

RHODE ISLAND GOVERNMENT REGISTER
PUBLIC NOTICE OF PROPOSED RULEMAKING

AGENCY: Department of Children, Youth and Families

DIVISION: Child Protective Services

RULE IDENTIFIER: ERLID 6626

REGULATION TITLE: Safe Haven for Infants Act

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
- Drug Use During Pregnancy 500.0125 ERLID 6603
- Safe Haven for Infants Act 500.0130 ERLID 6626 (**this rulemaking action**)

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.

Safe Haven for Infants Act

Rhode Island Department of Children, Youth and Families

Policy: 500.0130

Effective Date: February 3, 2003 — Revised Date: December 9, 2011 — Version: 2

To ensure the safety and well-being of infants at risk of abandonment, the "Safe Haven for Infants Act" (Rhode Island General Law 23-13.1) allows a parent to anonymously relinquish an infant without facing prosecution. This Act requires every hospital, open medical emergency facility, fire station or police station operating in Rhode Island to take, without court order, temporary physical custody of an infant appearing to be age thirty days or younger, who is voluntarily left with a staff member of the facility by a parent of the infant or a person acting on behalf of the parent when that person does not express an intent to return for the infant and circumstances give rise to a reasonable belief that the person does not intend to return for the infant.

A parent or a person acting at the direction of the parent who leaves a child at one of these facilities is immune from prosecution for the act of abandonment if the infant is left in the physical custody of a staff member of the hospital or one of the other facilities and a comprehensive medical examination determines the infant has not been harmed or been the victim of physical neglect or abuse. The person leaving the infant may leave information regarding the identity of the infant, the parent or other family member but is not required to do so. It is the responsibility of the hospital or other facility to offer the person written information provided by the Department concerning the legal effect of leaving the infant and the rights and immunity of the parents. The Department is responsible to develop an awareness program that includes, in part, the issuing of pamphlets and other literature to disseminate information regarding the rights and immunity established under this law.

The hospital or other designated facility must immediately contact the Department regarding the infant. The Department responds immediately to the hospital or other facility, place the child on a child protective hold and make arrangements for the child to undergo a comprehensive medical examination by a physician or a licensed nurse practitioner in accordance with RIGL 40-11-5. Thereafter, the Department petitions the Family Court for an Ex Parte order to place the child in the temporary custody of the Department pursuant to RIGL 40-11-7. If no person has asserted a claim to be the parent of the infant within ninety days after the Department has obtained temporary custody of the infant, the Department must initiate proceedings to terminate the parental rights of the parents on the legal basis of abandonment.

Related Procedure

[Safe Haven for Infants Act](#)

Related Policy

Removal of Child from Home

Safe Haven for Infants Act

Procedure from Policy 500.0130: Safe Haven for Infants Act

- A. ~~The Safe Haven for Infants Act provides immunity to the parent or person acting for the parent under the following circumstances:~~
- ~~1. Newborn child who is surrendered is thirty days old or younger.~~
 - ~~2. The infant is left in the physical custody of staff at a hospital, open medical emergency facility, police station or fire station.~~
 - ~~3. The person leaving the infant must be a parent or acting at the direction of the parent.~~
 - ~~4. A comprehensive physical examination determines the infant is not a victim of abuse or neglect. Injuries and/or conditions resulting from childbirth are not considered abuse or neglect.~~
- B. ~~The role and responsibilities of the hospital or other designated facility:~~
- ~~1. Take physical custody when an infant is left by a person who does not express an intent to return for the infant and the circumstances give rise to a reasonable belief that a person does not intend to return for the infant.~~
 - ~~2. Provide the parent or agent of the parent written information concerning the legal effect of leaving the infant and the rights and immunity of the parents.~~
 - ~~3. Keep confidential, except to share with the Director of the Department or designee, any identifying information about the person leaving the infant, the infant, the parents or other family member of the infant obtained from the person leaving the infant.~~
 - ~~4. Obtain any necessary medical care and treatment for an infant left at a hospital or other facility that the attending physician believes necessary for the infant's well being, including testing for the human immunodeficiency virus and hepatitis.~~
 - ~~5. Immediately notify the Child Abuse Hotline after taking physical possession of the infant.~~
 - ~~6. If the court determines that immunity provisions do not apply and issues an order of the court, the hospital or designated facility must disclose available information relating to the identity of the person, the infant, the parents of the infant or other family member of the infant to the Office of the Attorney General.~~
 - ~~7. The hospital or designated facility and/or any staff person associated with the hospital or facility shall be immune from criminal or civil liability arising from actions taken related to, but not limited to, determining the age of, receiving, examining or otherwise treating the infant. This immunity does not apply to acts or omissions constituting negligence or reckless, wanton or intentional misconduct.~~
- C. ~~The role/responsibilities of the Department~~
- ~~1. Accept report made to the Child Abuse Hotline regarding infant left at the hospital or designated facility. This report is accepted as an Intake Services Referral and assigned to an investigator as a Safe Haven Report/Task.~~
 - ~~a. Immediately obtain a 72 hour hold from physician/nurse practitioner if infant was left at hospital or medical facility or a 48 hour child protective hold (law enforcement or DCYF) if infant was left at fire or police station. Refer to DCYF Policy 500.0075, Removal of Child from Home.~~
 - ~~b. Arrange for a comprehensive medical examination of the infant by a licensed physician or registered nurse practitioner, if not already completed.~~

- c. ~~Make arrangements to place the infant in foster care until a permanent home is identified.~~
 - d. ~~File an Ex Parte Petition with the Family Court to seek custody of the infant.~~

 - e. ~~Initiate proceedings to terminate the parental rights of the parents of the infant on the legal basis of abandonment if no person comes forward to assert a claim to be the parent of the infant within ninety days after the Department has obtained temporary custody.~~
2. ~~If it is determined, through the comprehensive medical examination of the infant by a physician or a licensed nurse practitioner, that the infant has been harmed or has been the victim of any physical neglect or abuse, the matter is classified as an investigation of child abuse and/or neglect and investigated in accordance with standard Departmental investigative procedures.~~