

**RHODE ISLAND GOVERNMENT REGISTER**  
**PUBLIC NOTICE OF PROPOSED RULEMAKING**

**AGENCY:** Department of Children, Youth and Families

**DIVISION:** Child Protective Services

**RULE IDENTIFIER:** ERLID 6604

**REGULATION TITLE:** Examination of Child by Physician/Nurse Practitioner and/or Investigator

**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](mailto: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 FUTURE 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](mailto: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
- 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 (this rulemaking action)**
- 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.

# ~~Examination of Child by Physician or Nurse Practitioner and/or Child Protective Investigator~~

~~Rhode Island Department of Children, Youth and Families~~

~~Policy: 500.0090~~

~~Effective Date: July 7, 1984~~ ~~Revised Date: December 9, 2011~~ ~~Version: 3~~

~~Departmental policy and Rhode Island General Law (RIGL) 40-11-6 mandate that a child who is suspected of being physically or sexually abused must be examined by a licensed physician or nurse practitioner. Departmental policy requires a child who is suspected of being neglected to be examined by a licensed physician or nurse practitioner when there is evidence that the suspected neglect has had a detrimental effect on the child's physical well-being.~~

~~Physical observation can be performed by the Child Protective Investigator (CPI) and parent/caretaker or another adult as long as the procedure is in compliance with Departmental policy (refer to Investigative Handbook, Section 2.4) and is followed by a physician or nurse practitioner's examination if there is any indication of physical abuse or neglect (refer to Investigative Handbook, Section 2.4.1, Physical/Medical Indicators of Abuse and Neglect, and Section 2.4.2, Behavioral Indicators of Abuse and Neglect).~~

## ~~Related Procedure~~

~~Examination of Child by Physician or Nurse Practitioner and/or Child Protective Investigator~~

## ~~Related Policy~~

~~Removal of Child from Home~~

# ~~Examination of Child by Physician or Nurse Practitioner and/or Child Protective Investigator~~

## ~~Procedure from Policy 500.0090: Examination of Child by Physician or Nurse Practitioner and/or Child Protective Investigator~~

### ~~I. Observation by Child Protective Investigator (CPI)~~

- ~~A. The CPI seeks the permission of the parent/caretaker prior to observing the child's body for evidence of physical abuse or neglect.~~
  
- ~~B. The Suspected Abuse/Injury Note Work Sheet is completed at the time of the observation by the CPI (refer to Investigative Handbook, Section 5.5):~~
  - ~~1. The observation must be performed by the CPI and parent/caretaker or other adult. If the child is at school, the CPI attempts to contact the parent/caretaker before having the school nurse examine the child. If the parent/caretaker cannot be reached, the CPI has the school nurse examine the child. In this instance, the school nurse completes the Suspected Abuse/Injury Note Work Sheet and the CPI witnesses the form.~~
  - ~~2. Examination of a child ten years or over must be conducted by a CPI who is the same sex as the child.~~
  - ~~3. The CPI may never disrobe and/or examine a child who is alleged to have been sexually abused.~~
  - ~~4. The Suspected Abuse/Injury Note Worksheet documents an injury sustained by a child. The Worksheet is a valuable tool in the decision-making process to "indicate" or "unfound" a report and can be used as evidence in court proceedings. Photographs of the child's injury may be placed in the Investigative Record in place of the worksheet:
    - ~~a. The Suspected Abuse/Injury Note Worksheet is completed by the CPI at the time of the examination. It is never completed from memory.~~
    - ~~b. The CPI completes identifying information at top of form.~~
    - ~~c. The CPI draws the injury on the appropriate body view. Adjacent to the injury depiction, the CPI describes the size, depth, shape, color, and estimated age of the injury. If there are multiple injuries depicted on the chart, the CPI draws an arrow from the description to the appropriate drawing.~~
    - ~~d. CPIs must have witness(es) to the examination sign the back of the Suspected Abuse/Injury Note Worksheet after reviewing the form.~~~~

### ~~II. Examination by Physician or Nurse Practitioner~~

- ~~A. When immediate and intensive medical diagnosis and treatment are indicated, medical intervention receives priority over other parts of the investigative process.~~
  
- ~~B. Securing a medical examination, including X-rays and photographs, is also considered in non-emergency situations when this information or evidence is believed necessary to substantiate the allegations of abuse and/or neglect. The Report of Examination is~~

completed by the attending physician or nurse practitioner immediately following the examination.

1. The CPI consults with the parent/caretaker and offers the following options:
  - a. The parent/caretaker and CPI will take child to physician or nurse practitioner or hospital emergency room.
  - b. The CPI will take the child to a physician or nurse practitioner or hospital emergency room.
  - c. The parent/caretaker and CPI can jointly disrobe the child and conduct a cursory exam to be followed by a physical examination by a licensed physician or nurse practitioner.
  - d. If the parent/caretaker refuses to cooperate, the CPI takes the child to be examined with or without consent of the parent/caretaker.
2. An examination by a licensed physician or nurse practitioner must be conducted in the following situations. The CPI may request that he/she be allowed to observe the examination:
  - a. There is evidence of abuse or neglect.
  - b. The child states that he/she has been physically/sexually abused or neglected.
  - c. There are allegations of abuse, unsubstantiated by examination by the CPI, but the child is too young and/or non-verbal and cannot confirm or deny the report or aid in the examination.
  - d. The child is severely ill and requires immediate medical attention (refer to Investigative Handbook, Section 2.5.1, Medical Examinations). In such situations the CPI never wastes time disrobing or observing the child.
3. The Report of Examination serves as a document for the attending physician or nurse practitioner to record pertinent data from the examination of a child referred for possible abuse or neglect:
  - a. The Report of Examination must be completed by the attending physician or nurse practitioner immediately following examination.
  - b. The physician or nurse practitioner is responsible for noting and documenting any evidence of physical abuse or neglect.
  - c. The Report of Examination can be used as prima facie evidence in seeking an Ex Parte, Order of Detention (refer to Investigative Handbook, Section 4.4, The Burden and Standard of Proof, and **DCYF Policy 500.0075, Removal of Child from Home**).