



Administrative Policies and Procedures: 14.12

Subject:	Removal: Safety and Permanency Considerations
Authority:	TCA 37-1-166; 37-1-401 et seq; 37-1-601et seq; 37-1-607; 37-5-105; 37-5-106; 37-5-107
Standards:	DCS Practice Model Standards: 5-101; 6-509C; 11-303A; 11-304A; 11-305A; 11-306A; 12-104; COA: CPS 11.03
Application:	All Department of Children's Services Child Protective Services Employees
Policy Statement:	
The Department of Children's Services shall exhaust all home-based services and options in the effort to alleviate immediate safety issues and address the underlying needs before removing children from their homes. Removal must be the last option available to ensure the child (ren's) safety.	
Purpose:	
CPS case workers will ensure that children will be separated from their families and removed from their homes in a manner that communicates respect for the children and their family members.	
Procedures:	
A. Reasonable efforts to prevent removal	<p>The case worker must document thorough reasonable efforts to secure culturally sensitive, appropriate and available services to meet the needs of the family and child in order to prevent removal of the child from the family. Reasonable efforts must never take precedence above the immediate safety of the child. The caseworker will assess the immediate safety of the child, using the <i>Immediate Harm Factors</i> in the SDM Safety Assessment as outlined in 14.9 Child Protective Services Immediate Protection Agreements.</p> <ol style="list-style-type: none"> 1. The parent/caretaker must be involved, to the greatest extent possible, in the decisions regarding reasonable efforts. These efforts include but are not limited to: <ul style="list-style-type: none"> a) Intervention or direct services by CPS case worker as part of an IPA; b) Use of family, neighbors, or other individuals in the community as a safety resource; c) Holding a Child and Family Team Meeting; or d) Arranging for services to increase safety/reduce risk. 2. Efforts to reduce risk and avoid removal will be documented on the appropriate screens in the TFACTS and form CS-0797, Affidavit of Reasonable Efforts, if applicable.

<p>B. Legal procedures for removal</p>	<ol style="list-style-type: none"> 1. The case worker will: <ol style="list-style-type: none"> a) Consult with the supervisor, Master of Social Work (MSW), as applicable, and DCS Regional Legal Counsel regarding authorization to file a petition and to physically remove the child from the home of the present caretaker; b) Consult with DCS Regional Legal Counsel whether or not the petition will allege severe abuse; c) Prepare for and testify in all Court proceedings pertaining to the removal. 2. The DCS Regional Legal Counsel will draft and file the petition according to local procedures established by the Juvenile Court. (The case worker will not draft the actual petition for presentation to the Court.) 3. Indian children are placed according to the placement preferences specified in the Indian Child Welfare Act of 1978 (ICWA). If a child is being removed and it is confirmed that the child is of American Indian heritage and protected under the jurisdiction of the ICWA, the Tribe/Nation must be notified as outlined in DCS Policy 16.24, Children of Native American Heritage.
<p>C. Emergency removals</p>	<ol style="list-style-type: none"> 1. If the case worker considers a child to be in immediate danger of serious harm based on the <i>Immediate Harm Factors</i> in the SDM Safety Assessment, and reasonable efforts are not possible, the procedures in Section B above will be carried out on an emergency basis in conjunction with the physical removal of the child from the home. 2. A Child and Family Team Meeting (CFTM) will be held prior to an emergency removal if possible, but must be held prior to the seventy-two (72) hour Court hearing to consider placement options for the child with input from the family. 3. Notify the CFTM facilitator and arrange for all appropriate parties for attendance as outlined in DCS Policy 14.4, Engaging Families/Family Functional Assessments and Child and Family Team Meetings. 4. The CFTM will be documented on form CS-0747-Child and Family Team Meeting Summary. 5. The decision to file an emergency petition will be made after conferring with the Supervisor and DCS Regional Legal Counsel and/or MSW as applicable. 6. When petitions for emergency removals are filed, there will be a Court hearing within seventy-two (72) hours of the removal to consider if there was just cause to conduct the emergency removal. 7. If the Court upholds the emergency removal, a future court date will be set to consider the Department’s petition and to make decisions on the adjudication and disposition of the case.
<p>D. Petitioning solely for adjudication</p>	<p>In some indicated cases it may be desirable to petition the Juvenile Court for adjudication even though commitment to state custody is not necessary. The case manager and team leader shall consider this option solely for the purpose of</p>

	<p>seeking an adjudication of a child as a victim of child abuse or neglect and the naming of the responsible party. Obtaining an adjudication can provide legal protections for the child and may be beneficial in future efforts to achieve safety and permanency for children.</p>
<p>E. Petitioning for an adjudication and disposition with relatives</p>	<ol style="list-style-type: none"> 1. If the child cannot safely remain in the home, the case manager shall seek family members or other possible caretakers that are known to the child. 2. If such parties are located the case manager shall determine if the person(s) can provide protection for the child. If an appropriate caretaker is located, the DCS case manager shall confer with the team leader and DCS legal counsel regarding filing a petition for adjudication and a disposition for legal and physical custody with relatives to obtain custody of the child. (Refer to DCS Policy 16.20, Expedited Custodial Placement for information regarding background checks) 3. DCS shall not advise potential caretakers to file their own petitions if the change of custody is due to safety concerns, unless directed otherwise by legal counsel. (Refer to section H below.)
<p>F. Petitioning for court ordered services</p>	<p>If the case manager encounters a situation where the level of overall risk to the child is high or intermediate and services are available to reduce risk and prevent removal, he/she shall consult with the team leader and DCS Regional Legal Counsel about the possibility of petitioning the court for the family to receive court ordered services. This action may be desirable if one or more of the following conditions exist:</p> <ol style="list-style-type: none"> 1. The risk to the child remains high or intermediate; 2. There is time to pursue this option without immediate risk to the child's life or health; 3. There are services available that could reduce the risk; 4. The parent is refusing to participate and/or does not recognize that a problem exists; 5. There is reason to believe the parent would comply with a court order; 6. There is no less drastic way to engage the parent in accepting services; or 7. Removing the child may be necessary without this intervention.
<p>G. Non-emergency removals</p>	<p>A non-emergency removal is a legal proceeding where DCS petitions to remove a child from the home but does not ask for the child to be removed immediately. This type of action is appropriate when the immediate safety of the child is preserved due to <i>Immediate Harm Factors</i> addressed through the IPA or other stopgap measures.</p> <ol style="list-style-type: none"> 1. The time limited plan makes it possible for the child to safely remain in the current setting until all parties can present their information in Court. 2. Prior to filing a non-emergency petition, a Child and Family Team meeting must occur with the decision from the Team recommending the procedure.

	<p>3. The decision to file a non-emergency petition will be made after conferring with the team leader and DCS Regional Legal Counsel and/or MSW as applicable.</p>
<p>H. Physical Removal of a Child</p>	<p>CPS case workers will ensure that children will be separated from their families and removed from their homes in a manner that communicates respect for the children and their families. The case worker will:</p> <ol style="list-style-type: none">1. Obtain proper legal authority from DCS Regional Counsel and/or the Court to enact the removal and adhere to local protocols established with local Courts and DCS Regional Counsel.2. Assess the need for law enforcement to participate in the removal process and call them as needed. This decision should be based on assuring the safety of the child, the case worker, and any other individuals involved.3. Provide the parent/caretaker with a formal written notification of the removal.4. Acquire or make plans to acquire items necessary for the child's well-being that includes, but not limited to, medications, clothing and toys.¹5. Ask the parents about any medical conditions or behaviors of the child. The case worker will share all information about the child's medical conditions or behaviors with the new caretakers and the custodial case worker.6. Ensure that the child arrives at the placement, which may be a resource home, licensed childcare facility, or relative placement. The case worker will share all known medical and behavioral history with the new caretakers or with the person transporting the child to the placement.7. Before the removal or as soon as possible thereafter, the case worker will discuss service planning. Child/children age six (6) or older will be included in service planning unless there is a clinical justification for not doing so. Additionally, parents should be included in the discussion if appropriate:<ol style="list-style-type: none">a) Why the child is leaving their home. (This should be done in language that is not accusatory or degrading of the parents.);b) Ensuring the child/children that the removal is not their fault, but due to the lack of safety in their current home environment;c) Where the child will be going and what to expect in that setting;d) Under what conditions he/she may visit with the parent(s) or guardian(s);e) The Court process including Court hearings and permanency plan;f) Ensure that any additional clothing, toys, special items or special equipment for the medically fragile child, or medications that must be retrieved from the home;g) The child's feelings about the removal and any other issues he/she wishes to discuss; andh) The names of other relatives the child would want to contact or who

¹ Any items (clothes, toys etc.) contaminated from methamphetamines exposure may pose further risk. If at all possible, the child should be decontaminated (defined as, at a minimum, bathing the children and changing their clothes) before being transported in the CPS Investigator's car. If a child is to be transported before decontamination, ask for police assistance.

	<p>might be resources for the child.</p> <p>Refer to the A Case Worker's Guide to Opening and Transitioning Cases that outlines the time frames/documentation and pertinent information required to be met by the FSW or applicable staff serving the family.</p>
<p>I. Non-custodial placement with relatives or other individuals</p>	<p>Relatives or other individuals will be considered as placement resources if those persons can ensure the safety of the child and if those potential placements comply with the Department's standards for placement. The procedures below apply to placement with relatives or other individuals and form CS-0701, Immediate Protection Agreement, must be completed:</p> <ol style="list-style-type: none"> 1. Prior to placing a child in the home of relatives or family friends, the CPS case worker or Family Service Worker will conduct an expedited placement assessment to ensure safety for the child and assess the caretaker's ability to provide for the child. The expedited placement assessment will include: <ol style="list-style-type: none"> a) Visit to the home to ensure that the environment is safe and has sufficient space for the child; b) Face-to-face interview with the potential caretaker and all others in the home to assess their ability and suitability to protect the child; c) Assessment of the potential caretaker's ability to resist the parent's attempts to gain access to the child; d) Conduct background check with DCS records and criminal background check as outlined in DCS Policy 14.24 Child Protective Services Background Checks. e) Obtain form CS-0668, Authorization for Release of information to the Department of Children's Services, from all adult household members; and f) Complete form CS-0682, Expedited Placement Assessment Summary. 2. No applicant or person may be approved who has a felony conviction for the following: <ol style="list-style-type: none"> a) Child Abuse and Neglect; b) Spousal Abuse; c) A crime against a child or children (including child pornography); d) A crime involving violence, including rape, sexual assault, or homicide, but not including other physical assault or battery. <p>Note: In situations where there are pending charges of this type with no disposition, approval or disapproval may be withheld until such time as the charges have been resolved.</p> 3. An applicant or person who has been convicted of any other felony designated as a crime against a person or any felony drug related offense may be granted a waiver if: <ol style="list-style-type: none"> a) The conviction occurred at least five (5) years prior to the applicant's application; and

- b) The DCS Regional Administrator and Executive Director of Child Permanency designee personally reviews the circumstances of the applicant and determines that the applicant could work productively and constructively with children.
- 4. Other felony convictions not of the type detailed in items 2 thru 3 above may be eligible for waiver. These applicants may be considered within the following parameters:
 - a) The conviction occurred **at least five (5) years prior to the applicant's application;**
 - b) The DCS Regional Administrator and Executive Director of Child Permanency designee personally reviews the circumstances of the applicant and determines that the applicant could work productively and constructively with children (see waiver process).
- 3. If learned during the face-to-face interview there are children living in the household with delinquent behavior/charges, the DCS Regional Administrator or Private Provider Program Director may provide a waiver if a review of the circumstances determines that the applicant could work productively and constructively with children.
- 4. Prior misdemeanor convictions may be waived if :
 - a) The offense does not relate to a child safety or domestic violence issue.
 - b) The DCS Regional Administrator or Private Provider Program Director personally reviews the circumstances and determines that the potential caregiver could provide quality care for the identified child/youth.
 - c) DCS form **CS-0921, Waiver of Criminal Convictions, PATH Training Modifications, Non-Safety Issues, and CPS Indications**, must be approved and properly documented as outlined in the collateral document.

Note: All approvals of waivers will be completed prior to any emergency child placements. After business hours or during office closures, these approvals will be approved by the Executive Director of Foster Care and Adoption Services or the Deputy Commissioner of Protection and Permanency. Once approval of a waiver is granted (either verbal or in writing), a child's placement can be made.

 - d) Misdemeanor offenses related to traffic violations, except for DUI offenses, are not required to be waived. However, such offenses must be evaluated as to any safety risk associated with resource parent responsibility.
- 5. A criminal history waiver must be approved and properly documented as required under this policy.

Note: Form CS-0921, Waiver of Criminal Convictions, PATH Training Modifications, Non-Safety Issues and CPS Indications, must be approved and properly documented as outlined in the form instructions.

6. An Internet Records Clearance must be completed for all household members age eighteen (18) years or older. This search must be conducted taking into account current, maiden, and any other previous legal names. This documentation must include the following:
 - a) A **Methamphetamine Offender Registry** Clearance- The Internet Website address is: <http://www.tennesseeanytime.org/methor>
 - b) A **National Sexual Offender Registry Clearance**- The Internet Web site address for a national search is: <http://www.nsopr.gov/>
 - c) A **TN Department of Health Abuse Registry Clearance**–The Website address is <http://health.state.tn.us/AbuseRegistry/default.aspx>
7. A **TBI/FBI Records Check**-Complete form **CS-0750, Background Criminal History- Expedited/Emergency Purpose Code X III Name Check**.
8. A **DCS Records Check** that includes a check of CPS records in **TFACTS** and a **Social Service Management System (SSMS) check**. This must be completed by the appropriate designated DCS staff member on form **CS-0741, Database Search Results**. This is to determine if there is a past Child Protective Service (CPS) indication identifying the applicant as an indicated perpetrator of child abuse or neglect. Refer to DCS Policy [14.24, Child Protective Services Background Checks](#) for additional information on CPS background checks.
9. After conducting the above activities, and before placing the child, the caseworker will acquire from the Regional Administrator or his/her designated team coordinator, a waiver, and permission to place the child in this setting on an emergency basis.
10. For relative caregiver options, refer to DCS Policy [16.59, Disclosure of Legal Options and Available Services for Relative Caregivers](#).

Forms:	<p><u>CS-0206, Informed Consent to Routine Health Services for Minors</u> <u>CS-0475, Child Welfare Benefits Application</u> <u>CS-0543, Well Being Information and History</u> <u>CS-0544, Resource Home Placement Checklist</u> <u>CS-0627, Informed Consent Psychotropic Medications</u> <u>CS-0657, Education Passport-School Enrollment Letter</u> <u>CS-0660, Relative Caregiver Disclosure</u> <u>CS-0668, Authorization for Release of information to DCS</u> <u>CS-0682, Expedited Placement Summary</u> <u>CS-0701, Immediate Protection Agreement</u> <u>CS-0708 EPSD&T Physical Examination</u> <u>CS-0727, Initial Intake, Placement Referral and Checklist</u> <u>CS-0747– Child and Family Team Meeting Summary</u> <u>CS-0797, Affidavit of Reasonable Efforts</u> <u>CS-0921, Waiver of Criminal Convictions, PATH Training Modifications, Non-Safety Issues and CPS Indications</u></p>
Collateral Documents:	<p><u>A Case Workers Guide to Opening and Transitioning Cases</u></p>