

RHODE ISLAND GOVERNMENT REGISTER
PUBLIC NOTICE OF PROPOSED RULEMAKING

AGENCY: Department of Children, Youth and Families

DIVISION: Child Protective Services

RULE IDENTIFIER: ERLID 6609

REGULATION TITLE: Investigative Reports/Record Keeping

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
- 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 RIC HIST 500.0095 ERLID 6602
- Runaway Calls 500.0105 ERLID 1188
- Investigative Reports/Record Keeping 500.0110 ERLID 6609 (this rulemaking action)
- 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.

~~Investigative Reports and Record Keeping~~

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

~~Policy: 500.0110~~

~~Effective Date: December 9, 2011~~ _____ ~~Version 1~~

~~The appropriate recording of information is a necessary and fundamental skill required to establish an investigative plan and to conduct professional and quality investigations. Future Child Protective Investigators and/or primary worker, who may deal with the family, will benefit from the information contained in the record. Thorough documentation also demonstrates that all standards and mandates have been met.~~

~~In order to ensure accuracy and preserve the possibility of introducing the case record as evidence under the business records exception to the hearsay rule, all entries are completed as near to the recorded event as possible.~~

~~Related Procedure~~

~~Investigative Reports and Record Keeping~~

Investigative Reports and Record Keeping

Procedure from Policy 500.0110: Investigative Reports and Record Keeping

- A. ~~Physician's Report of Examination – This form is completed by the attending physician or nurse practitioner to record pertinent data from the examination of a child referred for possible abuse or neglect. The form is completed immediately after the physician's or nurse practitioner's examination.~~

- B. ~~Temporary Protective Custody – This information is documented RICHIST as an update of the Child Welfare Status in the Court Activity Window. Specific information regarding protective custody including the reason(s) for the protective custody and date of notification to the parents is entered in a Case Activity Note. Placement information is entered in the Out of Home Placement Window. This documentation is completed as soon as possible after the removal of the child and must be completed by the end of the Child Protective Investigator's (CPI's) shift.~~

- C. ~~Child Abuse/Neglect Investigation Interview Notes – This information is a required record of completed and attempted in-person and telephone contacts regarding the investigation. These Case Activity Notes allow the CPI to document the date, time, and place of the conversation and summarize the important facts obtained from the interview. This information is completed immediately after each interview using the text button associated with a Case Activity Note.~~

- D. ~~CPI's Observations/Recommendations – This RICHIST form is used to record all observations gleaned from the investigation and is completed as soon as possible after the observations are made. The form documents the current safety plan.~~

- E. ~~Investigative Summary – This RICHIST form summarizes the CPI's activities related to the investigation. It restates the allegations, lists all persons interviewed, lists all documentation and related evidence and documents the reason for the determination of "indicated" or "unfounded."~~

- F. ~~Investigation Completion Checklist for Indicated Case Checklist – This RICHIST form is completed for all indicated investigations.~~

- G. ~~Foster Parent Affidavit – This form is presented by the CPI to a foster parent(s) under investigation for institutional abuse or neglect during the initial contact. If the foster parent(s) wishes to file this form, he/she completes this document, has it notarized, and returns it to the CPI within forty-eight hours of receipt.~~

- H. ~~Final Finding Report – is documentation of whether the CPI "Indicated" or "Unfounded" the allegations and is completed within ten days of the commencement of the investigation, unless extension(s) is approved and then not longer than thirty days maximum.~~

- I. ~~Voluntary Placement Agreement – This form documents the consent of the parent or guardian for the Department to place the child(ren) out of the home and specifies the proposed time limit for the placement. Prior approval by the Supervisor and the Unit Administrator must be obtained before a voluntary placement can occur. The form must be signed and completed prior to the removal of the child.~~

- J. ~~Medical Consent Authorization – This form documents the consent of the parent or guardian for provision of routine and emergency medical and dental treatment to child(ren) removed from the home. The Consent must be signed and completed prior to the removal of the child unless emergency removal was necessary. In such situations a Consent form must be completed and signed as soon as possible.~~

- K. ~~Emergency and Routine Medical Authorization for a Child in Placement – This form certifies that DCYF records contain a signed consent by the parent or guardian for medical treatment authorization and extends the authority to the child care facility or foster home. The form must be signed and completed prior to the actual placement of the child or as soon as the form has been signed. (If the parent or guardian refuses to sign, the Department requests permission from the Family Court.) The form is presented to the facility/foster home representative.~~

- L. ~~Authorization to Obtain/Release Confidential Information – This form documents that the parent(s)/guardian(s) consents or refuses the disclosure and release of confidential information concerning medical, psychiatric/psychological, substance abuse, social history, financial, or other matters. The CPI attempts to have the form signed by the parent or guardian upon his/her initial in person contact whenever possible. If, in an emergency, this is not appropriate, the CPI attempts to obtain the parent(s)' or guardian(s)' signature within twenty-four hours of the commencement of the investigation.~~

- M. ~~Agreement to Participate in Family Care Community Partnership (FCCP) – This form documents the parent(s) or guardians(s) agreement to participate in the FCCP and authorizes the release of Department information the FCCP. Having received supervisory approval, the CPI completes the form and has it signed by the parent(s) or guardian(s) at the time of the on-site referral to the FCCP.~~