it must be moderate and not excessive or extreme, nor violent.

Father and Mother vs. SCDSS case heard by the SC Court of Appeals ruled that the father's actions were not reasonable in manner nor moderate in degree as there were extensive bruises to the legs, thighs and forehead of a child. Minor bruises as a result of corporal punishment must be considered in conjunction with other indicators of abuse to result in an indicated finding.

- Is the discipline appropriate to the age and/or developmental state of the child? Generally, corporal punishment is not appropriate for a child under 15 months and not particularly effective for a child over the age of eight.
- Corporal punishment may not be appropriate for children with handicapping conditions who are not able mentally or emotionally to understand the discipline or are physically fragile.
- Are instruments (for example: paddles, sticks, electric cords, other) used as part of the discipline?
- Where are strikes or blows located?
- What harm did the child suffer from the discipline?

**(iv) has not brought about permanent or lasting damage to the child;**

The purpose of corporal punishment is not to severely injure a child but to change an undesirable behavior.

- Was the child harmed? If yes, how serious was the harm?
- Was medical attention needed?
- What was the medical assessment of the injury?

**(v) is not reckless or grossly negligent behavior by the parents.**

Parents are expected to administer corporal punishment while in control of their actions so as not to injure the child.

- Did the situation involve a loss of control by the parent?
- Was the parent's loss of control due to stress from a specific crisis, such as loss of employment, death of family member, divorce, or other?
- Is there chronic stress in the family due to a lack of skills, lack of impulse control, abuse of drugs or alcohol or other?

**Family Functioning**

- Do the adults use violence to solve problems in the family or with other persons?
- Does the family generally operate in a reasonable manner?
- Do the parents have extended family or other support systems to help them through difficult times?

**B. Assessing Child Safety**

As part of the process to determine if a child has been abused and whether removal from the parents is necessary, the following factors must be considered in order to accurately assess the present danger threats and level of future risk to the child. These factors are the basis for the safety assessment. Although any one of the considerations listed may support that a child is

unsafe or at risk of harm, usually it is a combination of several factors which lead to the determination that a child is or is not at imminent danger and cannot be protected in the home.

### The Child

Assess the seriousness of the child's current physical condition.

- Has the child suffered harm?
- If yes, what is the location of the injury and the seriousness?
- Does the child need medical attention?
- If yes, what is the medical assessment of the injury?
- Does the child require hospitalization?
- Is the condition chronic or acute?

Assess the child's current emotional condition.

- Is the child withdrawn or uncommunicative?
- Is the child fearful of his or her parents?
- Is the child provocative?
- Is the child self-destructive?

Assess the child's ability to protect him or herself.

- What is the child's age?
- Does the child have any physical, emotional, or intellectual handicaps?

Assess the effect of the maltreatment on the child.

- Is the child likely to suffer from short-term harm?
- Is the child likely to suffer permanent damage, either physical or emotional, from the maltreatment?

### The Parent

Assess the parent's explanation of the child's condition.

- Is it inconsistent with the child's condition?
- Is it inconsistent with the child's physical and/or developmental capabilities?
- Does the parent blame the child for the child's condition?
- Does the parent admit to abusing or neglecting the child?
- Does the parent's story sound rehearsed?

Assess the parent's attitude toward the child's condition.

- Does the parent understand the severity of the injury or condition?
- Does the parent seem concerned or unconcerned about the child's condition?
- Is the parent willing to obtain medical or psychiatric care for the child?

Assess the parent's attitude toward the investigation.

- Is the parent extremely hostile?
- Does the parent threaten you?
- Is the parent overly compliant, telling you everything you want to hear?
- Is the parent willing to participate in the investigation?

Assess the emotional condition of the parent.

- Is the parent able to communicate with you?
- Does the parent grasp the reason for your presence?
- Is the parent delusional or having hallucinations?
- Does the parent's behavior seem inappropriate, bizarre, or out of place?
- Does the parent appear to be volatile, unable to control his or her impulses?
- Does the parent seem to be overwhelmed or immobilized?

Assess the parent's strengths.

- Does the parent recognize his or her problems?
- Is the parent willing and/or able to admit he/she has problems?
- Is the parent willing to problem solve with you regarding what needs to be done to protect the

child?

- Is the parent willing to take action to protect the child and remedy his/her problems?
- Is the parent isolated?
- Does the parent have friends or relatives to whom he/she can turn to for support?
- Does the parent seem to be motivated to change his/her situation?

Assess the parent-child relationship.

- Is the parent able to comfort the child?
- Does the child look fearful or cry when the parent approaches?
- Do either of the parents stiffen when the child approaches them or when the child cries?
- Does the parent yell at the child unnecessarily?
- Does the parent strike the child in your presence?
- Does the parent seem over-solicitous toward the child?
- Do the parents appear to use inappropriate or excessive discipline?
- Do the parents appear to be unable to adequately care for the child?
- Do the parents ignore the child?
- Does the parent compete with the child for your attention?
- Do the parents appear to scapegoat the child?
- Do the parents appear to favor any of their children?
- Are the parents unwilling or unable to discipline or provide structure for their children?

#### The Home Environment

Assess the physical condition of the home.

- Is the home safe?
- Are there exposed wires?
- Is the house a fire hazard?
- Is there a bed for the child?
- Is there adequate food?
- Do the parents have the necessary materials to care for the child?

#### Previous Maltreatment

Determine whether the child has suffered previous maltreatment.

- Have there been previous reports of abuse or neglect (either the same or different allegations)?
- Are the previous reports founded or unfounded?
- Does the child state that this is a one-time occurrence?
- Does the reporter state that this is not the first time he or she witnessed the child's condition?
- Do x-rays, medical records, or other documents substantiate that the child has been maltreated previously?
- Have other siblings experienced maltreatment? If yes, how serious were the injuries?

### **C. Removal Criteria**

The following criteria should be considered in conjunction with the above guidelines and the information gathered as a result of the investigation, interviews, and observations to determine if a child should be removed from the home.

- The presence of potential maltreatment in the home is such that the child has suffered or could suffer permanent physical or mental injury if left there.
- The child needs immediate medical or psychiatric treatment which the parents refuse to obtain.
- The child's present physical or emotional injuries require a special environment for treatment and recuperation which the family cannot or will not provide, e.g., a hospital, quiet or physical control.
- The child's sex or physical or mental condition renders him incapable of self-protection, or for some reason his characteristics or condition are intolerable to the parents.

- The evidence suggests that the parents have or are probably systematically resorting to disciplinary methods which are completely inappropriate responses to the child's behavior, e.g., extreme verbal or physical punishment of a child who makes a simple age appropriate request.
- The parents acknowledge being abusive and agree that they will probably continue to be abusive if the child remains in the home.
- The physical environment in the home poses an immediate threat and danger to the child, e.g., it is extremely unsanitary, there is a total absence of food, the shelter/heat is completely inadequate for the weather.

If any or all of the above criteria are found to be true through the investigation, removal of the victim child from the parents is supported. Removal of siblings of a victim child is based upon the likelihood of future injury to that child if left in the home environment.

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### **Referenced Documents**

### **Revision Comments**

## **761 Flex Funds-**

### **761.02 Social Service Block Grant (SSBG) Flex Funds**

Social Service Block Grant (SSBG) provides States with flexible funds that can be used to support services for child welfare clients in the family's efforts to maintain and preserve the family when the family experiences financial problems.

#### **761.02.01 Philosophy of SSBG Flex Funds**

We believe that it is better for the child, the family and the State to use funds to prevent removal of children from their families when the only reason for removal is due to lack of finances for basic needs. We also believe that it is better to use funds to assist with the early reunification of children whenever possible when a financial issue interferes with reunification.

#### **761.02.02 Legal Basis for SSBG Flex Funds**

Title XX of the Social Security Act and the federal and state guidelines for the Social Services Block Grant (SSBG) provide the legal basis for SSBG Flex Funds Program.

#### **761.02.03 Agency Policy for SSBG Flex Funds**

State, county and regional DSS offices shall ensure that these funds are used for approved services as defined in Section 761.02.09; use SSBG eligibility criteria to determine eligible clients; have the client sign the declaratory statement, DSS-3795 when the client is not a CPS or Foster Care client; and complete documentation in the Child and Adult Protective Services System (CAPSS) to ensure adequate information is available for federal reporting requirements.

In order to ensure compliance, county and regional DSS offices will develop a written plan for administering the funds and maintain the plan in the county office. The county plan should include at a minimum: the approval process; who will maintain the budget; and who will be responsible for documenting information in CAPSS.

SSBG funds should be used only after Medicaid or private insurance funds have been expended or when the client is ineligible for Medicaid and no other resources are immediately available to the Agency or the individual.

#### **761.02.04 General Eligibility**

Clients must meet the SSBG eligibility requirements in order to receive Flex funds. Three sets of criteria are used in determining eligibility for services –target group eligibility, economic eligibility, and need. The income criteria for receiving SSBG services does not apply to CPS or Foster Care, or any other SSBG service offered in conjunction with CPS or foster care. Flex fund services must be authorized in CAPSS in the open CPS or foster care case. For other type cases, clients must meet the SSBG eligibility requirements for target group, need and income below 200% of poverty as documented in CAPSS as a support service in order to receive SSBG Flex Funds.

#### **761.02.05 Target Groups to be Served Through SSBG Flex Funds**

1. Families with children at risk of placement due to child abuse or neglect.
2. Child Protective Services families and families of children in foster care less than six months.
3. Families of children who have been in foster care more than six months where early reunification is possible.
4. Foster families and children in foster care to prevent disruption and/or enable the families to meet special needs of the children.
5. Adoptive families to facilitate the adoption process.

#### **761.02.06 SSBG Flex Fund Definitions**

**SSBG Flex Funds** - Funds specified and given to county/regional office staff to purchase items and/or services to preserve, strengthen, and reunite families.

**Authorization Period** - The authorization period can be no longer than 365 days but can be less and determined based on client need, availability of funds, and/or any other issue identified by the county or region office plan.

#### **761.02.07 Flex Funds Goals**

If the client meets the general eligibility requirement, the use of the funds must meet one of the following goals:

1. To prevent placement in cases in which the child can be safely cared for at home or with a relative when the safety need can be met with Flex Funds.
2. To reunify the child with the family or relative.
3. To prevent disruptions in foster and pre-adopt families.
4. To prevent abuse from occurring or reoccurring in an active CPS or Foster Care case.
5. To facilitate adoption.

#### **761.02.08 SSBG Funding Limits**

Funds **cannot** be used:

1. If Medicaid, private insurance, or other personal or agency funding is available.
2. For residential treatment.
3. To purchase or improve land, to purchase, construct or make permanent improvements to any building or other facility other than minor remodeling.
4. To provide subsistence payments or room and board, unless these are an integral part of another social service, or are needed as a protective service.
5. To provide an educational service which the state makes generally available to its residents without cost and without regard to income. Expenses for higher education are not allowed.
6. To make cash payments for any purpose directly to families.
7. To renovate, repair, equip or otherwise improve Foster homes. Neither can these funds be used for routine training or recruitment of foster parents.
8. For DSS equipment, salaries, or to benefit DSS employees, i.e. monetary incentives, travel, training, etc.
9. To match other federal funds.
10. To purchase household items such as a stove or refrigerator that cost more than \$499.99 according the State Procurement policy.
11. To pay for medical care unless it is an integral but subordinate part of a social service.

### **761.02.09 Approved Services**

The following services are approved for funding under SSBG Flex Funds. Examples of expenses are included in each approved service; however, funding is not limited to these specific expenses. These services must be linked to the Flex Funds Goals in Section 761.02.07. These services must have a clear and explicit link to the safety threats and /or the behavioral changes identified in the case family assessment and treatment plan.

**Subcode 2001, Housing/Financial Assistance:** Temporary shelter, food, clothing and related services required by families with children in order to cope with a situation which is an imminent threat to the stability or well-being of the family. Also included are rent and home repairs, including minor repairs to rental property. When rent deposits are made for clients, the county must include a notice with the payment that the deposit must be returned to the county.

**Subcode 2002, Child Care:** Because other funding sources for child care are available, this service may be used for only short term, time limited (2 weeks or less) in one 365 day authorized period for Group Child Care (*State licensed care for seven to twelve children*), Family Child Care (*State registered, family home day care for up to six children*), Child Care Center services (*State licensed, center-based day care for thirteen or more children*) approved by Division of Child Care may be purchased for families when the unassisted, daily care of children by their family presents an unacceptable risk of continued abuse and/or placement AND other child care is unavailable. Child care services are for children through 12 years of age. The services are provided away from their own homes for less than 24 hours per day. The child care services must correct or prevent a situation that would lead to an out of home placement of one or more children. For long term child care, see ABC Voucher Program.

**Subcode 2003, Counseling:** Individual, group, family, pastoral, drug/alcohol abuse, in-home crisis, marital, and other forms of counseling may be purchased for families when the provision of counseling services will help the family and/or individuals within the family to resolve issues that contribute to the immediate safety threats and the risk for out-of-home placement of children and are clearly linked to the service plan. Counseling services that take place in the family home are highly recommended. The counseling must be provided by a State licensed, certified, or registered counselor, social worker, psychologist, psychiatrist, family therapist, pastoral counselor, or other qualified service provider acceptable to the county.

**Subcode 2004, Parenting Skills Training:** A structured approach designed to enhance parents' protective capacities and to heighten parents' awareness and understanding of their children's needs and to improve methods parents employ in responding to and providing for their children. Examples of this service are Parent Effectiveness Training, Active Parenting, and Systematic Therapeutic Effective Parenting, all of which support changes in parental behavior as means for making children safe and enhancing well-being.

**Subcode 2005, Caretaker Services:** A paraprofessional, paid or volunteer, who functions principally as an advisor or surrogate parent for a family on a short-term and/or emergency basis. Caretakers particularly serve mothers by providing positive reinforcement, emotional support, and nurturance and by providing and arranging transportation, baby-sitting, etc., as needed. This category may also be used to pay for respite care and 24-hour child care when parent(s) are hospitalized or otherwise unavailable.

**Subcode 2006, Medical/Dental:** Medical/Dental services are provided only if the services are an integral part of the treatment plan and identified as needed to keep a child safe. They should be short term and used only if no other source of funding is available. Physical assessments



required to determine medical needs of family/child are authorized. Providers must be licensed and otherwise qualified to practice their medical or dental specialty.

**NOTE: Flex Funds can be used to pay for Drug and Alcohol Testing** for diagnostic purposes when there is a clear and explicit link to the safety threats and /or the behavioral changes identified in the case family assessment and treatment plan.

Drug and alcohol testing is indicated, but not limited to the following circumstances:

- when there are allegations or indicators of substance abuse that may impact on the safety or well-being of the child; **and**
- when there is **evidence** of recent parental substance abuse, **such as** admission of parent, or information from family member or other credible source; or
- when information from law enforcement supports substance abuse or other criminal drug involvement, **such as prior history of substance involvement**; or
- when there is the need to determine progress on treatment plans involving substance abuse beyond what is provided through the treatment provider; or
- when other information is received that supports that substance abuse is an issue in this case **and is a safety threat that must be controlled.**

Drug and alcohol testing by DSS may not be necessary when the parent acknowledges substance use and is involved in substance treatment which will include periodic screenings. DSS is responsible for medical testing that is used solely for the purpose of proving child abuse and neglect. Parents or other caregivers should be asked to pay for substance tests once abuse or neglect is indicated. **A compromise to this request may be appropriate if the parent or caregiver will pay for substance testing that results in a positive screen and DSS will pay for those that are negative.**

A decision about what type of substance test is appropriate under any given set of conditions requires the assistance of and consultation with drug and alcohol abuse specialists, such as DAODAS. The expectation is that DSS staff will work with substance abuse specialists to determine what tests are necessary and what the test results mean in the context of child safety.

***Training for staff is available through SCDSS, DAODAS, Law Enforcement and Providers approved to administer the substance tests.***

**Subcode 2007, Psychiatric/Psychological Test/Evaluation:**

The administration of a battery of individual psychological tests and/or the use of clinical interviewing techniques to arrive at an assessment of an individual; or family's social, intellectual, and/or psychological well-being; to obtain recommendations for treatment, educational needs, or case disposition; and for psychiatric/psychological diagnosis, if appropriate. These evaluative techniques must be conducted by a psychiatrist, licensed psychologist, or certified school psychologist.

**Subcode 2008, Transportation/Escort Services:** Necessary transportation and/or escort services to and from facilities or resources in order to receive appropriate services. Reasonable car repairs may also be authorized by the county director when such repairs would preserve, strengthen or reunite families and funds are available.

**Subcode 2009, Energy Assistance:** Funds may be approved for a family's energy needs, including utility bills and other heating and cooling costs. When utility deposits are made for

clients, the county must include a notice with the payment that the deposit must be returned to the county.

**Subcode 2011, Wrap-Around Services:** Any service not defined above or not explicitly excluded as an approved service, may be purchased with SSBG funds as a Wrap-Around Service, provided it is needed to strengthen, preserve, or reunite families and no other funding source is available.

#### **761.02.10 SSBG Flex Funds Application Process**

The application must be completed in a face-to-face interview. The interview may take place in or out of the office, depending on the needs of the client. The DSS Form 30157 can be used to guide the interview process as that form outlines the necessary information to be documented on CAPSS.

An application for service consists of completing the documentation required in CAPSS and the DSS-3795 to document financial need when the client is not a CPS or Foster Care client. CPS and Foster Care Clients are provided services without regard to income. When appropriate, the DSS-3795 must be completed in its entirety; dated and signed by the client or client's representative and the caseworker. If for any reason the client cannot sign the application, this reason must be documented in the client signature block. The signed declaration of the client/applicant shall be accepted in lieu of documenting income if sufficient information is available to complete the application and establish eligibility. If the information is questionable, verification may be requested, but the reason shall be explained in the case record.

During the application process, the applicant may decide to withdraw the application request. If this happens, a case record is established using a county or regional office number as identifier. If the application is denied, the applicant must be given the reason for the denial.

#### **761.02.11 SSBG Flex Funds Authorization Process**

After the family is determined eligible, SSBG funds can be used to assist with efforts to preserve, strengthen, or reunite families. The worker will identify the services needed and then authorize Support Services in CAPSS with the head of family as primary client. If the family is already receiving another service, such as Child Protective Services, services could be authorized in conjunction with the other service. If the family has a child or children in foster care, Support Services should be authorized in the name of the child's head of family and the already existing family number should be used. The worker will go through the eligibility process for support services and authorize the appropriate 2000 series service code for the client. The authorization period begins on the date the DSS-3795 is signed and extends as long as the county determines appropriate, based on county policy.

#### **761.02.12 SSBG Approval Process**

The approval process should be defined in the county or regional office written plan for administering funds under SSBG Flex Funds within the guidelines and limitations found in this section. The plan should also specify who is responsible for documenting in CAPSS and tracking expenditures to manage the budget. The plan will be maintained in the county or regional office and may be subject to auditing. The county or regional office has the option of determining what approval process will be used for SSBG Flex Funds but the county or regional must stay within the allocated budget. State Office approval is not required in granting approval of expenditures.

**761.02.13 SSBG Flex Funds Expenditures**

CAPSS will generate a monthly listing of all expenditures entered during the month for record keeping and auditing purposes. The report SS130-R01 will be posted to DocView. Each county is responsible for reconciling the data on CAPSS to ensure that their budget is maintained.

The information on CAPSS and the signed 3795 will be maintained for a minimum of three years for federal auditing purposes.

The following reports are available through the DSS Intranet.

SWS130MP1301 Flex Funds Client Report- Monthly

SWS130MP1302 Flex Funds Client Summary Report Monthly

SWS130QP1301 Flex Fund Client Report Quarterly

SWS130QP1302 Flex Fund Client Summary Report Quarterly

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**Referenced Documents****Revision Comments**

April 2009 - Clarified use of Flex Funds for drug testing.