

RHODE ISLAND GOVERNMENT REGISTER
PUBLIC NOTICE OF PROPOSED RULEMAKING

AGENCY: Department of Children, Youth and Families

DIVISION: Child Protective Services

RULE IDENTIFIER: ERLID 6615

REGULATION TITLE: *Reporting Child Abuse and/or Neglect*

RULEMAKING ACTION: Proposed Rulemaking

TYPE OF FILING: Repeal

TIMETABLE FOR ACTION ON THE PROPOSED RULE:

Date of Public Notice: January 10, 2018

End of Public Comment Period: February 23, 2018

SUMMARY OF PROPOSED RULE: The proposed repeal is filed in conjunction with the proposed adoption of 214-RICR-20-00-1, "Child Protective Services." 214-RICR-20-00-1 will replace several existing Child Protective Services regulations as listed in detail below.

The proposed adopted regulation sets forth the responsibilities of the DCYF for child welfare reports to the hotline, criteria for screening in reports, and cases assigned for an investigation or a family assessment response. This Child Protective Services regulation will replace the previous Child Protective Services rules, which will remain in effect as DCYF Operating Procedures, and are available on the Department's website.

COMMENTS INVITED:

All interested parties are invited to submit written or oral comments concerning the proposed regulations by **February 23, 2018** to the address listed below.

ADDRESSES FOR PUBLIC COMMENT SUBMISSIONS:

All written comments or objections should be sent to, Sarah St. Jacques, DCYF Policy Office, Rhode Island Department of Children, Youth and Families

Mailing Address: DCYF, 3rd Floor, 101 Friendship Street, Providence, RI 02903

Email Address: Sarah.StJacques@dcyf.ri.gov

WHERE COMMENTS MAY BE INSPECTED:

Mailing Address: DCYF, 3rd Floor, 101 Friendship Street, Providence, RI 02903

PUBLIC HEARING INFORMATION:

In accordance with R.I. Gen. Laws § 42-35-2.8, an oral hearing will be granted if requested by twenty-five (25) persons, by an agency or by an association having at least twenty-five (25) members. A request for an oral hearing must be made within ten (10) days of this notice.

FOR FURTHER INFORMATION CONTACT:

Sarah St. Jacques, DCYF Policy Office, Rhode Island Department of Children, Youth and Families, 3rd Floor, 101 Friendship Street, Providence, RI 02903 or

Sarah.StJacques@dcyf.ri.gov

SUPPLEMENTARY INFORMATION:

Regulatory Analysis Summary and Supporting Documentation:

There are no new societal costs and benefits in the adoption of this rule.

Authority for This Rulemaking: R.I. Gen. Laws §§ 11-5-11, 11-37-6, 14-1-3, 14-1-27, 40-11-2, 40-11-3, 40-11-3.2, 40-11-4, 40-11-5, 40-11-6, 40-11-7, 40-11-12.2, 40-13.2-3.1, 40-72-11, 42-72, 42-72.1-4, 42-72-8, 42-72-14, and Adoption Assistance and Child Welfare Act of 1980, Pub. L. No. 96-272, Adoption and Safe Families Act of 1997, Pub. L. No. 105-89, and Child Abuse Amendments of 1981, Pub. L. No. 98-457.

Regulatory Findings:

In the development of the proposed regulation, consideration was given to: (1) alternative approaches; (2) overlap or duplication with other statutory and regulatory provisions; and (3) significant economic impact on small business. No alternative approach, duplication, or overlap was identified based upon available information.

The Proposed Repeal:

The Department of Children, Youth and Families proposes to adopt 214-RICR-20-00-1 as follows in the concise explanatory statement of proposed non-technical amendments below.

The Department of Children, Youth and Families proposes to repeal the following Child Protective Services regulations and reissue as Department Operating Procedures (DOPs). All DOP's are accessible to the public and may be viewed on the Department's website at: <http://www.dcyf.ri.gov/policyregs/>.

The proposed adoption of 214-RICR-20-00-1, "Child Protective Services" would repeal and supersede the following rules:

- **Reporting Child Abuse and/or Neglect 500.0000 ERLID 6615 (this rulemaking action)**
- Criteria for a Child Protective Services Investigation 500.0010 ERLID 7590
- Response Priorities-Emergency, Immediate, and Routine 500.0015 ERLID 6616
- Information/Referral (I/R) Reports; replaced with Family Assessment Response; 500.0040 ERLID 7958
- Requests for Confidential Info. Received Through the Call Floor 500.0045 ERLID 1176
- Standards for Investigation Child Abuse & Neglect (CA/N) Reports (Levels 1,2,3) 500.0050 ERLID 7589
- Additional Information and Duplicate Reports 500.0055 ERLID 6599
- Processing and Notifications for an Alleged Institutional Abuse/Neglect Case 500.0060 ERLID 6608
- Police Involvement in Child Protective Investigation 500.0065 ERLID 6613
- Removal of a Child from the Home 500.0075 ERLID 6644
- Standards of Proof 500.0080 ERLID 6645
- Letters of Notification 500.0085 ERLID 6610
- Examination of Child by Physician/Nurse Practitioner and/or Investigator 500.0090 ERLID 6604
- Documenting Results of CPS Investigations in RICHIST 500.0095 ERLID 6602
- Runaway Calls 500.0105 ERLID 1188
- Investigative Reports/Record Keeping 500.0110 ERLID 6609
- Drug Use During Pregnancy 500.0125 ERLID 6603
- Safe Haven for Infants Act 500.0130 ERLID 6626

SUMMARY OF NON-TECHNICAL CHANGES

PROPOSED REGULATIONS FOR ADOPTION

214-RICR-20-00-01

Title 214 – DEPARTMENT OF CHILDREN, YOUTH AND FAMILIES
Chapter 20 – Child Protective Services

Subchapter 00 – N/A

Part 1 – Child Protective Services

Section 1.1 Purpose

No new provisions, language is from existing state statutes and Department policy.

1.2 Authority

No new provisions, existing state statutes.

1.3 Application

New standard language required by the Office of Regulatory Reform.

1.4 Severability

New standard language required by the Office of Regulatory Reform.

1.5 Definitions

New Definitions:

“Commercial Sexual Exploitation of Children (CSEC)” refers to a range of crimes and activities involving the sexual abuse or exploitation of a child for the financial benefit of any person or in exchange for anything of value (including monetary and non-monetary benefits) given or received by any person.

“Severe forms of trafficking in persons means” (A) sex trafficking in which a commercial sex act is induced by force, fraud, or coercion, or in which the person induced to perform such act has not attained eighteen (18) years of age; or (B) the recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery.

“Sex trafficking” means the recruitment, harboring, transportation, provision, obtaining, patronizing, or soliciting of a person for the purpose of a commercial sex act.

“Standardized screening tool” means an assessment instrument that is developed based on statistical analysis of identifying factors that statistically predict child maltreatment. The assessment tool is utilized to screen reports made to the central intake center for purposes of screening in CPS reports for an investigation or a family assessment response.

“Victim of a severe form of trafficking” means a person subject to an act or practice described in paragraph (J).

Justification for regulatory change:

Definitions added to comply with federal provisions of the Preventing Sex Trafficking and Strengthening Families Act, P.L. 113–183

1.6 Reporting Child Abuse and Neglect

Any person who has reasonable cause to know or suspect that any child has been abused or neglected, sex trafficked, commercially sexually exploited, human trafficked, or is a victim of sexual abuse by another child, must report that information to the Department’s Child Protective Services (CPS) Hotline within twenty-four (24) hours.

Any person who has reasonable cause to know or suspect that any child has been the victim of sexual abuse by an employee, agent, contractor, or volunteer of an educational program must report that information to the Hotline within twenty-four (24) hours.

Justification for regulatory change:

Language added to comply with federal provisions of the Preventing Sex Trafficking and Strengthening Families Act, P.L. 113–183 and RI State Statute § 40-11-3.3 Duty to report – Sexual abuse of a child in an educational program enacted in 2016

1.7 Criteria for Child Protective Services Investigation

The Department must investigate reports that allege child abuse and/or neglect when reasonable cause to believe that abuse or neglect exists. CA/N reports accepted for investigation must contain the following elements:

1. Allegations of sexual abuse by school personnel; or
2. Allegations of sex trafficking and/or severe forms of trafficking of a child under eighteen (18) or under twenty-one (21) years of age if in Department custody.

For purposes of CA/N reports relating to allegations of sex trafficking and/or severe forms of trafficking, any person (not limited to the parent or other person responsible for the child’s welfare) who is alleged to be responsible for committing or allowing to be committed any act of sex trafficking, commercial sexual exploitation, or human trafficking must be subject to an investigation by the Department to determine if the child is a victim of child abuse or neglect. Any child identified as a victim of sex trafficking or severe forms of trafficking is considered a victim of child abuse and neglect and sexual abuse.

Justification for regulatory change:

- Allegations of sexual abuse by school personnel is mandated by Rhode Island State Statute § 40-11-3.3 Duty to report – Sexual abuse of a child in an educational program enacted in 2016
- Allegations of sex trafficking is mandated by the federal Preventing Sex Trafficking and Strengthening Families Act, P.L. 113–183, Approved September 29, 2014

1.8 Response Priorities

Department staff utilize a standardized screening tool to determine the response priority for each report of child abuse or neglect that is screened in for an investigation. Response priorities delineate the time limit for the Department to process the report and for the initiation of an investigation.

Assigned investigations must commence within the timeframe of the designated response priority. For all response priorities below, the investigation is initiated when the CPI makes contact or attempts to contact any party associated with the investigation.

1. Priority 1 (emergency) Response – The CPS report must be processed for case assignment within thirty (30) minutes (~~40 minutes~~) after the call is completed. The CPI must respond to the report within four (4) hours (~~40 minutes~~) of the report being received to CPS.
2. Priority 2 (Immediate) Response – The CPS report must be processed for case assignment within two (2) hours (~~one hour~~) after the call is completed. The CPI must respond to the report within twelve (12) hours (~~within shift~~) of the report being received to CPS.
3. Priority 3 (Routine) Response – The CPS report must be processed for case assignment within four (4) hours (~~one hour~~) after the call is completed. The CPI must respond to the report within forty-eight (48) hours (~~24 hours~~) of the report being received to CPS.
4. Priority 1 response criteria include:
 - a. Child held by police/physician/nurse practitioner on a forty-eight (48) hour hold for DCYF placement. Previously categorized as a Priority 2 (Immediate) response time, moved to now be a Priority 1 (Emergency) Response time.

Justification for regulatory change:

Response times have been renamed from Emergency, Immediate and Routine to Priority 1, Priority 2, and Priority 3 to align with standardized terms used by the SDM (Structured Decision Making) model.

Response times have been changed to provide more realistic timeframes and to parallel our sister states' investigatory response times.

1.9 Standards for Investigating Child Abuse & Neglect (CA/N) Reports

All efforts are made to complete each investigation within thirty (30) (ten) days. If an extension of the thirty (30) day timeframe for completion of an investigation is necessary, a supervisor and/or administrator may grant an extension request up to fifteen (15) additional days.

Justification for regulatory change:

Timelines have been modified to allow Child Protective Investigators adequate time to complete the investigation in a comprehensive and thorough manner.

1.14 Family Assessment Response

This entire section is new and replaces the Department's previous Information/Referral (I/R) Reports policy: 500.0040.

Justification for regulatory change:

The Department is pleased to announce the development of a Family Assessment Response, a Child Protective Services response to low to moderate risk screened-in reports of child maltreatment that do not meet the statutory criteria for an investigation. The Family Assessment Response will replace the Department's prior categorization of "Information/Referral (I/R)" reports.

The Family Assessment Response, also known as "FAR", provides a comprehensive assessment of child safety, risk of child abuse or neglect, family strengths and need. The FAR is not an investigation, no perpetrator is named and no findings are made.

A family's involvement in the Family Assessment Response is voluntary. The voluntary involvement is critical and opens the door to a partnership between the family and the Department to engage in an assessment of safety, risk, strengths, and needs.

Guiding Principles of a Family Assessment Response

- Low to moderate risk neglect cases are best served through planning that includes parents as partners.
- Families want safety for their children.
- Families can meet their children's needs with supports and resources.
- Families are better able to care for their children when connections to communities are developed and strengthened.
- Communities want children to be safe and cared for.

The Family Assessment Response supports and enhances the Department's vision of increased family engagement, enhances the practice of solution based casework, assessment of family's needs and strengths, delivery of concrete and supportive services and focuses on child safety.

Goals of Family Assessment Response

- Provide early intervention to respond to low to moderate risk allegations with the possibility of preventing future high risk or unsafe situations.
- Increase scope of service delivery to provide services and resources for low to moderate risk families. Opportunity to provide services not based on abuse or neglect, but on family need for sustained and supportive parenting of their children.
- Improve Family-Centered Practice by increasing the involvement of the family in assessment and identification of their strengths and needs, and the development of a plan to address issues relating to risk of abuse or neglect.
- Increase resource identification by reviewing service needs and resource availability for immediate and long-term support outside the scope of abuse and neglect.
- Improve engagement and assessment by moving away from incident-based assessments to a comprehensive assessment of the family dynamics, strengths, issues and needs.

Reporting Child Abuse and/or Neglect

Rhode Island Department of Children, Youth and Families

Policy: 500.0000

~~Effective Date: July 7, 1984 Revised Date: December 9, 2011 Version: 5~~

All persons, who have reasonable cause to know or suspect that any child has been abused and/or neglected or has been a victim of sexual abuse by another child, are required by Rhode Island General Law (RIGL) 40-11-3 to report this information to the Department of Children, Youth and Families within twenty-four (24) hours. RIGL 40-11-2 defines an "abused and/or neglected child" as a child whose physical or mental health or welfare is harmed or threatened with harm when his/her parent or other person responsible for his/her welfare:

- ~~• Inflicts or allows to be inflicted upon the child physical or mental injury, including excessive corporal punishment; or~~
- ~~• Creates or allows to be created a substantial risk of physical or mental injury to the child, including excessive corporal punishment; or~~
- ~~• Commits or allows to be committed against the child, an act of sexual abuse; or~~
- ~~• Fails to supply the child with adequate food, clothing, shelter or medical care, though financially able to do so or offered financial or other reasonable means to do so; or~~
- ~~• Fails to provide the child with a minimum degree of care or proper supervision or guardianship because of his or her unwillingness or inability to do so by situations or conditions such as, but not limited to, social problems, mental incompetence, or the use of a drug, drugs or alcohol to the extent that the parent or other person responsible for the child's welfare loses his or her ability or is unwilling to properly care for the child; or~~
- ~~• Abandons or deserts the child; or~~
- ~~• Sexually exploits the child in that the person allows, permits or encourages the child to engage in prostitution as defined by the provisions of RIGL 11-34, entitled Prostitution and Lewdness; or~~
- ~~• Sexually exploits the child in that the person allows, permits, encourages or engages in the obscene or pornographic photographing, filming or depiction of the child in a setting which taken as a whole suggests to the average person that the child is about to engage in or has engaged in any sexual act or which depicts any such child under eighteen (18)~~

~~years of age performing sodomy, oral copulation, sexual intercourse, masturbation or bestiality; or~~

- ~~• Commits or allows to be committed any sexual offense against the child (sexual offenses are defined by the provisions of RIGL 11-37, entitled Sexual Assault as amended); or~~
- ~~• Commits or allows to be committed against any child an act involving sexual penetration or sexual contact if the child is under fifteen (15) years of age; or if the child is fifteen (15) years or older and (1) force or coercion is used by the perpetrator, or (2) the perpetrator knows or has reason to know that the victim is a severely impaired person as defined by the provisions of RIGL 11-5-11, or physically helpless as defined by the provisions of RIGL 11-37-6.~~

~~The Child Abuse Prevention and Treatment Act (PL 98-457) and RIGL 40-11-3 require the Department to receive and respond to reports of medical neglect, including reports of the medical neglect of or withholding medically indicated treatment from a disabled infant with life-threatening conditions. Medically indicated treatment is defined as treatment, including appropriate nutrition, hydration and medication, which, in the treating physician/nurse practitioner's reasonable medical judgment, will be most likely to be effective in ameliorating or correcting the infant's life threatening conditions. Any person who has knowledge or suspicion of such medical neglect or withholding of medical treatment from a disabled infant (aged one year or less) must report it to the Child Protective Services Hotline immediately. While federal law provides specific protections for medically fragile infants, RI General Law requires that medical neglect or the withholding of medically indicated treatment from any child be reported to the Child Protective Services Hotline immediately.~~

~~Additionally, RIGL 14-1-3 defines a neglected child as a child whose physical or mental health or welfare is harmed or threatened with harm when his or her parent or other person responsible for his or her welfare fails to provide the child proper education as required by law.~~

~~RIGL 40-11-2 defines a "person responsible for child's welfare" as the child's parent or guardian, any individual, eighteen (18) years of age or older, who resides in the home of a parent or guardian and has unsupervised access to a child, a foster parent, an employee of a public or private residential home or facility or any staff person providing out-of-home care, which includes family child care, group family child care and center-based child care.~~

~~The Department has a centralized intake and information system to effectively and efficiently control and monitor the flow of child abuse and/or neglect (CA/N) reports. The Child Protective Services (CPS) Hotline is staffed by Child Protective Investigators (CPI), highly trained employees who receive and process reports through the CPS Hotline twenty-four (24) hours per day, seven (7) days per week. The Rhode Island Children's Information System (RICHIST) provides instant information on previous CA/N reports and can monitor and track the progress of current investigations. Some reports are made in person or writing through US mail, electronic mail, the internet or other modality; any report is referred to the Call Floor.~~

~~In compliance with RIGL 40-11-3, all reports of child abuse and/or neglect received by the CPS Hotline are electronically recorded and maintained in RICHIST for a minimum of three (3) years. However, any person who has been reported for child abuse and/or neglect and who has been determined not to have neglected and/or abused a child will have his or her record, relative to that incident, expunged three (3) years after that determination. Additionally, reports made to the Hotline that do not meet the criteria for investigation are expunged after three (3) years.~~

~~RIGL 40-11-4 allows any person who, in good faith, makes a report of child abuse and/or neglect to have immunity from any civil or criminal liability. RIGL 40-11-3.2 makes it a misdemeanor for any person to knowingly and willfully make or cause to be made a false report of child abuse and/or neglect. RIGL 42-72-8 allows the Department to release records to the Office of the Attorney General when the Office is engaged in the investigation or prosecution of criminal conduct related to false reporting of child abuse and/or neglect.~~

Related Procedure

Reporting Child Abuse and/or Neglect

Related Policy

Criteria for a Child Protective Services Investigation

Information/Referral Reports

Processing and Notifications for an Alleged Institutional Abuse/Neglect Case

Reporting Child Abuse and/or Neglect

Procedure from Policy 500.0000: Reporting Child Abuse and/or Neglect

- A. ~~The Department's Child Protective Services (CPS) Hotline provides a statewide, toll-free phone number established to receive child abuse and neglect (CA/N) reports twenty-four hours per day, seven days per week.~~
- B. ~~All reports are electronically recorded and maintained for a minimum of three years in a central registry.~~
- ~~1. Any person who has been reported for child abuse and/or neglect and who has been determined not to have neglected and/or abused a child, will have his or her record, relative to that incident, expunged three years after that determination.~~
 - ~~2. Additionally, any report made to the Hotline that does not meet the criteria for a CPS investigation is expunged after three years. Refer to Policy 500.0010, Criteria for a Child Protective Services Investigation and Policy 500.0040, Information/Referral Reports.~~
- C. ~~All CA/N reports must come through the Hotline. These include reports on families new to the Department and also on families previously and currently active with the Department.~~
- D. ~~All CA/N reports that are received by DCYF personnel other than Hotline staff must be immediately forwarded to the Hotline. This includes in person or written reports from any source.~~
- E. ~~The Department criteria for accepting or rejecting a CPS report for investigation are described in DCYF Policy 500.0010, Criteria for a Child Protective Services Investigation.~~
- F. ~~For each report received by the Hotline alleging institutional abuse and/or neglect, a CPS report is completed and processed in conformance with DCYF Policy 500.0060, Processing and Notifications for an Alleged Institutional Abuse/Neglect Case.~~
- G. ~~In conformance with the Child Abuse and Treatment Act (PL 98-457) and RI General Law 40-11-33, the Department immediately responds to any report that parents refuse, despite the reasonable medical judgment of the attending physician/nurse practitioner, to provide medically indicated treatment to a disabled infant with life threatening conditions or any child with medical needs.~~
- ~~1. Any person who has knowledge or suspicion of medical neglect or withholding of medical treatment from a disabled infant (aged one year or less) must report it to the Child Protective Services Hotline immediately. The Department coordinates and consults with the medical staff designated by the hospital.~~
 - ~~2. Any person who has knowledge or suspicion of medical neglect or withholding of medical treatment from a child must report it to the Child Protective Services Hotline immediately.~~

- ~~3. The Department initiates legal action as necessary through the initiation of court action and pursues a court order for an independent evaluation of the infant/child when necessary to resolve allegations related to medical neglect.~~