

214-RICR-20-00-1

TITLE 214 – DEPARTMENT OF CHILDREN, YOUTH AND FAMILIES

CHAPTER 20 – CHILD PROTECTIVE SERVICES

SUBCHAPTER 00 – N/A

PART 1 – Child Protective Services

1.1 Purpose

These regulations contain the requirements for reporting child abuse and neglect to the Department of Children, Youth and Families, and the Department's criteria to screen in or screen out all reports and assign for investigation, if the report meets the conditions of child abuse and/or neglect. Reports may involve families new to the Department, families actively being serviced by the Department, families previously active with the Department and incidents of institutional abuse and/or neglect. Reports must involve a child under eighteen (18) years of age or under twenty-one (21) years of age if the youth is residing in foster or institutional care or if the youth is in Department custody, regardless of placement.

1.2 Authority

These regulations are promulgated pursuant to 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. Laws No. 96-272, Adoption and Safe Families Act of 1997, Pub. Law No. 105-89, Child Abuse Amendments of 1981, Pub. Law No. 98-457 and CAPTA Reauthorization Act of 2010, Pub. Law No. 111-320.

1.3 Application

The terms and provisions of these regulations shall be liberally construed to permit the Department to effectuate the purposes of state law, goals, and policies.

1.4 Severability

If any provision of these regulations or application thereof to any person or circumstance is held invalid by a court of competent jurisdiction, the validity of the remainder of the regulations shall not be affected thereby.

1.5 Definitions

- A. "Caregiver" means a parent or legal guardian or other person responsible for the child's welfare, as defined in § 1.5(K) of this Part.
- B. "Child abuse and neglect (CA/N)" means 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:
1. Inflicts, or allows to be inflicted, upon the child physical or mental injury, including excessive corporal punishment; or
 2. Creates, or allows to be created, a substantial risk of physical or mental injury to the child, including excessive corporal punishment; or
 3. Commits, or allows to be committed, against the child, an act of sexual abuse; or
 4. 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
 5. 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 incompetency, 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
 6. Abandons or deserts the child; or
 7. Sexually exploits the child in that the person allows, permits, or encourages the child to engage in prostitution as defined by the provisions in R.I. Gen. Laws § 11-34.1-1 *et seq.*, entitled "Commercial Sexual Activity"; or
 8. 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 that 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 that depicts any such child under 18 years of age performing sodomy, oral copulation, sexual intercourse, masturbation, or bestiality; or

9. Commits, or allows to be committed, any sexual offense against the child as such sexual offenses are defined by the provisions of R.I. Gen. Laws Chapter 11-37, entitled "Sexual Assault", as amended; or
 10. 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 R.I. Gen. Laws § 11-5-11, or physically helpless as defined by the provisions of R.I. Gen. Laws Chapter 11-37.
- C. "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.
- D. "CPI" means the Department's Field Child Protective Investigator.
- E. "CPS" means the Department's Child Protective Services division.
- F. "CPS Hotline" means the Department's Child Protective Services Hotline that provides a statewide, toll-free phone number to receive child abuse and neglect (CA/N) reports 24 hours per day, seven (7) days per week.
- G. "Department" means Rhode Island's Department of Children, Youth and Families.
- H. "Fatality" means the death of any child in which child abuse or neglect is suspected to be a contributing factor.
- I. "Medically indicated treatment" means the 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 or child's medical illness or life-threatening condition.
- J. "Near Fatality" means that a child was placed in serious or critical condition as the result of an act of abuse or neglect. The child being placed in serious or critical condition must be classified by the treating physician, and reflected in the medical chart. The treating physician's determination that the child is in "serious or critical condition" is accepted without further assessment by the Department.
1. "Serious or Critical Condition" means that the patient's vital signs are unstable and not within normal limits. Patient is acutely ill, and/or

unconscious, and/or has neurological status changes requiring medical intervention.

- K. "Person responsible for the child's welfare" means 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 (relative or non-relative), 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 child care and center-based child care.
- L. "Preponderance of the evidence" means evidence of a greater weight or more convincing that the evidence in opposition to it; that is, evidence which shows that the fact sought to be proved is more probable than not.
- M. "Severe forms of trafficking in persons" means
1. 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
 2. 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.
- N. "Sexual harassment" means
1. Repeated and unwelcome sexual advances, requests for sexual favors, or verbal comments, gestures, or actions of a derogatory or offensive sexual nature by one resident directed toward another; and
 2. Repeated verbal comments or gestures of a sexual nature to an inmate, detainee, or resident by a staff member, contractor, or volunteer, including demeaning references to gender, sexually suggestive or derogatory comments about body or clothing, or obscene language or gestures.
- O. "Sex trafficking" means the recruitment, harboring, transportation, provision, obtaining, patronizing, or soliciting of a person for the purpose of a commercial sex act.
- P. "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.

- Q. "Voyeurism" by a staff member, contractor, or volunteer means an invasion of privacy of a resident by staff for reasons unrelated to official duties and not in accordance with program policy and procedure, such as peering at a resident who is using a toilet in his or her room to perform bodily functions; requiring a resident to expose his or her buttocks, genitals, or breasts; or taking images of all or part of a resident's naked body or of a resident performing bodily functions.
- R. "Victim of a severe form of trafficking" means a person subject to an act or practice described in § 1.5(O) of this Part.

1.6 Reporting Child Abuse and Neglect

- A. 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 24 hours.
- B. Any sexual abuse, sexually harassing or voyeuristic behavior by any Department provider, vendor, contractor, volunteer or staff toward a child/youth is reported to the CPS Hotline within 24 hours and investigated by a Child Protective Investigator (CPI).
- C. 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 24 hours.
- D. Any physician or duly certified registered nurse practitioner that determines that a child under the age of twelve (12) is suffering from any sexually transmitted disease must report that information to the Hotline within 24 hours.
- E. Any person who has knowledge or suspicion of medical neglect or withholding of medical indicated treatment from a child must report that information to the Hotline within 24 hours.
- F. Immediate notification must be made to the CPS Hotline in any instance where parent(s) of an infant have requested deprivation of nutrition that is necessary to sustain life and/or who have requested deprivation of medical or surgical intervention that is necessary to remedy or ameliorate a life-threatening medical condition, if the nutrition or medical or surgical intervention is generally provided to similar nutritional, medical, or surgical conditioned infants, whether disabled or not.

- G. Any entity designated under R.I. Gen. Laws Chapter 23-13.1 (hospital, open medical emergency facility, fire station, or police station), that receives an infant under the provisions of the Safe Haven for Infants Act must notify the Hotline immediately after taking physical possession of the infant.
- H. All reports to the Hotline are electronically recorded and maintained for a minimum of three (3) years in a central registry.
 - 1. Any person who has been reported for child abuse and/or neglect (CA/N) 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 (3) years.

1.7 Criteria for Child Protective Services Investigation

- A. 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. Harm or substantial risk of harm to the child (under eighteen (18) years of age or under twenty-one (21) years of age if the youth is residing in foster or institutional care or if the youth is in Department custody, regardless of placement) is present; and
 - 2. An incident or pattern of incidents suggesting child abuse and/or neglect; and
 - 3. A person responsible for the child's welfare has allegedly abused or neglected the child; or
 - 4. Allegations of child on child sexual abuse; or
 - 5. Allegations of sexual abuse by school personnel; or
 - 6. 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.
- B. 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.

- C. The Department is responsible to investigate all child fatalities and near fatalities.
- D. A CPS investigation must be initiated when the Department receives a report that a parent has assigned or otherwise transferred to another, not related to him or her by blood or marriage, his or her rights or duties with respect to the permanent care and custody of his or her child under eighteen (18) years of age, unless the arrangement was authorized by an order or decree of the court.
- E. A CPS investigation must be initiated when the Department receives a report that a perpetrator, who has been convicted, adjudicated, or indicated for the following categories of sexual abuse or serious physical abuse, has physical access to other children.
 - 1. Convictions:
 - a. Murder (involving a child)
 - b. First degree child abuse
 - c. Battery by an adult upon children ten years of age or younger - serious bodily injury
 - d. First degree child molestation
 - e. Second degree child molestation
 - 2. Adjudications in Family Court
 - a. Termination of Parental Rights based on finding of conduct toward a child of a cruel and abusive nature
 - b. Sexual abuse
 - 3. Indicated Abuse Findings (CPS)
 - a. Death
 - b. Brain damage
 - c. Subdural hematoma

- d. Internal injuries
 - e. Intercourse
 - f. Sexual exploitation
 - g. Molestation
- F. The Department must issue an alert to area hospitals when there is a risk of harm to a child born to a parent with a history of substantiated child abuse or neglect or a child abuse/neglect conviction.
- 1. The birthing hospital must contact the CPS Hotline upon the birth of the infant in response to the safety alert.

1.8 Response Priorities

- A. 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.
- B. 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 Response – The CPS report must be processed for case assignment within thirty (30) minutes after the call is completed. The CPI must respond to the report within two (2) hours of the report being received to CPS.
 - 2. Priority 2 Response – The CPS report must be processed for case assignment within two (2) hours after the call is completed. The CPI must respond to the report within twelve (12) hours of the report being received to CPS.
 - 3. Priority 3 Response – The CPS report must be processed for case assignment within four (4) hours after the call is completed. The CPI must respond to the report within forty-eight (48) hours of the report being received to CPS.
- C. Response priorities reflect the level of harm or risk of harm to the child.
- 1. Priority 1 response criteria include:

- a. Child in imminent danger of physical harm.
 - b. Child abandoned and in imminent danger.
 - c. Child unsupervised and in imminent danger.
 - d. Family may flee or child may disappear.
 - e. Child at hospital for examination/parents present and awaiting questioning.
 - f. Child fatality or near fatality due to alleged child abuse or neglect/other children in family.
 - g. Child held by police/physician/nurse practitioner on a forty-eight (48) hour hold for Department placement.
 - h. Other circumstances of the case constitute an emergency.
2. Priority 2 response criteria include:
- a. Alleged abuse or neglect in which the child is not in imminent danger but other risk factors are present.
 - b. Child abandoned but not in imminent danger.
 - c. Child unsupervised but not in imminent danger.
 - d. Child hospitalized on a seventy-two (72) hour hold.
3. Priority 3 response criteria are used for all other reports in which there is minimal risk of harm to the child.

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

- A. Child abuse and/or neglect investigations must include personal contact with each child named in the report as well as any other children in the household.
- B. When the alleged perpetrator is the parent or guardian of a child victim, the Department makes every effort to confirm the past and present whereabouts of any child of that parent or guardian not residing in the household at the time of the alleged incident of abuse and/or neglect.

- C. The Department interviews the child, if the child is of the mental capacity to be interviewed, in the absence of the person responsible for the alleged abuse and/or neglect.
 - 1. The Department has the right to question the child without the consent of the parent or other person responsible for the child's welfare.
 - 2. If the Department is denied access to the child, the Department must request the intervention of the local law enforcement agency or seek an appropriate court order to examine and interview the child.
- D. For allegations of Institutional Abuse or Neglect, the Department makes every effort to locate and interview each child present in the child care facility at the time the abuse and/or neglect took place, whether or not he or she is the alleged victim.
- E. The standard of proof to indicate a report of Child Abuse or Neglect is a "preponderance of the evidence".
- F. All efforts are made to complete each investigation within thirty (30) 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.

1.10 Early Intervention Referral for Children Involved with the Department

- A. The Department refers all children under the age of three (3) who are victims in an indicated case of child abuse or neglect to programs that provide support and services to families with children with known or suspected developmental delays and/or disabilities.
- B. In cases where the investigation is unfounded and there is a child under the age of three (3), a referral may be made with the written consent of the family to make available services and supports to children and families when it appears that such services might be beneficial. Under these circumstances the Department obtains written parental authorization to release information to the early intervention services provider.

1.11 Police Involvement in a Child Protective Investigation

The Department must notify the local law enforcement if any Department child abuse/neglect investigation reveals an activity which is a criminal offense.

1.12 Removal of a Child from the Home

- A. Physicians/nurse practitioners, law enforcement officers, child protective investigators and social caseworkers II are authorized to issue a protective custody hold on a child without the consent of a parent or legal guardian.
1. A physician/nurse practitioner may authorize a seventy-two (72) hour hold on a child who has suffered a physical injury that appears to have been caused by other than accidental means or a child suffering from the effects of sexual molestation or malnutrition or other serious medical neglect:
 - a. Physician/nurse practitioner files a Report of Examination and authorizes the seventy-two (72) hour hold.
 - b. Physician/nurse practitioner must contact the Hotline to advise the Department of the hold.
 - c. If the child requires medical treatment, the child may remain in the hospital during the protective hold.
 2. A law enforcement officer can invoke a forty-eight (48) hour hold if he/she has reasonable cause to believe that imminent danger to the child's life or health exists. If a law enforcement officer places a child on a hold, he or she must notify the Hotline to determine if an investigation is warranted.
 3. A CPI or Social Caseworker II may invoke a protective custody hold on a child for forty-eight (48) hours without the consent of the parent or guardian if a parent or guardian is unwilling, unable, or unavailable to cooperate in the protection of the child and/or the child would be at imminent risk of harm if left in the home.
- B. If a decision is made to seek custody and/or placement beyond the forty-eight (48) or seventy-two (72) hours, an Ex Parte Order of Detention or an Emergency Motion for a Change in Placement must be filed in Family Court prior to the expiration of the hold (depending on whether a petition has already been filed in Family Court).
1. If the forty-eight (48) hour or seventy-two (72) protective hold expires on a weekend or holiday, the Department must obtain a verbal Ex Parte Order of Detention from a Family Court Judge through the Department's Office of Legal Counsel prior to the expiration of the hold.

1.13 Examination of Child by Physician/Nurse Practitioner

- A. A child who is suspected of being physically or sexually abused must be examined by a licensed physician or nurse practitioner.
- B. A child who is suspected of being neglected must 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.
- C. The Department must secure a medical examination for any child removed pursuant to a forty-eight (48) hour hold with or without the consent of the parent or legal guardian.

1.14 Letters of Notification

- A. Notification of Report of Suspected Child Abuse and/or Neglect by Child Protective Services (CPS)
 - 1. The Notification of Child Protective Services Investigation form informs the subject that he/she has been identified as a suspected perpetrator in an alleged incident of child abuse or neglect. The notice is hand delivered by the Child Protective Investigator (CPI) to the suspected perpetrator. If the suspected perpetrator cannot be found, the notice is mailed to his or her last known address.
 - 2. If the suspected perpetrator is a minor, the Notification of Child Protective Services Investigation form is used to inform the minor perpetrator's parent/guardian that child has been identified as a suspected perpetrator in an alleged incident of child abuse or neglect. The notice is hand delivered by the CPI to the parent/guardian of the suspected minor perpetrator. If the parent/guardian of suspected minor perpetrator cannot be found, the notice is mailed to his or her last known address.
- B. Notification of Investigation Findings
 - 1. The Notification of Child Protective Services Investigation Findings form informs a person, who is alleged to have perpetrated abuse and/or neglect upon a child, whether the investigation will be "indicated" or "unfounded" and identifies the allegation(s) that have been "indicated" or "unfounded".
 - 2. In the case of a minor alleged perpetrator, the following notification is made:
 - a. The Notification of Child Protective Services Investigation Findings is sent to the minor and a copy is sent to the parent/guardian of a

minor alleged perpetrator to inform the parent/guardian whether the Department's CPS investigation will be "indicated" or "unfounded" and identifies the allegation(s) that have been "indicated" or "unfounded".

3. This notice advises the alleged perpetrator that:
 - a. In the case of an "indicated" finding, the Department maintains the record permanently unless appealed.
 - b. In the case of an "unfounded" finding, the Department maintains the record for a period of three (3) years.
 - c. All persons who have been aggrieved by a Department determination have a right to appeal. All requests for appeal are submitted in writing to the Executive Office of Health and Human Services.
 - d. Any person seeking to file an appeal must submit a written request within thirty (30) days of the date that individual receives written notice of the disposition of the investigation.
 - e. The "indicated" finding may be disseminated to a prospective child care employer.
4. Notification is mailed within three (3) working days of completion of the investigation.

1.15 Family Assessment Response

- A. The Department utilizes a standardized screening tool to determine if a report made to the Hotline that contains a concern about the well-being of a child and does not meet the criteria for a child abuse/neglect investigation should be screened in for a family assessment.
 1. The family's participation in the family assessment is voluntary, the family may decline to participate. Should this occur, the family assessment caseworker and supervisor convene a meeting to reassess the risk and/or concerns to determine if they should be elevated to an investigation. If so, the family assessment caseworker files a report with the child abuse Hotline.
 2. The Department conducts a thorough assessment of child safety and risk for all children in the home during the family assessment response, and develops a safety plan with the family, if necessary.

3. The family assessment consists of:
 - a. A face to face meeting is scheduled as soon as possible and must take place not later than three (3) business days of case assignment with the parent or guardian, the child, and any other household members and family supports. Face to face contact with the child who is the subject of the report and any siblings is subject to the consent of the parent or guardian.
 - b. Completion of a standardized risk and safety assessment.
 - c. Criminal background checks and Department clearances for caregiver(s), and household members over the age of eighteen (18).
 - d. Service assessment and delivery to stabilize and mitigate risk.
- B. Information that may be screened in for a family assessment response includes, but is not limited to, the following vulnerability factors and risk areas:
 1. Child is age (6) six and under;
 2. A caregiver or child's emotional, physical, or developmental condition;
 3. Circumstances indicating that the caregiver's protective capacity may be compromised but not to the level of requiring an investigation.
 4. A prior report within a twelve (12)-month period involving a family with a child age six (6) or under, or with two (2) or more children;
 5. One or more prior reports received on a family within a three (3)-month period;
 6. A prior indicated investigation or removal within the past twelve (12) months;
 7. Any other risk factors that may compromise the well-being of the child; or
 8. Whether the report was called in by a professional mandated reporter.
- C. Any report screened in for a family assessment response may be upgraded to an investigation if there is any evidence or reason to suspect child abuse or neglect in accordance with this Rule and the Rhode Island statute governing child abuse/neglect investigations.

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

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