ALABAMA DEPARTMENT OF HUMAN RESOURCES SOCIAL SERVICES DIVISION ADMINISTRATIVE CODE

CHAPTER 660-5-34
PROTECTIVE SERVICES FOR CHILDREN

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660-5-34-.01 Definition Of Protective Services For Children.

Services directed toward preventing or remedying abuse, neglect, or exploitation of children under the age of 18 years unable to protect their own interests or harmed or threatened with harm by a person responsible for the individual's health or welfare (and for runaways) through: (1) non-accidental physical or mental injury; (2) sexual abuse or exploitation; (3) or negligent treatment or maltreatment including the failure to provide adequate food, medical treatment, clothing or shelter. Services include: identifying children in need of protection, receiving child abuse and neglect reports, making reports to the central registry, assessing complaints or reports, diagnosis and evaluation, making reports to courts having juvenile court jurisdiction, providing casework and counseling services, providing information and referral, supervision of child in home of parents or relatives, arranging protective placement, providing legal services, arranging medical care, making use of community resources, including training for parents and providing shelter care including clothing when shelter care is provided in a purchase of service contract. Shelter (and clothing and transportation under a purchase of service contract) is limited to 30 days in any six

months period. Service also includes transportation of runaways from and to another state and transportation for children returned to this state and transportation for children returned to the state and from this state to another state pursuant to placement agreements. In combination with these services certain other services may be provided without regard to income when used to prevent or remedy abuse, neglect, or exploitation of the individual receiving protective services for children. These services are: homemaker services for children (limited to 90 days Without Regard To Income [WRTI] in any six months period) and day care for children (limited to 90 days WRTI in any six months period).
Author: Jerome Webb
Statutory Authority: Code of Ala. 1975, Titles 12, 26, and 38; Title XX of the Social Security Act, 42 U.S.C. 1397.
History: Effective October 11, 1983. **Repealed:** Effective August 11, 1988. Readoption: effective August 11, 1988. **Amended:** Filed February 4, 2003; effective March 11, 2003. **Repealed and New Rule:** Filed September 4, 2003; effective October 9, 2003. **Repealed and New Rule:** Filed June 2, 2006; effective July 7, 2006. **Repealed and New Rule:** Filed May 4, 2007; effective June 8, 2007.

660-5-34-.02 Protective Services As Specialized Social Services.

(1) When complaints or reports are received, the County Department has the duty and responsibility to assess the complaint or report, and:

(a) evaluate the extent to which children are being harmed or are at risk of serious harm;

(b) evaluate the parents' capacity to improve the situation;

(c) provide the supportive services needed to better the family's situation for children; and

(d) when parents are unable to use this help, invoke legal authority of the court by petition and secure adequate protection, care, and treatment for children whenever necessary to meet their needs and rights.

(2) For the purpose of reporting cases of suspected child abuse and/or neglect, Alabama statutes give the following specific definitions:

(a) A "child" is defined as a person under the age of eighteen.

(b) "Abuse" means harm or threatened harm to a child's health or welfare, which occurs through non-accidental physical or mental injury, sexual abuse, or attempted sexual abuse, or sexual exploitation or attempted sexual exploitation.

(c) "Sexual abuse" includes the employment, use, persuasion, inducement, enticement, or coercion of any child to engage in, or having a child assist any other person to engage in any sexually explicit conduct or any simulation of the conduct for the purpose of producing any visual depiction of the conduct, or the rape, molestation, prostitution, or other form of sexual exploitation of children, or incest with children as those acts are defined by Alabama law.

(d) "Sexual exploitation" includes allowing, permitting, or encouraging a child to engage in prostitution and allowing, permitting, encouraging or engaging in the obscene or pornographic photographing, filming, or depicting of a child for sexual purposes.

(e) "Neglect" means negligent treatment or maltreatment of a child. Such negligent treatment or maltreatment includes the failure to provide adequate food, medical treatment, supervision, clothing, or shelter. The failure to provide medical treatment is neglect, provided that the parents or guardians legitimately practicing their religious beliefs who thereby do not provide specified medical treatment for a child is not, for that reason alone, considered a negligent parent or guardian. Such an exception, however, does not preclude a court from ordering that medical services be provided to the child where his health requires it.

(3) For the purpose of screening and accepting reports of child abuse/neglect that are received by the Department, the following Departmental definitions of abuse and neglect are used:

(a) The definitions of physical abuse indicate non-accidental injury or threatened injury to a child and that serious harm is present or threatened. Physical abuse, which is directly attributable to a physical act by the person allegedly responsible, includes:

1. Death;

2. Internal injuries;

3. Burns and/or scalding;

4. Bone fractures;

5. Cuts and/or bruises, including those received in corporal punishment, with consideration given to the following factors:

(i) The child's age;

(ii) The child's physical, mental, and emotional condition; and any developmental, physical, or mental disability;

(iii) Severity of the cuts/bruises (size, number, depth, extent of discoloration);

(iv) Location of the cuts/bruises;

(v) Whether an instrument was used on the child; and

(vi) Previous history of indicated abuse or neglect.

6. Human bites;

7. Sprains and/or dislocations;

8. Tying, close confinement is unreasonable restriction of a child's mobility, actions; or physical functioning by tying the child to a fixed (or heavy) object, tying limbs together; or forcing the child to remain in a closely confined area which restricts physical movement.

9. Bizarre Discipline is extreme or aberrant disciplinary actions, events, and/or devices, used in an attempt to set behavioral standards or to modify behavior, which are manifestly over-reactive to the child's behavior and the disciplinary situation; and which place the child at risk of serious harm.

10. Fetal Alcohol Syndrome or drug withdrawal at birth due to the mother's substance use or misuse; and

11. Factitious Disorder by Proxy which is defined as a form of child abuse where the parents or primary caregivers, in order to gain attention for themselves, exaggerate, fabricate, and/or induce illness or symptoms in a child, placing the child at risk of serious harm; and including Munchausen Syndrome by Proxy, which is a narrower type of Factitious Disorder, where the main gain for the parents or primary caregivers is attention from the medical or mental health community and the child is used to obtain and maintain the attention.

12. Chemical endangerment occurs when children are in a situation/environment where, through direct or indirect exposure, they ingest or inhale a controlled substance (e.g., methamphetamine) or chemical substance (e.g., pseudoephedrine, freon, sulfuric acid, etc.) used in the production of methamphetamine and parents'/primary caregivers' purpose for being in possession of the

chemicals is to produce or manufacture crystal meth for personal use or distribution.

(b) The definitions of neglect indicate a failure by the parent or primary caregiver to protect children from a risk of serious harm. Serious harm is defined as significant physical injury; sexual abuse; severe impairment in a child's functioning; permanent disability or disfigurement; or death. "Severe impairment in a child's functioning" is a serious deficit in a child's behavior or cognition. These definitions include:

1. Neglect due to blatant disregard of parent or primary caregiver responsibilities; i.e., incidents where the risk of serious harm to the child is so imminent and apparent that it is unlikely a parent or primary caregiver would have exposed the child to such danger without exercising precautionary measures to protect the child from harm. The following results of blatant disregard are considered neglect:

(i) Death;

(ii) Internal injuries;

(iii) Burns and/or scalding;

(iv) Bone fractures;

(v) Cuts and/or bruises, including those received in corporal punishment, with consideration given to the following factors:

(I) The child's age;

(II) The child's physical, mental, and emotional condition; and any developmental, physical, or mental disability;

(III) Severity of the cuts/bruises (size, number, depth, extent of discoloration);

(IV) Location of the cuts/bruises;

(V) Whether an instrument was used on the child; and

(VI) Previous history of indicated abuse or neglect.

(vi) Human bites; and

(vii) Sprains and/or dislocations.

2. Failure to provide supervision, care, and/or guidance, that protects children from serious physical harm or sexual abuse;

3. Abandonment; i.e., the legal caregiver's relinquishment of caregiving responsibility and there is no current caregiver or the current caregiver can no longer provide care which results in a current risk of harm to the child;

4. Failure to provide food sufficient to sustain normal functioning and prevent serious harm;

5. Failure to provide shelter that protects the child against risk of serious harm including protection from weather elements and other hazards in the dwelling and on the property;

6. Failure to provide adequate clothing or personal hygiene to the extent that it poses a risk of serious harm to the child; this allegation applies to children under age 12 and to those children, regardless of age, who have a disability that prevents self-care;

7. Failure to provide medical or dental treatment for a health problem which, if untreated, could cause serious harm. However, any child who in good faith is under treatment by spiritual means alone, through prayer in accordance with the tenets and practices of a recognized church or religious denomination by a duly accredited practitioner thereof, shall not, for that reason alone, be considered as neglected under any provision of these definitions, unless the judge in a court of law finds that it is in the child's best interest for the court to take jurisdiction. Failure of parent(s) to obtain immunizations for their child or failure of parent(s) to sign permission slips for school physicals is not considered neglect in and of itself; there must be some other allegation or home situation which might cause serious harm to the child (refer to Rule 660-5-34-.05(3) for medical neglect of handicapped infants under one year of age);

8. Failure to thrive; i.e., a serious medical condition most often seen in a child under one year of age whose weight, height, and motor development fall significantly below the average growth rates of normal children and it is determined to be non-organic in nature. The person allegedly responsible for the neglect must be directly involved/responsible.

9. Positive test for alcohol and/or drugs at birth – Infants who test positive for alcohol and/or drugs at

birth due to the mother's substance misuse, as determined by a medical professional, is considered abuse/neglect.

(c) Mental Abuse/Neglect is extreme or aberrant behavior that directly results in severe impairment to a child's functioning. This allegation is based on a mental health professionals' written evaluation after the mental health professional is informed in writing of the Department's definition of mental abuse/neglect. The written evaluation must specify that the cited behavior fits within the department's definition in order for the allegation definition to be "indicated."

(d) Sexual abuse includes:

1. Sexual exploitation - the sexual use of a child for sexual arousal, gratification, advantage, or profit;

2. Sexual molestation - sexual conduct with a child when such contact, touching, or interaction over or under the child's clothes is used for arousal or gratification of sexual needs or desires;

3. Sexual penetration - any intrusion or entrance, however slight, through the use of digits (i.e., fingers or toes), through the use of an inanimate object, or between the sex organ, mouth or anus of one person and the sex organ, mouth or anus of another person. Sexual emission or release is not required; and

4. Sexually transmitted diseases - diagnosis of any sexually transmitted infection that was originally acquired as a result of sexual penetration or sexual contact with an afflicted individual.

(e) Other risk of serious harm, an allegation that applies when the total circumstances lead a reasonable person to believe that a child is at other risk of serious harm, includes situations where serious harm has not yet occurred, but a child has been placed in a situation that can result in significant physical injury; sexual abuse; severe impairment in the child's behavioral and/or cognitive functioning; permanent disability or disfigurement; or death.

Author: Margaret Livingston
Statutory Authority: Code of Ala. 1975, Title 13, Chapter 6 and Chapter 12, Title 26, Chapter 14.
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Rule: Filed June 2, 2006; effective July 7, 2006. **Repealed and New Rule:** Filed May 4, 2007; effective June 8, 2007. **Amended:** Filed April 4, 2008; effective May 9, 2008.

660-5-34-.03 Reporting Of Complaints Of Abuse/Neglect.

(1) Reports of child abuse/neglect are received by a duly constituted authority which is defined in the law to mean:

(a) The chief of police of a municipality or municipality and county;

(b) The sheriff, if the observation of child abuse or neglect is made in an unincorporated territory;

(c) The Department of Human Resources; or

(d) Any person, organization, corporation, group, or agency authorized and designated by the Department of Human Resources to receive such reports.

(2) Persons who are mandated by law to report any suspected cases of child abuse/neglect are medical personnel, school personnel, law enforcement officials, pharmacists, social workers, day care personnel, mental health personnel, members of the clergy (except for information gained solely in a confidential communication) which includes "any duly ordained, licensed, or commissioned minister, pastor, priest, rabbi, or practitioner of any bona fide established church or religious organization," and any other person called upon to render aid or medical assistance to a child suspected of being abused or neglected.

(3) The County Department has the responsibility to persons and institutions mandated to report to inform them of this responsibility, provide them with reporting forms and instructions, and acquaint them with the protective services available.

(4) Any person may make an abuse/neglect report if that person has reasonable cause to suspect that a child is being abused or neglected.

Author: Jerome Webb
Statutory Authority: Code of Ala. 1975, Title 26, Chapter 14.
History: Effective August 11, 1988. **Amended:** Filed February 4, 2003; effective March 11, 2003. **Repealed and New Rule:** Filed September 4, 2003; effective October 9, 2003. **Repealed and New Rule:** Filed June 2, 2006; effective July 7, 2006. **Repealed and New Rule:** Filed May 4, 2007; effective June 8, 2007.

660-5-34-.04 Intake In Protective Services.

(1) A report of alleged child abuse/neglect is not accepted on any persons who have reached their eighteenth birthday.

(2) A report of alleged child abuse/neglect is not accepted on an unborn child. Other Department or community services may be provided to the family of the unborn child as deemed appropriate.

(3) For purposes of child protective services, a person allegedly responsible for abuse/neglect is defined as a person fourteen years of age or older. No child under the age of fourteen will be listed on a child abuse/neglect report as responsible for abuse/neglect. Reports of physical, mental or sexual abuse committed by a child under the age of fourteen will be accepted and assessed (Refer to Rule 660-5-34-.12) to determine the possibility of neglect, lack of supervision or exploitation contributing to the child's behavior. If a child under the age of fourteen commits sexual acts that go beyond curiosity or experimentation on another child, the report will be assessed to consider the possibility that the child committing such acts may be a victim of child sexual abuse and/or in need of services.

(4) Once a report of suspected child abuse/neglect has been received, it must be investigated, and the investigation is known by DHR as the child abuse/neglect child abuse neglect (CA/N) assessment.

(5) The following criteria must be considered at intake when determining which reports will be investigated first:

(a) The allegations in the report;

(b) The seriousness of the incident(s); and

(c) The child’s vulnerability (i.e., capacity for self-protection) and the potential risk of serious harm to the child.

(6) DHR’s response time is the timeframe within which in-person initial contact shall be made with the children who are allegedly abuse or neglected (i.e., at risk of serious harm) and all other children in the home.

(a) Child welfare staff shall respond immediately (i.e., as soon as possible after a report is received, but no later than twelve hours from receipt of the intake information) when the intake information indicates serious harm will likely occur within twenty-four hours.

(b) For situations in which an immediate response is not required, child welfare staff shall respond as quickly as the intake information warrants and no later than five calendar days from the date the intake information is received.

(c) Child welfare staff must make contact with all other children (those who live in the home with children reported as abused or neglected) as soon as the intake information warrants, but not later than fifteen calendar days from the date the report was received.

(7) All reports of child abuse/neglect must be cleared through Alabama's Central Registry on Child Abuse/Neglect (Refer to Rule 660-5-34-.07.) to determine if there have been previous reports involving the children, their family members, and all persons allegedly responsible for abuse/neglect.

(8) As child abuse/neglect reports are received in the County Department, these reports must be reported to the District Attorney's office and the local law enforcement agency, according to the County Department's written working agreement with the District Attorney and law enforcement.

(9) After-hours Intake on Emergency Calls- Every County Department of Human Resources shall have a written plan for responding to after-hours emergency calls for protective services to children which identifies, at a minimum, contact numbers for on-call staff, back-up on-call staff, and law enforcement agencies.

Author: Jerome Webb
Statutory Authority: 42 U.S.C. §§5101-5107; 45 C.F.R. §1340.15; Code of Ala. 1975, Title 26, Chapter 14; Title 13A-3-3.
History: Effective October 11, 1983. Emergency amendment effective April 12, 1984. Emergency amendment rescinded July 16, 1984. Succedent emergency amendment effective October 29, 1984. Succedent permanent amendment effective February 11, 1985. Succedent emergency amendment effective October 1, 1985. Succedent permanent amendment effective January 9, 1986. Succedent permanent amendment effective March 11, 1988. **Repealed:** Effective August 11, 1988. **Amended:** Rule (formerly 660-5-34-.03) readopted effective August 11, 1988. **Amended:** Filed October 4, 1996; effective November 8, 1996. **Amended:** Filed April 5, 2001; effective May 10, 2001. **Amended:** Filed February 4, 2003; effective March 11, 2003. **Repealed and New Rule:** Filed September 4, 2003; effective October 9, 2003. **Repealed and New Rule:** Filed June 2, 2006; effective July 7, 2006. **Repealed and New Rule:** Filed May 4, 2007; effective June 8, 2007.

660-5-34-.05 Investigative/Initial Assessment Process.

(1) The following standards for conducting CA/N assessments on child abuse/neglect reports must be followed. Any deviations from these standards must have supervisory consultation and approval.

(a) Contacts with Law Enforcement. Each County Department must have a written working agreement on procedures for handling child abuse and neglect investigations with the law enforcement agency holding jurisdiction in the county. Law enforcement officers may accompany DHR workers on home visits when information indicates that safety may be an issue.

(b) Assessing Reports with Parents. Contact must be initiated with a custodial parent promptly upon receipt of a report except in instances where such action could pose danger for the child involved. The contact should establish the need for protective services or agency non-intervention. A home visit is required and may be made with or without prior notification.

(c) Interview with/observation of Child Victim and all other Children in the Home.

1. All children who are subjects of child abuse/neglect reports must be seen and privately interviewed if they are capable of a verbal response. Non-verbal children must be observed while awake. The child may be interviewed/observed at some site other than the home, (e.g. school, daycare). If the worker is refused access to a child for interview or observation purposes, a court order may be sought to obtain access to the child.

2. Photographs may be taken to document physical injuries or conditions of children or neglectful conditions of the child's home. Video and audiotapes may be used to record interviews. Parental consent for photographs, video and audio taping is not necessary. If a parent refuses to permit photographs or taping and the worker believes that photographs or taping is necessary, law enforcement should be contacted or court action should be explored.

3. If psychological evaluations, physical examinations, or psychiatric evaluations of the children are considered necessary during the CA/N assessment process, they may be obtained with or without parental consent. If parental consent cannot be obtained, a court order should be sought.

4. All other children who are regular members of the household must be interviewed privately and in person.

(d) Securing Medical Care. If the worker believes that a child is in need of immediate medical care, every effort must be made to get the parent or legal custodian to take the child immediately to a medical facility for such treatment. If the parent or legal custodian is unavailable, refuses to cooperate, or is in disagreement with the attending physician, the worker must seek the assistance of the court in securing medical care for the child. To obtain the court's assistance, workers have three options:

1. Petition for legal temporary custody and request that the Department have the authority to consent to medical treatment; or

2. File a petition for protective supervision which provides the Department the authority to consent to medical care; or

3. Petition for an order authorizing emergency medical care.

(e) Interview with the Person Allegedly Responsible For Abuse/ Neglect. The worker is to interview the person allegedly responsible individually and in person unless the person is being criminally investigated, and law enforcement, the District Attorney's office or the defense attorney refuses to allow the interview. A copy of the person's statement to law enforcement is then sufficient to document this part of the CA/N assessment.

(f) The worker must interview all other adult household members individually and in person.

(g) The worker must contact all other persons known to have first-hand knowledge of the abuse/neglect allegations. These persons may be interviewed either in person or by telephone.

(2) Reports of Child Abuse/Neglect on Department Employees. When a report of suspected child abuse/neglect is received by the County Department on an individual who is employed by the Department, the Office of Child Welfare Consultation, Family Services Division, is to be contacted if the County Department needs assistance with determining who will conduct the investigation.

(3) Reports of Medical Neglect of Handicapped Infants Under One Year of Age.

(a) When the County Department receives a report that medically indicated treatment is being withheld from an infant solely on the basis of a present or anticipated mental or

physical impairment, an assessment must be made immediately. If the medical facility where the infant is a patient has an Infant Care Review Committee, the County Department will consult with the Committee during the assessment. If there is no Infant Care Review Committee available, and the county has a multi- disciplinary team in operation, that team (with the appropriate medical experts added for these cases) must be consulted for a recommendation. In counties where there are no Infant Care Review Committees or multi-disciplinary teams operational the County Department must consult an independent specialist for a written medical opinion on the case.

(b) The withholding of medically indicated treatment is defined as the failure to respond to an infant's life-threatening conditions by providing treatment (including appropriate nutrition, hydration, and medication) which, in the treating physician's reasonable medical judgment, will most likely be effective in ameliorating or correcting all life- threatening conditions. These standards must also be considered during assessments involving any medical treatment issues for children over age one year when the children have been continuously hospitalized since birth, born extremely prematurely, or have a long term disability. All of these children must be provided appropriate nutrition, hydration and medication.

(c) Additional treatment to ameliorate or correct all life-threatening conditions may be withheld in the following cases:

1. The child is chronically and irreversibly comatose; or

2. Treatment would merely prolong death, would not be effective in ameliorating or correcting all life-threatening conditions, or would otherwise be futile in terms of the child’s survival; or

3. The treatment itself, under such circumstances, would be inhumane.

(d) Reasonable medical judgment is defined as medical judgment that would be made by a reasonably prudent physician who is knowledgeable about the case and the treatment possibilities with respect to the medical conditions involved. In cases where there is agreement between the treating physician and the Infant Review Committee, the multi-disciplinary team, or the independent physician, the County Department shall document all parties’ agreement in the child’s case record. In cases where there is disagreement, the County Department must file a petition for court intervention, and notify the Office of Child Protective Services and SDHR Legal that the petition has been filed.

(4) Additional Procedures for CA/N Assessments Involving Out-of-Home Care Settings.

(a) CA/N assessments of child abuse/neglect in out-of-home care settings refers to a report alleging that a child has been abused and/or neglected while in the care and control of a facility/agency/home which is licensed, approved or certified by the state, operated as a state facility, or is a private or religious facility/agency that is exempt from licensing procedures. These facilities/agencies/homes include, but are not limited to, foster homes, day care centers/ nighttime centers, family/group day care homes/nighttime homes, child-care institutions, child-placing agencies, nursing homes, group homes, schools (public and private), and non-finalized adoptive homes.

(b) Day Care Centers/Nighttime Centers Licensed by Department of Human Resources.

1. The CA/N assessment must be conducted by a worker with child protective service experience and one who has no responsibility for the licensing of the center. In some cases, it may be appropriate for licensing staff to assist the worker with the CA/N assessment.

2. The Department is to notify the administrator of the day care center/nighttime center of the specific allegations upon receipt of the report. If the administrator has been identified as the person allegedly responsible for the abuse/ neglect and the center is owned by another individual or is governed by a board, the owner or the chairman of the board must be notified. That person will be substituted for "administrator" at each reference in this rule. The administrator is to be kept informed of the CA/N assessment. Information which may be disclosed to the administrator includes allegations reported, who will be interviewed at the center, name of the person identified as allegedly responsible for abuse and neglect, approximate timeframe within which the CA/N assessment will be completed, and any other information that could prevent the abuse/ neglect of other children at the center. DHR may also request that the person allegedly responsible for the abuse/neglect not have contact with the children at the center until the CA/N assessment is complete.

3. Persons allegedly responsible for the abuse/ neglect must receive written notification of the allegations within five days of the report’s receipt.

4. Parents/custodians of the children identified in the report must be notified about the allegations. The identity of alleged person(s) responsible for abuse/

neglect of the identified children can be revealed only to the parents/custodians of the identified children.

5. Other children at the center may be interviewed in order to complete the CA/N assessment. Permission of parents is not necessary for this interview; however, if the interview reveals allegations of abuse/neglect of the child being interviewed, the parents/custodians must be notified about the allegations. The identity of alleged person(s) responsible for abuse/neglect cannot be revealed to the other children's parents/custodians unless these children are identified as allegedly abused or neglected by the so named person responsible for abuse/neglect.

6. When the preliminary disposition of the report is "indicated," the person allegedly responsible for the abuse/ neglect must be provided written notice of the allegations and their due process rights. If the person waives the right to a hearing, does not respond, or has a hearing, the final disposition will be provided to that person and may be provided to the center administrator and the appropriate licensing unit.

7. All persons receiving notice of the allegations will also receive notice of the final disposition.

(c) Exempt Day Care Centers/Nighttime Centers.

1. The CA/N assessment must be conducted by a protective service worker in the County Department. In some cases it may be appropriate for state office staff to assist in the CA/N assessment.

2. The Department must notify the administrator of the day care center/nighttime center of the allegations upon receipt of the report. If the administrator is the person allegedly responsible for the abuse/neglect, the pastor of the church, chairman of the committee in charge of administering the day care program, or chairman of the governing board must be notified. That person will be substituted for "administrator" at each reference in this rule. The administrator is to be kept informed of the CA/ N assessment. Information which may be disclosed includes who will be interviewed at the center, the allegations, the name of the person allegedly responsible for the abuse/ neglect, approximate timeframe within which the CA/N assessment will be completed, and any information that could prevent the abuse/neglect of other children at the center. DHR staff may request that the person allegedly responsible for the abuse/neglect not have contact with the children at the center during the course of the CA/N assessment.

3. Parents/custodians of the children identified in the report must be notified about the allegations.

4. Persons allegedly responsible for the abuse/ neglect must receive written notification of the allegations within five days of the report's receipt.

5. Other children in the center may be interviewed in order to complete the CA/N assessment. Permission of their parents/custodians is not necessary for an interview; however, if there are allegations of abuse/ neglect of the child being interviewed, the parents/ custodians must be notified about the report.

6. When the preliminary disposition of the report is "indicated," the person allegedly responsible for the abuse/ neglect must be provided written notice of the allegations and their due process rights. If the person waives the right to a hearing, does not respond, or has a hearing, the final disposition will be provided to that person and may be provided to the center administrator and the appropriate licensing unit.

7. All persons receiving notice of the allegations will also receive notice of the final disposition.

(d) Family/Group Day Care Homes/Nighttime Homes

1. The CA/N assessment is to be conducted by a worker with child protective service experience and one who is not responsible for approving the home. The approving worker may accompany the CA/N assessment worker during the CA/N assessment.

2. The approving unit within the Department is to be notified about the allegations upon receipt of the report. DHR staff may request that the person allegedly responsible for the abuse/neglect not have contact with the children in the home during the course of the CA/N assessment.

3. The parents/custodians of the children identified in the report must be notified about the allegations. The identity of alleged person(s) responsible for abuse/ neglect of the identified children can only be revealed to the parents/custodians of the identified children.

4. Notification regarding the abuse/neglect report is to be provided to the care provider and they shall be kept informed about the CA/N assessment and called upon when appropriate to expedite the CA/N assessment process. Information that may be shared with the provider includes allegations reported, who at the home will be

interviewed, the person allegedly responsible for the abuse/neglect, approximate timeframe within which the CA/N assessment will be completed, and any information that could prevent abuse/neglect of other children at the home.

5. Persons who are allegedly responsible for the abuse/neglect must receive written notification of the allegations within 5 working days of the report's receipt.

6. Other children in the home may be interviewed in order to complete the CA/N assessment. Permission of parents is not necessary for an interview; however, if the interview reveals allegations of abuse/neglect of the child being interviewed, parents/custodians must be notified about the report. The identity of alleged person(s) responsible for abuse/neglect cannot not be revealed to the other children's parents/custodians unless these children are identified as having been allegedly abused or neglected by the so named person responsible for abuse/neglect.

7. The approved care provider must be notified about disposition of the report.

8. When the preliminary disposition of the report is "indicated," the person allegedly responsible for the abuse/ neglect must be provided written notice of the allegations and their due process rights. If the person waives the right to a hearing, does not respond, or has a hearing, the final disposition will be provided to that person and may be provided to the care provider and the appropriate licensing unit.

9. All persons receiving notice of the allegations will also receive notice of the final disposition.

(e) Foster Family Homes Approved by Department of Human Resources

1. A worker with protective service experience, but one who is not directly responsible for the approval of the home, must conduct the CA/N assessment. The approval worker may accompany the worker during the CA/N assessment.

2. Unless parental rights have been terminated, the parents/custodians of the child identified in the report must be notified of the alleged actions upon receipt of the report. The identity of alleged person(s) responsible for abuse/neglect can only be revealed to the parents/custodians of the identified children.

3. The person allegedly responsible for the abuse/ neglect must receive written notification of the allegations within five days of the report's receipt.

4. CPS staff in the county shall notify the SDHR Office of Permanency, the County's Resource Unit, other County Departments if the report involves other counties, and District Attorney's office and law enforcement per the county's written working agreement.

5. Other children in the home may be interviewed in order to complete the CA/N assessment. Permission of the parents is not necessary for an interview; however, if allegations of abuse/neglect are revealed for the child being interviewed, the child's parents/custodians must be notified about the report. The identity of alleged person(s) responsible for abuse/neglect cannot be revealed to the other children's parents/custodians unless these children are identified as allegedly abused or neglected by the so named person responsible for abuse/neglect.

(6) Foster parents are to be notified when a member of the foster parent's household is alleged to have abused/ neglected children in the foster parent's home.

7. When the preliminary disposition of the report is "indicated," the person allegedly responsible for the abuse/ neglect must be provided written notice of the allegations and their due process rights. If the person waives the right to a hearing, does not respond, or has a hearing, the final disposition will be provided to that person and the approving unit.

8. All persons receiving notice of the allegations will also receive notice of the final disposition.

(f) Foster Homes approved by a Private Child-Placing Agency or Other State Agency.

1. The report will be investigated by a worker with protective services experience. A worker from the private child-placing agency or other state agency may accompany the Department of Human Resources worker as determined appropriate.

2. SDHR's Office of Licensing and Resource Development must be notified about the allegations upon receipt of the report. SDHR's Office of Licensing and Resource Development will notify the private child placing or state agency having approval responsibility when the home is approved by another agency. DHR staff may request that the approving agency not notify the person allegedly

responsible for the abuse/ neglect. The approving agency shall be kept informed about the CA/N assessment and called upon when appropriate to expedite the CA/N assessment process. Information that may be shared with the agency includes allegations reported, who at the home will be interviewed, the person allegedly responsible for the abuse/neglect, approximate timeframe within which the CA/N assessment will be completed, and any information that could prevent the abuse/neglect of other children in the home.

3. Persons who are allegedly responsible for the abuse/ neglect must receive written notification of the allegations within 5 working days of the report's receipt.

4. If the child identified in the report is in the custody of the Department of Human Resources, the parents/ custodians must be notified about the allegations unless parental rights have been terminated. Workers may also disclose to the parent the allegations, as well as any action taken to protect the child. The identity of alleged person(s) responsible for abuse/ neglect cannot be revealed to the parents/custodians' of other children unless these children are identified as allegedly abused or neglected by the so named person responsible for abuse/neglect.

5. A foster parent is entitled to written notification within five (5) working days, of reaching a "not indicated" disposition when alleged abuse/neglect occurred in the foster parent's home and the person allegedly responsible for abuse/neglect is a member of the foster parent's household. Each County Department shall develop a written notification form to be used uniformly within the county. Child welfare staff shall provide this notification as directed and file a copy in the CA/N record.

6. When the preliminary disposition of the report is "indicated," the person allegedly responsible for the abuse/ neglect must be provided written notice of the allegations and their due process rights. If the person waives the right to a hearing, does not respond, or has a hearing, the final disposition will be provided to that person and may be provided to the approving agency.

7. All persons receiving notice of the allegations will also receive notice of the final disposition.

(g) Institutions and Group Homes Licensed by Department of Human Resources.

1. Child protective services staff in the County Department where the institution or group home is located will conduct the CA/N assessment.

2. SDHR's Office of Licensing and Resource Development must be notified about the allegations upon receipt of the report.

3. The administrator of the institution or group home will be notified about the report. If the administrator has been identified as the person allegedly responsible for the abuse neglect, the governing chairperson or authority will be notified. DHR staff may request that the person allegedly responsible for the abuse/neglect not be informed about the report. The administrator of the institution or group home shall be kept informed about the CA/N assessment and called upon when appropriate to expedite the CA/N assessment process. Information that may be shared includes allegations reported, who will be interviewed, the person allegedly responsible for the abuse/neglect, approximate timeframe within which the CA/N assessment will be completed, and any information that could prevent the abuse/neglect of other children in the institution or group home.

4. Persons who are allegedly responsible for the abuse/ neglect must receive written notification of the allegations within 5 working days of the report's receipt.

5. The parents/custodians of the children identified in the report must be notified about the allegations unless parental rights have been terminated. The identity of alleged person(s) responsible for abuse/neglect of the identified children may only be revealed to the parents/ custodians.

6. When the preliminary disposition of the report is "indicated," the person allegedly responsible for the abuse/ neglect must be provided written notice of the disposition and their due process rights. If the person waives the right to a hearing, does not respond, or has a hearing, the final disposition will be provided to that person and may be provided to the institution or group home administrator.

7. All persons receiving notice of the allegations will also receive notice of the final disposition.

(h) Group Homes and Institutions **Operated** By State Agencies Other Than DHR

1. Law enforcement in the county where the institution or group home is located, with the assistance of the operating state agency, will conduct the investigation.

2. County DHR staff will provide notification of the report to the institution or group home, law enforcement, and the other state agency who has approval responsibility.

3. When the preliminary disposition of the report is "indicated," the person allegedly responsible for the abuse/neglect must be provided written notice of the disposition and their due process rights. If the person waives the right to a hearing, does not respond, or has a hearing, the final disposition will be provided to that person and will be provided to the group home's or institution's administrator.

4. Administrators may be notified about "indicated" dispositions prior to a CA/N hearing if the safety of the children in the home/institution would be jeopardized by withholding that information.

(i) Group Homes and Institutions Licensed/Certified **(But Not Operated)** By Other State Agencies

1. Child protective services staff in the county where the institution or group home is located will conduct the CA/N assessment and may have the assistance of the licensing state agency when both state agencies agree it is necessary.

2. SDHR's Office of Licensing and Resource Development must be notified about the allegations upon receipt of the report.

3. SDHR's Office of Licensing and Resource Development will notify the state agency who has licensing responsibility.

4. County DHR staff will notify the group home / institution administrator about the report. DHR staff may request that the licensing agency not notify the person allegedly responsible for the abuse/neglect. The administrator shall be kept informed about the CA/N assessment and called upon when appropriate to expedite the CA/N assessment process. Information that may be shared includes allegations reported, who will be interviewed, the name of the person allegedly responsible for the abuse/neglect, approximate timeframe within which the CA/N assessment will be completed, and any information that could prevent the abuse/neglect of other children.

5. Persons who are allegedly responsible for the abuse/ neglect must receive written notification of the allegations within 5 working days of the report's receipt.

6. The parents/custodians of the children identified in the report must be notified about the allegations. The identity of alleged person(s) responsible for abuse/ neglect of the identified children can only be revealed to the parents/custodians.

7. When the preliminary disposition of the report is "indicated," the person allegedly responsible for the abuse/ neglect must be provided written notice of the disposition and their due process rights. If the person waives the right to a hearing, does not respond, or has a hearing, the final disposition will be provided to that person and may be provided to the group home/institution administrator and the licensing agency.

8. All persons receiving notice of the allegations will also receive notice of the final disposition.

9. Child welfare staff shall not disclose "indicated" dispositional information prior to a CA/N hearing. If the safety of the children in the group home/institution would be jeopardized by withholding that information, the disposition may be shared with the administrator prior to the hearing.

(j) Schools And Allegations **Involving** Discipline/ Corporal Punishment

1. Law enforcement agencies conduct the investigation on CA/N reports where the person responsible for abuse/ neglect is a public or private school teacher or other school official and the allegations involve discipline or corporal punishment.

2. If law enforcement determines the incident was consistent with the board of education's written discipline policy, the allegations are not considered a CA/N report and the report is not entered into the Central Registry. When law enforcement determines the incident was not consistent with established discipline policy, they may investigate the incident as child abuse/ neglect. Violation of school board policy does not necessarily indicate that child abuse has occurred. Child welfare staff in the county where the school is located are responsible for entering these CA/N reports into the Central Registry after law enforcement confirms that the report will be or has been investigated as child abuse.

3. Child welfare staff shall provide the person responsible for abuse/neglect with written notice of the disposition and the opportunity for a CA/N hearing. If due process rights are waived, child welfare staff shall then provide notification of the final disposition to the school principal or superintendent. If a CA/N hearing is held, the Hearing Officer will provide written notification of the disposition to the person responsible for abuse/neglect, and child welfare staff shall then notify the school principal. If the school principal was identified as the person responsible for the abuse/ neglect, the notification must be sent to the superintendent of the Board of Education.

4. Principals/superintendents may be notified about "indicated" dispositions prior to a CA/N hearing if the safety of children in the school would be jeopardized by withholding that information.

(k) Schools And Allegations **Not Involving** Discipline/ Corporal Punishment

1. CPS staff in the county where the school is located shall conduct the CA/N assessment.

2. The school principal will be notified about the report. If the principal has been identified as the person responsible for abuse/neglect, the superintendent of the Board of Education shall be notified and may designate another school official to act as the contact person during the CA/N assessment. The principal, superintendent or designee shall also be kept informed about the CA/N assessment and called upon, when appropriate, to expedite the CA/N assessment process. Information that may be disclosed to this person includes allegations reported and who, at the school, will be interviewed; name(s) of the school employees or volunteers who have been identified as responsible for the abuse/neglect; approximate timeframe within which the CA/N assessment will be completed; and any other information that could prevent the abuse/neglect of other children at the school. It may be appropriate for the person conducting the CA/N assessment to request that the person responsible for abuse/neglect not have contact with children at the school until the CA/N assessment is complete.

3. Persons allegedly responsible for the abuse/neglect shall be provided written notice of the allegations within five (5) working days of the report’s receipt.

4. Parents/custodians of the children allegedly abuse/ neglected must be provided notice (written or verbal)

that addresses a general description of the allegations and information that a CA/N assessment is being conducted. The identity of alleged person(s) responsible for abuse/neglect of the identified children can be revealed to the parents/custodians.

5. Child welfare staff shall provide persons allegedly responsible for the abuse/neglect with written notification of the disposition upon completion of the CA/N assessment when the disposition is "not indicated" or "unable to complete." If the disposition is "indicated," the notification is considered a preliminary disposition and must include information on due process rights. If a CA/N hearing is held, the hearing officer will notify persons allegedly responsible for abuse/ neglect as to the final disposition.

6. All individuals and agencies receiving notification of the allegations shall also be notified about the disposition. The notification is provided at the completion of the CA/N assessment for "not indicated" and "unable to complete" dispositions, and following the provision of due process rights if the disposition is "indicated."

7. Child welfare staff shall not disclose "indicated" dispositional information prior to a CA/N hearing. If the safety of the children in the school would be jeopardized by withholding that information, the disposition may be shared with the principal, superintendent, or designee prior to the hearing.

(l) Non-Finalized Adoptive Homes

1. "Non-finalized" means the child has been placed in the adoptive home and the Adoptive Home Placement Agreement has been signed, but the final decree of adoption has not yet been issued by the Probate Court.

2. Child protective services staff in the county where the adoptive home is located shall conduct the CA/N assessment, and this person must not have responsibility for approving the home. The person responsible for approving the home may be present during the CA/N assessment interviews.

3. The County Resource Unit responsible for approving the home and SDHR’s Office of Permanency shall be notified about the allegations when the report involves a child in DHR permanent custody who has been placed in a non-foster parent adoptive home.

4. If an adoptive placement was made by a licensed child-placing agency, the agency administrator shall be notified about the report and kept informed about the CA/N assessment and called upon, when appropriate, to expedite the CA/N assessment process. Information that may be disclosed to this person includes allegations reported; name(s) of the adoptive parent(s) who have been identified as responsible for the abuse/neglect; approximate timeframe within which the CA/N assessment will be completed; and any other information that could prevent the abuse/neglect of other children in the home.

5. Persons allegedly responsible for abuse/neglect shall be provided notice of the allegations within five (5) working days of the report's receipt.

6. A decision may be made to remove children from the adoptive home at any time during the CA/N assessment process, and this decision is the responsibility of the child's individualized service planning team. The adoptive parents right to a CA/N hearing does not preclude DHR's right to remove children prior to the hearing if the situation warrants the removal.

7. Child welfare staff shall provide persons allegedly responsible for the abuse/neglect with written notification of the disposition upon completion of the CA/N assessment when the disposition is "not indicated" or "unable to complete." If the disposition is "indicated," the notification is considered a preliminary disposition and must include information on due process rights. If a CA/N hearing is held, the hearing officer will notify persons allegedly responsible for abuse/neglect as to the final disposition.

8. All individuals and agencies receiving notification of the allegations shall also be notified about the disposition. The notification is provided at the completion of the CA/N assessment for "not indicated" and "unable to complete" dispositions, and following the provision of due process rights if the disposition is "indicated." Due process rights are not extended to the adoptive parents' family members, even if these family members are part of the household. Information obtained about the adoptive parents' family members can be used to determine the ongoing approval of the home.

9. Child welfare staff shall not disclose "indicated" dispositional information prior to a CA/N hearing. If the safety of the children in the home would be jeopardized by withholding that information, the disposition may be shared with the reporter or the child-placing agency administrator prior to the hearing.

(m) All Other Out-of-Home Care Settings

1. Reports of child abuse/neglect involving incidents occurring in settings (e.g., unlicensed day care homes, church camps, boy scouts, girl scouts) where the person allegedly responsible for the abuse/neglect was in a caregiver role (paid or volunteer) at the time of the alleged incident are assessed by Child protective services staff in the County Department where the setting is located.

2. The person/agency/organization responsible for supervising or overseeing the person allegedly responsible for the abuse/neglect must be advised of the specific allegations. This person is to be kept informed about the CA/N assessment. Information which may be disclosed to this person includes allegations reported; name(s) of the person(s) who have been identified as responsible for the abuse/neglect; approximate timeframe within which the CA/N assessment will be completed; and any other information that could prevent the abuse/ neglect of other children in the setting. It may be appropriate to request that the person allegedly responsible for the abuse/neglect not have contact with the children during the course of the CA/N assessment.

3. Persons identified as allegedly responsible for the abuse/neglect must be provided written notification of the allegations within five (5) days of the report’s receipt.

4. Parents/custodians of the children identified in the report must be notified of the allegations. The identity of alleged person(s) responsible for abuse/neglect of the identified children can only be revealed to the parents/ custodians.

5. Child welfare staff shall provide persons allegedly responsible for the abuse/neglect with written notification of the disposition upon completion of the CA/N assessment when the disposition is "not indicated" or "unable to complete." If the disposition is "indicated," the notification is considered a preliminary disposition and must include information on due process rights. Due process rights for these individuals is provided through an administrative record review, and if a review is held, the SDHR administrative record reviewer will notify the person as to the final disposition.

6. All individuals and agencies receiving notification of the allegations shall also be notified about the disposition. The notification is provided at the completion of the CA/N assessment for "not indicated" and

"unable to complete" dispositions, and following the provision of due process rights if the disposition is "indicated."

7. Child welfare staff shall not disclose "indicated" dispositional information prior to an administrative record review. If the safety of the children in the out-of-home setting would be jeopardized by withholding that information, the disposition may be shared with the reporter and the entity supervising/overseeing the setting prior to the administrative record review.

(n) Timeframes for Completion - CA/N assessments shall be completed within ninety (90) days from the date the child neglect report i s received. Due process procedures do not have an established timeframe and are not included in the ninety-(90) day timeframe for completing CA/N assessments.

Author: Margaret Livingston
Statutory Authority: Code of Ala. 1975, Title 26, Chapter 14, §12-15-76.
History: Effective August 11, 1988. Emergency amendment effective May 15, 1989. Permanent amendment effective August 10, 1989. Emergency amendment effective February 15, 1991. Succedent permanent amendment effective May 9, 1991. Succedent emergency amendment effective November 6, 1992. Succedent emergency amendment effective February 8, 1993. Succedent emergency amendment effective February 27, 1994. **Amended:** Filed May 5, 1994; effective June 9, 1994. **Amended:** Filed August 6, 1996; effective September 10, 1996. **Amended:** Filed February 4, 2003; effective March 11, 2003. **Repealed and New Rule:** Filed September 4, 2003; effective October 9, 2003. **Repealed and New Rule:** Filed June 2, 2006; effective July 7, 2006. **Repealed and New Rule:** Filed May 4, 2007; effective June 8, 2007. **Amended:** Filed April 4, 2008; effective May 9, 2008.

660-5-34-.06 Safety Assessment.

(1) Determining Safety of Children.

(a) Protecting children is the primary role of the Department's child welfare program. The social work practice method is to assess whether children are safe and to intervene when they are not. Children are considered safe when there are no present or impending danger threats or the parent's/ caregiver's protective capacities control existing threats. Children are unsafe when they are vulnerable to present or impending danger threats and parents/caregivers are unable or unwilling to provide protection. Present danger threats are easily observable, cause imminent concern and require immediate action to insure the safety of the child. Impending danger threats are less obvious, more challenging to identify

and require as much information as necessary to determine if safety threats exist.

(b) Safety threshold is a certain point at which the threats become so great, the family situation is unsafe for the child. In order for a present or impending threat to meet the safety threshold, causing a child to be unsafe, each of the following items must exist.

1. Severity – The threat is consistent with harm that can result in significant pain, serious injury, disablement, grave or debilitating physical health or physical conditions, acute or grievous suffering, terror, impairment, or death.

2. Vulnerability – Child's dependence upon others for protection is based on an assessment of a child's age, as well as his or her physical and mental health.

3. Out-of-Control - Family conditions are such that nothing within the family can manage the behavior, emotion, or situation causing the safety threat.

4. Specific Time Frame – Threats to child safety are present, likely to become active soon or there is a certainty about occurrence within the immediate to near future that could have severe effects on a child.

5. Observable and Specific – Facts obtained indicate that the danger to the child is real.

(c) Parents'/caregivers' protective capacities are assessed. Protective capacities are qualities and characteristics that contribute to a parent's/caregiver's ability to protect the child.

(d) After present and impending safety threats are assessed and the parents'/caregivers' protective capacities are assessed, a decision is made whether children are safe. If present or impending safety threats are identified, a safety plan is developed to control and monitor the safety threats.

(2) Developing Safety Plans.

(a) Safety plans are developed to protect children from safety threats when the parents'/primary caregivers' protective capacities are insufficient. Safety plans are based on identifiable safety threats and coupled with diminished parental/primary caregiver protective capacities which place the child at present or impending danger. Safety plans shall use the least restrictive alternative for protecting the child, and any out-of-home placements shall be in the least restrictive, most family-1ike setting that can offer safety

and meet the children's individualized needs. When developing an "in-home" or "out-of-home (non-foster care)" safety plan, the person responsible for protecting the children can be either a professional or non-professional (e.g., family member, relative neighbor), and must be cleared through the Central Registry when evaluating protective capacities.

(3) Types of Safety Plans.

(a) There are three (3) types of safety plans that are based on children's living arrangement:

1. In-Home – Safety plans designed to provide protection for children living in their own homes. Services are provided in the home to control safety threats by substituting for diminished parental/caregiver protective capacities.

2. Out of Home (Non-Foster Care) - Safety plans designed to provide protection for children whose parents, legal custodians, or primary caregivers agree for them to live temporarily with others (e.g., relatives, neighbors, friends). The agreement is made between the parents, legal custodians or primary caregivers, the child welfare staff and the person responsible for providing protection. The home of the person providing protection does not have to be approved as a foster family home. As part of the safety plan approval process, child welfare staff shall make a visit to the home prior to the child being placed, except in emergency situations, in which case a home visit is made no later than the next calendar day or with supervisory approval the next working day. The maximum timeframe that an Out-of-Home Non-Foster Care safety plan can be in place without court involvement is ninety (90) days. Court involvement occurs either by filing a dependency petition or initiating contact with legal counsel to start legal action. Based on individual assessments, there are situations in which the 90 day timeframe is not appropriate and earlier court involvement becomes necessary.

3. Out-of-Home (Foster Care) is a safety plan intervention designed to provide protection for children in licensed/approved placements (e.g., foster family homes, shelters) pursuant to a court order granting DHR protective or temporary custody. This safety plan intervention is used when children are at imminent risk of serious harm; the parent or primary caregiver is unable or unwilling to provide protection; and it is not possible to protect children through a less intrusive means.

(4) Summary Removal and Protective Custody When children need immediate out-of-home foster care to assure their safety, a summary removal may be used. Summary removal occurs when law enforcement or the Department of Human Resources removes children from parental care or custody without a court order; or the court issues a pick-up order for the children. If the removal occurs without a pick up order, child welfare staff must notify the court and file a dependency petition the next working day. A preliminary hearing (shelter care hearing) must be held to determine whether continued out of home care is needed within 72 hours of the summary removal/pick up order.

Author: Jerome Webb

Statutory Authority: Code of Ala. 1975, Title 12, Chapter 15, Title 26, Chapter 14, and Title 26-14-6; R.C. v Walley, No 88-H-1170-N, Consent Decree (M.D. Ala. Approved December 18, 1991).

History: **New Rule:** Filed May 4, 2007; effective June 8, 2007.

660-5-34-.07 Disposition For Reports Of Child Abuse/Neglect.

Following the completion of an CA/N assessment of a report of child abuse/neglect, the worker must arrive at a disposition as to whether the child has experienced abuse/neglect and whether the person identified as responsible for the abuse/neglect was actually responsible for the abuse/neglect. The disposition for the allegations involving a child and the disposition for the person allegedly responsible for the abuse/neglect may not be the same. The following dispositions are used by the Department of Human Resources:

(1) Indicated - This disposition is used when a preponderance of the credible evidence (e.g., eyewitness account, medical report, professional evaluation) and the professional judgment of the worker (based on facts gathered during the course of the CA/N assessment) indicate that abuse/neglect has occurred. Credible evidence means that the available facts, when viewed in light of surrounding circumstances, would cause a reasonable person to believe that a child was abused or neglected. A determination of "indicated" is not based solely on whether a court has determined that abuse/neglect has occurred. However, if a court finds cause that abuse/neglect has occurred, this evidence will automatically justify the disposition of "indicated." In addition, it is not necessary that the person allegedly responsible for the abuse/neglect be identified in order to have a disposition of "indicated." A disposition of "indicated" is also used in regard to the person allegedly responsible for the abuse/neglect when credible evidence and the professional judgment of the worker indicates that the person was responsible for the abuse/neglect.

(2) Unable to Complete - This disposition is used only when an CA/N assessment cannot be completed due to the worker being unable to secure the information needed to reach a disposition (e.g., family moves and their present whereabouts are unknown; a family that is reported can never be located due to lack of identifying information). This disposition may also be used for the person allegedly responsible for the abuse/neglect.

(3) Not Indicated - This disposition is used when a preponderance of the credible evidence and professional judgment does not substantiate that abuse/neglect has occurred. It is also used when credible evidence and professional judgment does not substantiate that the person allegedly responsible for the abuse/neglect was responsible for the abuse/neglect.

Author: Jerome Webb
Statutory Authority: Code of Ala. 1975, Title 26, Chapter 14. **History:** Effective August 11, 1988. **Amended:** Filed February 4, 2003; effective March 11, 2003. **Repealed and New Rule:** Filed September 4, 2003; effective October 9, 2003. **Repealed and New Rule:** Filed June 2, 2006; effective July 7, 2006. **Repealed and New Rule:** Filed May 4, 2007; effective June 8, 2007.

Ed. Note: Previous Rule 660-5-34-.06 was renumbered to .07 as per certification filed May 4, 2007; effective June 8, 2007.

660-5-34-.08 Due Process.

The following rules apply to CA/N assessments conducted by County Departments of Human Resources and child abuse/neglect investigations conducted by law enforcement agencies and state agencies operating child residential facilities except for incidents involving military personnel and incidents occurring on Indian reservations where the Department does not have jurisdiction to conduct an CA/N assessment.

(1) All persons allegedly responsible for abuse/ neglect with substantiated (i.e., indicated) CA/N dispositions must be given an opportunity to disagree with the Department's findings through either a CA/N hearing or an administrative record review. If the persons allegedly responsible are age fourteen (14) or above, the notice is sent in care of the persons' parents or custodians who may request the hearing or record review on their behalf. For foster children in the department's care, the request is to be submitted by child welfare staff of the county department that holds legal custody of the child.

(2) Any person who is approved, licensed, or certified to care for children; and any person who is employed (i.e., professional, non-professional, contract) by, serves as a

volunteer for, or is connected with (e.g., students completing an educational practicum, board members) any facility, agency, or home which cares for and controls any children **and** the facility is licensed, approved, or certified by the state; operated as a state facility; or is any public, private, or religious facility or agency that may be exempt from licensing procedures must be offered a CA/N hearing when they have been identified as the person allegedly responsible for abuse/ neglect and the preliminary CA/N disposition is "indicated." These individuals must be offered a hearing even if they were reported to have abused/neglected their own children.

(3) Any person allegedly responsible for abuse/neglect who has a preliminary "indicated" disposition and is **not initially** entitled to a CA/N hearing must be offered an administrative record review. The record review is completed to determine if the CA/N assessment contains sufficient documentation based on a preponderance of credible evidence to support the "indicated" disposition of child abuse/neglect.

(a) Except where written consent or a release is obtained, written notification of an opportunity for a child abuse/neglect hearing or administrative record review must be given to the person allegedly responsible for abuse/neglect before releasing information from reports to employers, prospective employers, or licensing/certifying agencies or groups in out-of-home care settings as described in 660-5-34-.05 and under the following circumstances:

1. Persons identified as allegedly responsible for abuse/neglect have contact with children or other vulnerable persons as a part of their employment or potential employment;

2. The child abuse/neglect report involves the person’s biological children or any other children in any setting, or the care of vulnerable persons in any setting;

3. The CA/N assessment involves a preliminary disposition of "indicated" for the person allegedly responsible for the abuse/neglect in a pending CA/N assessment; and

4. The Department determines that a completed CA/N assessment with an "indicated" disposition already entered into the Child Abuse/Neglect Central Registry without a hearing or review being offered should be shared for the protection of children.

(4) The person allegedly responsible for abuse/neglect is given ten (10) departmental working days from the receipt of

the notification to request a hearing or administrative record review. That request must be in writing, and if no such request is received in the Department's office within ten (10) working days, the person's opportunity for a hearing or record review is considered to be waived. The "indicated" disposition is then entered into the State Child Abuse/Neglect Central Registry, and the person's employer, prospective employer, facility administrator, or licensing/certifying agency or group may be notified about the findings of the CA/N assessment.

(5) If the findings of the child abuse/neglect report are upheld by the State administrative record reviewer(s) for an individual who is not initially entitled to an administrative hearing, then the person allegedly responsible for child abuse/neglect is entitled to an administrative hearing. The person allegedly responsible has ten (10) working days from the date of the notification to submit a request for an administrative hearing. If the person fails to provide the written request to the record reviewer within the designated time frame, the opportunity for an administrative hearing is considered to be waived. If the opportunity for a hearing is waived, then a copy of the decision, which is considered final, will be sent to the county for filing in the CA/N record. State DHR child welfare staff shall then enter the final disposition into the Central Registry.

(6) If the Department determines that a child is in imminent danger of abuse or neglect, any person in a position to discover, prevent or protect the child from abuse or neglect may be informed of the information in a pending or concluded CA/N assessment. The person identified as responsible for the abuse/neglect may be offered a hearing or record review, if one has not already been held, subsequent to the dissemination of this information.

(7) A child abuse/neglect hearing is an internal investigatory hearing that is fact finding in nature and designed to elicit the facts in an atmosphere that allows the person responsible for the abuse/neglect to contest the evidence presented against him. The following hearing procedures shall apply:

(a) Except as indicated below, the hearing procedures outlined in Chapter 660-1-5 shall apply to child abuse/ neglect hearings.

(b) The State Department of Human Resources shall conduct a hearing to determine by a preponderance of credible evidence that the child has been abused or neglected. Credible evidence means that the available facts, when viewed in light of surrounding circumstances, would cause a reasonable person to believe that the person alleged to be responsible was responsible for the abuse/neglect.

(c) The Department bears the burden of persuasion at the hearing.

(d) In the case of indicated reports, the function of the hearing officer in a pending investigation is to make: (1) a determination or finding regarding the facts of the case, and (2) a determination of whether the report is "indicated," according to the CA/N assessment guidelines and procedures outlined in the Department's Child Protective Services policy and the Department of Human Resources Administrative Rules.

(e) The hearing will not strictly follow the rules of evidence as followed by the circuit courts of the State.

(f) The evidence will be received at the discretion of the hearing officer if it is a type commonly relied upon by reasonably prudent persons in the conduct of their affairs.

(g) Relevant and material evidence, including hearsay evidence, visual drawings and testimony about the use of anatomically correct dolls, is admissible at the hearing.

(h) A child victim or witness may testify at the hearing without prior qualification.

(i) The hearing officer shall determine the weight and credibility to be given to the testimony of all witnesses.

(j) Videotaped testimony of a child victim or child witness may be allowed.

(k) Leading questions may be allowed of a child victim or child witness.

(l) Testimony and evidence admissible under the following statutes are also admissible in child abuse/neglect investigative hearings: Code of Ala. 1975, §12-15-65(g), §§15-25-1 through -6, and §§15-25-30 through -40.

(m) The hearing shall not be open to the public. However, an employer or licensing/certification representative may be present as a non-participant with the consent of the Department and the person allegedly responsible for the abuse/neglect.

(n) The rules of discovery as followed by the courts of this State do not apply to the hearing. The person allegedly responsible for the abuse/neglect has the following rights of access to information after providing a written request:

1. To be provided a short and plain written statement of the matters asserted which will be presented at the hearing. The request must be made prior to the date set for the hearing to be timely.

2. To review and copy, at cost, any written or recorded statement made by the person allegedly responsible to Department personnel in the course of the child abuse/neglect CA/N assessment. The request must be made prior to the date set for the hearing to be timely.

3. To review and copy at cost, before or during the hearing, the written material and other evidence in possession of the Department which will be placed into evidence at the hearing.

4. To an in camera (i.e., private) inspection by the hearing officer or an order issued to the Department by the hearing officer to review relevant Department child abuse/neglect record(s) to determine if there is any exculpatory evidence (i.e., evidence tending to clear or exonerate) in those records not available to the person allegedly responsible through other sources which must be released as necessary to the constitutional fairness of the hearing. Such a request must be made at least five working days prior to the date set for the hearing to be timely.

5. To review and copy, at cost, all non-confidential Department documents.

6. To review and copy, at cost, all documents in the official hearing file maintained by the hearing officer.

(o) The hearing may be postponed or continued, as necessary, to ascertain all the facts or in order to provide a full and adequate opportunity for all the parties to present their case.

(8) Administrative record reviews are conducted by Departmental staff who are not involved with the case. Prior abuse/neglect reports involving the person allegedly responsible are considered during the record review process to assist in determining the disposition. The reviewers have the authority to overturn the dispositional finding of the worker and supervisor, and their decision is final.

(9) Child abuse/neglect hearings and administrative reviews do not apply to child abuse/neglect CA/N assessments involving military personnel. Child abuse/neglect investigative procedures and disclosure of information involving military

personnel are governed by military regulations and working agreements with military authorities.

Author: Felicia M. Brooks, Shawanda Harris
Statutory Authority: Code of Ala. 1975, Title 26, Chapter 14.
History: **New Rule:** Filed September 4, 2003; effective October 9, 2003. **Repealed and New Rule:** Filed June 2, 2006; effective July 7, 2006. **Repealed and New Rule:** Filed May 4, 2007; effective June 8, 2007. **Amended:** Published April 30, 2025; effective June 14, 2025.

Ed. Note: Previous Rule 660-5-34-.07 was renumbered to .08 as per certification filed May 4, 2007; effective June 8, 2007.

660-5-34-.09 Child Abuse/Neglect Central Registry.

(1) The Department of Human Resources is mandated to establish and maintain a statewide Central Registry for reports of child abuse/ neglect. Each County Department will also establish and maintain a county registry which will contain the same information submitted to the State Central Registry.

(2) The Central Registry will include:

(a) All information obtained during the intake and CA/N assessment processes;

(b) The final disposition of the report, including services offered and accepted;

(c) The plan for rehabilitative treatment;

(d) The names and identifying data, dates, and circumstances of any person requesting or receiving information from the registry; and

(e) Any other information which might be helpful in protecting children from abuse and neglect.

(3) A report of child abuse/neglect must be entered into the Central Registry within 3 working days of its receipt. Reports involving child deaths must be entered within two (2) working days.

(4) The written report of the intake and CA/N assessment will include, at a minimum, the following:

(a) The person(s) making the report, in what capacity the person knows the family, and how the report reached the Department;

(b) Basic identifying information on the children, parents, primary caregivers, other household members, persons allegedly responsible for the abuse or neglect, and other individuals who may have information about the child/family situation;

(c) Initial action taken;

(d) Persons interviewed and findings (including worker's observation which must be specific, clear, and accurately descriptive of the situation);

(e) Results of the CA/N assessment (e.g., child safety threats, risk of serious harm) and recommendations (e.g., safety plan, custody petition filed, referrals made);

(f) The plan for rehabilitative treatment (the case plan with short and long term goals, including services offered and accepted); and

(g) The final outcome of the CA/N assessment (i.e., disposition and a decision regarding the need for ongoing services or termination of services).

(5) Rules and Regulations Concerning Use of Registry Reports and Records - Confidentiality.

(a) The State Department of Human Resources is mandated to establish and enforce reasonable rules and regulations governing the custody, use, and preservation of the reports and records of child abuse and neglect.

(b) The use of such reports and records shall be limited to the purposes for which they are furnished. These purposes are for the prevention or discovery of child abuse/neglect. In no event shall reports be made available for any other purpose.

(c) The statute also provides for confidentiality of child abuse/neglect reports and records, and the disclosure of information to specifically authorized persons. Violation of this provision is a misdemeanor and punishable accordingly. Confidentiality is essential in protecting the rights of children and their parents or custodians.

(d) Information concerning an abuse/neglect report and related information or court testimony may be disclosed for the following purposes:

1. For investigation of child abuse or neglect by the police or other law enforcement agency. No information to aid in the investigation of any matter other than child abuse/neglect may be given;

2. For use by a physician who has before him a child whom he reasonably suspects may be abused or neglected.

3. For use by a grand jury upon its determination that access to such reports and records is necessary in the conduct of its official business; information may be disclosed to a district attorney, upon request, and for those cases agreed upon in a County Department's written working agreement with the district attorney;

4. For use by a court where it finds that such information is necessary for the determination of an issue before the court;

5. For use by an agency having the legal responsibility or authorization to care for, treat, or supervise a child who is the subject of a report or record, or a parent, guardian, or other person who is responsible for the child's welfare when the information is needed to prevent further abuse or neglect;

6. For use by a person engaged in bona fide research who has the written permission of the Commissioner of the State Department of Human Resources; the person may have statistical information; however, identifying information will not be released unless such disclosure is absolutely essential to the research project, and only to the extent expressly authorized by the Commissioner;

7. For use by an attorney, court appointed special advocate, or guardian ad litem in representing or defending a child or its parents or guardians in a court proceeding related to abuse or neglect of said child;

8. For use by a person to prevent or discover abuse or neglect of children or other vulnerable persons through the information contained therein;

9. For use by federal, state, or local governmental entities, social service agencies of another state, or any agent of such entities, having a need for the information in order to carry out their responsibilities under law to protect children from abuse and neglect.

10. For use by child abuse citizen review or quality assurance or multidisciplinary review panels;

11. For use by child fatality review panels; and

12. For public disclosure of the findings or information about the case of child abuse or neglect which has resulted in a child fatality or near fatality; the term "near fatality" means an act that, as certified by a

physician, places the child in serious or critical condition. Information identifying by name persons other than the victim shall not be disclosed.

(e) Release of Child Abuse/Neglect Information by County Departments.

1. The following items are additional DHR requirements regarding the use and disclosure of reports and records of child abuse and neglect. CA/n reports and records shall not be disclosed to any individuals other than:

(i) To parents/custodians who have children in their care and/or custody **and** have someone living or visiting in their home who has been convicted of child battery, child sexual abuse, or who has an "indicated" child sexual abuse report in the State Central Registry.

(ii) To an employer, licensing or certifying agency or group of the person currently being investigated where the employee provides care or supervision to children or other vulnerable persons. Information shall be released following the final disposition as determined by due process procedures. Reports or records in cases disposed of as or "reason to suspect" prior to June 1, 1999 or "not indicated" shall not be used or disclosed for purposes of employment or other background checks.

(iv) DHR may release information on pending assessments to employers, prospective employers, or licensing/certifying agencies prior to a Departmental CA/N investigation hearing or an administrative record review (whichever is applicable) **only** when it is determined that children are in imminent danger of abuse/neglect. If the information is released, the person responsible for abuse/neglect must be offered a CA/N hearing or an administrative record review as soon as possible following the release of information.

(v) Child welfare staff may release information from completed assessments with an "indicated" disposition when it has been determined that a child is in imminent danger and the information needs to be disclosed for the child's immediate protection:

(I) If a disposition was previously entered into the Central Registry for persons responsible without notification being provided of their opportunity for a CA/N hearing or an administrative record review, **and** it has been

less than two (2) years from the date the person was notified about the allegations, child welfare staff must provide written notification of due process rights immediately following the release of information. If the person responds to the notice and requests a hearing or record review, an "emergency" hearing or record review must be requested and be conducted.

(II) If two (2) years have passed since the person was notified about the allegations the **and** the person responsible was previously notified of their due process rights, the information may be released for the child's protection.

(vi) Information from the Central Registry may only be released on "indicated" reports for employment or background check purposes. Information in reports, regardless of the disposition, may be released to another state's CPS program when that state is investigating an abuse/neglect report. CA/N information shall not be made available to anyone outside the Department unless (1) disclosure is permitted under (d) and (e), (2) specific CA/N information is subpoenaed by the court, or (3) the release is expressly authorized by order of the court. County Departments can defer providing information (unless served a subpoena or court order) until the CA/N assessment process is completed.

(vii) CA/N assessments information may be made available to the appropriate court, district attorney, and law enforcement agency according to §26-14-8(c), paragraphs 1 through 4, 6 and 8.

(viii) County Departments shall immediately release information to law enforcement, district attorneys, and physicians in situations where disclosure will allow for the protection of children suspected of being abused/neglected or for the protection of other children in the home.

(ix) Child welfare staff may verbally disclose general information (e.g., allegations, dispositions, general basis for the disposition, other general information already revealed to a child's parents/ custodian) to Guardians Ad Litem, attorneys, or Court Appointed Special Advocates (CASAs) representing the child or attorneys representing the child's parents/ custodians in a child abuse/neglect court proceeding. CA/N information must not be copied and released to attorneys or CASAs without a court order expressly authorizing such release or a subpoena duces tecum

for the CA/N record. When County Departments receive a subpoena duces tecum for production of DHR records, a motion for a protective order must be filed requesting the court conduct an in camera inspection of the records to determine if they be released. If the court orders an in camera inspection, the original record (or a copy thereof if permitted by the court) shall be submitted as ordered and at the time specified. The DHR record shall not be released directly to the attorney or CASA.

(x) The worker may disclose to a mandatory reporter the results of the CA/N assessment if the worker determines that the mandatory reporter has a "need to know" to prevent further abuse or neglect or to develop sensitivity to the child's need for services or further protection.

(f) Confirmation of the identity of any person requesting information from the Registry must be made in order to assure that no information is given to unauthorized persons. Anyone who comes into the County Department requesting information will be asked to show credentials or identification. When requests are received by telephone, workers can take the telephone number, check it against the telephone directory or city directory and return the call.

(g) The County Department shall apprise those persons to whom information is disclosed of its confidentiality and the purposes for which it may be used, and specify that the information provided is not to be disclosed to others.

(h) Information that is released should be designated "Pending Completion of CA/N Assessment", "Indicated", "Unable to Complete", or "Not Indicated".

(i) The names of persons responsible for abuse/neglect may be expunged from the Central Registry when the CA/N disposition is "Not Indicated" **and** five (5) years have elapsed from the disposition date; **and** DHR has received no further CA/N reports identifying the person as being responsible for abuse/ neglect. The person allegedly responsible for abuse/neglect must submit a written request for the expungement. If the request is received in the County Department or the person needs additional information, child welfare staff shall advise the person to contact or submit the request to SDHR, Office of Child Protective Services. SDHR's Office of Child Protective Services will provide written notification to persons responsible for abuse/ neglect when their name is expunged from the Central Registry.

(j) Expunging Indicated/Not Indicated Reports Received From Mandatory Reporters Alabama law provides for expungement from

the Child Abuse/Neglect Central Registry and County Department files any record of the information or report or data developed from the report of persons allegedly responsible for abuse/neglect received from mandatory reporters when all the following criteria have been met:

1. the "indicated" or "not indicated" case is dismissed after jeopardy (jeopardy attaches after the trial begins if the trial is by judge or after the jury is selected in trials by jury) attaches or the defendant is acquitted (e.g., report does not result in a criminal conviction);

2. the person responsible for abuse/neglect has submitted a written request to DHR requesting expungement; and

3. the written request must include a court order or DHR must receive written verification or dismissal after jeopardy attaches or acquittal from the District Attorney.

All request for expungement of records from mandatory reporters must be forwarded to the Office of Child Protective Services, Family Services Division, and include the information listed above, identifying case information, and the address where a response to the request for expungement is to be sent. The Office of Protective Services will determine if the request meets the requirements of the law and will provide a written response to the person allegedly responsible for abuse/neglect with a copy forwarded to the appropriate County Department. These provisions for expungement are applicable to all child/abuse neglect reports received as of June 18, 2003.

Author: Jerome Webb
Statutory Authority: Code of Ala. 1975, 42 U.S.C. §§5101-5107; 45 C.F.R. §1340.15; Title 26, Chapter 14.
History: Effective August 11, 1988. Emergency amendment effective November 22, 1989. Succedent permanent amendment effective March 9, 1990. **Amended:** Filed August 6, 1996; effective September 10, 1996. **Amended:** Filed February 4, 2003; effective March 11, 2003. **Repealed and New Rule:** Filed September 4, 2003; effective October 9, 2003. **Repealed and New Rule:** Filed June 2, 2006; effective July 7, 2006. **Repealed and New Rule:** Filed May 4, 2007; effective June 8, 2007.

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660-5-34-.10 Decision About Providing Services.

(1) At the conclusion of the CA/N assessment, a decision regarding a family's need for ongoing protective services shall be made. This decision may be to discontinue DHR services as no protective services are needed, to provide ongoing casework services, to initiate court action, or to make a referral to another agency for services. The decision is to be made with the parents or primary caregivers participation to the extent feasible. In any event, the parents or primary caregivers are entitled to an explanation of the action taken and the reasons for the action.

(2) The County Department must make reasonable efforts and offer all appropriate services to prevent removal of the child from the home unless that child is in immediate danger of harm or threatened harm.

(3) Early Intervention. Children under 36 months of age with an "indicated" disposition (following completion of due process requirements) for the abuse/neglect report received on or after June 25, 2004, must be referred to Alabama Early Intervention Services.

(4) Voluntary Placement of Children in Foster Care.

(a) The decision about placing children in foster care on a voluntary basis is a joint one between the worker and the supervisor. Voluntary placements are to be made only when there is not a safety threat and the Department would have no hesitancy in returning the children to their parents.

(b) After the County Department has placed a child in foster care on a voluntary basis, the child's or family's circumstances may change to the extent that a petition for legal custody of the child should be filed. A petition for temporary custody should be filed when there is:

1. A lack of interest on the part of the parent(s) in working on goals established in the individualized service plan (i.e., case plan);

2. The death of the parent who placed the child;

3. The mental breakdown of the parent who placed the child; or

4. The whereabouts of the parent placing the child is unknown.

(c) Protective services should be terminated when children are receiving care that meets at least their minimum needs and the parents have demonstrated their ability to continue to safely care for the children without the Department's services.

Author: Jerome Webb
Statutory Authority: 42 U.S.C. §§5101-5107; 45 C.F.R. §1340.15; Code of Ala. 1975, Title 26, Chapter 14.
History: Effective August 11, 1988. **Amended:** Filed February 4, 2003; effective March 11, 2003. **Repealed and New Rule:** Filed September 4, 2003; effective October 9, 2003. **Repealed and New Rule:** Filed June 2, 2006; effective July 7, 2006. **Repealed and New Rule:** Filed May 4, 2007; effective June 8, 2007.

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660-5-34-.11 Protective Services And The Court.

(1) Use of Court Intervention.

(a) Court intervention is to be used when there is an immediate danger of physical or emotional harm to a child; the parents are unwilling or unable to provide for the child's safety; the child is abandoned, left alone, or unsupervised; the child is left in situations where an imminent risk of serious harm exists; or there has been an out of home non-foster care safety plan in place for ninety days.

(b) The Department must show immediate or threatened harm to a child when seeking protective custody and requesting summary removal. Summary removal is accepting care of a child pending a court hearing.

(c) Parents should be made aware that court intervention is possible and may become necessary if child safety cannot be assured. They should also be informed of any decision for court referral unless danger to a child's welfare might be expected to result from such advance knowledge by parents.

(d) Cases are brought to the attention of the court having juvenile jurisdiction by making a complaint to the intake officer alleging facts sufficient to establish the jurisdiction of the court, and facts which show the child to be dependent in accordance with the statutory definition of a "dependent child".

(e) The parents, guardians, or custodians shall be informed of their right to be represented by counsel and, upon request, counsel shall be appointed when the parents are unable, for

financial reasons, to retain their own. The court shall also appoint counsel for the child in dependency cases when there is an adverse interest between parent and child; or where the parent is an unmarried minor; or the parent is or has been married and is under the age of 18 years; or when counsel is otherwise required in the interests of justice. The Department will request that the child be represented by an attorney in every case where the Department is seeking custody.

(f) An attorney shall be appointed as a guardian ad litem to represent the rights, interests, welfare and well being of the child in court proceedings.

(g) If, at the conclusion of the hearing, a judge finds the child to be dependent, any of the following orders may be entered to protect the welfare of the child:

1. Permit the child to remain with parents, guardian, or other custodian subject to conditions and limitations as the court may prescribe;

2. Place the child under protective supervision of the Department of Human Resources;

3. Transfer legal custody to any of the following:

i. A County Department of Human Resources;

ii. A local public child-placing agency or private organization or facility licensed by the Department of Human Resources or otherwise authorized by law to receive and provide care for dependent children;

iii. A relative or other individual, whom after study by the Department of Human Resources, is found by the court to be qualified to receive and care for the child.

4. Make such other order as the court in its discretion shall deem to be for the welfare and best interests of the child; or

5. In appropriate cases, award permanent custody to the State Department of Human Resources or to a licensed child-placing agency with termination of parental rights and authorization to place for adoption.

(2) Protective Custody.

(a) Alabama statutes authorize a police officer, law enforcement official, designated employees of the Department of Human Resources, a person in charge of a hospital or similar institution, or a physician treating a child to take

custody of a child when conditions present an imminent danger to the child's life or health. This action may be taken without the consent of the parents or guardian. Under these provisions, a physician or person in charge of a hospital may also keep such a child whether or not additional medical treatment is required.

(b) If any employee of the Department (e.g., county director, supervisor, or worker) takes a child into protective custody for emergency placement, the child must be, at a minimum, at imminent risk of harm. The facts and reasons for the necessity of this action must be carefully documented in the case record. Protective custody is to be used only in emergency situations in which a law enforcement officer cannot be reached to take a child into custody and the delay would put the child's life in immediate and imminent danger.

(c) The County Department of Human Resources and the court having jurisdiction over juveniles must be notified immediately of any child taken into protective custody by any of the other persons designated by law so that child protective proceedings may be initiated.

(d) Protective custody is not to exceed 72 hours. No person holding protective custody of a child has legal sanction to do so after 72 hours have passed unless a temporary custody order has been issued by a court of competent jurisdiction. The law also provides that the director of the County Department of Human Resources may give or cause to be given effective consent for medical, dental, health and hospital services for any neglected or abused child during this 72 hour period of protective custody. A petition must be filed and a hearing held within 72 hours (Saturdays, Sundays, and holidays included) to determine whether continued custody is needed.

Author: Jerome Webb
Statutory Authority: Code of Ala. 1975, Title 12, Chapter 15, and Title 26, Chapter 14.
History: Effective October 11, 1983. Amended rule (Formerly 660-5-34-.04, repealed effective August 11, 1988), readopted effective August 11, 1988. **Amended:** Filed February 4, 2003; effective March 11, 2003. **Repealed and New Rule:** Filed September 4, 2003; effective October 9, 2003. **Repealed and New Rule:** Filed June 2, 2006; effective July 7, 2006. **Amended:** Filed December 5, 2006; effective January 9, 2007. **Repealed and New Rule:** Filed May 4, 2007; effective June 8, 2007.

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660-5-34-.12 Multi-Disciplinary Child Protection Teams.

(1) The Department is required to provide for the development and coordination of multi-disciplinary child protection teams throughout the state to assist and supplement protective services to abused and neglected children.

(2) The guidelines and criteria relating to the operations and functions of multi-disciplinary child protection teams as promulgated by the ad hoc advisory committee and approved by the Governor are as follows:

(a) Membership - A multi-disciplinary child protection team, hereinafter referred to as team, must be composed of representatives from County Departments of Human Resources, and local law enforcement agencies, district attorney's offices, educational systems, and the medical community. In communities where local volunteer groups deal with child protective service needs, those organizations should have a representative on the multi-disciplinary team. Teams may also include other professional representatives from the mental health, legal, juvenile court, child development, and other disciplines as deemed appropriate;

(b) Functions - To the extent that resources are available to each of the various teams, the functions of the teams shall include, but not be limited to the following:

1. Advisory Case Consultation - Gathers expert advice, opinions, or information as an aid in the assessment and treatment planning for abused, neglected children and their families;

2. Information and Referral - Serves to provide case coordination and assistance, including the types and locations of services available to abused children and their family members from public or private agencies in the community, in an effort to provide the fullest range of services without duplication of services;

3. Education - Provides for educational and community awareness campaigns on child abuse and neglect in an effort to enable citizens to more successfully prevent, identify, report, and treat child abuse and neglect victims in the community;

4. Resource Development - Occurs when the team identifies recurring gaps in services and unmet needs of child abuse/neglect victims and their families, and explores

methods by which resources can be developed or enhanced to fill these gaps and unmet needs;

5. Treatment - Allows for comprehensive medical and psychological programs for the identification and diagnosis of child abuse/neglect and treatment and rehabilitation programs for abused/neglected children and their families.

(c) Meetings - Teams must meet at least once every two months, unless prior approval has been given in writing by the Commissioner of the Department of Human Resources;

(d) Case Referrals - Any case may be presented by any team member when the case meets Alabama laws defining child abuse/ neglect or the case involves children who are at risk of serious harm and are, therefore, in need of child protective services;

(e) Confidentiality - Confidentiality of family information must be ensured pursuant to state law and each team member must sign an agreement of confidentiality; and

(f) Individual Team Plan - The directors of each County Department of Human Resources, or their designee, shall submit an operational plan to the Commissioner of the Department of Human Resources within 90 days after adoption of these guidelines. This plan shall include functions of the teams; membership; and provisions for referrals, case load, team standards, record keeping, membership selection and retention, follow-up reporting, meeting location, scheduling, coordination, and other provisions as needed. Likewise, any revisions to the plan must be submitted to the Commissioner.

Author: Jerome Webb
Statutory Authority: Code of Ala. 1975, Title 26, §§26-16-50 through -53.
History: **Emergency rule** effective March 27, 1986. **Permanent rule** effective July 25, 1986. **Repealed:** Effective August 11, 1988 (formerly 660-5-34-.05). Readoption: Effective August 11, 1988. **Amended:** Filed February 4, 2003; effective March 11, 2003. **Repealed and New Rule:** Filed September 4, 2003; effective October 9, 2003. **Repealed and New Rule:** Filed June 2, 2006; effective July 7, 2006. **Repealed and New Rule:** Filed May 4, 2007; effective June 8, 2007.

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660-5-34-.13 CPS Prevention Policy And Procedures.

(1) Introduction.

(a) The Department of Human Resources is mandated to seek out and aid minor children in the state who are in need of its care and protection, and protective services shall be made available in an effort to prevent further abuse and neglect, and to safeguard and enforce the general welfare of such children.

(b) Child protective services staff are responsible for intervening when individuals contact DHR to report what they consider abuse/neglect, but the information provided does not rise to the level of child abuse/neglect according to statutory and Departmental definitions; or is insufficient to determine whether a CA/N report exists.

(c) When the intake information reveals the children may be at risk of maltreatment, the information is considered a "CPS Prevention Referral" and an evaluation of the child/family situation is required. The evaluation process is known as a "CPS Prevention Assessment."

(d) "Risk of Maltreatment" is defined, for purposes of this policy, as family conditions or circumstances that, if left unchanged, can cause child abuse/neglect.

(e) The CPS Prevention process is designed to determine if on-going protective services are needed to prevent child maltreatment.

1. Children To Whom The Policy Applies - Children under age eighteen (18) years whose family conditions/ circumstances appear to be presenting a risk of maltreatment and the conditions/circumstances do not constitute child abuse/ neglect per CA/N Allegations and Definitions; children who would be considered abused/ neglected except for the fact that the person allegedly responsible is under age fourteen (14) years; and children for whom school personnel have reported concerns, other than school attendance, that indicate there may be a risk of maltreatment.

2. Confidentiality – Information contained in CPS Prevention referrals and assessments is confidential and can only be released when there is a court order authorizing the release under the parameters set by the court order and according to Alabama law. CPS Prevention information may be shared with district attorneys and law

enforcement only when a court order or grand jury subpoena specifically authorizes such sharing.

(2) CPS Prevention Intake – To the extent possible, thorough and complete information about a child's and family's circumstances/ conditions is obtained from the person making the referral. When situations are not appropriate for intervention by the Department, referral information on other community resources is provided.

(3) CPS Prevention Assessment - CPS Prevention assessment is designed to determine whether family conditions and circumstances are presenting risks that are significant enough to warrant on-going services to prevent child maltreatment. The county in which the children are currently living is responsible for conducting the CPS Prevention assessment.

(a) Initial contact shall be made with children identified as at risk of maltreatment as quickly as the intake information warrants, but no later than five (5) calendar days from the referral's receipt.

(b) CPS Prevention assessments shall be completed within ninety (90) days from the date the intake information is received.

(c) Required Interviews – In-person interviews shall be conducted with parents and primary caregivers and all children identified as being at risk of maltreatment.

(d) Required Information – Child welfare staff must collect information to determine the safety and well-being of the identified children and whether there is significant risk of maltreatment to warrant on-going protective services.

(4) Analysis and Decision Making – CPS Prevention analysis and decision-making involves analyzing parents' or primary caregivers' protective capacities; determining to what extent parents or primary caregivers are able and willing to control threats and manage risks; and determining if identified risks are significant enough to warrant on-going services in order to prevent maltreatment.

(5) Need for On Going Child Protective Services – On-going services are provided when the CPS Prevention assessment reveals a significant risk of maltreatment. Significant risk of maltreatment is defined as conditions or circumstances revealed during the CPS Prevention assessment that are likely to cause abuse/neglect if ongoing services are not provided to the child/family. The provision of on-going services is voluntary unless a safety threat exists or services have been court ordered. When the CPS Prevention assessment reveals the children are safe, no significant risks have been identified, and the parents or primary

caregivers have protective capacities sufficient to protect the children, the provision of on-going services is not necessary.
Author: Jerome Webb
Statutory Authority: Code of Ala. 1975, Title 38, §2-6(10); Title 26, §14-2; Title 38 §2-6(8).
History: Emergency adoption effective February 25, 2000. **New Rule:** Filed May 5, 2000; effective June 9, 2000. **Amended:** Filed February 4, 2003; effective March 11, 2003. **Repealed and New Rule:** Filed September 4, 2003; effective October 9, 2003. **Repealed and New Rule:** Filed June 2, 2006; effective July 7, 2006. **Repealed and New Rule:** Filed May 4, 2007; effective June 8, 2007.

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660-5-34-.14 Glossary.

(1) **Imminent Risk of Placement** (into DHR custody and/or foster care) - Family conditions and circumstances that threaten child safety are present and interacting in such a way that it leads a reasonable person to conclude that there is a very high likelihood that a child will need to be placed.

(2) **Safety Threat** - A condition or circumstance that presents a risk of serious harm to the children.

(3) **Serious Harm** - Significant physical injury; sexual abuse; severe impairment in a child's functioning; permanent disability or disfigurement; or death.

(a) "Severe impairment in a child's functioning" is a serious deficit in a child's behavior or cognition.

(4) **Protective Capacities** - Parent/primary caregiver resources that can or do provide for child safety. These capacities include, but are not limited to, parenting/caregiving knowledge and skills; attachment to the children; awareness of and ability to interpret and meet children's needs; and a willingness and ability to act protectively when the children experience safety threats.

(5) **Primary CareGiver** - The adult who assumes the parental role and has the major responsibility for a child's care. This may include, but is not limited to, a parent, stepparent, adoptive parent, another relative or a non-relative rearing a child for an absent or incapacitated parent. This also includes any person who has assumed or been delegated responsibility for the care, supervision, transportation, and/or control of children through their employment, unpaid service as a volunteer, or connection with (e.g., students completing an educational practicum, board members) an out-of-home care setting.

(6) **Risk of Maltreatment** - Family conditions or circumstances that, if left unchanged, can cause child abuse/neglect.

(7) **CPS Prevention Referral** - Intake information that does not rise to the level of child abuse/neglect according to statutory and departmental definitions or the information provided is insufficient to determine whether a CA/N report exists but, reveals the children may be at risk of maltreatment.

(8) **CPS Prevention Assessment** – Process used by child welfare staff to gather, analyze, and make decisions about children who may be at risk of maltreatment.

(9) **Significant Risk of Maltreatment** - Conditions or circumstances revealed during the CPS Prevention assessment that are likely to cause abuse/neglect if ongoing services are not provided.
Author: Jerome Webb
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