



**Agenda - Timothy Montoya Task Force | Meeting 11**

November 1, 2023 | 8am-11am

Virtual - Zoom

Facilitators: Trace Faust and Doris Tolliver

Time	Agenda	Facilitator
8:00 a.m. to 8:15 a.m.	<p><b>Welcome and Review</b></p> <ul style="list-style-type: none"> <li>● Member Roll Call</li> <li>● Approval of Meeting Minutes               <ul style="list-style-type: none"> <li>• October 11, 2023</li> </ul> </li> <li>● Meeting Recap               <ul style="list-style-type: none"> <li>• October 11, 2023</li> </ul> </li> <li>● Overview of Subcommittee Work</li> </ul>	Trace Faust and Stephanie Villafuerte
8:15 a.m. to 10:40 a.m.	<p><b>Subcommittee Discussions</b></p> <ul style="list-style-type: none"> <li>● <b>Prevention Subcommittee:</b> The Prevention Subcommittee will meet and continue its discussion regarding Colorado law and other mechanisms for preventing youth from running away from care.</li> </ul> <p><b><i>Presentation from the Vermont Agency of Human Services</i></b> -- The subcommittee will hear from representatives of the Vermont Agency of Human Services. Currently, Vermont has one licensed facility that utilizes delayed locking mechanisms. This facility houses youth who have a history of high-risk behaviors, including repeatedly running away from care. The group will hear from two members of the agency who will discuss how they assess each youth’s history to determine if a restraint is necessary if the youth attempts to run away from the facility. They will also discuss the use of delayed</p>	Trace Faust, Doris Tolliver



locks and trauma informed restraints.

**Presenters:**

Trissie Casanova, Deputy Compact Administrator/Human Trafficking Consultant, Department for Children and Families, Family Services Division, Vermont Agency of Human Services

Chris Ward, Residential and Special Investigations, Agency Team Supervisor, Department for Children and Families, Family Services Division, Vermont Agency of Human Services

Access the Prevention Subcommittee materials by clicking [HERE](#).

- **Intervention Subcommittee** -- The Intervention Subcommittee will continue its discussion regarding the development of a standard response protocol and determining possible levels of response.

***Presentation from the Texas Department of Family and Protective Services' Special Investigations Division*** --

The subcommittee will hear from Texas' Special Investigations Division, which will discuss their processes for responding when a youth runs away from care. This unit has regionalized investigators that assist with locating and serving youth who run away from care, as well as standard protocols for responding when a youth runs away from care. They will provide an overview of their system and how they have implemented their program.

**Presenters:**

Demaris Nicholson, Program Specialist, Special



	<p>Investigations Division, Texas Department of Family and Protective Services</p> <p>Greg Eakens, Director of Special Investigations, Special Investigations Division, Texas Department of Family and Protective Services</p> <p>Access the Intervention Subcommittee materials by clicking <a href="#">HERE</a>.</p>	
10:40 a.m.	<p><b>Reconvene in Large Group</b></p> <ul style="list-style-type: none"><li>Both subcommittees will come back to the large group.</li></ul>	Trace Faust, Doris Tolliver
10:40 a.m. to 10:55 a.m.	<p><b>Public Comment</b></p>	Trace Faust
10:55 a.m. to 11 a.m.	<p><b>Closing Comments</b></p>	Trace Faust and Stephanie Villafuerte



## Timothy Montoya Task Force

### Relevant Colorado Statute and Regulations

#### Overview

The Timothy Montoya Task Force to Prevent Children from Running Away from Out-of-Home Placement has expressed an interest in reviewing and clarifying Colorado’s statutes and regulations regarding children who run away from care, legal concerns around locking out-of-home care facilities, and prohibitions on restraint and seclusion. This resource compiles relevant statutes and regulations into one document for common referral among Task Force members. Inclusion does not indicate they are directly relevant to environments being considered by the Task Force. For instance, §27-65 pertains to people with mental health disorders, which is not always the case for youth in out-of-home placement. However, the language used in these sections may be of interest to Task Force members.

When viewing this document on Microsoft Word, it is recommended to enable the Navigation Pane under the View toolbar to navigate this document more easily. Keywords of interest such as “runaway”, “restraint”, and “residential” are formatted with bold to aid visual scanning. The regulations section has been truncated for space considerations rather than displaying the entirety of relevant regulations. Citations are given throughout and full texts may be accessed online for [statutes](#) and [regulations](#).

## Table of Contents

### • **Relevant Colorado Statute**

- Colo. Rev. Stat. Ann. §§19-2.5-1507 to 1508 (page 3)
  - This section contains statutes relevant to facilities within the juvenile justice system, their requirement to create policies and procedures around the restraint and control of adjudicated juveniles, and notification responsibilities when a juvenile has run away from out-of-home placement.
- §19-3-403 (pages 3-10)
  - This section describes restrictions and rules around taking children into temporary custody and shelter.
- §§26-20-101 to 110 (pages 10-21)
  - This section describes the rights of individuals regarding restraint and seclusion. This includes defining relevant terms, detailing permitted and prohibited uses, staff training requirements, documentation needs, and other related details.
- §§26-65-101 to 131 (pages 21-60)
  - These sections outline requirements regarding the care and treatment of people with mental health disorders. This includes voluntary and involuntary care, emergency mental health holds, hospitalizations, and the rights of individuals in such circumstances.

### • **Relevant Colorado Regulations**

- 12 Colo. Code Regs. §§2509-8:7.714 (pages 61-76)
  - These rules and regulations describe quality standards for 24-hour child care including relevant definitions; requirements to create procedures regarding restraint and seclusion; the rights of children; limitations on the use of discipline, seclusion and restraint; and related staff training, documentation and reporting requirements.
- §§2505-10.8.765 (pages 76-79)
  - These regulations regard services for clients in residential child care facilities. This includes relevant definitions, and regulations regarding the use of seclusion and restraint.
- §§2505-10.8.508 (page 79)
  - These regulations describe the use of restraints in children's habilitation residential programs, particularly recording and reviewing instances of restraint.
- §§2509-8:7.708.3 (page 80)
  - These sections describe requirements for the ongoing operation of foster care homes, including restrictions on the use of seclusion and restraint.

## Relevant Colorado Statute

### 19-2.5 Part 15 - Facilities

#### 19-2.5-1507. Facilities - control and **restraint** - liability - duty to pursue **runaways**.

(1) Any facility that houses or provides nonresidential services to adjudicated juveniles pursuant to this article 2.5, whether publicly or privately operated, for short-term or long-term commitment or **detention** is authorized to respond in a reasonable manner to issues of control and **restraint** of adjudicated juveniles when necessary. Each facility or program shall establish clearly defined policies and procedures for the short-term **restraint** and control of adjudicated juveniles housed within the facility or receiving services in the nonresidential program.

(2) Any facility that houses or provides nonresidential services to adjudicated juveniles pursuant to this article 2.5 and any person employed by the facility or program is not liable for damages arising from acts committed in the good-faith implementation of this section; except that the facility or program and any person employed by the facility or program may be liable for acts that are committed in a willful and wanton manner.

(3) Any facility that houses adjudicated juveniles pursuant to this article 2.5 has a duty to notify the court and the local law enforcement agency as soon as possible after discovering that an adjudicated juvenile housed at the facility has **run away**.

#### 19-2.5-1508. Out-of-home placement - **runaways** - duty to notify.

When a juvenile who is sentenced to **detention**, committed to the department of human services, or otherwise sentenced or placed in out-of-home placement pursuant to section 19-2.5-1103 **runs away** from the facility or home in which the juvenile is placed, the person in charge of the facility or the foster parent shall notify the court and the local law enforcement agency as soon as possible after discovering that the juvenile has **run away** from the facility or home.

### 19-3-403. **Temporary custody and shelter**

#### 19-3-403. **Temporary custody--hearing--time limits--restriction—rules**

(1) A **child** who must be taken from his or her home but who does not require physical restriction may be given temporary care with his or her grandparent, upon the grandparent's request, if in the best interests of the **child**, in a shelter facility designated by the court or with the county department of human or social services and must not be placed in **detention**. If an appropriate shelter facility does not exist, the **child** may be placed in a staff-**secure** temporary holding facility authorized by the court.

(2) When a **child** is placed in a shelter facility or a temporary holding facility not operated by the department of human services designated by the court, the law enforcement official taking the **child** into **custody** shall promptly so notify the court. He shall also notify a parent or legal guardian or, if a parent or legal guardian cannot be located within the county, the person with whom the **child** has been residing and inform him of the right to a prompt hearing to determine

whether the **child** is to be detained further. The court shall hold such hearing within forty-eight hours, excluding Saturdays, Sundays, and legal holidays. **A child requiring physical restraint may be placed in a juvenile detention facility operated by or under contract with the department of human services for a period of not more than twenty-four hours, including Saturdays, Sundays, and legal holidays.**

(3) Repealed by Laws 1990, H.B.90-1093, § 6, April 3, 1990.

(3.5) When temporary **custody** is placed with the county department of human or social services pursuant to this section or section 19-3-405 or when an emergency protection order is entered pursuant to section 19-3-405, the court shall hold a hearing within seventy-two hours after placement, excluding Saturdays, Sundays, and court holidays, to determine further **custody** of the **child** or whether the emergency protection order should continue. Such a hearing need not be held if a hearing has previously been held pursuant to subsection (2) of this section.

(3.6)(a)(I) The office of the state court administrator shall prepare a form affidavit and advisement. The form affidavit and advisement shall be available at each judicial district to each parent attending a temporary **custody** hearing. The form affidavit and advisement shall:

(A) Advise the parent that he or she is required to provide the requested information fully and completely under penalties of perjury and contempt of court;

(B) Require the parent to list the names, addresses, and telephone numbers of, and any comments concerning the appropriateness of the **child's** potential placement with, every grandparent, aunt, uncle, brother, sister, half-sibling, and first cousin of the **child**;

(C) Provide a section in which the parent may list the names, addresses, telephone numbers of, and any comments concerning the appropriateness of the **child's** potential placement with, other relatives and kin who have a significant relationship with the **child**;

(D) Advise the parent that failure to identify these relatives in a timely manner may result in the **child** being placed permanently outside of the home of the **child's** relatives, if the **child** cannot be safely returned to the home of the **child's** parents;

(E) Advise the parent that the **child** may risk life-long damage to his or her emotional well-being if the **child** becomes attached to one caregiver and is later removed from the caregiver's home;

(F) Require the parent to acknowledge that he or she understands the advisements contained in the form; and

(G) Require the parent to sign and date the form.

(II) At the hearing, information may be supplied to the court in the form of written or oral reports, affidavits, testimony, or other relevant information that the court may wish to receive.

Any information having probative value may be received by the court, regardless of its admissibility under the Colorado rules of evidence.

(III) The court shall advise the parents that the **child** or **youth** may be placed with a relative or kin. The court shall order the parents to complete the form affidavit and advisement described in subsection (3.6)(a)(I) of this section no later than seven days after the hearing date or prior to the next hearing on the matter, whichever occurs first. The original completed relative affidavit must be filed with the court and served on all parties no later than seven days after the hearing date. The court shall ask the parent if there are any changes to the information on the relative or kin affidavit at hearings held pursuant to sections 19-3-507 and 19-3-702, and if the parent has not completed the relative or kin affidavit, the court shall ask the parent, on the record, for names and contact information for relatives and kin whom the parent would like considered for engagement in the case. Each parent, the guardian ad litem or counsel for **youth**, and counsel for each parent, if any, must also receive copies of the completed form affidavit. The court may advise each parent of the penalties associated with perjury and contempt of court, if necessary. Each parent may suggest an adult relative or relatives, or kin, whom the parent believes to be the most appropriate caretaker or caretakers for the **child** or **youth**. If appropriate, the **child** or **youth** must be consulted regarding suggested relative or kin caretakers. The court shall order each parent to notify every relative or kin who may be an appropriate relative or kin caretaker for the **child** or **youth** that failure to come forward in a timely manner may result in the **child** or **youth** being placed permanently outside of the home of the relatives or kin of the **child** or **youth** if the **child** or **youth** is not able to return to the **child's** or **youth's** home. In addition, the court shall advise each parent that failure to identify these relatives or kin in a timely manner may result in the **child** or **youth** being placed permanently outside of the home of the relatives or kin of the **child** or **youth**.

(IV) The court shall order a county department of human or social services to exercise due diligence to contact all grandparents and other adult relatives and identified kin within thirty days after the removal of the **child** or **youth** and to inform them about placement possibilities for the **child** or **youth**, unless the court determines there is good cause not to contact or good cause to delay contacting the **child's** or **youth's** relatives and kin, including, but not limited to, family or domestic violence.

(A) A county department of human or social services shall provide notice to the relatives and identified kin that the **child** or **youth** has been removed from the **child's** or **youth's** home, an explanation of the various options to participate in the **child's** or **youth's** care or placement and options that may be available to support the **child's** or **youth's** family, and options that may be lost by failing to respond.

(B) The notice must include information about providing care for the **child** or **youth** while the family receives reunification services, with the goal of returning the **child** or **youth** to the parent or legal guardian; the relative's right to intervene in the proceedings with or without an attorney following adjudication; and additional services and supports that are available in out-



of-home placements. The notice must also include information regarding the state's entitlement plans, including but not limited to **child** care assistance, supplemental nutritional assistance programs, the relative guardianship assistance program, **child**-only eligibility for temporary assistance for needy families (TANF), and adoption assistance, as well as other options for contact. Information about family foster care certification, including how to request a variance from certification standards that do not present a safety or health risk to the **child** or **youth** in the home and supports that are available for relatives and kin and **children** or **youth** and what background checks are required, as well as how relatives or kin may request the court review decisions to deny placement based on background checks and why certification as a kinship foster home may be denied, must also be provided in the notice.

(C) The state department of human services, in consultation with counties, the office of the **child's** representative, and the office of respondent parents' counsel, along with other interested stakeholders, shall develop the written notice and promulgate rules for the implementation of this section.

(D) The county department of human or social services shall request each such relative and identified kin who is interested in becoming a placement option for the **child** or **youth** to come forward at the earliest possible time to seek placement of the **child** or **youth** in the relative's or kin's home and to cooperate with the county department of human or social services to expedite procedures pertaining to the placement of the **child** or **youth** in the relative's or kin's home if the **child** or **youth** cannot be safely returned to the **child's** or **youth's** parents' home.

(V) The court shall give preference to giving temporary placement to a **child's** or **youth's** relative or kin who is capable, willing, and available for care, giving primary consideration to the **child's** or **youth's** mental, physical, and emotional needs, including the **child's** or **youth's** preference regarding placement. The court shall also find that there is no suitable birth or adoptive parent available, with due diligence having been exercised in attempting to locate any such birth or adoptive parent. A parent's objection to placement with a particular relative or kin is not alone sufficient to show that the proposed placement would hinder reunification. The court may place or continue **custody** with the county department of human or social services if the court is satisfied from the information presented at the hearing that such **custody** is appropriate and in the **child's** or **youth's** best interests, or the court may enter such other orders as are appropriate. The court may authorize the county department of human or social services with **custody** of a **child** or **youth** to place the **child** or **youth** with a relative or kin without the necessity for a hearing if a county department of human or social services locates a capable and willing relative or kin who is available to care for the **child** or **youth** and the guardian ad litem of the **child** or **youth** concurs that the placement is in the best interests of the **child** or **youth**. If the county department of human or social services places a **child** or **youth** with a relative or kin without a hearing pursuant to this subsection (3.6)(a)(V), the county department of human or social services shall fully inform the court of the details concerning the **child's** or **youth's** placement on the record at the next hearing. If the court enters an order removing a **child** or

**youth** from the home or continuing a **child** or **youth** in a placement out of the home, the court shall make the findings required pursuant to section 19-1-115(6), if such findings are warranted by the evidence.

(VI) The responsible county department of human or social services or other social services agency shall exercise due diligence to contact and engage relatives and kin who respond to the notice required pursuant to subsection (3.6)(a)(IV) of this section. Upon a request by a relative or kin or party to the proceedings, the court may conduct a review of the applicable agency's due diligence to contact and engage relatives and kin pursuant to subsection (3.6)(a)(IV) of this section. If the court finds that the applicable agency did not exercise due diligence to contact and engage relatives and kin who responded to the notice, the court may order the applicable agency to exercise due diligence by engaging the relatives and kin in the following activities related to the care and planning for a **child** or **youth**, determined in consultation with the other parties:

(A) Participating in case planning for the **child** or **youth** and the **child's** or **youth's** parent, including identifying services and resources that meet the individualized needs of the **child** or **youth** and the **child's** or **youth's** parent. A relative's or kin's participation in case planning may be in person, via phone, or by electronic means.

(B) Identifying the strengths and needs of the **child** or **youth** and the **child's** or **youth's** parent;

(C) Asking the responsible county department of human or social services, or other social services agency, to consider the relative or kin for placement with the **child** or **youth** pursuant to subsection (3.6)(a)(IV)(D) of this section;

(D) Acting as a support person for the **child** or **youth**, the **child's** or **youth's** parent, and the **child's** or **youth's** current caregiver, including collaborating with foster parents to support a healthy transition for a **child** or **youth** to family time or placement with a relative, when appropriate;

(E) Supervising family time when authorized pursuant to section 19-3-217;

(F) Providing respite care for the **child** or **youth** and having family vacation time with the **child** or **youth**;

(G) Providing transportation;

(H) Suggesting other relatives or kin who may be able to participate in the case plan or whom the county department of human or social services, or other social services agency, may consider for the placement of the **child** or **youth**. The county department of human or social services, or other social services agency, shall send a notice to each relative or kin identified by other relatives or kin, unless a relative or kin received the notice earlier in the case or was ruled out as a resource or placement by the court.

(I) Helping maintain the **child's** or **youth's** familiar and regular activities, as well as contact with the **child's** or **youth's** friends, relatives, and kin, including providing supervision of the **child** or **youth** at family gatherings and events; and

(J) Participating in the **child's** or **youth's** family and permanency team if the **child** or **youth** is placed in a qualified **residential** treatment program.

(b) Notwithstanding the provisions of paragraph (a) of this subsection (3.6) to the contrary, when the **child** is part of a sibling group and the sibling group is being placed out of the home, if the county department locates an appropriate, capable, willing, and available joint placement for all of the **children** in the sibling group, the court shall presume that placement of the entire sibling group in the joint placement is in the best interests of the **children**. Such presumption may be rebutted by a preponderance of the evidence that placement of the entire sibling group in the joint placement is not in the best interests of a **child** or of the **children**.

(c) A relative or kin caregiver has the right to:

(I) Be treated with dignity and respect and to be considered as a team member who is making important contributions to the objectives of the **child** welfare system, including the reunification of the **child** or **youth** with the **child's** or **youth's** parents whenever safely possible;

(II) Receive training and support from the state department of human services or a county department of human or social services to improve the caregiver's skills in providing daily care and meeting the special needs or disability-related needs of a **child** or **youth** in the caregiver's care;

(III) Be informed by the applicable **child** placement agency or county department of human or social services about how to reach after-hours contacts; and

(IV) Be informed about available financial assistance and the financial consequences of not pursuing certification as a foster home, including ineligibility for the state's relative guardianship assistance program.

(3.7) A **child** who is alleged to be a **runaway** from a state other than Colorado may be held in a shelter care or other appropriate facility for up to seven days, during which time arrangements shall be made for returning the **child** to the state of his residence.

<Text of (4)(a) effective until July 1, 2024>

(4)(a) If it appears that any **child** being held in a shelter facility may have an intellectual and developmental disability, as provided in article 10.5 of title 27, the court shall refer the **child** to the nearest case management agency, as defined in section 25.5-6-1702, for an eligibility determination. If it appears that any **child** being held in a shelter facility pursuant to this article 3 may have a mental health disorder, as provided in section 27-65-106, the intake personnel or other appropriate personnel shall contact a mental health professional to do a mental health disorder prescreening on the **child**. The court must be notified of the contact and may take

appropriate action. If a mental health disorder prescreening is requested, it must be conducted in an appropriate place accessible to the **child** and the mental health professional. A request for a mental health disorder prescreening must not extend the time within which a hearing is to be held pursuant to this section. If a hearing has been set but has not yet occurred, the mental health disorder prescreening must be conducted prior to the hearing; except that the prescreening must not extend the time within which a hearing is to be held pursuant to this section.

<Text of (4)(a) effective July 1, 2024>

(4)(a) If it appears that any **child** being held in a shelter facility may have an intellectual and developmental disability, as provided in article 10.5 of title 27, the court shall refer the **child** to the nearest case management agency, as defined in section 25.5-6-1702, for an eligibility determination. If it appears that any **child** being held in a shelter facility pursuant to this article 3 may have a mental health disorder, as provided in section 27-65-106, the intake personnel or other appropriate personnel shall contact a mental health professional to do a mental health disorder prescreening on the **child**. The court must be notified of the contact and may take appropriate action. If a mental health disorder prescreening is requested, it must be conducted in an appropriate place accessible to the **child** and the mental health professional. A request for a mental health disorder prescreening must not extend the time within which a hearing is to be held pursuant to this section. If a hearing has been set but has not yet occurred, the mental health disorder prescreening must be conducted prior to the hearing; except that the prescreening must not extend the time within which a hearing is to be held pursuant to this section.

(b) If a **child** has been ordered detained pending an adjudication, disposition, or other court hearing and the **child** subsequently appears to have a mental health disorder, as provided in section 27-65-106, the intake personnel or other appropriate personnel shall contact the court with a recommendation for a mental health disorder prescreening. A mental health disorder prescreening must be conducted at any appropriate place accessible to the **child** and the mental health professional within twenty-four hours after the request, excluding Saturdays, Sundays, and legal holidays.

(c) If the mental health professional finds, as a result of the prescreening, that the **child** may have a mental health disorder, the mental health professional shall recommend to the court that the **child** be evaluated pursuant to section 27-65-106, and the court shall proceed as provided in section 19-3-506.

(d) Nothing in this subsection (4) precludes the use of procedures for an **emergency mental health hold** pursuant to section 27-65-106.

(5) The court may, at any time, order the release of any **child** being held pursuant to section 19-3-401 from shelter care or a temporary holding facility not operated by the department of human services without holding a hearing, either without restriction or upon written promise of

the parent, guardian, or legal custodian to bring the **child** to the court at a time set or to be set by the court.

(6)(a) After making a reasonable effort to obtain the consent of the parent, guardian, or other legal custodian, the court may authorize or consent to medical, surgical, or dental treatment or care for a **child** placed in shelter care or a temporary holding facility not operated by the department of human services.

(b) When the court finds that emergency medical, surgical, or dental treatment is required for a **child** placed in shelter care or a temporary holding facility not operated by the department of human services, it may authorize such treatment or care if the parents, guardian, or legal custodian are not immediately available.

(7) The court may also issue temporary orders for legal **custody** as provided in section 19-1-115. The court shall enter family time orders consistent with section 19-3-217.

(8) Any law enforcement officer, employee of the division in the department of human services responsible for **youth** services, or other person acting under the direction of the court who in good faith transports any **child**, releases any **child** from **custody** pursuant to a written policy of a court, releases any **child** from **custody** pursuant to any written criteria established pursuant to this title, or detains any **child** pursuant to court order or written policy or criteria established pursuant to this title shall be immune from civil or criminal liability that might otherwise result by reason of such act. For purposes of any proceedings, civil or criminal, the good faith of any such person shall be presumed.

(9) If the sole issue preventing an emergency placement of a **child** with a relative or kin is a lack of resources, the county department shall use reasonable efforts to assist the relative or kin with obtaining the necessary items within existing available resources.

## 26-20- Protection of Persons from **Restraint**

### 26-20-101. Short title.

The short title of this article is the “Protection of Individuals from **Restraint** and **Seclusion Act**”.

### 26-20-102. Definitions.

As used in this article 20, unless the context otherwise requires:

(1)

(a) “Agency” means:

(l) Any one of the principal departments of state government created in article 1 of title 24, C.R.S., or any division, section, unit, office, or agency within one of such principal departments of state government, except as excluded in paragraph (b) of this subsection (1);

(II) Any county, city and county, municipality, or other political subdivision of the state or any department, division, section, unit, office, or agency of such county, city and county, municipality, or other political subdivision of the state;

(III) Any public or private entity that has entered into a contract for services with an entity described in subsection (1)(a)(I), (1)(a)(II), or (1)(a)(VI) of this section;

(IV) Any public or private entity licensed or certified by one of the entities described in subparagraph (I) or (II) of this paragraph (a);

(V) A person regulated pursuant to article 245 of title 12;

(VI) Any school district, including any school or charter school of a school district, and the state charter school institute established in section 22-30.5-503, including any institute charter school.

(b) "Agency" does not include:

(I) The department of corrections or any public or private entity that has entered into a contract for services with such department;

(II) Any law enforcement agency of the state or of a political subdivision of the state;

(III) A juvenile probation department or division authorized pursuant to section 19-2.5-1406;

(IV) Any county department of human or social services when engaged in performance of duties pursuant to part 3 of article 3 of title 19.

(2) "Chemical **restraint**" means giving an individual medication involuntarily for the purpose of **restraining** that individual; except that "chemical **restraint**" does not include the involuntary administration of medication pursuant to section 27-65-111 (5), C.R.S., or administration of medication for voluntary or life-saving medical procedures.

(2.5) "Division of **youth** services" means the division of **youth** services within the state department created pursuant to section 19-2.5-1501.

(3) "**Emergency**" means a **serious, probable, imminent threat of bodily harm to self or others where there is the present ability to effect such bodily harm.**

(3.5) "Individual" encompasses both adults and **youths**, unless the context specifically states one or the other.

(4) "Mechanical **restraint**" means a physical device used to involuntarily restrict the movement of an individual or the movement or normal function of a portion of his or her body.

(5) "Physical **restraint**" means the use of bodily, physical force to involuntarily limit an individual's freedom of movement for more than one minute; except that "physical **restraint**"

does not include the holding of a **child** by one adult for the purposes of calming or comforting the **child**.

(5.3) “Prone position” means a face-down position.

(5.5) “Prone **restraint**” means a **restraint** in which the individual who is being **restrained** is **secured** in a prone position.

(5.7) “Qualified mental health professional” means an individual who is a licensed psychologist, a licensed psychiatrist, a licensed clinical social worker, a psychologist candidate for licensure, a licensed marriage and family therapist, or a masters-level mental health therapist who is under the supervision of a licensed mental health professional.

(6) “**Restraint**” means any method or device used to involuntarily limit freedom of movement, including bodily physical force, mechanical devices, or chemicals. **Restraint** must not be used as a form of discipline or to gain compliance from a student. If property damage might be involved, **restraint** may only be used when the destruction of property could possibly result in bodily harm to the individual or another person. “**Restraint**” includes chemical **restraint**, mechanical **restraint**, and physical **restraint**. “**Restraint**” **does not include**:

(a) The use of any form of **restraint** in a licensed or certified hospital when such use:

(I) Is in the context of providing medical or dental services that are provided with the consent of the individual or the individual’s guardian; and

(II) Is in compliance with industry standards adopted by a nationally recognized accrediting body or the conditions of participation adopted for federal medicare and medicaid programs;

(b) The use of protective devices or adaptive devices for providing physical support, prevention of injury, or voluntary or life-saving medical procedures;

**(c) The holding of an individual for less than one minute by a staff person for protection of the individual or other persons**; except that nothing in this subsection (6)(c) may be interpreted to permit the holding of a public school student in a prone position, except as described in section 26-20-111 (2), (3), or (4); or

(d) Placement of an inpatient or resident in his or her room for the night.

(e) Repealed.

(7) “**Seclusion**” means the placement of an individual alone in a room or area from which egress is involuntarily prevented, except during normal sleeping hours.

(8) “State department” means the state department of human services.

(9) “**Youth**” means an individual who is less than twenty-one years of age.

26-20-103. Basis for use of **restraint** or **seclusion**.

(1) Subject to the provisions of this article, an agency may only use **restraint** or **seclusion** on an individual:

(a) In cases of emergency, as defined in section 26-20-102 (3); and

(b)

(I) **After the failure of less restrictive alternatives; or**

(II) **After a determination that such alternatives would be inappropriate or ineffective under the circumstances.**

(1.5) **Restraint** and **seclusion** must never be used:

(a) As a punishment or disciplinary sanction;

(b) As part of a treatment plan or behavior modification plan;

(c) For the purpose of retaliation by staff; or

(d) For the purpose of protection, unless:

(I) The **restraint** or **seclusion** is ordered by the court; or

(II) In an emergency, as provided for in subsection (1) of this section.

(2) An agency that uses **restraint** or **seclusion** pursuant to the provisions of subsection (1) of this section shall use such **restraint** or **seclusion**:

(a) Only for the purpose of preventing the continuation or renewal of an emergency;

(b) Only for the period of time necessary to accomplish its purpose; and

(c) In the case of physical **restraint**, only if no more force than is necessary to limit the individual's freedom of movement is used.

(3) [Editor's note: This version of subsection (3) is effective until July 1, 2024.] In addition to the circumstances described in subsection (1) of this section, a facility, as defined in section 27-65-102, that is designated by the commissioner of the behavioral health administration in the state department to provide treatment pursuant to section 27-65-106, 27-65-108, 27-65-109, or 27-65-110 to an individual with a mental health disorder, as defined in section 27-65-102, may use **seclusion** to **restrain** an individual with a mental health disorder when the **seclusion** is necessary to eliminate a continuous and serious disruption of the treatment environment.

(3) [Editor's note: This version of subsection (3) is effective July 1, 2024.] In addition to the circumstances described in subsection (1) of this section, a facility, as defined in section 27-65-102, that is designated by the commissioner of the behavioral health administration in the state department to provide treatment pursuant to section 27-65-106, 27-65-108, 27-65-108.5, 27-



65-109, or 27-65-110 to an individual with a mental health disorder, as defined in section 27-65-102, may use **seclusion** to **restrain** an individual with a mental health disorder when the **seclusion** is necessary to eliminate a continuous and serious disruption of the treatment environment.

(4)

(a) The general assembly recognizes that skilled nursing and nursing care facilities that participate in federal medicaid programs are subject to federal statutes and regulations concerning the use of **restraint** in such facilities that afford protections from **restraint** in a manner consistent with the purposes and policies set forth in this article.

(b) If the use of **restraint** or **seclusion** in skilled nursing and nursing care facilities licensed under state law is in accordance with the federal statutes and regulations governing the medicare program set forth in 42 U.S.C. sec. 1395i-3(c) and 42 CFR part 483, subpart B and the medicaid program set forth in 42 U.S.C. sec. 1396r(c) and 42 CFR part 483, subpart B and with the rules of the department of public health and environment relating to the licensing of these facilities, there is a conclusive presumption that use of **restraint** or **seclusion** is in accordance with the provisions of this article.

(5)

(a) The general assembly recognizes that article 10.5 of title 27, C.R.S., and article 10 of title 25.5, C.R.S., and the rules promulgated pursuant to the authorities set forth in those articles, address the use of **restraint** on an individual with a developmental disability.

(b) If any provision of this article concerning the use of **restraint** or **seclusion** conflicts with any provision concerning the use of **restraint** or **seclusion** stated in article 10.5 of title 27, C.R.S., article 10 of title 25.5, C.R.S., or any rule adopted pursuant thereto, the provision of article 10.5 of title 27, C.R.S., article 10 of title 25.5, C.R.S., or the rule adopted pursuant thereto prevails.

(6) The provisions of this article do not apply to any agency engaged in transporting an individual from one facility or location to another facility or location when it is within the scope of that agency's powers and authority to effect such transportation.

#### 26-20-104. General duties relating to use of **restraint** on individuals.

(1) Notwithstanding the provisions of section 26-20-103, an agency that uses **restraint** shall ensure that:

(a) At least every fifteen minutes, staff shall monitor any individual held in mechanical **restraints** to assure that the individual is properly positioned, that the individual's blood circulation is not restricted, that the individual's airway is not obstructed, and that the individual's other physical needs are met;

(b) No physical or mechanical **restraint** of an individual shall place excess pressure on the chest or back of that individual or inhibit or impede the individual's ability to breathe;

(c) During physical **restraint** of an individual, an agent or employee of the agency shall check to ensure that the breathing of the individual in such physical **restraint** is not compromised;

(d) A chemical **restraint** shall be given only on the order of a physician or an advanced practice registered nurse with prescriptive authority who has determined, either while present during the course of the emergency justifying the use of the chemical **restraint** or after telephone consultation with a registered nurse, licensed physician assistant, or other authorized staff person who is present at the time and site of the emergency and who has participated in the evaluation of the individual, that such form of **restraint** is the least restrictive, most appropriate alternative available. Nothing in this subsection (1) shall modify the requirements of section 26-20-102 (2) or 26-20-103 (3).

(e) An order for a chemical **restraint**, along with the reasons for its issuance, shall be recorded in writing at the time of its issuance;

(f) An order for a chemical **restraint** shall be signed at the time of its issuance by such physician if present at the time of the emergency;

(g) An order for a chemical **restraint**, if authorized by telephone, shall be transcribed and signed at the time of its issuance by an individual with the authority to accept telephone medication orders who is present at the time of the emergency;

(h) Staff trained in the administration of medication shall make notations in the record of the individual as to the effect of the chemical **restraint** and the individual's response to the chemical **restraint**.

(2) For individuals in mechanical **restraints**, agency staff shall provide relief periods, except when the individual is sleeping, of at least ten minutes as often as every two hours, so long as relief from the mechanical **restraint** is determined to be safe. During such relief periods, the staff shall ensure proper positioning of the individual and provide movement of limbs, as necessary. In addition, during such relief periods, staff shall provide assistance for use of appropriate toileting methods, as necessary. The individual's dignity and safety shall be maintained during relief periods. Staff shall note in the record of the individual being **restrained** the relief periods granted.

(3) Relief periods from **seclusion** shall be provided for reasonable access to toilet facilities.

(4) An individual in physical **restraint** shall be released from such **restraint** within fifteen minutes after the initiation of physical **restraint**, except when precluded for safety reasons.

#### 26-20-104.5. Duties relating to use of **seclusion** by division of **youth services**.

(1) Notwithstanding the provisions of section 26-20-103 to the contrary, if the division of **youth services** holds a **youth** in **seclusion** in any **secure** state-operated or state-owned facility:

(a) A staff member shall check the **youth's** safety at varying intervals, but at least every fifteen minutes;

(b) Within one hour after the beginning of the **youth's seclusion** period, and every hour thereafter, a staff member shall notify the facility director or his or her designee of the **seclusion** and receive his or her written approval of the **seclusion**; and

(c) Within twelve hours after the beginning of the **youth's seclusion** period, the division of **youth** services shall notify the **youth's** parent, guardian, or legal custodian and inform that person that the **youth** is or was in **seclusion** and the reason for his or her **seclusion**.

(2)

(a) A **youth** placed in **seclusion** because of an ongoing emergency must not be held in **seclusion** beyond four consecutive hours, unless the requirements of paragraph (b) of this subsection (2) are satisfied.

(b) If an emergency situation occurs that continues beyond four consecutive hours, the division of **youth** services may not continue the use of **seclusion** for that **youth** unless the following criteria are met and documented:

(I) A qualified mental health professional, or, if such professional is not available, the facility director or his or her designee, determines that referral of the **youth** in **seclusion** to a mental health facility is not warranted; and

(II) The director of the division of **youth** services, or his or her designee, approves at or before the conclusion of four hours, and every hour thereafter, the continued use of **seclusion**.

(c) A **youth** may not be held in **seclusion** under any circumstances for more than eight total hours in two consecutive calendar days without a written court order.

(3) Notwithstanding any other provision of this section, the division of **youth** services may place a **youth** alone in a room or area from which egress is involuntarily prevented if such confinement is part of a routine practice that is applicable to substantial portions of the population. Such confinement must be imposed only for the completion of administrative tasks and should last no longer than necessary to achieve the task safely and effectively.

#### 26-20-105. Staff training concerning the use of **restraint** and **seclusion** - adults and **youth**.

(1) An agency that utilizes **restraint** or **seclusion** shall ensure that all staff involved in utilizing **restraint** or **seclusion** in its facilities or programs are trained in the appropriate use of **restraint** and **seclusion**.

(1.5) The division of **youth** services shall ensure that all staff involved in utilizing **restraint** and **seclusion** are trained in:

(a) The health and behavioral effects of **restraint** and **seclusion** on **youth**, including those with behavioral or mental health disorders or intellectual and developmental disabilities;

(b) Effective de-escalation techniques for **youth** in crisis, including those with behavioral or mental health disorders or intellectual and developmental disabilities;

(c) The value of positive over negative reinforcement in dealing with **youth**; and

(d) Methods for implementing positive behavior incentives.

(2) All agencies that utilize **restraint** or **seclusion** shall ensure that staff are trained to explain, where possible, the use of **restraint** or **seclusion** to the individual who is to be **restrained** or **secluded** and to the individual's family if appropriate.

**26-20-106. Documentation requirements for restraint and seclusion - adults and youth.**

(1) Each agency shall ensure that the use of **restraint** or **seclusion** is documented in the record of the individual who was **restrained** or **secluded**. Each agency that is authorized to promulgate rules or adopt ordinances shall promulgate rules or adopt ordinances applicable to the agencies within their respective jurisdictions specifying the documentation requirements for purposes of this section.

(2) The division of **youth** services shall maintain the following documentation each time a **youth** is placed in **seclusion** as a result of an emergency in any **secure** state-operated or state-owned facility:

(a) The date of the occurrence;

(b) The race, age, and gender of the individual;

(c) The reason or reasons for **seclusion**, including a description of the emergency and the specific facts that demonstrate that the **youth** posed a serious, probable, and imminent threat of bodily harm to himself, herself, or others, and that there was a present ability to effect such bodily harm;

(d) A description of de-escalation measures taken by staff and the response, if any, of the **youth** in **seclusion** to those measures;

(e) An explanation of why less restrictive alternatives were unsuccessful;

(f) The total time in **seclusion**;

(g) Any incidents of self-harm or suicide that occurred while the **youth** was in **seclusion**;

(h) With respect to the interactions required by section 26-20-104.5, documentation of the justification for keeping the **youth** in **seclusion** and specific facts to demonstrate that the emergency was ongoing;

(i) The facility director or his or her designee's approval of continued **seclusion** at intervals as required by section 26-20-104.5;

(j) Documentation of notification within twelve hours to the parent, guardian, or legal custodian of the **youth** in **seclusion** as required by section 26-20-104.5; and

(k) The written approval by the director of the division of **youth** services for any **seclusion** that results from an emergency that extends beyond four consecutive hours, as required by section 26-20-104.5. This written approval must include documentation of specific facts to demonstrate that the emergency was ongoing and specific reasons why a referral to a mental health facility was not warranted.

(3) The division of **youth** services shall maintain the following documentation each time one or more **youths** are placed in confinement for administrative reasons pursuant to section 26-20-104.5 (3) in a **secure** state-operated or state-owned facility:

(a) The number of **youth** confined;

(b) The length of time the **youth** or **youths** were confined; and

(c) The reason or reasons for the confinement.

(4) On or before January 1, 2017, and on or before July 1, 2017, and every January 1 and July 1 thereafter, the division of **youth** services shall report on its use of **restraint** or **seclusion** in any **secure** state-operated or state-owned facility to the **youth restraint** and **seclusion** working group established in section 26-20-110. The January report must include information from March 1 through August 31, and the July report must include information from September 1 through the last day of February. The reports must include the following:

(a) An incident report on any use of **seclusion** on a **youth** due to an emergency for more than four consecutive hours, or for more than eight total hours in two consecutive calendar days. Each incident report must include length of **seclusion**, specific facts that demonstrate that the emergency was ongoing, any incidents of self-harm while in **seclusion**, the reasons why attempts to process the **youth** out of **seclusion** were unsuccessful, and any corrective measures taken to prevent lengthy or repeat periods of **seclusion** in the future. To protect the privacy of the **youth**, the division of **youth** services shall redact all private medical or mental health information and personal identifying information, including, if necessary, the facility at which the **seclusion** occurred.

(b) A report that lists the following aggregate information, both as combined totals and totals by facility for all **secure** state-operated or state-owned facilities:

(I) The total number of **youths** held in **seclusion** or **restraint** due to an emergency;

(II) The total number of incidents of **seclusion** or **restraint** due to an emergency;

(III) The average time in **seclusion** or **restraint** per incident;

(IV) An aggregate summary of race, age, and gender of **youths** held in **seclusion** or **restraint**; and

(V) The type of **restraint** or **restraints** used in each incident; and

(c) An incident report for any **youth** whom the division isolates from his or her peers for more than eight hours in two consecutive calendar days. Each incident report must include the age, race, and gender of the **youth**; the name of the facility; the length of time that the **youth** was isolated from his or her peers; and the justification for the isolation on an hour-by-hour basis. To protect the privacy of the **youth**, the division shall redact all private medical or mental health information and personal identifying information, including, if necessary, the facility at which the **seclusion** occurred. If the division has prepared an incident report of an incident involving **seclusion** pursuant to subsection (4)(a) of this section, the division is not required to include a report of the same incident pursuant to this subsection (4)(c).

(5) Reports prepared pursuant to this section must maintain the confidentiality of all **youth**. The reports made pursuant to this section are available to the public upon request.

(6) Prior to January 1, 2018, the division of **youth** services shall meet the requirements of this section to the extent that it is able using its current reporting mechanisms. The division of **youth** services shall fully comply with all requirements of this section on or before January 1, 2018.

#### 26-20-107. Review of the use of **restraint** and **seclusion**.

An agency that utilizes **restraint** or **seclusion** shall ensure that a review process is established for the appropriate use of **restraint** or **seclusion**.

#### 26-20-108. Rules.

An agency that is authorized to promulgate rules or adopt ordinances shall promulgate rules or adopt ordinances applicable to the agencies within their respective jurisdictions that establish procedures for the use of **restraint** and **seclusion** consistent with the provisions of this article. Any agency that has rules or ordinances in existence on April 22, 1999, is not required to promulgate additional rules or adopt additional ordinances unless that agency's existing rules or ordinances do not meet the minimum requirements of this article.

#### 26-20-109. Limitations.

(1) Nothing in this article shall be deemed to form an independent basis of statutory authority for the use of **restraint**.

(2) Nothing in this article shall be deemed to authorize an agency to implement policies, procedures, or standards or promulgate rules or adopt ordinances that would limit, decrease, or adversely impact any policies, procedures, standards, rules, or ordinances in effect on April 22, 1999, that provided greater protection concerning the use of **restraint** than is set forth in this article.

26-20-110. **Youth restraint and seclusion** working group - membership - purpose - repeal.

(1) There is established within the division of **youth** services a **youth restraint** and **seclusion** working group, referred to in this section as the “working group”. The working group consists of:

(a) The director of the office of **children, youth,** and families in the division of **child** welfare within the state department, or his or her designee. The director shall convene the working group and serve as chair.

(b) The director of the division of **youth** services, or his or her designee;

(c) The director of behavioral health within the division of **youth** services, or his or her designee;

(d) The commissioner of the behavioral health administration in the state department, or the commissioner’s designee;

(e) An employee of the division of **youth** services who is a representative of an organization in Colorado that exists for the purpose of dealing with the state as an employer concerning issues of mutual concern between employees and the state, as appointed by the governor;

(f) Two representatives from nonprofit advocacy groups that work to restrict **restraint** or **seclusion** for **youth** or that represent **children** within the **custody** of the division of **youth** services, one who is appointed by the speaker of the house of representatives and one who is appointed by the president of the senate;

(g) Two experts independent from the division of **youth** services with expertise in adolescent development, adolescent brain development, trauma-responsive care of juveniles, positive behavior incentives in a juvenile correctional setting, evidence-based de-escalation techniques, or the negative effects of **seclusion** on the adolescent brain. The **minority** leader of the house of representatives shall appoint one expert and the **minority** leader of the senate shall appoint the other expert.

(h) A person who does not work for the department or for the division of **youth** services and who has worked as a staff member or as a senior executive in **youth** corrections and who has experience working to establish a rehabilitative and therapeutic culture in one or more juvenile justice facilities, to be appointed by the governor or his or her designee.

(i) The **child** protection ombudsman or his or her designee pursuant to section 19-3.3-103 (1)(g); and

(j) A parent of a person who was once committed to the **custody** of the division of **youth** services, to be appointed by the state public defender.

(2) The working group shall advise the division of **youth** services concerning policies, procedures, and best practices related to **restraint** and **seclusion** and alternatives to **restraint** and **seclusion**.

(3) The working group shall monitor the division of **youth** services' use of confinement for administrative purposes. The division of **youth** services shall share with the working group, on an ongoing basis, available data regarding time spent in confinement by **youths** for administrative reasons, as described in section 26-20-104.5 (3), in any **secure** state-operated and state-owned facility. If necessary, the working group may make recommendations to the division of **youth** services and to the public health care and human services committee of the house of representatives and the health and human services committee of the senate, or any successor committees, about the use of confinement for administrative purposes.

(4) The working group may request, on a semiannual basis, information and data from the state department on the status of the division of **youth** services' work related to the **restraint** and **seclusion** of **youths** in their care and **custody**.

(5) The chair of the working group shall convene the working group's first meeting no later than August 1, 2016. The working group must meet at least semi-annually thereafter. The chair shall schedule and convene subsequent meetings.

(6) The chair shall provide the working group with semiannual updates on the division of **youth** services' policies related to **restraint** and **seclusion** and alternatives to **restraint** and **seclusion**.

(7)

(a) This section is repealed, effective September 1, 2024.

(b) Prior to the repeal, the working group shall be reviewed as provided in section 2-3-1203, C.R.S.

## 27-65 Care and Treatment of Persons with Mental Health Disorders

### § 27-65-101. Legislative declaration

(1) The general assembly declares that the purposes of this article 65 are:

(a) To **secure** for each person with a mental health disorder such care and treatment suited to the person's needs and to ensure that

the care and treatment are skillfully and humanely administered with full respect for the person's dignity and personal integrity;

(b) To deprive a person of the person's liberty for purposes of care or treatment only when less restrictive alternatives are

unavailable and only when the person's safety or the safety of others is endangered;

(c) To provide the fullest possible measure of privacy, dignity, and other rights to persons undergoing care and treatment for a mental health disorder;

(d) To encourage the use of voluntary, rather than coercive, measures to provide care and treatment for mental health disorders

and to provide the care and treatment in the least restrictive setting;

(e) To provide appropriate information to family members concerning the location and fact of admission of a person with a



mental health disorder to inpatient or **residential** care and treatment;

(f) To encourage the appropriate participation of family members in the care and treatment of a person with a mental health

disorder and, when appropriate, to provide information to family members in order to facilitate that participation; and

(g) To facilitate the recovery and resiliency of each person who receives care and treatment pursuant to this article 65.

(2) To carry out these purposes, the provisions of this article 65 must be liberally construed.

#### § 27-65-102. Definitions

As used in this article 65, unless the context otherwise requires:

**(1)** “Acute treatment unit” means a facility or a distinct part of a facility for short-term psychiatric care, which may include treatment for substance use disorders, that provides a total, twenty-four-hour, therapeutically planned and professionally staffed environment for persons who do not require inpatient **hospitalization** but need more intense and individual services than are available on an outpatient basis, such as crisis management and stabilization services.

**(2)** “Behavioral health administration” or “BHA” means the behavioral health administration established in section 27-60-203.

**(3)** “Behavioral health crisis” means a significant disruption in a person’s mental or emotional stability or functioning resulting in an urgent need for immediate assessment and treatment to prevent a serious deterioration in the person’s mental or physical health.

**(4)** “Behavioral health crisis response team” means a mobile team that responds to people in the community who are in a behavioral health crisis and includes at least one licensed or bachelor-degree-level behavioral health worker. A “behavioral health crisis response team” includes, but is not limited to, a co-responder model, mobile crisis response unit, or a community response team.

**(5)** “Behavioral health entity” has the same meaning as set forth in section 27-50-101.

**(6)** “Certified peace officer” means any certified peace officer as described in section 16-2.5-102.

**(7)** “Commissioner” means the commissioner of the behavioral health administration established in section 27-60-203.

**(8)** “Court” means any district court of the state of Colorado and the probate court in the city and county of Denver.

**(9)** “Court-ordered evaluation” means an evaluation ordered by a court pursuant to section 27-65-106.

**(10)** “Danger to the person’s self or others” means:

**(a)** A person poses a substantial risk of physical harm to the person’s self as manifested by evidence of recent threats of or attempts at suicide or serious bodily harm to the person’s self; or

**(b)** A person poses a substantial risk of physical harm to another person or persons, as manifested by evidence of recent homicidal or other violent behavior by the person in question, or by evidence that others are placed in reasonable fear of violent behavior and serious physical harm to them, as evidenced by a recent overt act, attempt, or threat to do serious physical harm by the person in question.

- (11) “Department” means the department of human services.
- (12) “Emergency medical services facility” means a general hospital with an emergency department or a freestanding emergency department, as defined in section 25-1.5-114 (5). An emergency medical services facility is not required to be, but may elect to become, a facility designated or approved by the commissioner.
- (13) “Emergency medical services provider” has the same meaning as set forth in section 25-3.5-103 (8).
- (14) Repealed.
- (15) “Facility” means a public hospital or a licensed private hospital, behavioral health entity, institution, or **residential child** care facility that provides treatment for persons with mental health disorders.
- (16) “Family member” means a spouse, partner in a civil union, as defined in section 14-15-103 (5), parent, adult **child**, or adult sibling of a person with a mental health disorder.
- (17) “Gravely disabled” means a condition in which a person, as a result of a mental health disorder, is incapable of making informed decisions about or providing for the person’s essential needs without significant supervision and assistance from other people. As a result of being incapable of making these informed decisions, a person who is gravely disabled is at risk of substantial bodily harm, dangerous worsening of any concomitant serious physical illness, significant psychiatric deterioration, or mismanagement of the person’s essential needs that could result in substantial bodily harm. A person of any age may be “gravely disabled”, but the term does not include a person whose decision-making capabilities are limited solely by the person’s developmental disability.
- (18) “**Hospitalization**” means twenty-four-hour out-of-home placement for treatment in a facility for a person with a mental health disorder.
- (19) “Independent professional person” means a professional person who evaluates a **minor**’s condition as an independent decision-maker and whose recommendations are based on the standard of what is in the best interest of the **minor**. The professional person may be associated with the admitting facility if the professional person is free to independently evaluate the **minor**’s condition and need for treatment and has the authority to refuse admission to any **minor** who does not satisfy the statutory standards specified in section 27-65-104 (2).
- (20) “Intervening professional” means a person who is one of the following:
- (a) A professional person;
  - (b) A physician assistant licensed pursuant to section 12-240-113;
  - (c) An advanced practice registered nurse, as defined in section 12-255-104 (1);
  - (d) A registered professional nurse, as defined in section 12-255-104 (11), who has specific mental health training as identified by the BHA;
  - (e) A clinical social worker licensed pursuant to part 4 of article 245 of title 12;
  - (f) A marriage and family therapist licensed pursuant to part 5 of article 245 of title 12;
  - (g) A professional counselor licensed pursuant to part 6 of article 245 of title 12; or
  - (h) An addiction counselor licensed pursuant to part 8 of article 245 of title 12.
- (21) “Lay person” means a person identified by another person who is detained on an involuntary **emergency mental health hold** pursuant to section 27-65-106, certified for short-term treatment pursuant to section 27-65-109, or certified for long-term care and treatment pursuant to section 27-65-110 who is authorized to participate in activities related to the

person's involuntary **emergency mental health hold**, short-term treatment, or long-term treatment, including court appearances, discharge planning, and grievances. The person may rescind the lay person's authorization at any time.

(22) "Mental health disorder" includes one or more substantial disorders of the cognitive, volitional, or emotional processes that grossly impairs judgment or capacity to recognize reality or to control behavior. An intellectual or developmental disability is insufficient to either justify or exclude a finding of a mental health disorder pursuant to the provisions of this article 65.

(23) "**Minor**" means a person under eighteen years of age; except that the term does not include a person who is fifteen years of age or older who is living separately and apart from the person's parent or legal guardian and is managing the person's own financial affairs, regardless of the person's source of income, or who is married and living separately and apart from the person's parent or legal guardian.

(24) "Patient representative" means a person designated by a mental health facility to process patient complaints or grievances or to represent patients who are **minors** pursuant to section 27-65-104 (4).

(25) "Petitioner" means any person who files any petition in any proceeding in the interest of any person who allegedly has a mental health disorder or is allegedly gravely disabled.

(26) "Physician" means a person licensed to practice medicine in this state.

(27) "Professional person" means a person licensed to practice medicine in this state, a psychologist licensed to practice in this state, or a person licensed and in good standing to practice medicine in another state or a psychologist licensed to practice and in good standing in another state who is providing medical or clinical services at a treatment facility in this state that is operated by the armed forces of the United States, the United States public health service, or the United States department of veterans affairs.

(28) "**Residential child care facility**" has the same meaning as set forth in section 26-6-903 (29). A **residential child care facility** may be eligible for designation by the commissioner pursuant to this article 65.

(29) "Respondent" means either a person alleged in a petition filed pursuant to this article 65 to have a mental health disorder or be gravely disabled or a person certified pursuant to the provisions of this article 65.

(30) "Screening" means a review of all petitions, to consist of an interview with the petitioner and, whenever possible, the respondent; an assessment of the problem; an explanation of the petition to the respondent; and a determination of whether the respondent needs and, if so, will accept on a voluntary basis, a comprehensive evaluation, treatment, referral, and other appropriate services, either on an inpatient or an outpatient basis.

(31) "**Secure transportation provider**" means a provider licensed pursuant to section 25-3.5-310 to provide public or private **secure** transportation services.

#### [27-65-103. Voluntary applications for mental health services.](#)

(1) Nothing in this article 65 in any way limits the right of any person to make a voluntary application at any time to any public or private agency or professional person for mental health services, either by direct application in person or by referral from any other public or private agency or professional person. Subject to section 15-14-316 (4), a ward, as defined in section 15-14-102 (15), may be admitted to a hospital or institutional care and treatment for a mental

health disorder with the guardian's consent for as long as the ward agrees to such care and treatment. The guardian shall immediately notify in writing the court that appointed the guardian of the admission.

(2) For the purpose of this article 65, the treatment by prayer in the practice of the religion of any church that teaches reliance on spiritual means alone for healing is considered a form of treatment.

(3) The medical and legal status of all voluntary patients receiving treatment for mental health disorders in inpatient or custodial facilities must be reviewed at least once every six months.

(4) Voluntary patients are afforded all the rights and privileges customarily granted by hospitals to their patients.

(5)

(a) If at any time during an **emergency mental health hold** of a person who is confined involuntarily the facility staff requests the person to sign in voluntarily and the person elects to do so, the following advisement shall be given orally and in writing and an appropriate notation shall be made in the person's medical record by the professional person or the professional person's designated agent:

#### **NOTICE**

The decision to sign in voluntarily should be made by you alone and should be free from any force or pressure implied or otherwise. If you do not feel that you are able to make a truly voluntary decision, you may continue to be held at the hospital involuntarily. As an involuntary patient, you will have the right to protest your confinement and request a hearing before a judge.

(b) This subsection (5) does not apply to a person on an **emergency mental health hold** in an emergency medical services facility.

#### **27-65-104. Voluntary applications for mental health services - treatment of minors - definition.**

(1) Notwithstanding any other provision of law, a **minor** who is fifteen years of age or older, whether with or without the consent of a parent or legal guardian, may consent to receive mental health services to be rendered by a facility, a professional person, or mental health professional licensed pursuant to part 3, 4, 5, 6, or 8 of article 245 of title 12 in any practice setting. Such consent is not subject to disaffirmance because of **minority**. The professional person or licensed mental health professional rendering mental health services to a **minor** may, with or without the consent of the **minor**, advise the **minor's** parent or legal guardian of the services given or needed.

(2) A **minor** who is fifteen years of age or older or a **minor's** parent or legal guardian, on the **minor's** behalf, may make a voluntary application for **hospitalization**. An application for **hospitalization** on behalf of a **minor** who is under fifteen years of age and who is a ward of the department must not be made unless a guardian ad litem has been appointed for the **minor** or a petition for the same has been filed with the court by the agency having **custody** of the **minor**; except that such an application for **hospitalization** may be made under emergency

circumstances requiring immediate **hospitalization**, in which case the agency shall file a petition for appointment of a guardian ad litem within seventy-two hours after application for admission is made, and the court shall immediately appoint a guardian ad litem. Procedures for **hospitalization** of a **minor** may proceed pursuant to this section once a petition for appointment of a guardian ad litem has been filed, if necessary. Whenever an application for **hospitalization** is made, an independent professional person shall interview the **minor** and conduct a careful investigation into the **minor's** background, using all available sources, including, but not limited to, the **minor's** parents or legal guardian, the **minor's** school, and any other social service agencies. Prior to admitting a **minor** for **hospitalization**, the independent professional person shall make the following findings:

**(a) That the minor has a mental health disorder and is in need of hospitalization;**

**(b) That a less restrictive treatment alternative is inappropriate or unavailable; and**

**(c) That hospitalization is likely to be beneficial.**

**(3)** An interview and investigation by an independent professional person is not required for a **minor** who is fifteen years of age or older and who, upon the recommendation of the **minor's** treating professional person, seeks voluntary **hospitalization** with the consent of the **minor's** parent or legal guardian. In order to assure that the **minor's** consent to such **hospitalization** is voluntary, the **minor** shall be advised, at or before the time of admission, of the **minor's** right to refuse to sign the admission consent form and the **minor's** right to revoke the **minor's** consent at a later date. If a **minor** admitted pursuant to this subsection (3) subsequently revokes the **minor's** consent after admission, a review of the **minor's** need for **hospitalization** pursuant to subsection (4) of this section must be initiated immediately.

**(4)**

**(a)** The need for continuing **hospitalization** of all voluntary **minor** patients must be formally reviewed at least every two months. Review pursuant to this subsection (4) must fulfill the requirement specified in section 19-1-115 (8) when the **minor** is fifteen years of age or older and consenting to **hospitalization**.

**(b)** The review must be conducted by an independent professional person who is not a member of the **minor's** treating team; or, if the **minor**, the **minor's** physician, and the **minor's** parent or legal guardian do not object to the need for continued **hospitalization**, the review required pursuant to this subsection (4) may be conducted internally by the hospital staff.

**(c)** The independent professional person shall determine whether the **minor** continues to meet the criteria specified in subsection (2) of this section and whether continued **hospitalization** is appropriate and shall, at a minimum, conduct an investigation pursuant to subsection (2) of this section.

**(d)** Ten days prior to the review, the patient representative at the mental health facility shall notify the **minor** of the date of the review and shall assist the **minor** in articulating to the independent professional person the **minor's** wishes concerning continued **hospitalization**.

**(e)** Nothing in this section limits a **minor's** right to seek release from the facility pursuant to any other provision of law.

**(5)** Every six months the review required pursuant to subsection (4) of this section shall be conducted by an independent professional person who is not a member of the **minor's** treating team and who has not previously reviewed the **minor** pursuant to subsection (4) of this section.

**(6)**

(a) When a **minor** does not consent to or objects to continued **hospitalization**, the need for such continued **hospitalization** must, within ten days, be reviewed pursuant to subsection (4) of this section by an independent professional person who is not a member of the **minor's** treating team and who has not previously reviewed the **minor** pursuant to this subsection (6). The **minor** shall be informed of the results of the review within three days after the review's completion. If the conclusion reached by the professional person is that the **minor** no longer meets the standards for **hospitalization** specified in subsection (2) of this section, the **minor** must be discharged.

(b) If, twenty-four hours after being informed of the results of the review specified in subsection (6)(a) of this section, a **minor** continues to affirm the objection to **hospitalization**, the director of the facility or the director's duly appointed representative shall advise the **minor** that the **minor** has the right to retain and consult with an attorney at any time and that the director or the director's duly appointed representative shall file, within three days after the request of the **minor**, a statement requesting an attorney for the **minor** or, if the **minor** is under fifteen years of age, a guardian ad litem. The **minor**; the **minor's** attorney, if any; and the **minor's** parent, legal guardian, or guardian ad litem, if any, shall be given written notice that a hearing upon the recommendation for continued **hospitalization** may be had before the court or a jury upon written request directed to the court pursuant to subsection (6)(d) of this section.

(c) Whenever the statement requesting an attorney is filed with the court, the court shall ascertain whether the **minor** has retained counsel, and, if the **minor** has not, the court shall, within three days, appoint an attorney to represent the **minor**, or if the **minor** is under fifteen years of age, a guardian ad litem. Upon receipt of a petition filed by the guardian ad litem, the court shall appoint an attorney to represent the **minor** under fifteen years of age.

(d)

(I) The **minor** or the **minor's** attorney or guardian ad litem may, at any time after the **minor** has continued to affirm the **minor's** objection to **hospitalization** pursuant to subsection (6)(b) of this section, file a written request that the recommendation for continued **hospitalization** be reviewed by the court or that the treatment be on an outpatient basis. If review is requested, the court shall hear the matter within ten days after the request, and the court shall give notice of the time and place of the hearing to the **minor**; the **minor's** attorney, if any; the **minor's** parents or legal guardian; the **minor's** guardian ad litem, if any; the independent professional person; and the **minor's** treating team. The hearing must be held in accordance with section 27-65-113; except that the court or jury shall determine that the **minor** is in need of care and treatment if the court or jury makes the following findings:

**(A) That the minor has a mental health disorder and is in need of hospitalization;**

**(B) That a less restrictive treatment alternative is inappropriate or unavailable; and**

**(C) That hospitalization is likely to be beneficial.**

(II) At the conclusion of the hearing, the court may enter an order confirming the recommendation for continued **hospitalization**, discharge the **minor**, or enter any other appropriate order.

(e) For purposes of this subsection (6), "objects to **hospitalization**" means that a **minor**, with the necessary assistance of hospital staff, has written the **minor's** objections to continued **hospitalization** and has been given an opportunity to affirm or disaffirm such objections forty-eight hours after the objections are first written.

**(f)** A **minor** may not again object to **hospitalization** pursuant to this subsection (6) until ninety days after conclusion of proceedings pursuant to this subsection (6).

**(g)** In addition to the rights specified in section 27-65-119 for persons receiving evaluation, care, or treatment, a written notice specifying the rights of **minor children** under this section must be given to each **minor** upon admission to **hospitalization**.

**(7)** A **minor** who no longer meets the standards for **hospitalization** specified in subsection (2) of this section must be discharged.

#### 27-65-105. Rights of respondents.

Unless specifically stated in an order by the court, a respondent does not forfeit any legal right or suffer legal disability by reason of the provisions of this article 65.

#### 27-65-106. Emergency mental health hold - screening - court-ordered evaluation - discharge instructions - respondent's rights.

**(1)** An **emergency mental health hold** may be invoked under one of the following conditions:

**(a)**

**(I)** When a certified peace officer has probable cause to believe a person has a mental health disorder and, as a result of the mental health disorder, is an imminent danger to the person's self or others or is gravely disabled, the certified peace officer may take the person into protective **custody** and transport the person to a facility designated by the commissioner for an **emergency mental health hold**. If such a facility is not available, the certified peace officer may transport the person to an emergency medical services facility. The certified peace officer may request assistance from a behavioral health crisis response team for assistance in detaining and transporting the person or an emergency medical services provider in transporting the person; or

**(II)** When an intervening professional reasonably believes that a person appears to have a mental health disorder and, as a result of the mental health disorder, appears to be an imminent danger to the person's self or others or appears to be gravely disabled, the intervening professional may cause the person to be taken into protective **custody** and transported to a facility designated by the commissioner for an **emergency mental health hold**. If such a facility is not available, the certified peace officer may transport the person to an emergency medical services facility. The intervening professional may request assistance from a certified peace officer, a **secure** transportation provider, or a behavioral health crisis response team for assistance in detaining and transporting the person, or assistance from an emergency medical services provider in transporting the person.

**(b)**

**(I)** When a person petitions the court in the county in which the respondent resides or is physically present requesting an evaluation of the respondent's condition and alleging that the respondent appears to have a mental health disorder and, as a result of the mental health disorder, appears to be a danger to the respondent's self or others or appears to be gravely disabled.

**(II)** Any person who files a malicious or false petition for an evaluation of a respondent pursuant to this section is subject to criminal prosecution.

**(2)** When a person is taken into custody pursuant to subsection (1) of this section, the person must not be detained in a jail, lockup, or other place used for the confinement of persons

**charged with or convicted of penal offenses.** Unless otherwise required by law, a certified peace officer may transport the person to an emergency medical services facility or facility designated by the commissioner even if a warrant has been issued for the person's arrest if the certified peace officer believes it is in the best interest of the person. The person must not be held on an **emergency mental health hold** for longer than seventy-two hours after the hold is placed or ordered. Nothing in this section prohibits an emergency medical services facility from involuntarily holding the person in order to stabilize the person as required pursuant to the federal "Emergency Medical Treatment and Labor Act", 42 U.S.C. sec. 1395dd, or if the treating professional determines that the individual's physical or mental health disorder impairs the person's ability to make an informed decision to refuse care and the provider determines that further care is indicated.

**(3)** When a person is placed on an **emergency mental health hold** pursuant to subsection (1) of this section and is presented to an emergency medical services facility or a facility designated by the commissioner, the facility shall require a BHA-approved application in writing, stating the circumstances under which the person's condition was called to the attention of the intervening professional or certified peace officer and further stating sufficient facts, obtained from the intervening professional's or certified peace officer's personal observations or obtained from others whom the intervening professional or certified peace officer reasonably believes to be reliable, to establish that the person has a mental health disorder and, as a result of the mental health disorder, is an imminent danger to the person's self or others or is gravely disabled. The application must indicate when the person was taken into **custody** and who brought the person's condition to the attention of the intervening professional or certified peace officer. A copy of the application must be furnished to the person being evaluated, and the application must be retained in accordance with section 27-65-123 (4).

**(4)**

**(a)** The petition for a court-ordered evaluation filed pursuant to subsection (1)(b) of this section must contain the following:

**(I)** The name and address of the petitioner and the petitioner's interest in the case;

**(II)** The name of the respondent for whom evaluation is sought, and, if known to the petitioner, the address, age, gender, marital status, occupation, and any animals or dependent **children** in the respondent's care;

**(III)** Allegations of fact indicating that the respondent may have a mental health disorder and, as a result of the mental health disorder, be a danger to the respondent's self or others or be gravely disabled and showing reasonable grounds to warrant an evaluation;

**(IV)** The name and address of every person known or believed by the petitioner to be legally responsible for the care, support, and maintenance of the respondent, if available; and

**(V)** The name, address, and telephone number of the attorney, if any, who has most recently represented the respondent.

**(b)** Upon receipt of a petition satisfying the requirements of subsection (4)(a) of this section, if the court is not satisfied that probable cause exists to issue an order for an evaluation, the court shall identify a facility designated by the commissioner, an intervening professional, or a certified peace officer to provide screening of the respondent to determine whether probable cause exists to believe the allegations.



(c) Following the screening described in subsection (4)(b) of this section, the facility, intervening professional, or certified peace officer designated by the court shall file a report with the court and may initiate an **emergency mental health hold** at the time of screening. The report must include a recommendation as to whether probable cause exists to believe that the respondent has a mental health disorder and, as a result of the mental health disorder, is a danger to the respondent's self or others or is gravely disabled and whether the respondent will voluntarily receive evaluation or treatment. The screening report submitted to the court pursuant to this subsection (4)(c) is confidential in accordance with section 27-65-123 and must be furnished to the respondent or the respondent's attorney or personal representative.

(d) **Whenever it appears, by petition and screening pursuant to this section, to the satisfaction of the court that probable cause exists to believe that the respondent has a mental health disorder and, as a result of the mental health disorder, is a danger to the respondent's self or others or is gravely disabled and that efforts have been made to secure the cooperation of the respondent but the respondent has refused or failed to accept evaluation voluntarily, the court shall issue an order for evaluation authorizing a certified peace officer or secure transportation provider to take the respondent into custody** and transport the respondent to a facility designated by the commissioner for an **emergency mental health hold**. At the time the respondent is taken into **custody**, a copy of the petition and the order for evaluation must be given to the respondent and promptly thereafter to the one lay person designated by the respondent and to the person in charge of the facility named in the order or the respondent's designee. If the respondent refuses to accept a copy of the petition and the order for evaluation, such refusal must be documented in the petition and the order for evaluation.

(5) When a person is transported to an emergency medical services facility or a facility designated by the commissioner, the facility may detain the person under an **emergency mental health hold** for evaluation for a period not to exceed seventy-two hours from the time the **emergency mental health hold** was placed or ordered. Nothing in this section prohibits an emergency medical services facility from involuntarily holding the person in order to stabilize the person as required pursuant to the federal "Emergency Medical Treatment and Labor Act", 42 U.S.C. sec. 1395dd, or if the treating professional determines that the individual's physical or mental health disorder impairs the person's ability to make an informed decision to refuse care and the provider determines that further care is indicated. If, in the opinion of the person in charge of the evaluation, the person can be properly cared for without being detained, the person shall be provided services on a voluntary basis. If the person in charge of the evaluation determines the person should be released, the person in charge of the evaluation may terminate the **emergency mental health hold**.

(6)

(a) Each person detained for an **emergency mental health hold** pursuant to this section shall receive an evaluation as soon as possible after the person is presented to the facility and shall receive such treatment and care as the person's condition requires for the full period that the person is held. The evaluation may include an assessment to determine if the person continues to meet the criteria for an **emergency mental health hold** and requires further mental health care in a facility designated by the commissioner. The evaluation must state whether the person should be released, referred for further care and treatment on a voluntary basis, or certified for short-term treatment pursuant to section 27-65-109.

(b) Each evaluation must be completed using a standardized form approved by the commissioner and may be completed by a professional person; a licensed advanced practice registered nurse with training in psychiatric nursing; or a licensed physician assistant, a licensed clinical social worker, a licensed professional counselor, or a licensed marriage and family therapist who has two years of experience in behavioral health safety and risk assessment working in a health-care setting.

(c) If the person conducting an evaluation pursuant to subsection (6)(a) of this section is not a professional person and the evaluating person recommends the detained person be certified for short-term treatment pursuant to section 27-65-109, the evaluating person shall notify the facility of the recommendation. A certification may only be initiated by a professional person.

**(7)**

(a) If a person is evaluated at an emergency medical services facility and the evaluating professional determines that the person continues to meet the criteria for an **emergency mental health hold** pursuant to subsection (1) of this section, the emergency medical services facility shall immediately notify the BHA if the facility cannot locate appropriate placement. Once notified, the BHA shall support the emergency medical services facility in locating an appropriate placement option on an inpatient or outpatient basis, whichever is clinically appropriate.

(b) If an appropriate placement option cannot be located pursuant to subsection (7)(a) of this section and the person continues to meet the criteria for an **emergency mental health hold** pursuant to subsection (1) of this section and the person has been medically stabilized, the emergency medical services facility may place the person under a subsequent **emergency mental health hold**. If the facility places the person under a subsequent **emergency mental health hold**, the facility shall immediately notify the BHA, the person's lay person, and the court, and the court shall immediately appoint an attorney to represent the person. The facility may notify the court where the person resides by mail. Once the court is notified, the emergency medical services facility is not required to take any further action to provide the person with an attorney unless specified in subsection (10) of this section. The emergency medical services facility shall notify the BHA after each **emergency mental health hold** is placed. The BHA is responsible for actively assisting the facility in locating appropriate placement for the person. If the person has been recently transferred from an emergency medical services facility to a facility designated by the commissioner and the designated facility is able to demonstrate that the facility is unable to complete the evaluation before the initial **emergency mental health hold** is set to expire, the designated facility may place the person under a subsequent **emergency mental health hold** and shall immediately notify the BHA and lay person.

(c) The BHA shall maintain data on the characteristics of each person placed on a subsequent **emergency mental health hold** pursuant to subsection (7)(b) of this section. The BHA may contract with entities coordinating care or with providers serving within the safety net system developed pursuant to section 27-63-105 to meet the requirements of this subsection (7).

**(8)**

(a) The facility shall provide each person detained for an **emergency mental health hold** discharge instructions. The discharge instructions must be completed for every person, regardless of the person's discharge status, before the person is released. If the detained person

refuses to accept the discharge instructions, the refusal must be documented in the person's medical record. At a minimum, the discharge instructions must include:

**(I)** A summary of why the person was detained or evaluated for an **emergency mental health hold**; detailed information as to why the evaluating professional determined the person no longer meets the criteria for an **emergency mental health hold** or certification pursuant to section 27-65-109; and whether the person may receive services on a voluntary basis pursuant to subsection (6) of this section;

**(II)** If the person's medications were changed or the person was newly prescribed medications during the **emergency mental health hold**, a clinically appropriate supply of medications, as determined by the judgment of a licensed health-care provider, for the person until the person can access another provider or follow-up appointment;

**(III)** A safety plan for the person and, if applicable, the person's lay person where indicated by the person's mental health disorder or mental or emotional state;

**(IV)** Notification to the person's primary care provider, if applicable;

**(V)** A referral to appropriate services, if such services exist in the community, if the person is discharged without food, housing, or economic security. Any referrals and linkages must be documented in the person's medical record.

**(VI)** The phone number to call or text the Colorado crisis services hotline and information on the availability of peer support services;

**(VII)** Information on how to establish a psychiatric advance directive if one is not presented;

**(VIII)** Medications that were changed during the **emergency mental health hold**, including any medications that the person was taking or that were previously prescribed upon admission, and which medications, if any, were changed or discontinued at the time of discharge;

**(IX)** A list of any screening or diagnostic tests conducted during the **emergency mental health hold**, if requested;

**(X)** A summary of therapeutic treatments provided during the **emergency mental health hold**, if requested;

**(XI)** Any laboratory work, including blood samples or imaging that was completed or attempted, if requested;

**(XII)** The person's vital signs upon discharge from the **emergency mental health hold**, if requested;

**(XIII)** A copy of any psychiatric advance directive presented to the facility, if applicable; and

**(XIV)** How to contact the discharging facility if needed.

**(b)** The facility shall document in the person's medical record whether the person accepted the discharge instructions. The facility shall provide the discharge instructions to the person's parent or legal guardian if the person is under eighteen years of age, and to the person's lay person, when possible.

**(c)** Upon discharge, the facility shall discuss with the person, the person's parent or legal guardian, or the person's lay person the statewide care coordination infrastructure established in section 27-60-204 to facilitate a follow-up appointment for the person within seven calendar days after the discharge. Facilities shall comply with this subsection (8)(c) when the statewide care coordination infrastructure created in section 27-60-204 is fully operational, as determined by the BHA. The BHA shall immediately notify facilities when the statewide care coordination infrastructure is available to assist persons with discharge.

**(d)**

**(I)** The facility shall, at a minimum, attempt to follow up with the person, the person's parent or legal guardian, or the person's lay person at least forty-eight hours after discharge. The facility is encouraged to utilize peer support professionals, as defined in section 27-60-108 (2)(b), when performing follow-up care with individuals and in developing a continuing care plan pursuant to subsection (8)(a)(I) of this section. The facility may facilitate follow-up care through contracts with community-based behavioral health providers or the Colorado behavioral health crisis hotline. If the facility facilitates follow-up care through a third-party contract, the facility shall obtain authorization from the person to provide follow-up care.

**(II)** If the person is enrolled in medicaid, the facility is not required to meet the requirements of this subsection (8)(d) and instead, the facility shall notify the person's relevant managed care entity, as defined in section 25.5-5-403, of the person's discharge and need for ongoing follow-up care prior to the person's discharge.

**(III)** If the facility contracts with a safety net provider, as defined in section 27-50-101, to provide behavioral health services to a person on or following an **emergency mental health hold**, the facility shall work with the safety net provider in order to meet the requirements of this subsection (8)(d).

**(e)** The facility shall encourage the person to designate a family member, friend, or other person as a lay person to participate in the person's discharge planning and shall notify the person that the person is able to rescind the authorization of a lay person at any time. If the person designates a lay person and has provided necessary authorization, the facility shall attempt to involve the lay person in the person's discharge planning. The facility shall notify the lay person that the person is being discharged or transferred.

**(9)**

**(a)** On or before July 1, 2024, and each July 1 thereafter, each emergency medical services facility that has evaluated a person pursuant to this section shall provide an annual report to the BHA that includes only disaggregated and nonidentifying information concerning persons who were treated at an emergency medical services facility pursuant to this section. The report must comply with section 24-1-136 (9) and is exempt from section 24-1-136 (11)(a)(I). The report must contain the following:

**(I)** The names and counties of the facilities;

**(II)** The total number of persons treated pursuant to this section, including a summary of demographic information;

**(III)** A summary regarding the different reasons for which persons were treated pursuant to this section; and

**(IV)** A summary of the disposition of persons transferred to a designated facility.

**(b)**

**(I)** Any information disaggregated and provided to the BHA pursuant to this subsection (9) is privileged and confidential. Such information must not be made available to the public except in an aggregate format that cannot be used to identify an individual facility. The information is not subject to civil subpoena and is not discoverable or admissible in any civil, criminal, or administrative proceeding against an emergency medical services facility or health-care professional. The information must be used only to assess statewide behavioral health services needs and to plan for sufficient levels of statewide behavioral health services. In collecting the

data pursuant to the requirements of this subsection (9), the BHA shall protect the confidentiality of patient records, in accordance with state and federal laws, and shall not disclose any public identifying or proprietary information of any hospital, hospital administrator, health-care professional, or employee of a health-care facility.

**(II)** Subsection (9)(b)(I) of this section does not apply to information that is otherwise available from a source outside of the data collection activities required pursuant to subsection (9)(a) of this section.

**(10)**

**(a)** A person detained for an **emergency mental health hold** pursuant to this section has the following rights:

**(I)** To be told the reason for the person's detainment and the limitations of the person's detainment, including a description of the person's right to refuse medication, unless the person requires emergency medications, and that the detainment does not mean all treatment during detainment is mandatory;

**(II)** To request a change to voluntary status;

**(III)** To be treated fairly, with respect and recognition of the person's dignity and individuality, by all employees of the facility with whom the person comes in contact;

**(IV)** To not be discriminated against on the basis of age, race, ethnicity, religion, culture, spoken language, physical or mental disability, socioeconomic status, sex, sexual orientation, gender identity, or gender expression;

**(V)** To retain and consult with an attorney at any time; except that, unless specified in subsection (7)(b) of this section, the facility is not required to retain an attorney on behalf of the person but must allow the person to contact an attorney;

**(VI)** To continue the practice of religion;

**(VII)** Within twenty-four hours after the person's request, to see and receive the services of a patient representative who has no direct or indirect clinical, administrative, or financial responsibility for the person;

**(VIII)** To have reasonable access to telephones or other communication devices and to make and to receive calls or communications in private. Facility staff shall not open, delay, intercept, read, or censor mail or other communications or use mail or other communications as a method to enforce compliance with facility staff.

**(IX)** To wear the person's own clothes, keep and use the person's own personal possessions, and keep and be allowed to spend a reasonable sum of the person's own money. A facility may temporarily restrict a person's access to personal clothing or personal possessions, until a safety assessment is completed. If the facility restricts a person's access to personal clothing or personal possessions, the facility shall have a discussion with the person about why the person's personal clothing or personal possessions are being restricted. A licensed medical professional or a licensed behavioral health professional shall conduct a safety assessment as soon as possible. The licensed professional shall document in the person's medical record the specific reasons why it is not safe for the person to possess the person's personal clothing or personal possessions. The facility shall periodically conduct additional safety assessments to determine whether the person may possess the person's personal clothing or personal possessions, with the goal of restoring the person's rights established pursuant to this section.

- (X) To keep and use the person's cell phone, unless access to the cell phone causes the person to destabilize or creates a danger to the person's self or others, as determined by a provider, facility staff member, or security personnel involved in the person's care;
  - (XI) To have the person's information and records disclosed to family members and a lay person pursuant to section 27-65-123;
  - (XII) To have the person's treatment records remain confidential, except as required by law;
  - (XIII) To not be fingerprinted, unless required by law;
  - (XIV) To not be photographed, except upon admission for identification and administrative purposes. Any photographs must be confidential and must not be released by the facility except pursuant to a court order. Nonmedical photographs must not be taken or used without appropriate consent or authorization.
  - (XV) To have appropriate access to adequate water, hygiene products, and food and to have the person's nutritional needs met in a manner that is consistent with recognized dietary practices;
  - (XVI) To have personal privacy to the extent possible during the course of treatment; and
  - (XVII) To have the ability to meet with visitors in accordance with the facility's current visitor guidelines.
- (b) A person's rights under this subsection (10) may only be denied if access to the item, program, or service causes the person to destabilize or creates a danger to the person's self or others, as determined by a licensed provider involved in the person's care. Denial of any right must be entered into the person's treatment record and must be made available, upon request, to the person, the person's legal guardian, or the person's attorney.
- (c) A facility shall not intentionally retaliate or discriminate against a detained person or employee for contacting or providing information to any official or to an employee of any state protection and advocacy agency or for initiating, participating in, or testifying in a grievance procedure or in an action for any remedy authorized pursuant to this section. Any facility that violates this subsection (10) commits an unclassified misdemeanor and shall be fined not more than one thousand dollars.
- (d) Any person whose rights are denied or violated pursuant to this section has the right to file a complaint against the facility with the behavioral health administration and the department of public health and environment.

#### 27-65-107. Emergency transportation - application - screening - respondent's rights.

##### (1)

- (a) When a certified peace officer or emergency medical services provider has probable cause to believe a person is experiencing a behavioral health crisis or is gravely disabled and, as a result, without professional intervention the person may be a danger to the person's self or others, then the certified peace officer or emergency medical services provider may take the person into protective **custody** and transport the person to an outpatient mental health facility or a facility designated by the commissioner or other clinically appropriate facility designated by the commissioner. If such a service is not available, the person may be taken to an emergency medical services facility.
- (b) An individual may not be transported pursuant to this subsection (1) if an intervening professional has assessed the person during the same emergency event and determined the individual does not meet the criteria for an **emergency mental health hold** pursuant to section 27-65-106.

(c) If a behavioral health crisis response team is known to be available in a timely manner, the certified peace officer or emergency medical services provider shall access the behavioral health crisis response team prior to transporting an individual involuntarily pursuant to this subsection (1).

(2) When a person is transported against the person's will pursuant to subsection (1) of this section, the facility shall require an application, in writing, stating the circumstances under which the person's condition was called to the attention of the certified peace officer or emergency medical services provider and further stating sufficient facts, obtained from personal observations or obtained from others whom the certified peace officer or emergency medical services provider reasonably believes to be reliable, to establish that the person is experiencing a behavioral health crisis or is gravely disabled and, as a result, it is believed that without professional intervention the person may be a danger to the person's self or others. The application must indicate the name of the person and the time the person was transported. A copy of the application must be furnished to the person being transported.

(3)

(a) Once the person is presented to an outpatient mental health facility or facility designated by the commissioner, an intervening professional shall screen the person immediately. If an intervening professional is not immediately available, the person must be screened within eight hours after the person's arrival at the facility to determine if the person meets criteria for an **emergency mental health hold** pursuant to section 27-65-106. Once the screening is completed and if the person meets the criteria, the intervening professional shall first pursue voluntary treatment and evaluation. If the person refuses or the intervening professional has reasonable grounds to believe the person will not remain voluntarily, the intervening professional may place the person under an **emergency mental health hold** pursuant to section 27-65-106.

(b) If a person detained pursuant to this section is transported to an emergency medical services facility, the involuntary transportation hold expires upon the facility receiving the person for screening by an intervening professional.

(4)

(a) A person detained pursuant to this section has the following rights while being detained, which must be explained to the person before being transported to a receiving facility:

(I) To not be detained under an emergency transportation hold pursuant to this section for longer than fourteen hours, to not be transported for longer than six hours, and to receive a screening within eight hours after being presented to the receiving facility. This subsection (4)(a)(I) does not prohibit a facility from holding the person as authorized by state and federal law, including the federal "Emergency Medical Treatment and Labor Act", 42 U.S.C. sec. 1395dd, or if the treating professional determines that the individual's physical or mental health disorder impairs the person's ability to make an informed decision to refuse care and the provider determines that further care is indicated.

(II) To request a phone call to an interested party prior to being transported. If the certified peace officer or emergency medical services provider believes access to a phone poses a physical danger to the person or someone else, the receiving facility shall make the call on the person's behalf immediately upon arrival at the receiving facility.

(III) To wear the person's own clothes and keep and use personal possessions that the person had in the person's possession at the time of detainment. A facility may temporarily restrict a

person's access to personal clothing or personal possessions until a safety assessment is completed. If the facility restricts a person's access to personal clothing or personal possessions, the facility shall have a discussion with the person about why the person's personal clothing or personal possessions are being restricted. A licensed medical professional or a licensed behavioral health professional shall conduct a safety assessment as soon as possible. The licensed professional shall document in the person's medical record the specific reasons why it is not safe for the person to possess the person's personal clothing or personal possessions.

**(IV)** To keep and use the person's cell phone, unless access to the cell phone causes the person to destabilize or creates a danger to the person's self or others, as determined by a provider, facility staff member, or security personnel involved in the person's care;

**(V)** To have appropriate access to adequate water and food, and to have the person's nutritional needs met in a manner that is consistent with recognized dietary practices, to the extent reasonably possible at the receiving facility;

**(VI)** To be treated fairly, with respect and recognition of the person's dignity and individuality; and

**(VII)** To file a grievance with the BHA, the department of public health and environment, or the office of the ombudsman for behavioral health access to care established pursuant to part 3 of article 80 of this title 27.

**(b)** A person's rights pursuant to subsection (4)(a) of this section may only be denied if access to the item, program, or service causes the person to destabilize or creates a danger to the person's self or others, as determined by a licensed provider involved in the person's care or transportation. Denial of any right must be entered into the person's treatment record or BHA-approved form. Information pertaining to a denial of rights contained in the person's treatment record must be made available, upon request, to the person, the person's attorney, or the person's lay person.

#### 27-65-108. Care coordination for persons certified or in need of ongoing treatment.

**(1)** *[Editor's note: This section is effective July 1, 2024.]* A facility designated by the commissioner shall notify and engage the BHA prior to terminating or transferring a person certified pursuant to section 27-65-108.5, 27-65-109, 27-65-110, or 27-65-111. The BHA may provide care coordination services to support a person whose certification is terminated but who is in need of ongoing treatment and services.

**(2)** The BHA shall, directly or through a contract, provide care coordination services to a person certified pursuant to section 27-65-108.5, 27-65-109, 27-65-110, or 27-65-111 and determined by the designated facility and the BHA to need care coordination services.

#### 27-65-108.5. Court-ordered certification for short-term treatment for incompetent defendants in a criminal matter - contents of petition - procedure to contest petition - commitment to behavioral health administration - definition.

**(1)** *[Editor's note: This section is effective July 1, 2024.]* Upon petition of the district attorney, a professional person, a representative of the BHA, or a representative of the office of civil and forensic mental health, a court may certify a person for short-term treatment for not more than three months under the following conditions:



- (a) The person is a respondent in a criminal matter in which the person has been found incompetent to proceed;
  - (b) The court hearing the criminal matter referred the matter for filing of a petition pursuant to section 16-8.5-111 or 16-8.5-116;
  - (c) The person has been advised of the availability of, but has not accepted, voluntary treatment, or, if reasonable grounds exist to believe that the person will not remain in a voluntary treatment program, the person's acceptance of voluntary treatment does not preclude certification;
  - (d) The facility or community provider that will provide short-term treatment has been designated or approved by the commissioner to provide such treatment; and
  - (e) The person, the person's legal guardian, and the person's lay person, if applicable, have been advised of the person's right to an attorney and to contest the certification for short-term treatment.
- (2) The petition filed pursuant to subsection (1) of this section must:
- (a) State sufficient facts to establish reasonable grounds that the respondent has a mental health disorder and, as a result of the mental health disorder, is a danger to the respondent's self or others or is gravely disabled;
  - (b) Be accompanied by a report of the competency evaluator or professional person who has evaluated the respondent within fifty-six days before submission of the petition, unless the respondent whose certification is sought has refused to submit to an evaluation or the respondent cannot be evaluated due to the respondent's condition;
  - (c) Be filed within fourteen days after the initiating party received the court order from the criminal court initiating the process;
  - (d) Be filed with the court in the county where the respondent resided or was physically present immediately prior to the filing of the petition; except that if the person was arrested for the prior case and held in **custody**, the petition may be filed in the county where the respondent resided or was physically present immediately prior to the respondent's arrest; and
  - (e) Provide recommendations if any certification should occur on an inpatient or outpatient basis.
- (3) Within twenty-four hours after certification, copies of the certification must be personally delivered to the respondent, the BHA, or the office of civil and forensic mental health. The department shall retain a copy as part of the respondent's record. If the criminal case is pending, or not yet dismissed, notice of the filing of the petition should be given by the petitioning party to the criminal court, which shall provide such notice to the prosecuting and defense attorneys in the criminal case and any attorney appointed pursuant to section 27-65-113. The court shall ask the respondent to designate one other person whom the respondent wants to be informed regarding the petition. If the respondent is incapable of making such a designation at the time the petition is delivered, the court may ask the respondent to designate such person as soon as the respondent is capable.
- (4) Whenever a petition is filed pursuant to this section, the court shall immediately appoint an attorney to represent the respondent. The court shall provide the respondent with a written notice that the respondent has a right to a hearing on the petition and may make a written request for a jury trial. The respondent has the right to an attorney for all proceedings conducted pursuant to this section, including any appeals. The attorney representing the

respondent must be provided with a copy of the petition and any supporting materials immediately upon the attorney's appointment. The respondent may only waive counsel when the respondent makes a knowing and voluntary waiver in front of the court.

**(5)** Upon the filing of the petition pursuant to this section and affording the respondent a chance to contest the petition, the court may grant or deny certification based on the facts established in the petition, subject to the court's further review or a jury trial.

**(6)** Within fourteen days after receipt of the petition filed pursuant to this section, the respondent, or the respondent's attorney, may request a jury trial by filing a written motion with the court.

**(7)** The respondent may knowingly and voluntarily consent in writing to the petition.

**(8)** The respondent or the respondent's attorney may, at any time, file a written request for the court to review short-term certification or request that inpatient certification be changed to outpatient treatment. If the review is requested, the court shall hear the matter within fourteen days after the request, and the court shall give notice to the respondent, the respondent's attorney, the department, and the community or facility provider who is or will provide treatment. The hearing must be held in accordance with section 27-65-113. At the conclusion of the hearing, the court may enter or confirm the certification for short-term treatment, discharge the respondent, or enter any other appropriate order.

**(9)** Section 27-65-109 (7) to (10) applies to proceedings held pursuant to this section.

**(10)** In assessing whether the respondent with a pending criminal charge is a danger to self or others or is gravely disabled, if the person is incarcerated, the professional person and court shall not rely upon the fact that the person is incarcerated to establish that the respondent is not a danger to self or others or is not gravely disabled.

**(11)** An **emergency mental health hold** pursuant to section 27-65-106 is not a prerequisite to a proceeding pursuant to this section.

**(12)** For the purposes of this section only, "respondent" means the defendant in the referring criminal matter.

#### [27-65-109. Certification for short-term treatment - procedure.](#)

**(1)** *[Editor's note: This version of subsection (1) is effective until July 1, 2024.]* If a person detained pursuant to section 27-65-106 has received an evaluation, the person may be certified for not more than three months for short-term treatment under the following conditions:

**(a)** The professional staff of the agency or facility providing seventy-two-hour treatment and evaluation has analyzed the person's condition and has found the person has a mental health disorder and, as a result of the mental health disorder, is a danger to others or to the person's self or is gravely disabled;

**(b)** The person has been advised of the availability of, but has not accepted, voluntary treatment; but, if reasonable grounds exist to believe that the person will not remain in a voluntary treatment program, the person's acceptance of voluntary treatment does not preclude certification; and

**(c)** The facility that will provide short-term treatment has been designated or approved by the commissioner to provide such treatment.

**(1) [Editor's note: This version of subsection (1) is effective July 1, 2024.]** A person may be certified for not more than three months for short-term treatment under the following conditions:

**(a)** The professional staff of the facility detaining the person on an **emergency mental health hold** has evaluated the person and has found the person has a mental health disorder and, as a result of the mental health disorder, is a danger to the person's self or others or is gravely disabled;

**(b)** The person has been advised of the availability of, but has not accepted, voluntary treatment; but, if reasonable grounds exist to believe that the person will not remain in a voluntary treatment program, the person's acceptance of voluntary treatment does not preclude certification;

**(c)** The facility or community provider that will provide short-term treatment has been designated by the commissioner to provide such treatment; and

**(d)** The person, the person's legal guardian, and the person's lay person, if applicable, have been advised of the person's right to an attorney and to contest the certification for short-term treatment.

**(2) [Editor's note: This version of subsection (2) is effective until July 1, 2024.]** The notice of certification must be signed by a professional person on the staff of the evaluation facility who participated in the evaluation and must:

**(a)** State facts sufficient to establish reasonable grounds to believe that the person has a mental health disorder and, as a result of the mental health disorder, is a danger to others or to the person's self or is gravely disabled;

**(b)** Be filed with the court within forty-eight hours, excluding Saturdays, Sundays, and court holidays, of the date of certification; and

**(c)** Be filed with the court in the county in which the respondent resided or was physically present immediately prior to being taken into **custody**.

**(2) [Editor's note: This version of subsection (2) is effective July 1, 2024.]** The notice of certification must be signed by a professional person who participated in the evaluation. The notice of certification must:

**(a)** State facts sufficient to establish reasonable grounds to believe that the respondent has a mental health disorder and, as a result of the mental health disorder, is a danger to the respondent's self or others or is gravely disabled;

**(b)** Be filed with the court within forty-eight hours, excluding Saturdays, Sundays, and court holidays, after the date of certification;

**(c)** Be filed with the court in the county in which the respondent resided or was physically present immediately prior to being taken into **custody**; and

**(d)** Provide recommendations if the certification should take place on an inpatient or outpatient basis.

**(3) [Editor's note: This version of subsection (3) is effective until July 1, 2024.]** Within twenty-four hours after certification, copies of the certification must be personally delivered to the respondent, and a copy must be kept by the evaluation facility as part of the respondent's record. The respondent must also be asked to designate one other person whom the respondent wishes informed regarding certification. If the respondent is incapable of making such a designation at the time the certification is delivered, the respondent must be asked to

designate such person as soon as the respondent is capable. In addition to the copy of the certification, the respondent must be given a written notice that a hearing upon the respondent's certification for short-term treatment may be had before the court or a jury upon written request directed to the court pursuant to subsection (6) of this section.

**(3) [Editor's note: This version of subsection (3) is effective July 1, 2024.]** Within twenty-four hours after certification, copies of the certification must be personally delivered to the respondent, the BHA, and a copy must be kept by the evaluating facility as part of the respondent's record, if applicable. The facility or court shall ask the respondent to designate a lay person whom the respondent wishes to be informed regarding certification. If the respondent is incapable of making such a designation at the time the certification is delivered, the respondent must be asked to designate a lay person as soon as the respondent is capable. In addition to the copy of the certification, the respondent must be given a written notice that a hearing upon the respondent's certification for short-term treatment may be had before the court or a jury upon written request directed to the court pursuant to subsection (6) of this section.

**(4)** Upon certification of the respondent, the facility designated for short-term treatment has **custody** of the respondent.

**(5)** Whenever a certification is filed with the court by a professional person, the court shall immediately appoint an attorney to represent the respondent. The respondent has the right to an attorney for all proceedings conducted pursuant to this section, including any appeals. The attorney representing the respondent must be provided with a copy of the certification immediately upon the attorney's appointment. The respondent may only waive counsel when the respondent makes a knowing and intelligent waiver in front of the court.

**(6) [Editor's note: This version of subsection (6) is effective until July 1, 2024.]** The respondent for short-term treatment or the respondent's attorney may at any time file a written request that the certification for short-term treatment or the treatment be reviewed by the court or that the treatment be on an outpatient basis. If review is requested, the court shall hear the matter within ten days after the request, and the court shall give notice to the respondent and the respondent's attorney and the certifying and treating professional person of the time and place thereof. The hearing must be held in accordance with section 27-65-113. At the conclusion of the hearing, the court may enter or confirm the certification for short-term treatment, discharge the respondent, or enter any other appropriate order, subject to available appropriations.

**(6) [Editor's note: This version of subsection (6) is effective July 1, 2024.]** The respondent or the respondent's attorney may at any time file a written request that the certification for short-term treatment or the treatment be reviewed by the court or that the treatment be on an outpatient basis. If review is requested, the court shall hear the matter within ten days after the request, and the court shall give notice to the respondent and the respondent's attorney and the certifying and treating professional person of the time and place of the hearing. The hearing must be held in accordance with section 27-65-113. At the conclusion of the hearing, the court may enter or confirm the certification for short-term treatment, discharge the respondent, or enter any other appropriate order.

**(7) [Editor's note: This version of subsection (7) is effective until July 1, 2024.]** Records and papers in proceedings under this section must be maintained separately by the clerks of the

several courts. Upon the release of any respondent in accordance with section 27-65-112, the facility shall notify the clerk of the court within five days after the release, and the clerk shall forthwith seal the record in the case and omit the name of the respondent from the index of cases in the court until and unless the respondent becomes subject to an order of long-term care and treatment pursuant to section 27-65-110 or until and unless the court orders them opened for good cause shown. In the event a petition is filed pursuant to section 27-65-110, the certification record may be opened and become a part of the record in the long-term care and treatment case and the name of the respondent indexed.

**(7) [Editor's note: This version of subsection (7) is effective July 1, 2024.]** Records and papers in proceedings pursuant to this section must be maintained separately by the clerks of the several courts. Upon the release of any respondent in accordance with section 27-65-112, the facility shall notify the clerk of the court within five days after the release, and the clerk shall immediately seal the record in the case and omit the name of the respondent from the index of cases in the court until and unless the respondent becomes subject to an order of certification for long-term care and treatment pursuant to section 27-65-110 or until and unless the court orders the records opened for good cause shown. In the event a petition is filed pursuant to section 27-65-110, the certification record may be opened and become a part of the record in the long-term care and treatment case and the name of the respondent indexed.

**(8) [Editor's note: This version of subsection (8) is effective until July 1, 2024.]** Whenever it appears to the court, by reason of a report by the treating professional person or any other report satisfactory to the court, that a respondent detained for evaluation and treatment or certified for treatment should be transferred to another facility for treatment and the safety of the respondent or the public requires that the respondent be transported by a **secure** transportation provider, or a law enforcement agency, the court may issue an order directing the law enforcement agency where the respondent resides to deliver the respondent to the designated facility.

**(8) [Editor's note: This version of subsection (8) is effective July 1, 2024.]** Whenever it appears to the court, by reason of a report by the treating professional person or the BHA or any other report satisfactory to the court, that a respondent detained for evaluation and treatment or certified for short-term treatment should be transferred to another facility for treatment and the safety of the respondent or the public requires that the respondent be transported by a **secure** transportation provider or a law enforcement agency, the court may issue an order directing the law enforcement agency where the respondent resides or **secure** transportation provider to deliver the respondent to the designated facility.

**(9)** A respondent certified for short-term treatment may be discharged upon the signature of the treating medical professional and the medical director of the facility. A respondent certified for short-term treatment on an outpatient basis may be discharged upon the signature of the approved professional person overseeing the respondent's treatment, and the professional person shall notify the BHA prior to the discharge. A facility or program shall make the respondent's discharge instructions available to the respondent, the respondent's attorney, and the respondent's legal guardian, if applicable, within seven days after discharge, if requested. A facility or program that is transferring a respondent to a different treatment facility or to an outpatient provider shall provide all treatment records to the facility or provider accepting the respondent at least twenty-four hours prior to the transfer.

**(10) [Editor's note: This version of subsection (10) is effective until July 1, 2024.]** If the professional person in charge of the evaluation and treatment believes that a period longer than three months is necessary for treatment of the respondent, the professional person shall file with the court an extended certification. Extended certification for treatment is not for a period of more than three months. The respondent is entitled to a hearing on the extended certification under the same conditions as an original certification. The attorney initially representing the respondent shall continue to represent the respondent, unless the court appoints another attorney.

**(10) [Editor's note: This version of subsection (10) is effective July 1, 2024.]** If the professional person in charge of the evaluation and treatment believes that a period longer than three months is necessary to treat the respondent, the professional person shall file with the court an extended certification at least thirty days prior to the expiration date of the original certification. An extended certification for treatment must not be for a period of more than three months. The respondent is entitled to a hearing on the extended certification under the same conditions as an original certification. The attorney initially representing the respondent shall continue to represent the respondent, unless the court appoints another attorney.

#### 27-65-110. Long-term care and treatment of persons with mental health disorders - procedure.

**(1)** Whenever a respondent has received an extended certification for treatment pursuant section 27-65-109 (10), the professional person in charge of the certification for short-term treatment or the BHA may file a petition with the court at least thirty days prior to the expiration date of the extended certification for long-term care and treatment of the respondent under the following conditions:

**(a)** The professional staff of the agency or facility providing short-term treatment has analyzed the respondent's condition and has found that the respondent has a mental health disorder and, as a result of the mental health disorder, is a danger to the respondent's self or others or is gravely disabled;

**(b)** The respondent has been advised of the availability of, but has not accepted, voluntary treatment; but, if reasonable grounds exist to believe that the respondent will not remain in a voluntary treatment program, the respondent's acceptance of voluntary treatment does not preclude an order pursuant to this section; and

**(c)** The facility that will provide long-term care and treatment has been designated by the commissioner to provide the care and treatment.

**(2)** Every petition for long-term care and treatment must include a request for a hearing before the court prior to the expiration of six months after the date of original certification and provide a recommendation as to whether the certification for long-term care and treatment should take place on an inpatient or outpatient basis. A copy of the petition must be delivered personally to the respondent for whom long-term care and treatment is sought and electronically delivered to the respondent's attorney of record simultaneously with the filing.

**(3)** Within ten days after receipt of the petition, the respondent or the respondent's attorney may request a hearing before the court or a jury trial by filing a written request with the court.

**(4)** The court or jury shall determine whether the conditions of subsection (1) of this section are met and whether the respondent has a mental health disorder and, as a result of the mental

health disorder, is a danger to the respondent's self or others or is gravely disabled. The court shall issue an order of long-term care and treatment for a term not to exceed six months, discharge the respondent for whom long-term care and treatment was sought, or enter any other appropriate order. An order for long-term care and treatment must grant **custody** of the respondent to the BHA for placement with an agency or facility designated by the commissioner to provide long-term care and treatment. The BHA may delegate the physical **custody** of the respondent to a facility designated by the commissioner and the requirement for the provision of services and care coordination. When a petition contains a request that a specific legal disability be imposed or that a specific legal right be deprived, the court may order the disability imposed or the right deprived if the court or a jury has determined that the respondent has a mental health disorder or is gravely disabled and that, as a result, the respondent is unable to competently exercise the specific legal right or perform the function for which the disability is sought to be imposed. Any interested person may ask leave of the court to intervene as a copetitioner for the purpose of seeking the imposition of a legal disability or the deprivation of a legal right.

**(5)** An original order of long-term care and treatment or any extension of such order expires on the date specified, unless further extended as provided in this subsection (5). If an extension is being sought, the professional person in charge of the evaluation and treatment shall certify to the court at least thirty days prior to the expiration date of the order in force that an extension of the order is necessary for the care and treatment of the respondent subject to the order in force, and a copy of the certification must be simultaneously delivered to the respondent and electronically delivered to the respondent's attorney of record. At least twenty days before the expiration of the order, the court shall give written notice to the respondent and the respondent's attorney of record that a hearing upon the extension may be had before the court or a jury upon written request to the court within ten days after receipt of the notice. If a hearing is not requested by the respondent within such time, the court may proceed ex parte. If a hearing is timely requested, the hearing must be held before the expiration date of the order in force. If the court or jury finds that the conditions of subsection (1) of this section continue to be met and that the respondent has a mental health disorder and, as a result of the mental health disorder, is a danger to others or to the respondent's self or is gravely disabled, the court shall issue an extension of the order. Any extension must not exceed six months, but there may be as many extensions as the court orders pursuant to this section.

**(6)** A respondent certified for long-term care and treatment may be discharged from the facility upon the signature of the treating professional person and medical director of the facility, and the facility shall notify the BHA prior to the respondent's discharge. The facility shall make the respondent's discharge instructions available to the respondent, the respondent's attorney, the respondent's lay person, and the respondent's legal guardian, if applicable, within one week after discharge, if requested. A facility that is transferring a respondent to a different facility or to an outpatient program shall provide all treatment records to the facility or provider accepting the respondent at least twenty-four hours prior to the transfer.

[27-65-111. Certification on an outpatient basis - short-term and long-term care.](#)

**(1) [Editor's note: This section is effective July 1, 2024.]** Any respondent certified pursuant to section 27-65-108.5, 27-65-109, or 27-65-110 may be provided treatment on an outpatient

basis. The outpatient treatment provider shall develop a treatment plan for the respondent receiving treatment on an outpatient basis with the goal of the respondent finding and sustaining recovery. The treatment plan must include measures to keep the respondent or others safe, as informed by the respondent's need for certification. The treatment plan may include, but is not limited to:

- (a) Intensive case management;
- (b) Assertive community treatment;
- (c) Peer recovery services;
- (d) Individual or group therapy;
- (e) Day or partial-day programming activities;
- (f) Intensive outpatient programs;
- (g) Educational and vocational training or activities; and
- (h) Housing and transportation assistance.

(2) The respondent, the respondent's legal guardian, the respondent's patient representative or the respondent's lay person, or any party at any court hearing may contest a respondent's treatment regimen, including court-ordered medications, at any court hearing related to the respondent's certification for treatment.

(3) The facility responsible for providing services to a respondent on a certification on an outpatient basis shall proactively reach out to the respondent to engage the respondent in treatment. If the respondent refuses treatment or court-ordered medication and is decompensating psychiatrically, the court may order a certified peace officer or **secure** transportation provider to transport the respondent to an appropriate, least restrictive designated facility in collaboration with the BHA and the provider holding the certification. The respondent does not need to be imminently dangerous to the respondent's self or others for the provider to request, and the court to order, transportation to a facility for the respondent to receive treatment and court-ordered medications. The facility responsible for providing services to a respondent on a certification on an outpatient basis shall provide the court information on the facility's proactive outreach to the respondent and the professional person's and psychiatric advanced practice registered nurse's basis for medical opinion.

(4) If a respondent is placed in a more restrictive setting, the respondent has the right to judicial review within ten days after filing a written request.

(5)

(a) In addition to any other limitation on liability, a person providing care to a respondent placed on short-term or long-term certification on an outpatient basis is only liable for harm subsequently caused by or to a respondent who:

(I) Has been terminated from certification despite meeting statutory criteria for certification pursuant to section 27-65-108.5, 27-65-109, or 27-65-110; or

(II) Provided services to the respondent not within the scope of the person's professional license, or was reckless or grossly negligent in providing services.

(b) A provider is not liable if a respondent's certification is terminated, despite meeting criteria for certification, if the provider is unable to locate the respondent despite proactive and reasonable outreach.

(6) A respondent subject to a short-term or long-term certification on an outpatient basis has the following rights, in addition to those enumerated in section 27-65-119:



- (a) To request a change to voluntary status. A change to voluntary status may be denied by the supervising professional person or advanced practice registered nurse with training in psychiatric nursing responsible for the respondent's treatment if the professional person or advanced practice registered nurse with training in psychiatric nursing determines reasonable grounds exist to believe that the respondent will not remain in a voluntary treatment program.
- (b) To be treated fairly, with respect and recognition of the respondent's dignity and individuality, by all employees of the treatment facility with whom the respondent comes in contact;
- (c) To appropriate treatment, which must be administered skillfully, safely, and humanely. A respondent shall receive treatment suited to the respondent's needs that must be determined in collaboration with the respondent.
- (d) To not be discriminated against on the basis of age, race, ethnicity, religion, culture, spoken language, physical or mental disability, socioeconomic status, sex, sexual orientation, gender identity, or gender expression;
- (e) To retain and consult with an attorney at any time;
- (f) Within forty-eight hours after the respondent's request, to see and receive the services of a patient representative, including a peer specialist, who has no direct or indirect clinical, administrative, or financial responsibility for the respondent;
- (g) To have the respondent's behavioral health orders for scope of treatment or psychiatric advance directive reviewed and considered by the court as the preferred treatment option for involuntary administration of medications unless, by clear and convincing evidence, the respondent's directive does not qualify as effective participation in behavioral health decision-making;
- (h) To have the respondent's information and records disclosed to adult family members and a lay person pursuant to section 27-65-123;
- (i) To have access to a representative within the facility who provides assistance to file a grievance; and
- (j) To have the right to file a motion with the court at any time to contest the certification.

[27-65-112. Termination of short-term and long-term treatment - escape.](#)

**(1) [Editor's note: This version of this section is effective until July 1, 2024.]** An original or extended certification for short-term treatment or an order for long-term care and treatment or any extension thereof terminates as soon as, in the opinion of the professional person in charge of treatment of the respondent, the respondent has received sufficient benefit from such treatment for the respondent to leave. Whenever a certification or extended certification is terminated pursuant to this section, the professional person in charge of providing treatment shall notify the court in writing within five days after such termination. The professional person may also prescribe day care, night care, or any other similar mode of treatment prior to termination.

**(2)** Before termination, an escaped respondent may be returned to the facility by order of the court without a hearing or by the superintendent or director of the facility without order of court. After termination, a respondent may be returned to the facility only in accordance with this article 65.

27-65-112. Termination of certification for short-term and long-term treatment.

**(1) [Editor's note: This version of this section is effective July 1, 2024.]** An original or extended certification for short-term treatment issued pursuant to section 27-65-108.5 or 27-65-109, or an order or extension for certification for long-term care and treatment pursuant to section 27-65-110, terminates as soon as the professional person in charge of treatment of the respondent and the BHA determine the respondent has received sufficient benefit from the treatment for the respondent to end involuntary treatment. Whenever a certification or extended certification is terminated pursuant to this section, the professional person in charge of providing treatment shall notify the court in writing within five days after the termination.

**(2)** Before termination, a respondent who leaves a facility may be returned to the facility by order of the court without a hearing or by the superintendent or director of the facility without a court order. After termination, a respondent may be returned to the facility only in accordance with this article 65.

27-65-113. Hearing procedures - jurisdiction.

**(1) [Editor's note: This version of subsection (1) is effective until July 1, 2024.]** Hearings before the court pursuant to section 27-65-109 or 27-65-110 are conducted in the same manner as other civil proceedings before the court. The burden of proof is on the person or facility seeking to detain the respondent. The court or jury shall determine that the respondent is in need of care and treatment only if the court or jury finds by clear and convincing evidence that the respondent has a mental health disorder and, as a result of the mental health disorder, is a danger to the respondent's self or others or is gravely disabled.

**(1) [Editor's note: This version of subsection (1) is effective July 1, 2024.]** Hearings before the court pursuant to section 27-65-108.5, 27-65-109, or 27-65-110 are conducted in the same manner as other civil proceedings before the court. The burden of proof is on the person or facility seeking to detain the respondent. The court or jury shall determine that the respondent is in need of care and treatment only if the court or jury finds by clear and convincing evidence that the respondent has a mental health disorder and, as a result of the mental health disorder, is a danger to the respondent's self or others or is gravely disabled.

**(2)** The court, after consultation with respondent's counsel to obtain counsel's recommendations, may appoint a professional person to examine the respondent for whom short-term treatment or long-term care and treatment is sought and to testify at the hearing before the court as to the results of the professional person's examination. The court-appointed professional person shall act solely in an advisory capacity, and no presumption is attached to the professional person's findings.

**(3)** Every respondent subject to an order for short-term treatment or long-term care and treatment must be advised of the respondent's right to appeal the order by the court at the conclusion of any hearing and, as a result, the order may be entered.

**(4)** The court in which the petition is filed under section 27-65-106 or the certification is filed pursuant to section 27-65-109 is the court of original jurisdiction and of continuing jurisdiction for any further proceedings pursuant to this article 65. When the convenience of the parties and the ends of justice would be promoted by a change in the court having jurisdiction, the court

may order a transfer of the proceeding to another county. Until further order of the transferee court, if any, it is the court of continuing jurisdiction.

**(5)**

**(a)** In the event that a respondent or a person found not guilty by reason of impaired mental condition pursuant to section 16-8-103.5 (5), or by reason of insanity pursuant to section 16-8-105 (4) or 16-8-105.5, refuses to accept medication, the court having jurisdiction of the action pursuant to subsection (4) of this section; the court committing the person or defendant to the **custody** of the department pursuant to section 16-8-103.5 (5), 16-8-105 (4), or 16-8-105.5; or the court of the jurisdiction in which the designated facility treating the respondent or person is located has jurisdiction and venue to accept a petition by a treating physician and to enter an order requiring that the respondent or person accept such treatment or, in the alternative, that the medication be forcibly administered to the respondent or person. The court of the jurisdiction in which the designated facility is located shall not exercise its jurisdiction without the permission of the court that committed the person to the **custody** of the department. Upon the filing of such a petition, the court shall appoint an attorney, if one has not been appointed, to represent the respondent or person and hear the matter within ten days.

**(b)** In any case brought pursuant to subsection (5)(a) of this section in a court for the county in which the treating facility is located, the county where the proceeding was initiated pursuant to subsection (4) of this section or the court committing the person to the **custody** of the department pursuant to section 16-8-103.5 (5), 16-8-105 (4), or 16-8-105.5 shall either reimburse the county in which the proceeding pursuant to this subsection (5) was filed and in which the proceeding was held for the reasonable costs incurred in conducting the proceeding or conduct the proceeding itself using its own personnel and resources, including its own district or county attorney, as the case may be.

**(c)** In the case of a defendant who is found incompetent to proceed pursuant to section 16-8.5-103 and who refuses to accept medication, the jurisdiction for the petition for involuntary treatment procedures is as set forth in section 16-8.5-112.

**(6)** All adversarial proceedings pursuant to this article 65, including proceedings to impose a legal disability pursuant to section 27-65-127, must be conducted by the district attorney of the county where the proceeding is held or by a qualified attorney acting for the district attorney appointed by the district court for that purpose; except that, in any county or in any city and county having a population exceeding fifty thousand persons, the proceedings must be conducted by the county attorney or by a qualified attorney acting for the county attorney appointed by the district court. In any case in which there has been a change of venue to a county other than the county of residence of the respondent or the county in which the certification proceeding was commenced, the county from which the proceeding was transferred shall either reimburse the county to which the proceeding was transferred and in which the proceeding was held for the reasonable costs incurred in conducting the proceeding or conduct the proceeding itself using its own personnel and resources, including its own district or county attorney, as the case may be.

**(7)** Upon request of a legal guardian appointed pursuant to article 14 of title 15, the legal guardian may intervene in any proceeding brought pursuant to this article 65 concerning the legal guardian's ward and, through counsel, may present evidence and represent to the court the views of the legal guardian concerning the appropriate disposition of the case.

**(8)** A lay person may submit an affidavit to the court concerning the lay person’s relationship to the respondent, how long the lay person has known the respondent, the lay person’s physical address, and the lay person’s views concerning the appropriate disposition of the respondent’s case.

#### 27-65-114. Appeals.

Appellate review of any order of short-term treatment or long-term care and treatment may be had as provided in the Colorado appellate rules. An appeal must be advanced upon the calendar of the appellate court and must be decided at the earliest practicable time. Pending disposition by the appellate court, the court may make such order as the court may consider proper in the premises relating to the care and **custody** of the respondent.

#### 27-65-115. Habeas corpus.

Any person detained pursuant to this article 65 is entitled to an order in the nature of habeas corpus upon proper petition to any court generally empowered to issue orders in the nature of habeas corpus.

#### 27-65-116. Restoration of rights.

Any person who, by reason of a judicial decree entered by a court of this state prior to July 1, 1975, is adjudicated as a person with a mental illness is deemed to have been restored to legal capacity and competency.

#### 27-65-117. Discrimination - definition.

No person who has received an evaluation or treatment pursuant to this article 65 may be discriminated against for receiving an evaluation or treatment. For purposes of this section, “discrimination” means giving any undue weight to the fact of **hospitalization** or outpatient care and treatment unrelated to a person’s present capacity to meet standards applicable to all persons. Any person who suffers injury by reason of a violation of this section has a civil cause of action.

#### 27-65-118. Right to treatment - rules.

##### **(1)**

**(a)** Any person receiving an evaluation or treatment pursuant to this article 65 is entitled to medical and psychiatric care and treatment, with regard to services listed in section 27-66-101 and services listed in rules authorized by section 27-66-102, suited to meet the person’s individual needs, delivered in such a way as to keep the person in the least restrictive environment, and delivered in such a way as to include the opportunity for participation of family members in the person’s program of care and treatment, when appropriate. Nothing in this subsection (1)(a) creates any right with respect to any person other than the person receiving an evaluation, care, or treatment. The professional person and the agency or facility providing an evaluation, care, or treatment shall keep records detailing all care and treatment received by the person, and the records must be made available, upon the person’s written

authorization, to the person's attorney or the person's personal physician. The records are permanent records and must be retained in accordance with section 27-65-123 (4).

**(b)** Any person receiving an evaluation or treatment pursuant to this article 65 may petition the court pursuant to section 13-45-102, for release to a less restrictive setting within or without a treating facility or release from a treating facility when adequate medical and psychiatric care and treatment are not administered.

**(2)** The BHA shall promulgate rules to assure that each agency or facility providing an evaluation, care, or treatment requires the following:

**(a)** Consent for specific therapies and major medical treatment in the nature of surgery. The nature of the consent, by whom it is given, and under what conditions, is determined by rules of the BHA.

**(b)** The order of a physician for any treatment or specific therapy based on appropriate medical examinations;

**(c)** Notation in the patient's treatment record of periodic examinations, evaluations, orders for treatment, and specific therapies, signed by personnel involved;

**(d)** Conduct according to the guidelines contained in the regulations of the federal government and the rules of the BHA with regard to clinical investigations, research, experimentation, and testing of any kind; and

**(e)** Documentation of the findings, conclusions, and decisions in any administrative review of a decision to release or withhold the information requested by a family member or lay person pursuant to section 27-65-123 (1)(g) or (1)(h) and documentation of any information given to a family member or lay person.

#### 27-65-119. Rights of respondents certified for short-term treatment or long-term care and treatment.

**(1) [Editor's note: This version of the introductory portion to subsection (1) is effective until July 1, 2024.]** Each respondent certified for short-term treatment or long-term care and treatment on an inpatient basis pursuant to sections 27-65-109 and 27-65-110 has the following rights and shall be advised of such rights by the facility:

**(1) [Editor's note: This version of the introductory portion to subsection (1) is effective July 1, 2024.]** Each respondent certified for short-term treatment or long-term care and treatment on an inpatient basis pursuant to sections 27-65-108.5, 27-65-109, and 27-65-110 has the following rights and shall be advised of such rights by the facility:

**(a)** To be treated fairly, with respect and recognition of the respondent's dignity and individuality, by all employees of the facility with whom the respondent comes in contact;

**(b)** To not be discriminated against on the basis of age, race, ethnicity, religion, culture, spoken language, physical or mental disability, socioeconomic status, sex, sexual orientation, gender identity, or gender expression;

**(c)** To retain and consult with an attorney at any time;

**(d)** To meet with or call a personal clinician, spiritual advisor, counselor, crisis hotline, family member, workplace, **child** care provider, or school at all reasonable times;

**(e)** To continue the practice of religion;

- (f) Within twenty-four hours after the respondent's request, to see and receive the services of a patient representative who has no direct or indirect clinical, administrative, or financial responsibility for the person;
- (g) To receive and send sealed correspondence, as well as to be given the assistance of facility staff if the respondent is unable to write, prepare, or mail correspondence. Facility staff shall not open, delay, intercept, read, or censor mail or other communications or use mail or other communications as a method to enforce compliance with facility staff.
- (h) To have the respondent's behavioral health orders for scope of treatment or psychiatric advance directive reviewed and considered by the court as the preferred treatment option for involuntary administration of medications unless, by clear and convincing evidence, the respondent's directive does not qualify as effective participation in behavioral health decision-making;
- (i) To have reasonable access to telephones or other communication devices and to make and receive calls or communications in private;
- (j) To have frequent and convenient opportunities to meet with visitors;
- (k) To see the respondent's attorney, clergy person, or physician at any time;
- (l) To wear the respondent's own clothes, keep and use the respondent's own personal possessions, including the person's cell phone, and keep and be allowed to spend a reasonable sum of the respondent's own money;
- (m) To have the respondent's information and records disclosed to family members and a lay person pursuant to section 27-65-123;
- (n) To have the respondent's treatment records remain confidential, except as required by law;
- (o) To have appropriate access to adequate water, hygiene products, and food and to have the respondent's nutritional needs met in a manner that is consistent with recognized dietary practices;
- (p) To have personal privacy to the extent possible during the course of treatment; and
- (q) To have access to a representative within the facility who provides assistance to file a grievance.
- (2) A respondent's rights under subsection (1) of this section may be denied if access to the item, program, or service would endanger the safety of the respondent or another person in close proximity and may only be denied by a person involved in the respondent's care. Denial of any right must be entered into the respondent's treatment record. Information pertaining to a denial of rights contained in the respondent's treatment record must be made available, upon request, to the respondent, the respondent's legal guardian, or the respondent's attorney.
- (3) A respondent admitted to or in a facility must not be fingerprinted unless required by other provisions of law.
- (4) A respondent may be photographed upon admission for identification and the administrative purposes of the facility. The photographs are confidential and must not be released by the facility except pursuant to court order. Nonmedical photographs shall not be taken or used without appropriate consent or authorization.
- (5) Any respondent receiving evaluation or treatment under any of the provisions of this article 65 is entitled to a written copy and verbal description in a language or modality accessible to the person of all the rights enumerated in this section, and a **minor child** must receive written notice of the **minor's** rights as provided in section 27-65-104 (6)(g). A list of the rights must be

prominently posted in all evaluation and treatment facilities in the predominant languages of the community and explained in a language or modality accessible to the respondent. The facility shall assist the respondent in exercising the rights enumerated in this section.

**(6)** A facility shall not intentionally retaliate or discriminate against a person or employee for contacting or providing information to any official or to an employee of any state protection and advocacy agency, or for initiating, participating in, or testifying in a grievance procedure or in an action for any remedy authorized pursuant to this section. Any facility that violates this subsection (6) commits an unclassified misdemeanor and shall be fined not more than one thousand dollars.

**(7)** Any respondent whose rights are denied or violated pursuant to this section has the right to file a complaint against the facility with the behavioral health administration and the department of public health and environment.

#### **27-65-120. Administration or monitoring of medications to persons receiving treatment.**

The commissioner has the power to direct the administration or monitoring of medications in conformity with part 3 of article 1.5 of title 25 to persons receiving treatment in facilities designated pursuant to this article 65.

#### **27-65-121. Employment of persons in a facility - rules.**

The BHA shall adopt rules governing the employment and compensation for the administration of care or treatment to persons receiving care or treatment pursuant to this article 65. The BHA shall establish standards for reasonable compensation for such employment.

#### **27-65-122. Voting in public elections.**

Any person receiving evaluation, care, or treatment pursuant to this article 65 must be given the opportunity to exercise the person's right to register and to vote in primary and general elections. The agency or facility providing evaluation, care, or treatment shall assist the person, upon the person's request, to obtain voter registration forms and mail ballots and to comply with any other prerequisite for voting.

#### **27-65-123. Records.**

**(1)** Except as provided in subsection (2) of this section, all information obtained and records prepared in the course of providing any services to any person pursuant to any provision of this article 65 are confidential and privileged matter. The information and records may be disclosed only:

**(a)** In communications between qualified professionals, facility personnel, or state agencies in the provision of services or appropriate referrals;

**(b)** When the recipient of services designates persons to whom information or records may be released; but, if a recipient of services is a ward or conservatee and the ward's or conservatee's guardian or conservator designates, in writing, persons to whom records or information may be disclosed, the designation is valid in lieu of the designation by the recipient; except that nothing in this section compels a physician, psychologist, social worker, nurse, attorney, or other professional personnel to reveal information that has been given to the person in confidence by members of a patient's family or other informants;

- (c) To the extent necessary to make claims on behalf of a recipient of aid, insurance, or medical assistance to which the recipient may be entitled;
- (d) If the BHA has promulgated rules for the conduct of research. Such rules must include, but are not limited to, the requirement that all researchers must sign an oath of confidentiality. All identifying information concerning individual patients, including names, addresses, telephone numbers, and social security numbers, must not be disclosed for research purposes.
- (e) To the courts, as necessary for the administration of this article 65;
- (f) To persons authorized by an order of court after notice and opportunity for hearing to the person to whom the record or information pertains and the custodian of the record or information pursuant to the Colorado rules of civil procedure;
- (g) To family members upon admission of a person with a mental health disorder for inpatient or **residential** care and treatment. The only information that may be released pursuant to this subsection (1)(g) is the location and fact of admission of the person with a mental health disorder who is receiving care and treatment. The disclosure of location is governed by the procedures in section 27-65-124 and is subject to review pursuant to section 27-65-124.
- (h) To family members or a lay person actively participating in the care and treatment of a person with a mental health disorder, regardless of the length of the participation. The information released pursuant to this subsection (1)(h) is limited to one or more of the following: The diagnosis, the prognosis, the need for **hospitalization** and anticipated length of stay, the discharge plan, the medication administered and side effects of the medication, and the short-term and long-term treatment goals. The disclosure is governed by the procedures in section 27-65-124 (2) and is subject to review pursuant to section 27-65-124.
- (i) In accordance with state and federal law to the agency designated pursuant to the federal "Protection and Advocacy for Individuals with Mental Illness Act", 42 U.S.C. sec. 10801 et seq., as the governor's protection and advocacy system for Colorado.
- (2) Nothing in subsection (1)(g) or (1)(h) of this section precludes the release of information to a parent concerning the parent's **minor child**.
- (3)
- (a) Nothing in this article 65 renders privileged or confidential any information, except written medical records and information that is privileged pursuant to section 13-90-107, concerning observed behavior that constitutes a criminal offense committed upon the premises of any facility providing services pursuant to this article 65 or any criminal offense committed against any person while performing or receiving services pursuant to this article 65.
- (b) Subsection (1) of this section does not apply to physicians or psychologists eligible to testify concerning a criminal defendant's mental condition pursuant to section 16-8-103.6.
- (4)
- (a) All facilities shall maintain and retain permanent records, including all applications as required pursuant to section 27-65-106 (3).
- (b) Outpatient or ambulatory care facilities shall retain all records for a minimum of seven years after discharge from the facility for persons who were eighteen years of age or older when admitted to the facility, or until twenty-five years of age for persons who were under eighteen years of age when admitted to the facility.
- (c) Inpatient or hospital care facilities shall retain all records for a minimum of ten years after discharge from the facility for persons who were eighteen years of age or older when admitted



to the facility, or until twenty-eight years of age for persons who were under eighteen years of age when admitted to the facility.

**(5)** Nothing in this section prohibits or limits the sharing of information by a state institution of higher education police department to authorized university administrators pursuant to section 23-5-141.

**(6)** *[Editor's note: Subsection (6) is effective July 1, 2024.]* Nothing in this section prohibits the limited disclosure of necessary information to the prosecuting attorney and criminal defense counsel if a criminal case is still pending against the person.

#### 27-65-124. Request for release of information - procedures - review of a decision concerning release of information.

**(1)** When a family member requests the location and fact of admission of a person with a mental health disorder pursuant to section 27-65-123 (1)(g), the treating professional person or the professional person's designee, who must be a professional person, shall decide whether to release or withhold such information. The location must be released unless the treating professional person or the professional person's designee determines, after an interview with the person with a mental health disorder, that release of the information to a particular family member would not be in the best interests of the person with a mental health disorder. Any decision to withhold information requested pursuant to section 27-65-123 (1)(g) is subject to administrative review pursuant to this section upon request of a family member or the person with a mental health disorder. The treating facility shall make a record of the information given to a family member pursuant to this subsection (1). For the purposes of this subsection (1), an adult person having a similar relationship to a person with a mental health disorder as a spouse, lay person, parent, **child**, or sibling of a person with a mental health disorder may also request the location and fact of admission concerning a person with a mental health disorder.

#### **(2)**

**(a)** When a family member requests information pursuant to section 27-65-123 (1)(h) concerning a person with a mental health disorder, the treating professional person or the professional person's designee shall determine whether the person with a mental health disorder is capable of making a rational decision in weighing the person's confidentiality interests and the care and treatment interests implicated by the release of information. The treating professional person or the professional person's designee shall then determine whether the person with a mental health disorder consents or objects to the release of information. Information must be released or withheld in the following circumstances:

**(I)** If the treating professional person or the professional person's designee makes a finding that the person with a mental health disorder is capable of making a rational decision concerning the person's interests and the person with a mental health disorder consents to the release of information, the treating professional person or the professional person's designee shall order the release of the information unless the professional person or the professional person's designee determines that the release would not be in the best interests of the person with a mental health disorder.

**(II)** If the treating professional person or the professional person's designee makes a finding that the person with a mental health disorder is capable of making a rational decision concerning the

person's interests and the person with a mental health disorder objects to the release of information, the treating professional person or the professional person's designee shall not order the release of the information.

**(III)** If the treating professional person or the professional person's designee makes a finding that the person with a mental health disorder is not capable of making a rational decision concerning the person's interests, the treating professional person or the professional person's designee may order the release of the information if the professional person or the professional person's designee determines that the release would be in the best interests of the person with a mental health disorder.

**(IV)** Any determination as to capacity pursuant to this subsection (2)(a) must be used only for the limited purpose of this subsection (2)(a).

**(b)** A decision by a treating professional person or the professional person's designee concerning the capability of a person with a mental health disorder pursuant to subsection (2)(a)(III) of this section is subject to administrative review upon the request of the person with a mental health disorder. A decision by a treating professional person or the professional person's designee to order the release or withholding of information pursuant to subsection (2)(a)(III) of this section is subject to administrative review upon the request of either a family member or the person with a mental health disorder.

**(c)** The director of the treating facility shall make a record of any information given to a family member pursuant to subsection (2)(a) of this section and section 27-65-123 (1)(h).

**(3)** When administrative review is requested pursuant to subsection (1) or (2)(b) of this section, the director of the facility providing care and treatment to the person with a mental health disorder shall cause an objective and impartial review of the decision to withhold or release information. The director of the facility shall conduct the review, if the director is a professional person. If the director is not available or if the director cannot provide an objective and impartial review, the review must be conducted by a professional person designated by the director of the facility. The review must include, but need not be limited to, an interview with the person with a mental health disorder. The facility providing care and treatment shall document the review of the decision.

**(4)** If a person with a mental health disorder objects to the release or withholding of information, the person with a mental health disorder and the person's attorney, if any, must be provided with information concerning the procedures for administrative review of a decision to release or withhold information. The person with a mental health disorder must be informed of any information proposed to be withheld or released and to whom and be given a reasonable opportunity to initiate the administrative review process before information concerning the person's care and treatment is released.

**(5)** A family member whose request for information is denied must be provided with information concerning the procedures for administrative review of a decision to release or withhold information.

**(6)** A person with a mental health disorder may file a written request for review by the court of a decision made upon administrative review to release information to a family member requested pursuant to section 27-65-123 (1)(h) and proposed to be released pursuant to subsection (2) of this section. If judicial review is requested, the court shall hear the matter within ten days after the request, and the court shall give notice to the person with a mental

health disorder and the person's attorney, the treating professional person, and the person who made the decision upon administrative review of the time and place of the hearing. The hearing must be conducted in the same manner as other civil proceedings before the court.

**(7)** In order to allow a person with a mental health disorder an opportunity to seek judicial review, the treating facility or the treating professional person or the professional person's designee shall not release information requested pursuant to section 27-65-123 (1)(h) until five days after the determination upon administrative review of the director or the director's designee is received by the person with a mental health disorder, and, once judicial review is requested, the treating facility or the treating professional person or the professional person's designee shall not release information except by court order. However, if the person with a mental health disorder indicates an intention not to appeal a determination upon administrative review that is adverse to the person concerning the release of information, the information may be released less than five days after the determination upon review is received by the person with a mental health disorder.

**(8)** This section provides for the release of information only and is not deemed to authorize the release of the written medical record without authorization by the patient or as otherwise provided by law.

**(9)** For purposes of this section, the treating professional person's designee shall be a professional person.

#### [27-65-125. Treatment in federal facilities.](#)

**(1)** If a person is certified pursuant to this article 65 and is eligible for hospital care or treatment by an agency of the United States, and if a certificate of notification from the agency showing that facilities are available and that the person is eligible for care or treatment is received, the court may order the person to be placed in the **custody** of the agency for **hospitalization**. When any person is admitted pursuant to an order of court to any hospital or institution operated by any agency of the United States within or outside this state, the person is subject to the rules and regulations of the agency. The chief officer of any hospital or institution operated by an agency in which the person is so hospitalized shall, with respect to the person, be vested with the same powers as the chief officer of the Colorado mental health institute at Pueblo with respect to **detention, custody**, transfer, conditional release, or discharge of patients. Jurisdiction is retained in the appropriate courts of this state to inquire into the mental condition of a person so hospitalized and to determine the necessity for continuance of the person's **hospitalization**.

**(2)** An order of a court of competent jurisdiction of another state, territory, or the District of Columbia authorizing **hospitalization** of a person to any agency of the United States has the same effect as to the person while in this state as in the jurisdiction in which the court entering the order is situated; the courts of the state or district issuing the order retain jurisdiction of the person so hospitalized for the purpose of inquiring into the person's mental condition and for determining the necessity for continuance of the person's **hospitalization**. Consent is given to the application of the law of the state or district in which the court issuing the order for **hospitalization** is located, with respect to the authority of the chief officer of any hospital or

institution operated in this state by any agency of the United States to retain **custody**, transfer, conditionally release, or discharge the person hospitalized.

#### 27-65-126. Transfer of persons into and out of Colorado - reciprocal agreements.

The transfer of a person hospitalized voluntarily pursuant to this article 65 out of Colorado or under the laws of another jurisdiction into Colorado are governed by the provisions of the interstate compact on mental health.

#### 27-65-127. Imposition of legal disability - deprivation of legal right - restoration - repeal.

##### (1)

(a) When an interested person wishes to obtain a determination as to the imposition of a legal disability or the deprivation of a legal right for a person who has a mental health disorder and who is a danger to the person's self or others, is gravely disabled, or is insane, as defined in section 16-8-101, and who is not then subject to proceedings pursuant to this article 65 or part 3 or part 4 of article 14 of title 15, the interested person may petition the court for a specific finding as to the legal disability or deprivation of a legal right. Actions commenced pursuant to this subsection (1) may include but are not limited to actions to determine contractual rights and rights with regard to the operation of motor vehicles.

(b) The petition must set forth the disability to be imposed or the legal right to be deprived and the reasons.

(2) The court may impose a legal disability or may deprive a respondent of a legal right only upon finding both of the following:

(a) That the respondent is a person with a mental health disorder and is a danger to the respondent's self or others, is gravely disabled, or insane, as defined in section 16-8-101; and

(b) That the requested disability or deprivation is both necessary and desirable.

##### (3)

(a) Beginning January 1, 2023, the BHA shall provide periodic updates to the advisory board related to the implementation of House Bill 22-1256, including updates regarding whether the BHA will have the capability and capacity to assist emergency medical services facilities that treat a person under an **emergency mental health hold** find appropriate placement, when indicated, for the person at an inpatient or outpatient mental health facility or facility designated by the commissioner.

(b) This subsection (3) is repealed, effective July 1, 2025.

(4) To have a legal disability removed or a legal right restored, any interested person may file a petition with the court that made the original finding. No legal disability may be imposed nor a legal right be deprived for a period of more than six months without a review hearing by the court at the end of six months, at which time the findings specified in subsection (2) of this section must be reaffirmed to justify continuance of the disability or deprivation. A copy of the petition must be served on the person who filed the original petition, on the person whose rights are affected if the person is not the petitioner, and upon the facility where the person whose rights are affected resides, if any.

(5) Whenever any proceedings are instituted or conducted pursuant to this section, the following procedures apply:

- (a) Upon the filing of a petition, the court shall appoint an attorney to represent the respondent. The respondent may replace the attorney with an attorney of the respondent's own choosing at any time. Attorney fees for an indigent respondent are paid by the court.
- (b) The court, upon request of an indigent respondent or the respondent's attorney, shall appoint, at the court's expense, one or more professional persons of the respondent's choosing to assist the respondent in the preparation of the respondent's case.
- (c) Upon demand made at least five days prior to the date of hearing, the respondent has the right to a trial of all issues by a jury of six.
- (d) At all times the burden is upon the person seeking imposition of a disability or deprivation of a legal right or opposing removal of a disability or deprivation to prove all essential elements by clear and convincing evidence.
- (e) Pending a hearing, the court may issue an order temporarily imposing a disability or depriving the respondent of a legal right for a period of not more than ten days in conformity with the standards for issuance of ex parte temporary **restraining** orders in civil cases, but no individual habilitation or rehabilitation plan is required prior to the issuance of the order.
- (f) Except as otherwise provided in this subsection (5), all proceedings must be held in conformance with the Colorado rules of civil procedure, but no costs may be assessed against the respondent.

#### 27-65-128. Administration - rules.

The BHA shall promulgate any rules and develop and distribute any applications or forms necessary to consistently enforce the provisions of this article 65. The BHA shall proactively train providers, facilities, counties, judges, magistrates, intervening professionals, and certified peace officers on the procedures under this article 65, which training must include an understanding of the criteria for invoking an **emergency mental health hold** pursuant to section 27-65-106, the definition of "gravely disabled" and how a person who is gravely disabled may present physically and psychiatrically, and suggested templates and resources to be used by facilities to meet the requirements of section 27-65-106 (8)(a)(III) and (8)(a)(VII).

#### 27-65-129. Payment for counsel.

In order to provide legal representation to persons eligible for an attorney pursuant to this article 65, the judicial department shall pay, out of money appropriated by the general assembly, sums directly to the appointed attorney on a case-by-case basis or, on behalf of the state, shall pay lump-sum grants to and contract with individual attorneys, legal partnerships, legal professional corporations, public interest law firms, or nonprofit legal services corporations

#### 27-65-130. Advisory board - created - service standards and rules..

##### (1)

(a) An advisory board, referred to in this section as the "board", is established for the purpose of assisting and advising the commissioner in accordance with subsection (2) of this section in the development of service standards and rules. The board consists of no fewer than eleven but not more than fifteen members appointed by the governor, as follows:

(l) One representative from the the department of human services;

- (II) One representative from the BHA;
  - (III) One representative from the department of public health and environment;
  - (IV) One representative from the university of Colorado health sciences center;
  - (V) One representative from a leading professional association of psychiatrists in this state;
  - (VI) One member representing proprietary skilled health-care facilities;
  - (VII) One member representing nonprofit health-care facilities;
  - (VIII) One member representing the Colorado bar association;
  - (IX) One member representing consumers of services for persons with mental health disorders;
  - (X) One member representing families of persons with mental health disorders;
  - (XI) One member representing **children's** health-care facilities; and
  - (XII) Other persons from both the private and the public sectors who are recognized or known to be interested and informed in the area of the board's purpose and function.
- (b) In making appointments to the board, the governor is encouraged to include representation by at least one member who is a person with a disability, as defined in section 24-34-301, a family member of a person with a disability, or a member of an advocacy group for persons with disabilities, provided that the other requirements of this section are met.
- (2) The advisory board is responsible for recommending standards and rules relevant to the provisions of this article 65 for the programs of mental health services to those patients in any health-care facility that has either separate facilities for the care, treatment, and rehabilitation of persons with mental health disorders or those health-care facilities that have as the health-care facility's only purpose the care and treatment of such persons.

#### 27-65-131. Data report.

- (1) Beginning January 1, 2025, and each January 1 thereafter, the BHA shall annually submit a report to the general assembly on the outcomes and effectiveness of the involuntary commitment system described in this article 65, disaggregated by region, including any recommendations to improve the system and outcomes for persons involuntarily committed or certified pursuant to this article 65. The report must include aggregated and disaggregated nonidentifying individual-level data. At a minimum, the report must include:
- (a) The number of seventy-two-hour **emergency mental health holds** that occurred in the state and the number of people placed on a seventy-two-hour **emergency mental health hold**, including:
    - (I) A summary of the reason each person was placed on an **emergency mental health hold**;
    - (II) Demographic information of each person placed on an **emergency mental health hold**;
    - (III) Disposition of each person placed on an **emergency mental health hold**;
    - (IV) How often a facility was required to ask for assistance from the BHA to find placement for the person pursuant to section 27-65-106 and if placement was found, the average length of time a person had to wait for the placement and the challenges encountered in finding a placement;
    - (V) How many subsequent **emergency mental health holds** were placed pursuant to section 27-65-106 due to a lack of appropriate placement options; and
    - (VI) How each **emergency mental health hold** originated, whether by a certified peace officer; intervening professional, including specific professional type; or a court order;

- (b) The number and characteristics of each certification for short-term treatment, including an extension of short-term treatment, and long-term care and treatment that occurred in the state, including:
- (I) The number of inpatient versus outpatient certifications;
  - (II) The reason for initiating each certification;
  - (III) The number of certifications initiated by a court order, professional person, or certified peace officer;
  - (IV) The average length of each certification;
  - (V) The demographics of each individual on a certification for short-term treatment;
  - (VI) The services provided;
  - (VII) The services needed that were not available; and
  - (VIII) Any identified barriers preventing the provision of needed services;
- (c) The outcome of each certification for short-term treatment and certification for long-term care and treatment;
- (d) The reason each certification was discontinued, disaggregated by those successfully discharged; voluntarily discharged; transferred; not located; with treatment compliance concerns; unable to transfer to another facility or provider, for lack of payment to treatment providers; and for any other reasons;
- (e) The person's housing and employment status when certification was discontinued;
- (f) What services were provided versus what services were most frequently needed by people certified on an outpatient basis;
- (g) Barriers and opportunities with local providers, the judicial branch, and law enforcement; and
- (h) How many individuals were placed in the **custody** of the BHA on a certification for short-term treatment who were concurrently involved in the criminal justice system, including the outcomes of each person and any barriers and opportunities that may exist to better serve the population.

## Relevant Colorado Regulations

### 2509-8:7.714 Quality standards for 24-hour child care

#### 2509-8:7.714. Quality standards for twenty-four (24)-hour child care [Rev. eff. 6/1/12]

All rules in Section 7.714 will be known and hereinafter referred to as the Quality Standards for Twenty-Four (24)-Hour Child Care and will apply to all child care applicants and licensees subject to licensing as a specialized group facility, residential child care facility, shelter residential child care facility, or psychiatric residential treatment facility. However, Section 7.714.53, et seq., and the applicable definitions in Section 7.714.1 also apply to approved family foster care homes, see Section 7.708.36, et seq., and day treatment centers, see Section 7.706, et seq.

#### 2509-8:7.714.1. Definitions [Rev. eff. 6/1/12]

“Client Representative” means a person designated by the facility to process grievances.

“Chemical **restraint**” means giving an individual medication involuntarily for the purpose of restraining that individual; except that chemical **restraint** does not include the involuntary administration of medication pursuant to [Section 27-65-111\(5\), C.R.S.](#), or administration of medication for voluntary or life-saving medical procedures. A chemical **restraint** does not include a drug or medication that is a usual and customary part of a medical diagnostic or treatment procedure to treat the individual's medical condition or symptoms or to promote the individual's independent functioning.

“De-escalation” is the use of therapeutic interventions with a child during the escalation phase of a crisis. The interventions are designed to allow children to contain their own behavior so that acute physical behavior does not develop that would lead to the need to use a physical management.

“**Emergency**” means a serious, probable, imminent threat of bodily harm to self or others where there is the present ability to effect such bodily harm.

“Escalation” is an increase in intensity of a child's out-of-control behavior.

The “Family Service Plan” is a case services plan completed by a county caseworker jointly with the child, parents, and providers within sixty (60) calendar days of placement for each child receiving services from a county department of social/human services.

The “Individual Child's Plan” (“the Plan”) is based upon an assessment of the child immediately following placement at the facility. It is developed by the facility for each child and must be consistent with the Family Service Plan for the child.

“**Mechanical Restraint**” means a physical device used to involuntarily restrict the movement of an individual or the movement or normal function of a portion of his or her body. **Mechanical restraints** include, but are not limited to: the use of handcuffs, shackles, straight jackets, posey vests, ankle and wrist **restraints**, craig beds, vail beds, and chest **restraints**. **Mechanical restraint** does not include the use of protective devices used for the purpose of providing physical support or prevention of accidental injury.

“Nationally Recognized Criteria” means a set of standards, nationally acknowledged as acceptable and appropriate for use with at-risk populations, that are incorporated into the model of physical management utilized by the facility. The Nationally Recognized Criteria shall include, at a minimum the following:



A. Annual staff training and/or certification, to include training upon hire, and ongoing (at least every six months) refresher training or practice exercises for each staff member trained or certified in **restraint**, to review and refresh skills involved in positive behavior intervention, prevention, de-escalation, and physical management, in accordance with the model.

B. A **restraint** prevention and de-escalation component, to include identifying antecedents that may cause an individual to escalate, and/or development of behavior management plans that are in alignment with individual treatment plans if necessary.

C. A physical management process that prohibits or provides alternatives to a prone position, and includes identifying primary control techniques that emphasize utilizing only the minimum amount of force necessary to gain control and keep the individual safe.

D. A debriefing process which includes a review of physical management, to determine the appropriateness and effectiveness of preventive/de-escalation techniques used, the appropriateness of physical management, and how, or if, physical managements are preventable.

“Physical Management” means the physical action of placing one's hands on an individual.

Physical management may be used to gain physical control in order to protect the individual or others from harm after all attempts to verbally direct or deescalate the individual have failed.

**Physical management may be utilized when an emergency situation exists. The physical management continuum may include:**

A. Utilizing transitional measures.

B. Placing one's hands on an individual to physically guide and/or physically control the individual.

C. Use of an approved **restraint** method to control or contain the individual.

D. Placing of an individual into an approved prolonged **restraint** method.

E. Physical management may be used to move or escort an individual into **seclusion**. **Seclusion**, in itself, is not a form of physical management.

“Physical **Restraint**” means the use of bodily, physical force to involuntarily limit an individual's freedom of movement.

“Prone Position” means placing an individual in a face down position.

“Prone **Restraint**” means a **restraint** in which the individual being restrained is secured for a period of time in a prone position for a period of time exceeding five (5) minutes.

“Reasonable” as used in these rules means appropriate and suitable, or not excessive or extreme.

“Religion” where used in these regulations includes traditional religious beliefs and spiritual beliefs such as those of Native Americans.

“**Restraint**” means any method or device used to involuntarily limit freedom of movement, including, but not limited to, bodily physical force, mechanical devices, or chemicals. **Restraint** includes a chemical **restraint**, a mechanical **restraint**, a physical **restraint**, and **seclusion**.

**Restraint** does not include:

A. The use of any form of **restraint** in a licensed or certified hospital when such use is in the context of providing medical or dental services that are provided with the consent of the individual or the individual's guardian;

B. The use of protective devices or adaptive devices for providing physical support, prevention of injury, or voluntary or life-saving medical procedures;

C. The initial temporary holding or positioning of an individual, for less than five minutes, by a staff person appropriately trained and/or certified for protection of the individual or other persons;

D. The holding of a child by one adult for the purpose of calming or comforting the child;

E. Placement of an individual in his or her sleeping room for the night; or,

F. The use of time-out, in an unlocked setting where voluntary egress is not prevented, and as may be defined by written policies, rules, or procedures.

A “**residential Facility**” (“the facility”) provides 24-hour child care and includes residential child care facilities and specialized group facilities.

A “staff member” of the facility as used in these rules includes a specialized group home parent or a specialized group center or residential child care facility.

“**Seclusion**” means the placement of an individual, six (6) years old or older, alone in a room from which egress is involuntarily prevented.

“Transitional measure” means physical guidance, prompting techniques of short duration, or an initial temporary approved physical positioning of an individual at the onset or in response to a re-escalation during a physical management, for the purpose of quickly and effectively gaining physical control of that individual in order to prevent harm to self or others. Momentary utilization of a short term (as quickly as possible, but not to exceed five (5) minutes) prone position is only permissible during a transitional measure.

#### 2509-8:7.714.2. Admission policy and procedures [Rev. eff. 6/1/12]

...

G. The placement agreement shall be developed with the involvement of the child, the parent(s) or guardian(s) and the representative of the placing agency. Where the involvement of any of these is not feasible or desirable, the reasons for the exclusion shall be recorded by the facility. The placement agreement shall address by reference or attachment at a minimum the following:

...

2. The policy and procedure to be followed regarding the use of physical management, **restraint** and **seclusion** in an emergency situation pursuant to 7.714.53, et seq.

#### 2509-8:7.714.3. Religion, rights, and grievance procedures

##### 7.714.31 Children's Rights

A. The facility shall have written policies and procedures that address and ensure the availability of each of the following core rights for children in residence. These rights may not be restricted or denied by the facility.

1. Every child has the right to enjoy freedom of thought, conscience, cultural and ethnic practice, and religion.

2. Every child has the right to a reasonable degree of privacy.

3. Every child has the right to have his or her opinions heard and considered, to the greatest extent possible, when any decisions are being made affecting his/her life.

4. Every child has the right to receive appropriate and reasonable adult guidance, support and supervision.
  5. Every child has the right to be free from physical abuse or neglect and inhumane treatment. Every child has the right to be protected from all forms of sexual exploitation.
  6. Every child has the right to receive adequate and appropriate medical and mental health and psychiatric care in the least restrictive setting possible, suited to meet individual needs.
  7. Every child has the right to receive adequate and appropriate food, clothing, and housing.
  8. Every child has the right to live in clean, safe surroundings.
  9. Every child has the right to participate in an educational program that will maximize his/her potential in accordance with existing law.
  10. Every child has the right to communicate with “significant others” outside the facility, such as a parent or guardian, caseworker, attorney or guardian ad litem and/or counsel for youth, current therapist, physician, religious advisor, and, if appropriate, probation officer.
  11. No foster child shall be fingerprinted for the purpose of a criminal background check unless required by law enforcement.
  12. A child may be photographed upon admission for identification and administrative purposes of the facility pursuant to [Section 19-3-306, C.R.S.](#) Such photographs shall be confidential and shall not be released by the facility except pursuant to court order. No other non-medical photographs or videotaping shall be taken or used without the written consent of the child's parent or legal guardian except in the case of a child abuse or police investigation.
  13. Every child has the right to the same consideration for care and treatment as anyone else regardless of race, color, national origin, religion, age, sex, political affiliation, sexual orientation, financial status or disability.
  14. Every child has the right to be given the names and professional status of the staff members responsible for his/her care.
  15. Every child has the right to receive assistance from the resident representative in filing a grievance and to receive copies of the grievance procedure.
  16. Every child fifteen (15) years of age and older has the right to request his or her own medical records, to see the records at reasonable times, and to be given written reasons if the request is denied.
  17. Every child fifteen (15) years of age and older, who is not in the **custody** of human services, has the right to accept treatment of his/her own free will and may sign in as a voluntary resident. The child has the right to refuse to sign the consent for voluntary treatment at the time of admission or may take back the consent at a later date pursuant to [Section 27-65-104, C.R.S.](#)
- B. The following children's rights may be limited to reasonable periods during the day or restricted according to written policies of the facility to ensure the protection of the children, staff, and program from unreasonable and unnecessary intrusions and disruptions and from health and safety hazards.
1. Every child has the right to have access to letter-writing materials, including postage, and to have staff members of the facility assist him/her if unable to write, prepare, and mail correspondence.
  2. Every child has the right to have access to telephones to both make and receive calls in privacy.

3. Every child has the right to have convenient opportunities to meet with visitors.
4. Every child has the right to wear his/her own clothes, keep and use his/her own personal possessions, and keep and be allowed to spend a reasonable sum of his/her own money.
5. Every child has the right to receive and send sealed correspondence. No incoming or outgoing correspondence shall be opened, delayed, held, or censored by the personnel of the child care facility.

C. Written policies that restrict or limit a child's rights as listed at 7.714.31, B, must include at a minimum:

1. Plans for how and when telephone and written communications will take place.
2. Plans for regular visits of the child with relatives, friends, or others interested in his/her welfare, both within and outside of the facility, unless in the judgment of treatment staff and the placement agency visits would be detrimental to the child and/or his/her family.
3. Plans for extenuating circumstances and emergency situations affecting the child and his/her family.
4. The requirement that the facility notify the child, if appropriate to the age of the child, and his/her parent(s) or guardian(s) at the time of admission of any policy that would limit or restrict a child's rights. The notification must be communicated in a language or mode of communication the child can understand and, if possible, be signed by the child and his/her parent(s) or guardian(s).

D. If the facility enforces any restrictions upon the child's rights as listed at 7.714.31, B, the facility must, in compliance with the written policy and procedure of the facility:

1. Inform the child and the child's family and custodian or legal guardian, in a language or mode of communication the child can understand, of the conditions of and reasons for restriction or termination, of his/her rights.
2. Place a written report summarizing the conditions of and reasons for restriction, denial, or termination of the child's rights in that child's case record or treatment record. Information pertaining to a restriction, denial, or termination of a child's rights contained in the child's treatment or case record must be made available, upon request, to the child or the child's guardian ad litem (GAL) and/or counsel for YOUTH.
3. When a restriction of a child's rights affects another individual, the individual shall be informed, in a language or mode of communication the individual can understand, of the conditions of and reasons for the action.

#### **7.714.32 Children's Grievance Procedure [Rev. eff. 7/2/06]**

A. The facility must designate a client representative and establish a written grievance procedure that provides adequate due process safeguards, spells out the appeal process and assures that children and parent(s) or guardian(s) are entitled to report any grievance and shall not be subject to any adverse action as a result of filing the grievance.

1. The facility must follow grievance procedures without alteration or interference and must respond to any grievance filed within 72 hours.
2. This grievance procedure shall be made available to all children as provided for in the resident rights.
3. If a grievance is filed with the facility, the grievance shall be recorded in the child's record along with the investigation findings and resulting action taken by the facility. Information

regarding the grievance must be sent to the individual or agency holding legal **custody** of the child. A copy of the child's grievance may be sent to the parent with the child's permission.

4. A list of the resident rights shall be prominently posted in all facilities in areas frequented by children and legal guardians. These rights shall include the grievance procedure, the name, address, and telephone number of their resident representative, as well as a list of agencies where complaints may be filed.

B. A list of the children's rights and the grievance procedures must be provided and explained to the child and the parent or guardian in a language or manner of communication that they can understand.

**7.714.33 Religion [Rev. eff. 7/2/06]**

The facility shall demonstrate consideration for, and sensitivity to, the religious backgrounds of children in care. The facility shall assist a child's involvement in religious activities appropriate to the child's religious background, based upon the needs and interests of the child.

- A. A child in care at the facility shall be allowed and encouraged to celebrate his/her religious holidays.
- B. Opportunity and assistance shall be provided for each child to practice the chosen/preferred religious beliefs and faith of his/her family. If the family has no preference, the individual preference of the child shall be respected. This includes, but is not limited to, making necessary arrangements for attendance of children at the appropriate religious institution or at a study group for religious instruction.
- C. A child may be invited to participate in the religious activities of the facility.
- D. A child shall not be coerced or forced to participate in the religious activities of the facility or to attend religious services.
- E. Prior to placement of the child at the facility, the parent(s), guardian(s), and/or placing agencies must be notified of the practices, philosophy, and religious affiliation of the facility.
- F. Any form of religious intervention used by the facility to control or change a child's behavior, or treat or heal a medical condition, must be approved, in writing, by the legal guardian(s) of the child prior to the use of the intervention.
- G. A facility cannot deny medical care to a child because of the religious beliefs of the facility.
- H. The child's family and/or guardian must be consulted prior to any planned change in religious affiliation made by the child while he/she is in care at the facility.

**2509-8:7.714.4. Program description and individual child's plan [Rev. eff. 6/1/12]**

- A. The facility shall have a written overall program description for the facility. The written description shall include the following:
  - 1. The title of the person who has overall responsibility for the development, implementation, and coordination of the treatment program.
  - 2. Staff responsibility for planning and implementation of the treatment procedures and techniques.
  - 3. The range of procedures and techniques to be used and the anticipated range or types of behavior or conditions for which such procedures and techniques are to be used, including philosophy of treatment, modes of therapy, treatment modalities, positive behavior

intervention, problem management, discipline, physical management, **restraint**, and **seclusion** where allowed and approved by the department.

4. The facility's responsibility for monitoring the safety of children during treatment.
5. Review procedures for ensuring the appropriateness of the ongoing treatment and placement for each child.
6. Policies and procedures encouraging termination of the treatment procedures at the earliest opportunity in the event of achievement of goals, or when the procedures are proving to be ineffective or detrimental for a particular child.
7. Policies and procedures on how the facility involves the child and the parent(s) or guardian(s) in the plan for care and treatment of the child and obtains their consent of the plan and any subsequent revisions to the plan.
8. Policies and procedures on how the facility monitors the ongoing physical safety of a child during treatment or therapy which involves face to face interaction with the child.
9. Requirements, where appropriate, for medical examination of a child prior to implementation of a treatment strategy on a regular basis.
10. Provisions for regular and thorough review and analysis of the individualized treatment strategies and the overall treatment orientation of the facility, including provisions for making appropriate adjustments in the treatment strategies and orientation, the recording practices and procedures, and the program activities in accordance with the results of the reviews.
11. Each facility shall adopt and implement a written policy for continuity of resident care which shall include, at a minimum, the following:
  - a. Ease of resident movement from one element of service to another within the facility.
  - b. Aftercare planning, to be completed ninety (90) calendar days prior to a scheduled discharge, and included with the resident's discharge summary which describes any recommendations for the resident to follow after discharge from the facility.
  - c. Referrals to other agencies.
12. The placement alternative selected shall be conducive to the optimum restoration of the resident's mental and physical functioning, with due regard for the safety of the resident and those around him/her and the availability of placement alternatives.

**B. A facility shall prohibit all cruel and aversive treatment or therapy including, but not limited to, the following:**

...

7. Physical management, **restraint**, and **seclusion** except as described at Section 7.714.53.

2509-8:7.714.5. Safety, discipline, physical management, **restraint**, and **seclusion** [Rev. eff. 6/1/12]

...

#### **7.714.52 Discipline**

A. The facility shall have written policies and procedures regarding discipline that must be explained to all children, parent(s), guardian(s), staff, and placing agencies. These policies must include positive responses to a child's appropriate behavior.

B. Discipline shall be constructive or educational in nature and may include talking with the child about the situation, praise for appropriate behavior, diversion, separation from the problem situation, and withholding privileges.

C. Basic rights shall not be denied as a disciplinary measure.

D. Separation when used as discipline must be brief and appropriate to the child's age and circumstances. The child shall always be within hearing of an adult in a safe, clean, well-lighted, well-ventilated room in the facility that contains at least 50 square feet of floor space. No child shall be isolated in a bathroom, closet, attic, pantry, or garage.

E. Children in care at the facility shall not discipline other residents. This does not prohibit a facility from operating an organized therapeutic self-government program or positive peer culture that is conducted in accordance with the written policies of the facility and these rules, and is directly supervised by a staff member.

F. A facility shall prohibit all cruel and unusual discipline including, but not limited to, the following:

1. Any type of physical hitting or any type of physical punishment inflicted in any manner upon the body of the child such as spanking, striking, swatting, punching, shaking, biting, hair pulling, roughly handling a child, striking with an inanimate object, or any humiliating or frightening method of discipline to control the actions of any child or group of children.

2. Discipline that is designed to, or likely to, cause physical pain.

3. Physical exercises such as running or walking laps, push-ups, or carrying or stacking heavy rocks, bricks, or lumber when used solely as a means of punishment.

4. Assignment of physically strenuous or harsh work that could result in harm to the child.

5. Requiring or forcing a child to take an uncomfortable position such as squatting or bending, or requiring a child to stay in a position for an extended length of time such as standing with nose to the wall, holding hands over head, or sitting in a cross-legged position on the floor, or requiring or forcing a child to repeat physical movements when used solely as a means of punishment.

6. Group discipline except in accordance with the facility's written policy and these rules.

7. Verbal abuse or derogatory remarks about the child, his/her family, his/her race; religion, or cultural background.

8. Denial of any essential/basic program service solely for disciplinary purposes.

9. Deprivation of meals or snacks, although scheduled meals or snacks may be provided individually.

10. Denial of visiting or communication privileges with family, clergy, attorney, Guardian Ad Litem (GAL) and/or counsel for youth or caseworker solely as a means of punishment.

11. Releasing noxious, toxic, or otherwise unpleasant sprays, mists, or aerosol substances in proximity to the child's face.

12. Denial of sleep.

13. Requiring the child to remain silent for a period of time inconsistent with the child's age, developmental level, or medical condition.

14. Denial of shelter, clothing or bedding.

15. Withholding of emotional response or stimulation.

16. Discipline associated with toileting, toileting accidents or lapses in toilet training.

17. Sending a child to bed as punishment. This does not prohibit a facility from setting individual bed times for children.

18. Force feeding a child.

19. Use of physical management, **restraint** or **seclusion** as discipline for a child.

#### **7.714.53 PHYSICAL MANAGEMENT, RESTRAINT AND SECLUSION [Rev. eff. 6/1/12]**

If a facility is authorized to use physical management, **restraint** or **seclusion** at the facility, the facility shall use physical management, **restraint** or **seclusion** only in accordance with the following rules unless the specific rules prohibit, limit or modify the requirements placed upon the facility.

##### **7.714.531 Authorization [Rev. eff. 6/1/12]**

At the time of admission to the facility, the legal custodian of the individual shall be notified that physical management or **seclusion** may be performed in certain circumstances. For a facility to perform physical management or **seclusion**, the legal custodian must give written consent for physical management and/or **seclusion** to be performed on the individual. No physical management or **seclusion** shall be performed on an individual without the specific written permission of the individual's legal custodian.

##### **7.714.532 Uses Of Physical Management, Restraint and Seclusion [Rev. eff. 6/1/12]**

Facility staff, including pre-approved family foster care home providers, may only use:

A. **Restraint** or **seclusion** in an emergency after the failure of less restrictive alternatives or after a determination that such alternatives would be inappropriate or ineffective under the circumstances; and,

B. **Restraint** if prior to the use of **restraint**:

1. Staff have been appropriately trained or certified in accordance with a model that includes nationally recognized criteria; and,
2. The facility tried all positive and constructive methods of dealing with the individual, including, but not limited to, implementation of a structured and consistent behavior management program, physical structuring of the environment, talking with the individual, praise for appropriate behavior, skill training and development, assisting the individual with the expression of feelings, and de-escalation of the situation.

In addition to the circumstances delineated in these rules, **Seclusion** may be used pursuant to a valid court order that the individual is kept separate from the general population.

##### **7.714.533 Facility Policies And/Or Procedures [Rev. eff. 6/1/12]**

Facility policies and/or procedures shall, at a minimum, include and comply with the following:

A. The use of prone **restraint** is prohibited. Momentary (as quickly as possible, but not to exceed five (5) minutes) utilization of a prone position is permissible only during the transitional measure portion of a physical management.

B. When using a physical or mechanical **restraint** method, in the course of a physical management, trained or certified staff shall be positioned within arm's length of the individual and continuously monitor the person to assure that the individual is properly positioned, that the individual's blood circulation is not restricted, that the individual's airway is not obstructed, and that the individual's other physical needs are met. Staff shall not place excessive pressure on the chest, abdomen or back of an individual or inhibit or impede the individual's ability to breathe. Staff shall continuously monitor to ensure that the breathing of the individual in such **restraint** is not compromised. If the individual is exceedingly agitated, staff may move further



from the individual, but must still be able to effectively assess, and respond as necessary, to the individual's physical condition. If breathing is compromised in any way, the **restraint** shall be discontinued immediately and a physical assessment shall occur to determine if medical attention is needed.

1. A transitional measure may be used during an episode of physical management to effectively gain initial physical control of an individual in order to prevent harm to self or others. A transitional measure may result in a **restraint** to maintain prolonged physical control or containment of an individual.

2. When mechanical **restraints** are used, staff shall provide relief periods, except when the individual is sleeping, of at least ten minutes as often as every two hours, so long as relief from the mechanical **restraint** is determined to be safe. During such relief periods, the staff shall ensure proper positioning of the individual and provide movement of limbs, as necessary. In addition, during such relief periods, staff shall provide assistance with toileting, as necessary. The individual's dignity and safety shall be maintained during relief periods. Staff shall note the relief periods granted in the record of the individual being restrained.

3. An individual in physical **restraint** shall be released from such **restraint** within fifteen minutes after physical control of the individual is gained, except when precluded for safety reasons and documented accordingly.

C. Chemical **restraint** is prohibited.

D. When **seclusion** is utilized:

1. Relief periods shall be provided for reasonable access to toilet facilities. While in **seclusion**, staff shall be physically present and individuals shall be visually observed no less than every fifteen (15) minutes.

2. When a facility utilizes **seclusion**, there shall be a **seclusion** room supervisor who is a full-time facility staff member, is a Colorado Licensed Clinical Social Worker (LCSW), a Licensed Professional Counselor (LPC), a Licensed Marriage and Family Therapist (LMFT), a Colorado licensed psychologist or a board-eligible psychiatrist licensed to practice medicine in Colorado, and is designated and trained to be responsible for the use of **seclusion** and the **seclusion** room. If the **seclusion** room supervisor is not a psychiatrist or a licensed psychologist, there shall be such a person contracted to provide consultation with the **seclusion** room supervisor and staff. Staff will obtain authorization from the **seclusion** room supervisor prior to utilizing the **seclusion** room.

E. Each program choosing to use physical management, **restraint** and/or **seclusion** is to have a written policy, and practices consistent with these rules and the written policy. The program's written policy must include at a minimum the following information:

1. Documentation of the physical management model used. The physical management model shall comport with the requirements provided in section 7.714.53, et seq.

2. Documentation of the type of behavior management system utilized by the program.

3. The training, which satisfies the requirements of section 7.714.53, et seq., provided to staff members approved to use physical management and **seclusion**, and the type and number of hours of training each staff member is required to take as required by the model.

4. Which staff members will be approved by the program to use physical management and **seclusion**. Staff members authorized to perform **seclusion** shall be from one or more of the

following positions: administrator, assistant administrator, child care staff, social worker, teacher, psychologist, psychiatrist, or nurse.

5. The preventive and de-escalation techniques and positive behavioral intervention that must be attempted by staff prior to the use of physical management and **seclusion**.

6. How the facility continuously monitors physical management, how the facility will be physically present, such that the staff member is able to immediately respond to the needs of the individual in **seclusion**, and how the individual in **seclusion** shall be visually observed no less than every fifteen (15) minutes.

7. The philosophy and use of the **seclusion** room, the intake process, the evaluation of an individual while in the room, emergency procedure while an individual is in **seclusion** and method for a resident's grievance regarding the use of the room.

8. The type of written documentation the facility maintains of each physical management or **seclusion**. The record shall be prepared by each staff member involved in the physical management and/or **seclusion** and shall contain all of the following:

a. A description of the incident including the name of the individual, date and time of day, the name of any witnesses to the incident, staff members involved, their position at the facility and their involvement in the physical management, and how long the physical management or **seclusion** lasted, the person who authorized the **seclusion**, those that visited the individual during the **seclusion**, the exact time of each **seclusion** fifteen (15)-minute monitoring check and the behavior of the individual at each monitoring check, time and date of each **seclusion** counseling visit, the person who authorized the release from **seclusion**, and the time and date of the release.

b. The precipitating incident(s) and the individual's behavior before the **restraint** or **seclusion**.

c. What specific actions were attempted and/or taken to de-escalate the situation and control, calm, or contain the individual and the effect of these de-escalating actions upon the individual.

d. The staff's decision-making process to perform a physical management and/or **seclusion**. A description of the physical management and/or **seclusion** including the individual's physical, emotional and behavioral condition prior to, during and after the physical management, including, but not limited to, breathing, pulse, color, and signs of choking or respiratory distress, and in the case of **seclusion**, the time the individual was last given access to restroom facilities, the time the individual had opportunity for exercise if exercise is required under the individual child plan, when and what type of medications were given and by whom, when the individual's last staff contact occurred, and the stated reasons and/or authorization to continue any **seclusion**.

e. A description of the debriefing and evaluation with the individual and with the staff following the physical management to address other options that may have been successful in de-escalating the individual.

f. An indication of review by the neutral reviewer as to the appropriateness of the physical management or **seclusion**.

g. Verification that notification of the use of physical management or **seclusion** was made to the legal custodian.

9. Evaluation by an objective, internal professional of the documentation of each physical management to determine appropriateness and effectiveness of the preventive and de-

escalation techniques used and the physical management performed, as well as assessing carefully any injuries, bruising, or death.

10. The requirement that staff not restrain an individual in physical areas that may pose a threat to the health and safety of the individual including, but not limited to, soft, pliable surfaces, concrete, asphalt or areas including broken glass.

11. All facilities shall ensure that staff are trained to explain, at time of admission, the use of physical management, **restraint** and/or **seclusion** to the individual, legal custodian, and if appropriate, to the individual's family. The explanation provided to the legal custodian and individual will occur in a language or communication understandable to him/her and will include the purpose of physical management, the physical management model used, and the circumstances when a physical management may occur.

12. Notification to the legal custodian of each use of physical management, **restraint** and/or **seclusion**, no later than the end of the day that the physical management, **restraint** or **seclusion** occurred with a written report completed and given to the legal custodian by the next business day.

13. Emergency procedures, including First Aid, that will be used if an individual or staff member is seriously injured during a physical management.

14. The requirement of staff to report any critical incident, or child abuse or neglect pursuant to Colorado state law and Sections 7.701.52 and 7.701.53.

15. If **seclusion** is performed, the purpose of the **seclusion** room, evaluation of the individual while in the room, the emergency procedures for an individual in **seclusion**, and the method for the resident's right to grieve the use of the room.

#### **7.714.534 SECLUSION [Rev. eff. 6/1/12]**

A. **Seclusion** may only occur for the period of time necessary to accomplish its purpose. The individual shall be released from **seclusion** when state of emergency has ceased. **Seclusion** shall not exceed two (2) hours per incident unless required by the individual's treatment plan or individual child plan.

B. At the time of placement of the individual in **seclusion**, the neutral reviewer shall be notified in person or by telephone. Leaving a message is not notification, and if the neutral reviewer cannot be contacted in person or by telephone, the individual may not be placed in a **seclusion** room.

C. There must be notification of another staff member, who is currently on duty, that an individual has been placed in **seclusion**.

D. A staff member must be physically present, at all times when an individual is locked inside the room.

E. Physical Requirements for a **Seclusion** Room

1. The **seclusion** room shall be located in reasonable proximity to the living unit or other areas of activity.

2. The **seclusion** room shall be a minimum of eighty (80) square feet in size.

3. The **seclusion** room shall be kept in a clean and sanitary condition.

4. All switches for light, heat, and ventilation, as well as other electrical outlets, shall be outside the room. All switches shall be available only to the staff.

5. There shall be no features by which an individual might injure him or her self within the **seclusion** room such as utility pipes, cleaning equipment and materials, or mirrors.

6. Exterior windows are not recommended, but if there are window panes they shall be of shatter-resistant material and have psychiatric screening.
7. There shall be an observation window on the door from which all parts of the room are visible for purposes of supervision. The window shall be made of shatter-resistant materials.
8. The **seclusion** room shall have a lighted, soothing environment. The individual shall not be subjected to glaring lights. All lights shall be recessed into the ceiling and shall be covered with a shatter-resistant guard which is flush with the ceiling.
9. There shall be no more than one locked door between the individual and the staff member.
10. If the **seclusion** room is soundproof, there must be an intercom system which is activated when an individual is in the room.

#### F. Approvals Necessary to Operate a **Seclusion** Room

1. The written approval of the local fire department and the Colorado Department of Human Services must be received prior to the initial use of the **seclusion** room.
2. The licensee shall request such an inspection and there shall be an inspection by the fire department at least annually. The licensee shall retain a copy of the inspection report in the facility file.
3. If it is found, at the time of inspection by the State Department of Human Services, that the facility does not meet all the regulations for operation of the room, the department staff member shall give written notice of specific deficiencies which shall be corrected. The facility shall cease secluding any individual in the locked room until corrections are completed and authorization is given by the Colorado Department of Human Services.

#### **7.714.535 STAFF TRAINING [Rev. eff. 6/1/12]**

A. Staff utilizing any physical management in facilities or programs shall be trained in the appropriate use and implementation of a model that includes nationally recognized criteria prior to any staff being approved to use physical management. The model shall include, at a minimum, the following:

1. Annual staff training and/or certification, to include training upon hire, and ongoing (at least every six months) refresher training or practice exercises for each staff member trained or certified in **restraint**, to review and refresh skills involved in positive behavior intervention, prevention, de-escalation, and physical management, in accordance with the model.
  - a. Staff will be periodically observed when performing a physical management by a supervisor of the facility who has been training in physical management. If a supervisor of the facility determines a staff member did not correctly perform a physical management, the staff member must be immediately retrained or be restricted from performing further physical management until retraining can occur, and;
  - b. If available, the staff person shall complete any competency tests offered as part of the training prior to being approved to use physical management.
2. How to assess the signs of physical distress in a person in **restraint**.
3. A **restraint** prevention and de-escalation component, to include identifying antecedents that may cause an individual to escalate, and/or development of behavior management plans that are in alignment with individual treatment plans if necessary.
4. A physical management process that prohibits or provides alternatives to a prone position, and includes identifying primary control techniques that emphasize utilizing only the minimum amount of force necessary to gain control and keep the individual safe.

5. A debriefing process which includes a review of physical management, to determine the appropriateness and effectiveness of preventive/de-escalation techniques used, the appropriateness of physical management, and how, or if, physical managements are preventable.

B. Persons specified to place an individual in the **seclusion** shall have ongoing training and supervision which shall include at least the following:

1. The safety of the individual and staff and emergency procedures including First Aid and fire protection;
2. The purpose and policy, legal ramifications of placing the individual in **seclusion**;
3. The role of the neutral reviewer;
4. The dynamics of the behavior of individuals when in **seclusion**;
5. Safe methods of getting the individual to the **seclusion** room;
6. Methods of searching an individual when placing the individual in the **seclusion** room; and,
7. The protection of keys for the **seclusion** room.

**7.714.536 DOCUMENTATION [Rev. eff. 6/1/12]**

Each facility shall have processes in place to document the reason for the physical management and/or **seclusion**, alternative methods attempted, and the type and duration of physical management and/or **seclusion** in the record of the individual. Each physical management or **seclusion** shall be recorded as required by section 7.714.533, E, 7.

**7.714.537 REVIEW [Eff. 6/1/12]**

A. Each facility shall include physical management, **restraint** and/or **seclusion** in its critical incident review process and/or quality management program.

1. Review the Use of Physical Management

a. Records of each physical management shall be reviewed by a supervisor of the facility within forty-eight (48) hours of each **restraint**.

b. According to the policies and procedures of the facility, the entire individual's behavior management or treatment plan must be reviewed if it appears that the individual is being physically managed an excessive number of times, frequently in a short period of time, or frequently by the same staff member.

c. If any particular de-escalation technique appears to be causing an escalation in the behavior of an individual or a group of individuals, the use of the technique shall be evaluated for its effectiveness. De-escalation techniques that are not effective or are counter-productive must be terminated at the earliest opportunity.

d. If either the individual or a staff member was seriously injured or died during a physical management, a thorough review of the physical management and injuries must be instituted immediately. Based on the findings of the review, the staff members involved in the physical management must be retrained, be restricted from performing further physical management, and/or corrective personnel action must be taken.

e. If a staff member appears to be involved in a larger number of physical managements than other staff members and is not a part of a specially trained team, or is unsuccessful at using de-escalation effectively, the facility must conduct a thorough review of the staff member's interactions with individuals in care, prior physical management training, and need for further training or corrective personnel action as required by program's policies.

2. Review the Use of **Seclusion**

- a. The record of use of the **seclusion** room shall be reviewed daily by the **seclusion** room supervisor and weekly by the facility administrator. If one individual is placed in the **seclusion** room more than three times in 72 hours or a maximum of 5 hours in 72 hours, the entire plan for the individual shall be reviewed, and a person, who meets the requirements of consultant to the **seclusion** room supervisor, and staff shall authorize any further use of the **seclusion** room or other treatment for the individual.
  - b. If the same staff member places an individual in the **seclusion** room repeatedly, this shall be investigated by the **seclusion** room supervisor.
  - c. The facility which operates a **seclusion** room shall appoint a neutral reviewer. The neutral reviewer shall not be the **seclusion** room supervisor or the person who placed the individual in the **seclusion** room. The reviewer shall determine if the situation resulting in the **seclusion** of an individual in a **seclusion** room merits such a decision. The reviewer may be a staff member of the facility or a professional contracted by the facility in one of the following positions: administrator, assistant administrator, social worker, psychologist, psychiatrist, nurse, lawyer.
- B. All agencies shall have an administrative oversight component, to include, at a minimum, tracking and reviewing episodes of **seclusion**, physical management and **restraint** data such as through a quality assurance or performance improvement process.
- C. Pursuant to [Section 26-6-106\(2\)\(k\) of the Colorado Revised Statutes](#), a license can be suspended or revoked for failure to comply with the rules governing **seclusion**.

2509-8:7.714.9. Personnel/policy requirements

**7.714.92 Personnel Policy, Orientation, and Training [Rev. eff. 6/1/12]**

- A. The facility shall have a comprehensive written plan for the recruitment, hiring or certification, orientation, ongoing training, and professional development of staff.
  - 1. The facility shall have an introductory training and orientation program for all staff. This program shall include orientation to emergency and safety procedures and the general and specific duties and responsibilities of the job.
  - 2. The facility shall maintain written documentation of specific in-service training held, staff participating in the training, the hours involved, and/or other on-going training activities in which staff were involved. Activities related to supervision of the staff members' routine tasks shall not be considered training activities for the purpose of this requirement.
- B. The facility shall document that staff receive appropriate training in the following areas:
  - 1. The facility's emergency and safety procedures, including but not limited to fire evacuation drills and disaster drills, on at least a semiannual basis.
  - 2. The principles and practices of child care, including developmentally appropriate practices.
  - 3. The facility's and, where appropriate, certifying authority's administrative procedures and overall program goals.
  - 4. Acceptable behavior management techniques, appropriate discipline and physical management, **restraint** and **seclusion** of children in accordance with facility policies and these rules, including the ability to recognize and respond to signs of physical distress in children who are subject to a physical management.
  - 5. Appropriate professional boundaries (both physical and emotional) between staff and children while in placement at the facility and after discharge.
  - 6. Annual review of these regulations by all appropriate staff members of the facility.

7. All staff must have a minimum of twenty (20) clock-hours of on-going job specific training a year. Training may include areas listed above.

8. Individuals that are qualified by education, training, and experience must provide staff training.

9. Staff training must include training exercises in which staff members successfully demonstrate in practice the techniques which they have learned for managing emergency safety intervention.

10. The facility must document in the staff personnel record that the training and demonstration of competency were successfully completed. Documentation must include the date training was completed and the name of persons certifying the completion of training.

**7.714.933 Required Notification [Rev. eff. 6/1/12]**

...

G. The facility must notify the parent(s), guardian(s), or placing authority regularly of the issues related to the care of the child including use of time out rooms, discipline, treatment, behavior management, physical management, **restraint** and **seclusion**, and restriction of rights.

[2505-10:8.700. Federally Qualified Health Centers, Women's Health Services](#)

**2505-10:8.765. Services for clients in residential child care facilities as defined below**

**8.765.1 DEFINITIONS**

...

Emergency Safety Intervention means the use of **Restraint** and **Seclusion** as an immediate response to an Emergency Safety Situation.

Emergency Safety Situation means unanticipated behavior of the client that places the client or others at serious threat of violence or injury if no intervention occurs and that calls for Emergency Safety Intervention.

Emergency Services means emergency medical and crisis management services.

...

Prone Position means a client lying in a face down or front down position.

**Psychiatric residential Treatment Facility (PRTF)** means a facility that is not a hospital and provides inpatient psychiatric services for individuals under age 21 under the direction of a physician, licensed pursuant to part 1 of article 36 of title 12, C.R.S.

Qualified **residential** Treatment Programs (QRTP) means a facility that provides residential trauma-informed treatment that is designed to address the needs, including clinical needs, of **children** with serious emotional or behavioral disorders or disturbances.

Referral Agency means the Division of **Youth** Corrections, County Departments of Human/Social Services who have legal **custody** of a client, Behavioral Healthcare Organization or Community

Mental Health Center that refers the client to a PRTF or RCCF for the purpose of placement through the Child Mental Health Treatment Act.

**Restraint** includes Drug Used as a **Restraint**, Mechanical **Restraint** and Personal **Restraint**.

Drug Used as a **Restraint** means any drug that is administered to manage a client's behavior in a way that reduces the safety risk to the client or to others; has the temporary affect of restricting the client's freedom of movement and is not a standard treatment for the client's medical or psychiatric condition.

Mechanical **Restraint** means any device attached or adjacent to the client's body that the client cannot easily remove that restricts freedom of movement or normal access to the client's body.

Personal **Restraint** means personal application of physical force without the use of any device, for the purpose of restraining the free movement of the client's body. This does not include briefly holding a client without undue force in order to calm or comfort, or holding a client's hand to safely escort the client from one area to another. This does not include the act of getting the client under control and into the required position for **Restraint**.

**residential** Child Care Facility (RCCF) means any facility that provides out-of-home, 24-hour care, protection and supervision for children in accordance with [12 C.C.R. 2509-8](#), Section 7.705.91.A.

**Seclusion** means the involuntary confinement of a client alone in a room or an area from which the client is physically prohibited from leaving.

...

8.765.5.K. The PRTF shall ensure all clients and/or guardians are aware of the PRTFs policies regarding **Restraint** and **Seclusion** as required in [42 C.F.R. 483.350-376](#), which is incorporated herein by reference.

...

1. The PRTF shall:

...

e. Provide an attestation to the Department that the PRTF is in compliance with the condition of participation for **Restraint** and **Seclusion** as described in Section 8.765.6.F and in federal law.

**8.765.6.F. The PRTF shall comply with the following requirements for the use of **Restraint** and **Seclusion**:**

1. Personal, Mechanical and Drugs Used as **Restraint** shall be ordered only by a physician, physician's assistant or nurse practitioner.

2. An order for **Restraint** or **Seclusion** shall not be written as a standing order or on an as-needed basis.



3. **Restraint** and **Seclusion** shall not result in harm or injury to the client and shall be used only to ensure the safety of the client or others during an Emergency Safety Situation and only until the Emergency Safety Situation has ceased.
4. **Restraint** and **Seclusion** shall not be used simultaneously.
5. A Personal **Restraint** when a client is in a Prone Position is prohibited.
6. If the order for **Restraint** or **Seclusion** is verbal, it shall be received by a registered nurse, licensed practical nurse or physician's assistant.
7. The **Restraint** or **Seclusion** shall be carried out by Clinical Staff who are trained in the use of emergency safety intervention.
8. Only a physician, registered nurse, licensed practical nurse or physician's assistant shall administer a Drug Used as a **Restraint**.
9. Clinical Staff trained in the use of emergency safety interventions that are physically present during the **Restraint** or **Seclusion** shall monitor the client during the **Restraint** or **Seclusion** period.
10. Each order for **Restraint** or **Seclusion** shall never:
  - a. Exceed the duration of the emergency safety situation; and
  - b. Exceed four hours in length for youth ages 18 to 21; two hours in length for clients ages nine to 17; or one hour in length for clients under age of nine.
11. Within one hour of the initiation of the Emergency Safety Intervention a physician, registered nurse or physician's assistant shall conduct a face-to-face assessment of the physical and psychological well being of the client. A psychologist may conduct the face-to-face assessment if done in conjunction with a physician, registered nurse or physician's assistant.
12. The PRTF shall report each serious occurrence to both the Department and the federally-designated Protection and Advocacy agency no later than close of business the next business day. Serious occurrences to be reported include a client's death, a serious injury to a client, or a client's suicide attempt.
13. The PRTF shall notify the parent(s) or legal guardian(s) of a client who has been restrained or secluded as soon as possible, but not to exceed 24 hours, after the initiation of each emergency safety intervention and shall document the date and time of this notification in the client's record.
14. Within 24 hours of the use of **Restraint** or **Seclusion**, staff involved in an Emergency Safety Intervention and the client shall have a face-to-face discussion. This discussion shall include all staff involved in the intervention except when the presence of a particular staff person may

jeopardize the well-being of the client. Other staff and the client's parent or guardian may participate in the discussion, if appropriate.

15. Within 24 hours after the use of **Restraint** or **Seclusion**, all staff involved in the Emergency Safety Intervention, and appropriate supervisory and administrative staff, shall conduct a debriefing session that includes, at a minimum, a review and discussion of:

a. The situation that required the intervention, including a discussion of the precipitating factors that led up to the intervention.

b. Alternative techniques that may have prevented the use of the **Restraint** or **Seclusion**.

c. New procedures implemented to mitigate any recurrence of the use of **Restraint** or **Seclusion**.

d. The outcome of the intervention, including any injuries that may have resulted from the use of **Restraint** or **Seclusion**.

...

#### **2505-10:8.508. Children's habilitation residential program**

##### **2505-10:8.508.101 use of restraints**

A. The definitions contained at 12 CCR 2509-8; Section 7.714.1 (2019) are hereby incorporated by reference. The definition for "Client Representative" in 12 CCR 2509-8, Section.7.714.1 is specifically excluded. The incorporation of these regulations excludes later amendments to the regulations. Pursuant to Section 24-4-103(12.5), C.R.S. the Department maintains copies of this incorporated text in its entirety, available for public inspection during regular business hours at 1570 Grant Street, Denver, CO, 80203. Copies of incorporated materials are provided at cost upon request.

B. Service Providers shall comply with the requirements for the use of Restraints in 12 CCR 2509-8, Sections 7.714.53 through 7.714.537, (2019) which are hereby incorporated by reference. The incorporation of these regulations excludes later amendments to the regulations. Pursuant to Section 24-4-103(12.5), C.R.S., the Department maintains copies of this incorporated text in its entirety, available for public inspection during regular business hours at 1570 Grant Street, Denver, CO, 80203. Copies of incorporated materials are provided at cost upon request.

C. All records of **restraints** shall be reviewed by a supervisor of the Service Provider within 24 hours of the incident. If it appears that the Client has been **restrained** excessively, frequently in a short period of time, or frequently by the same staff member, the Client's Service Plan must be reviewed.

D. Host Homes and Service Providers contracting with Host Home Providers must comply with the requirements for the use of **restraints** in Sections 8.608.2, 3, & 4 for Clients receiving Habilitation services age eighteen (18)- twenty (20).

### 2509-8:7.708.3. Requirement for the ongoing operation of foster care homes

#### 7.708.34 The Prohibited Use of Cruel and Aversive Therapy [Rev. eff. 1/1/16]

The foster care home shall refrain from engaging in all cruel and aversive behavior management, treatment or therapy including, but not limited to, the following:

- A. Any intervention designed to or likely to cause a foster child physical pain
- B. Releasing noxious, or toxic, sprays, mists, or substances in proximity to the foster child's face.
- C. Any intervention that denies a foster child sleep, food, water, shelter, access to bathroom facilities, adequate bedding, or appropriate physical comfort.
- D. Any intervention or type of treatment that subjects a foster child to verbal abuse, ridicule, humiliation or that can be expected to cause excessive emotional trauma.
- E. Interventions that use a device, material, or object that is designed to simultaneously immobilize all four of the foster child's extremities.
- F. Any treatment intervention that deprives a foster child of the use of his/her senses, including sight, hearing, touch, taste, or smell.
- G. **Physical management, restraint and seclusion except as described at Sections 7.708.36 and 7.714.53.**
- H. Use of rebirthing therapy or any therapy technique that may be considered similar to rebirthing therapy as a therapeutic treatment, as defined by [Section 12-43-222\(1\)\(t\)\(IV\), C.R.S.1](#)

#### 7.708.35 Discipline [Rev. eff. 1/1/16]

...

F. A foster care home shall prohibit all cruel and unusual discipline including, but not limited to, the following:

...

18. Physical management, **restraint** and **seclusion**.

#### 7.708.36 Physical Management and Seclusion [Rev. eff. 1/1/16]

- A. **Seclusion** is prohibited.
- B. **Physical management** to attain and maintain control or for behavior management, treatment, or therapy is prohibited and/or **seclusion** is **prohibited, unless the foster care home is pre-approved** by the certifying authority to perform physical management and/or **seclusion** and the foster care home is in compliance with Section 7.708.61, K, 2, Section 7.714.53, et seq., and the applicable definitions found in Section 7.714.1. The foster care home must notify the placing caseworker when a child is subject to physical management and/or **seclusion**.



## State Intervention Policies when Children Run from Care

The Timothy Montoya Task Force to Prevent Youth from Running from Out-of-Home Placement, and its Intervention Subcommittee, is considering policy options to enhance intervention efforts when a child has run away from care. To aid this, the Office of Colorado’s Child Protection Ombudsman (CPO) has compiled research on related policy approaches in other states.

The federal Child Welfare Information Gateway has information on all 50 states’ policies through May 2020: to view this policy information, click [here](#), choose state(s) of interest, and select Responding to Youth Missing From Care. Additionally, this [National Snapshot](#) of State Agency Approaches to Reporting and Locating Children Missing From Foster Care from the U.S. Department of Health and Human Services has useful policy information and context.

The following pages present an overview of policies in the District of Columbia, Tennessee, and Texas which may be of particular interest to the Task Force. Policies in all three jurisdictions utilize specialized investigation staff tasked with searching for and finding youth missing from out-of-home care. Links to documents, state websites and related resources are also provided.

It is important to note that the CPO is providing this information as an informational resource, not as an endorsement, and this is not a comprehensive capture of Task Force considerations.

**D.C.:** D.C. differentiates between responses depending on length of time missing and other circumstances, and also identifies high risk children. Specialized investigating staff named Diligent Search Units work alongside social workers and others to try and find missing youth.

**Tennessee:** Tennessee’s Absconder Unit Investigators work with law enforcement, regional staff, and community partners to find missing youth. Policy also specifies appropriate response protocols when missing youth are found.

**Texas:** Texas employs Special Investigators to work with caseworkers to find youth missing from out-of-home care. These are former law enforcement members, and they use techniques such as location surveillance, the use of license plate readers, and accessing law enforcement records.

## Policies Regarding Intervention in DC

*In September 2023, D.C.'s Child and Family Services Agency updated their policies regarding Missing, Abducted and Absent Children. This [policy document](#) is supplemented with a more detailed [Business Process](#) document. Below, we pull out some elements of these policies that may be of particular interest to the Task Force.*

### Definitions

D.C. differentiates between children who are **abducted** (suspected of being taken without permission), **absent** (gone for less than 72 hours, in contact, no risk of immediate harm, and location may be known), and **missing** (not at place of residence, no contact, whereabouts unknown). **High Risk Child** is also defined as a child who is missing, abducted or absent and whose safety is compromised by one or more of nine characteristics. **A child's status within these definitions may trigger specific needs in policy**; for instance, some do not apply for children who are "absent" but not "high risk".

### Varied, but Coordinated, Responses

"A positive outcome in this situation depends on **strong collaboration** among the child's social worker and the **many stakeholders who work to locate the child**. It is important for the social worker to keep family members and resource providers informed about the child's status. The social worker, supervisor, and members of the Diligent Search Unit (DSU) should **carefully coordinate** CFSA's outreach to minimize the trauma and impact on clients and families."

DC's policy documents spell out **reporting, outreach, and investigation requirements** for resource providers and caregivers. Reporting requirements are also specified for the agency, the assigned social worker, and supervisory social workers from the agency.

### Specialized Investigating Staff

If a child is in legal custody of the agency, and cannot be found within 24 hours, the social worker is required to request assistance from the **Diligent Search Unit**. For a **high-risk child**, the social worker must initiate a **Child Locator Staffing** no less than 3 business days later which must include several specified individuals. The Child Locator Staffing must identify resources and immediate **supports for the family** during the child's absence and after their return. It must develop a written plan to locate the child and designate responsibilities for each action step in the plan; this plan supersedes all other plans to locate the child.

When the Diligent Search Unit receives a request from a social worker, they submit the form to the Juvenile Clerk's office and begin their search process after receiving a **custody order**. The Diligent Search Unit investigator "engages various parties who may have helpful information, but they **closely coordinate** with the social worker to **minimize interviewing redundancies** and avoid **re-traumatizing** the child's family, friends, and collaterals". They must provide weekly investigation updates to the social worker, and update the electronic case management system.

## Policies Regarding Intervention in Tennessee

Tennessee details its intervention policies in a series of documents: [Responsibilities Regarding Runaways, Absconders and Escapees](#); [Protocol for Reporting Runaways, Absconders, and Escapees](#); and [Protocol for Medical Evaluations for Runaways and/or Commercial Sexual Exploitation of a Minor](#). The Department of Children's Services also lists immediate, next day, and ongoing responsibilities of family service workers, juvenile service workers, and juvenile probation officers in this [Runaway/Absconder/Escapee Checklist](#) document. Themes of interest from these resources are briefly described below.

### Specialized Investigating Staff

Juvenile Service Workers must conduct a thorough search when a child has run away, and have the option to seek assistance from the Absconder Unit (AU). The three regions of Tennessee all have assigned **Absconder Unit Investigators**; their primary function is to “**actively search for youth** who have absconded from [the Department of Children's Services] custody, Trial Home Visit, or Probation/Aftercare supervision”. These investigators **work directly with regional staff, law enforcement, and community partners** to find the missing youth.

Each Regional Administrator appoints at least one **Regional Absconder Representative**, who serves as a liaison between the region and the AU and maintains an active list of children who have run away. They also ensure that if a child has been missing for more than 24 hours, the [Notification Checklist for Absconders/Runaways, Escapees](#) has been completed, and other materials, including photographs, detailed information, and the custody order, are provided. The checklist records basic information about the youth; details about the event of running away; information around the **notification of law enforcement**, the National Center for Missing and Exploited Children and the absconder unit; and historical information about the child such as drug use, history of violence, identifying marks, **LGBTI identification**, user names on **social media**, and contact information for family members and associates.

### Protocols when Youth are Found

Tennessee also outlines responsibilities when **youth are located**, with different requirements for Child Protective Services/Family Support Services/Family Crisis Intervention Program cases, Juvenile Justice probation/aftercare cases, and **custodial cases**. For the latter, when a youth returns to custody, the family/juvenile service worker must complete the [Recovery Checklist for Absconders/Runaways/Escapees](#) within one business day. Among other requirements, the service worker must also convene a Child and Family Team Meeting – before placement if possible – to “determine how best to **meet the youth's needs** and determine the **primary factors contributing to the youth running away** in order to appropriately respond to needs and **discourage further runaway episodes**”.

## Policies Regarding Intervention in Texas

The Texas Department of Family and Protective Services' Child Protective Services Handbook establishes [policies](#) for responding to missing youth in out-of-home care. Several non-mandatory [resource guides](#) accompany these policies, including a Runaway/Missing Youth & Victims of Human Trafficking Protocol [resource guide](#) for the state's five largest counties, and a separate Locating Missing Children in DFPS Conservatorship [resource guide](#) for the rest of the state. Below are elements that may be of interest to the Task Force, including additional details from correspondence with Special Investigations Specialist Damaris Nicholson.

### Notification Requirements

According to policy as dictated in the CPS Handbook, "when a child or youth in DFPS conservatorship is missing, it is extremely important that the agency make every effort to **quickly locate** and ensure the safety of the child or youth". The caseworker or assigned on-call staff must notify their supervisor, law enforcement, the National Center for Missing and Exploited Children, and contact a [Special Investigator \(SI\)](#) as described below. The caseworker has primary responsibility for the case, but must work closely with the assigned SI for recovery.

### Specialized Investigating Staff

The caseworker must provide the SI with details about the child and circumstances around their absence, and maintain regular contact with the SI until the child is recovered. SI actions are described in detail for large counties [here](#) (page 21) and for the rest of Texas [here](#) (page 19). The primary difference between this guidance is the large counties' inclusion of **child sexual exploitation identification** materials and other provisions for **human trafficking**, which are absent for the rest of the state.

**Special Investigator** actions for all of Texas detailed in both resource guides include: working with law enforcement, conducting a **search of the last place the child was staying** if appropriate, collaborating with the National Center for Missing and Exploited Children, obtaining a **Writ of Attachment** to physically remove child if found where appropriate, searching information online including **social media use and continued cell phone activity**, interviewing associated individuals, documenting active search efforts in the case management system, providing reports to the courts, and convening various monthly and quarterly update meetings. Appendix D in both guidance documents provide a **Flowchart** for Primary Caseworker & Special Investigator Steps When a Child Goes Missing or Runs Away.

There are **five SI Regional Directors**, and **279 SI throughout the state**. SIs have **previous law enforcement experience**, and some are still licensed. SI will **conduct surveillance** at physical locations where the missing youth may be, which often involves coordination with law enforcement. They have access to law enforcement **records, license plate readers**, criminal history checks, family history checks, and can access things like **SNAP card usage to help pinpoint location**.

<https://www.childwelfare.gov/topics/systemwide/laws-policies/state/?CWIGFunctionsaction=statestatutes:main.getResults>



# State Statutes Search

## Alabama

### Responding to Youth Missing From Foster Care

To better understand this issue and to view it across States, download the [PDF](#) (327 KB) of this publication.

*Current Through May 2020*

#### Protocols for Reporting Children Missing From Care to Law Enforcement

Not addressed in statutes reviewed.

#### Protocols for Locating Children Missing From Care

This issue is not addressed in the statutes and regulations reviewed.

#### Determining the Factors That Led to a Child's Absence From Care

This issue is not addressed in the statutes and regulations reviewed.

#### Determining the Suitability of Current and Subsequent Placements

This issue is not addressed in the statutes and regulations reviewed.

#### Assessing the Child's Experiences While Absent From Care

This issue is not addressed in the statutes and regulations reviewed.

#### Timeframes for Closing a Child's Placement After Running Away

This issue is not addressed in the statutes and regulations reviewed.

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## Alaska

### Responding to Youth Missing From Foster Care

To better understand this issue and to view it across States, download the [PDF](#) (327 KB) of this publication.

*Current Through May 2020*

#### Protocols for Reporting Children Missing From Care to Law Enforcement

**Citation: CPS Man. § 2.2.7**

*From the [Child Protective Services Manual](#):* Within 24 hours of being notified that the child is has run away from care, the Office of Children's Services (OCS) will report to law enforcement the matter for entry into the National Crime Information Center (NCIC) database of the Federal Bureau of Investigation.

OCS will report missing, abducted minors and victims of sex trafficking to law enforcement, NCIC, and the National Center for Missing and Exploited Children (NCMEC) databases within 24 hours of being notified. A missing minor is defined as an individual younger than age 18 whose whereabouts are unknown to the minor's legal custodian.

#### Protocols for Locating Children Missing From Care



**Citation: CPS Man. § 2.2.7**

As soon as possible, and no longer than 12 hours, of being notified that a child in the custody of the Department of Human Resources has run away from a department-authorized or court-ordered placement, the protective services (PS) specialist will take steps to locate and return the child to the authorized placement or other designated place of safety.

When a minor has been identified as missing, the PS specialist will do the following:

- Within 12 hours of the child's departure, notify the legal parent, guardian, resource family, local law enforcement, and assigned PS specialist having jurisdiction in the community of origin, if appropriate, that the child is missing from placement
- Contact the intake unit immediately, and no longer than within 24 hours, to ensure the minor is entered into the NCMEC database
- Notify the school, Tribal representative, guardian ad litem, and other collaterals, as appropriate, to inform them of the missing minor
- Collect information from collateral contacts regarding the reason for the child's absence from care

**Determining the Factors That Led to a Child's Absence From Care****Citation: CPS Man. § 2.2.7**

When the minor has been located, the PS specialist will document all significant case actions relating to the runaway to determine why the child is absent from care, including information gained from collateral contacts and any information regarding potential indicators of sex trafficking.

**Determining the Suitability of Current and Subsequent Placements**

This issue is not addressed in the statutes and regulations reviewed.

**Assessing the Child's Experiences While Absent From Care****Citation: CPS Man. § 2.2.7**

When the minor has been located, the PS specialist will do the following:

- Notify the legal parent, guardian, resource family, and assigned PS specialist having jurisdiction in the community of origin, as appropriate, within 12 hours of the child's return to placement or other location
- If the child returns to placement, cancel the request to locate and reports of a missing child as soon as possible by informing law enforcement and the Intake Unit

When the child has been located, the PS specialist will use the *Guide for Assessing Runaway or Missing Minors* statewide form to ask the child about his or her experiences while away from care and to assess for possible signs or information regarding whether the child is at risk or has been a sex trafficking victim. If there are signs indicating sex trafficking, the OCS staff member will report to the Intake Unit immediately, or within 24 hours.

**Timeframes for Closing a Child's Placement After Running Away****Citation: Res. Fam. Handbook**

*From the Alaska Resource Family Handbook:* If a child is away from a foster home due to an unapproved absence, such as running away, foster care payments may be authorized to continue for a maximum of 5 nights, if authorized by the assigned worker. The 5-day payment may be made only if the foster family immediately notifies the assigned worker of the unapproved absence of 10 hours or more. If the child does not return within the 5-day period, that space becomes available on the sixth day, unless other arrangements are made with the assigned worker.

If the assigned worker determines within the first 5 days that the child will not be returned to the foster home, payment will continue through the date of the determination, not the full 5 days. If the child's absence from a foster home extends beyond 5 nights, payment will resume when the child returns to the foster home and the assigned worker authorizes payment.

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## American Samoa

### Responding to Youth Missing From Foster Care

To better understand this issue and to view it across States, download the [PDF](#) (327 KB) of this publication.

*Current Through May 2020*

#### Protocols for Reporting Children Missing From Care to Law Enforcement

Not addressed in statutes reviewed.

#### Protocols for Locating Children Missing From Care

This issue is not addressed in the statutes and regulations reviewed.

#### Determining the Factors That Led to a Child's Absence From Care

This issue is not addressed in the statutes and regulations reviewed.

#### Determining the Suitability of Current and Subsequent Placements

This issue is not addressed in the statutes and regulations reviewed.

#### Assessing the Child's Experiences While Absent From Care

This issue is not addressed in the statutes and regulations reviewed.

#### Timeframes for Closing a Child's Placement After Running Away

This issue is not addressed in the statutes and regulations reviewed.

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## Arizona

### Responding to Youth Missing From Foster Care

To better understand this issue and to view it across States, download the [PDF](#) (327 KB) of this publication.

*Current Through May 2020*

#### Protocols for Reporting Children Missing From Care to Law Enforcement

**Citation: DCS Pol. & Proc. Man., Ch. 4, § 8.1**

*From the Arizona Department of Child Safety [Policy and Procedure Manual](#):* The Department of Child Safety (DCS) shall report immediately, and in no case later than 24 hours, after receiving information on missing or abducted children or youth to the following:

- Law enforcement authorities for entry into the National Crime Information Center database
- The National Center for Missing and Exploited Children (NCMEC)

#### Protocols for Locating Children Missing From Care

**Citation: DCS Pol. & Proc. Man., Ch. 4, § 8.1**

DCS shall make reasonable efforts to locate a child who is a ward of the court; placed in the care, custody, and control of DCS; and who has run away from an out-of-home placement.

Upon receiving information that a child has left an out-of-home placement and is determined to be on runaway status, the department shall ensure immediate notification of the child's disappearance to the child's parents, attorney, guardian ad litem, and caregiver.

Upon notification that a child or youth has runaway, the DCS specialist (or other staff as approved by the supervisor) will do the following:

- Contact the out-of-home provider by the next working day to ensure that a report to local law enforcement has been filed
- Make a home visit to attempt contact with any identified parent, relative, or other significant person the child may have contacted
- Contact the assistant attorney general within 24 hours of the child's disappearance and initiate a motion for an order to pick up the child
- Contact the child's school and obtain any pertinent information regarding the child's disappearance
- Attempt to contact the child's friends
- Contact any prior placements the child may have contacted and determine if they have any current information about the child

With approval of the supervisor, the DCS specialist may submit a referral to the At-Risk Runaways service for assistance in locating a runaway child when one or more of the following circumstances exist:

- The child is suicidal.
- The child has been diagnosed with a serious mental illness, is prescribed medication for the mental illness, and may pose a danger to self and/or others if not receiving treatment and medication as prescribed.
- The child suffers from a serious physical illness and is prescribed medication, which if not available or administered properly, could place the child at risk of serious physical harm.
- The child is pregnant.
- Other specific child safety concerns exist (i.e., the child is age 13 or younger, the child is with a known perpetrator of abuse or neglect, the child is significantly developmentally delayed).
- The child is known to be, or is at risk of becoming, a victim of sex trafficking. Risk factors include, but are not limited to, substance use, gang affiliation, delinquency, or previous victimization.

If the child remains on runaway status and is not able to be located for a period of 90 days or longer, the DCS specialist (or other staff as approved by the supervisor) must recontact the following:

- The child's previous out-of-home care providers to obtain any pertinent information in locating the child
- The child's previous school (if enrolled prior to running away) and obtain any pertinent information for locating the child
- The child's parents, relatives, or other significant persons to obtain any pertinent information for locating the child

### **Determining the Factors That Led to a Child's Absence From Care**

**Citation: DCS Pol. & Proc. Man., Ch. 4, § 8.1**

After the child returns to out-of-home care, the DCS specialist must document the factors that contributed to the child running away.

### **Determining the Suitability of Current and Subsequent Placements**

**Citation: DCS Pol. & Proc. Man., Ch. 4, § 8.1**

Upon the child's return to out-of-home care, the DCS specialist must assess the appropriateness of the child returning to the same out-of-home placement and terminate the placement service authorization if a decision is made that the child will not return to the same out-of-home care provider.

### **Assessing the Child's Experiences While Absent From Care**

**Citation: DCS Pol. & Proc. Man., Ch. 4, § 8.1**

Upon the child's return to out-of-home care, the DCS specialist must do the following:

- Make a face-to-face contact with the child within 24 hours and determine the need for additional services
- Obtain a medical exam for any child when there is indication of high-risk behaviors (e.g., sexual activity, drug use) while on runaway status
- Notify the appropriate local law enforcement agency that the child has returned

- Contact the assistant attorney general and initiate a motion to vacate the pick-up order once the child has returned to out-of-home care
- Notify NCMEC's assigned case manager

Upon the child's return to out-of-home care, the DCS specialist must assess the child's experiences while absent from care, including screening to determine if the child is a sex trafficking victim. The DCS specialist must report to the appropriate law enforcement agency within 24 hours if it is determined the child was a sex trafficking victim.

### **Timeframes for Closing a Child's Placement After Running Away**

#### **Citation: DCS Pol. & Proc. Man., Ch. 4, § 8.1**

If the child remains on runaway status for a period of 6 months or longer and documented diligent efforts have been made to locate the child, the DCS specialist may consult with the child's service team to determine the appropriateness of filing a motion to dismiss the dependency petition, or other course of action.

Before recommending that the dependency petition be dismissed, the DCS specialist must consider the following:

- Has the child been in contact with any service team member?
- Has the child expressed any interest in participating in services, including placement by the department?
- Is the child fully informed of the benefits and services that he or she will forfeit if the dependency petition is dismissed before the child's 18th birthday?
- Is the child in need of proper and effective parental care and control?

It is not appropriate to recommend dismissal of the dependency petition if any of the following apply:

- The child is suicidal.
- The child has been diagnosed with a serious mental illness, is prescribed medication for the mental illness, and may pose a danger to self and/or others if not receiving treatment and medication as prescribed.
- The child suffers from a serious physical illness and is prescribed medication, which if not available or administered properly could place the child at risk of serious physical harm.
- The child is pregnant.
- Other specific child safety concerns exist (e.g., the child is of a young age, the child is with a known perpetrator of abuse or neglect, the child is significantly developmentally delayed).

If the service team recommends filing a motion to dismiss the dependency petition, the DCS specialist must consult with the assigned assistant attorney general regarding this recommendation.

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## **Arkansas**

### **Responding to Youth Missing From Foster Care**

To better understand this issue and to view it across States, download the [PDF](#) (327 KB) of this publication.

*Current Through May 2020*

#### **Protocols for Reporting Children Missing From Care to Law Enforcement**

##### **Citation: DCFS Pol. & Proc. Man., Pol. VII-N1**

*From the Division of Child and Family Services (DCFS) [Policy and Procedure Manual](#): After receiving notification of the child's disappearance by the placement provider, the caseworker will do the following:*

- Notify the State police, local police department, and/or sheriff's office, as applicable, within 2 hours after receiving information on missing or abducted children or youth. The notification, which may occur via email, text, or phone, will include the following:
  - The child's name
  - A physical description of the child (a picture of the child may be released to assist with identification provided that the child is not identified as a child in foster care)

- The child's date of birth
- The circumstances of the missing child's disappearance, including the date the child went missing or was last seen and if the child indicated a destination (and, if so, what the destination is)
- Any other factual, biographical, or historical information that may assist with locating the missing child
- A request for law enforcement to enter the information into the National Crime Information Center database of the Federal Bureau of Investigation
- Once a police report has been filed, contact the National Center for Missing and Exploited Children (NCMEC) no later than 24 hours after receiving information on missing or abducted children or youth to provide the following information to NCMEC per the Memorandum of Understanding between DCFS and NCMEC:
  - The child's name
  - A photo of the child, if available
  - The child's date of birth
  - The name and contact information of the primary caseworker and supervisor
  - The investigating law enforcement agency name, contact information, and case number (i.e., missing person report number)
  - The circumstances of the missing child's disappearance, including the date the child went missing or was last seen
  - Any other factual, biographical, or historical information that may assist with locating the missing child
- Upon NCMEC's request, release to NCMEC any additional requested information and/or records in its possession that are relevant to locating the missing child.
- Keep NCMEC informed with up-to-date information regarding the missing child.

### **Protocols for Locating Children Missing From Care**

#### **Citation: DCFS Pol. & Proc. Man., Pol. VII-N; VII-N1**

If the placement provider has reason to believe the child left the out-of-home placement of his or her own accord (i.e., ran away), then the placement provider will begin an immediate search for the child/youth. The search will entail the following actions:

- Searching the immediate premises
- Searching the community and contacting the child's friends and other contacts who may know of or have information regarding the child's whereabouts

If the child is located within 1 hour of initiating the search, the placement provider will notify the primary caseworker and the caseworker's supervisor of the incident no later than the next calendar day. If the child who is believed to have run away of his/her own accord cannot be located within 1 hour of initiating the search, then at that point the placement provider will immediately notify the youth's caseworker and the caseworker's supervisor.

After receiving notification of the child's disappearance by the placement provider, the primary caseworker will do the following:

- Notify the child's secondary caseworker, transitional youth services coordinator (if applicable), and attorney ad litem within 2 hours via email, phone, or text
- Notify the child's custodial/noncustodial parent(s) within 2 hours, or sooner depending on the age of the child, of the discovery of the child's disappearance by phone or, preferably, a visit to the home, if possible
- Contact the local Office of Chief Counsel (OCC) and request OCC to complete and file a pick-up order for the child no later than 24 hours after receiving notification of a missing child (which will put the court on notice that the child is missing)
- Update the child's placement information in the Children's Reporting Information System (CHRIS) within 2 business days, to include completion of fields regarding the required reports made to local law enforcement and NCMEC
- If the child is not found, do the following:
  - Continue to call previously contacted parties and inquire for information, furnish further information that becomes available, and, if appropriate, extend the search to other counties and States

- Update the custodial/noncustodial parents to assure them that the search continues no less than weekly when current contact information for the custodial/noncustodial parents is available (not applicable to parents whose parental rights have been terminated)

### **Determining the Factors That Led to a Child's Absence From Care**

**Citation: DCFS Pol. & Proc. Man., Pol. VII-N**

When the division receives notification that a child has run away from out-of-home care, the caseworker will conduct a visit with the child and placement provider by the next business day to assess why the child ran away and what immediate steps may need to be taken to better support both the child and placement provider.

### **Determining the Suitability of Current and Subsequent Placements**

**Citation: DCFS Pol. & Proc. Man., Pol. VII-N2**

When a child missing from an out-of-home placement is located, the caseworker will conduct a visit with the child and placement provider by the next business day after the child has been located to determine what immediate needs the child and/or placement provider may have and what immediate steps may need to be taken to better support both the child and placement provider.

### **Assessing the Child's Experiences While Absent From Care**

**Citation: DCFS Pol. & Proc. Man., Pol. VII-N2**

When a child missing from an out-of-home placement is located, the caseworker will do the following:

- Ensure the child has a physical exam by his/her primary care physician, if possible, within 72 hours of locating the child or immediately in the case of a medical emergency
- Notify immediately (but no later than 24 hours after the child has been located) all parties and individuals previously notified of the child's disappearance that the child has been located
- Update the child's placement screen in CHRIS within 2 business days of locating the child
- Determine the primary factors that contributed to the child's running away or otherwise being absent from foster care, including the following:
  - Updating the child's Child and Adolescent Needs and Strengths (CANS) assessment, including completion of the runaway CANS module within 30 days of locating the child
  - Determining if the child is a possible sex trafficking victim based on responses to the updated CANS and any other information gathered

If there is reason to believe the child is, or is at risk of being, a victim of sex trafficking, the caseworker must do the following:

- Document the finding accordingly in CHRIS and conference with the supervisor to determine appropriate next steps for additional screening related to sex trafficking victims and/or referral to appropriate services
- Report information on children or youth who have been identified as being a sex trafficking victim to local law enforcement immediately, and in no case later than 24 hours after receiving the information

### **Timeframes for Closing a Child's Placement After Running Away**

**Citation: DCFS Pol. & Proc. Man., Pol. VII-N1**

Even when the child is placed on runaway status, the child's Medicaid case will remain open. If the child is still on runaway status at the time of his/her Medicaid redetermination (i.e., the anniversary of his/her entering foster care), then the Medicaid case will be closed at that time.

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## California

### Responding to Youth Missing From Foster Care

To better understand this issue and to view it across States, download the [PDF](#) (327 KB) of this publication.

*Current Through May 2020*

#### Protocols for Reporting Children Missing From Care to Law Enforcement

**Citation: Pen. Code § 11166**

When a child or youth who is receiving child welfare services and who is reasonably believed to be the victim of, or is at risk of being the victim of, commercial sexual exploitation, as defined in § 11165.1, is missing or has been abducted, the county probation or welfare department shall immediately, or in no case later than 24 hours from receipt of the information, report the incident to the appropriate law enforcement authority for entry into the National Crime Information Center database of the Federal Bureau of Investigation and to the National Center for Missing and Exploited Children.

#### Protocols for Locating Children Missing From Care

**Citation: Wel. & Inst. Code § 16501.35**

County child welfare agencies and probation departments shall develop and implement specific protocols to expeditiously locate any child missing from foster care. At a minimum, these policies shall describe the efforts used by county child welfare or probation staff to expeditiously locate any child or nonminor dependent missing from care, including, but not limited to, the timeframe for reporting missing youth, the individuals or entities entitled to notice that a youth is missing, any required initial and ongoing efforts to locate youth, and plans to return youth to placement.

#### Determining the Factors That Led to a Child's Absence From Care

**Citation: Wel. & Inst. Code § 16501.35**

When a child is missing from foster care, the social worker or probation officer must determine the primary factors that contributed to the child or nonminor dependent running away or otherwise being absent from care.

#### Determining the Suitability of Current and Subsequent Placements

**Citation: Wel. & Inst. Code § 16501.35**

When a child is missing from foster care, the social worker or probation officer must respond to factors that contributed to the child or nonminor dependent running away in subsequent placements, to the extent possible.

#### Assessing the Child's Experiences While Absent From Care

**Citation: Wel. & Inst. Code § 16501.35**

When a child is missing from foster care, the social worker or probation officer must do the following:

- Determine the child's or nonminor dependent's experiences while absent from care
- Determine whether the child or nonminor dependent is a possible victim of commercial sexual exploitation

#### Timeframes for Closing a Child's Placement After Running Away

This issue is not addressed in the statutes and regulations reviewed.

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## Colorado

### Responding to Youth Missing From Foster Care

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*Current Through May 2020*

### **Protocols for Reporting Children Missing From Care to Law Enforcement**

**Citation: Rev. Stat. § 19-1-115.3; Code of Regs. Tit. 12, § 2509-4 (7.303.4)**

If a child or youth for whom the Department of Human Services or a county department has legal custody pursuant to the provisions of this title is determined by the agency to be missing, the agency having legal custody of the child or youth shall report the disappearance immediately, and in no case later than 24 hours after learning of the disappearance, to the National Center for Missing and Exploited Children (NCMEC) and to law enforcement. Law enforcement authorities shall notify the Colorado Bureau of Investigation for transmission to the Federal Bureau of Investigation for entry into the National Crime Information Center database. Notwithstanding the provisions of this section, the reporting requirements set forth for foster parents and out-of-home placement facilities in § 19-2-920 shall still apply.

*In regulation:* If a child who is in the legal custody of the county department is missing, then the county department shall report immediately and no later than 24 hours from when the county department receives notification that the child is missing to the local law enforcement agency and to NCMEC.

### **Protocols for Locating Children Missing From Care**

**Citation: Rev. Stat. § 19-2-920; Code of Regs. Tit. 12, § 2509-4 (7.303.4)**

When a juvenile who is sentenced to detention, committed to the department of human services, or otherwise sentenced or placed in out-of-home placement, pursuant to § 19-3-907, runs away from the facility or home in which the juvenile is placed, the person in charge of the facility or the foster parent shall notify the court and the local law enforcement agency as soon as possible after discovering the juvenile has run away from the facility or home.

*In regulation:* If a child who is in the legal custody of the county department is missing, the county department shall make reasonable efforts to locate a child who is missing and document those efforts a minimum of once per month in the State automated case management system.

### **Determining the Factors That Led to a Child's Absence From Care**

**Citation: Code of Regs. Tit. 12, § 2509-4 (7.303.4)**

Upon the return of the child, the county department shall make reasonable efforts to determine the primary factors that contributed to the child being missing and document those efforts in the State automated case management system.

### **Determining the Suitability of Current and Subsequent Placements**

**Citation: Code of Regs. Tit. 12, § 2509-4 (7.303.4)**

Upon the return of the child, the county department shall make reasonable efforts to respond to the factors that contributed to the child being missing in current and subsequent services.

### **Assessing the Child's Experiences While Absent From Care**

**Citation: Code of Regs. Tit. 12, § 2509-4 (7.303.4)**

Upon the return of the child, the county department shall make reasonable efforts to determine the child's experiences while missing, including conducting a sex trafficking screen to determine if the child is a possible sex trafficking victim.

### **Timeframes for Closing a Child's Placement After Running Away**

This issue is not addressed in the statutes and regulations reviewed.

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# Connecticut

## Responding to Youth Missing From Foster Care

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*Current Through May 2020*

### Protocols for Reporting Children Missing From Care to Law Enforcement

**Citation: DCF Pol. Man., Prac. Guide # 21-15PG**

*From the [Practice Guide](#):* Children who have run away from placement shall be reported to the Careline and to law enforcement.

When a child has run away from a congregate care setting, Department of Children and Families (DCF) foster home, or therapeutic foster home, contacting the police immediately to file a missing person report may not always be an appropriate course of action. Factors to be considered include the child's danger to self, others, or the community; medical and physical health; chronological age; developmental age; behavioral and mental health status, including prior trauma history and especially sexual abuse or exploitation; social and emotional functioning; and the geographical location from which the child ran.

Law enforcement must be contacted immediately to file a missing person report for entry into the National Crime Information Center database when the facility staff or foster parent(s) believe that the child is a danger to self, others, or the community, regardless of age; the child has a prior history of sexual exploitation; or the child is under age 13.

In these cases, the facility staff or foster parents shall immediately contact the police and notify, by telephone, the DCF area office, during business hours, or the Careline, after hours and on holidays. Therapeutic foster parents also must contact the treatment foster care (TFC) agency that provides their support to notify it of the incident.

If the child does not meet the criteria for immediate police notification, facility staff, foster parents, or TFC agency staff should contact the area office during business hours or the Careline after hours and on holidays. The area office or Careline, together with the foster parent(s) and provider staff, shall assess the nature of the absence to determine whether police notification and intervention is necessary.

Factors to be considered during the joint assessment include the child's danger to self, others, or the community; medical and physical health; chronological age; developmental age and stage; behavioral and mental health status, including prior trauma history and especially sexual abuse or exploitation; and social and emotional functioning. If the outcome of the assessment is that law enforcement notification and intervention are necessary, DCF shall direct facility staff, foster parent(s), or TFC agency staff to contact law enforcement and report the child as missing.

Based on the youth's age, mental health issues, level of functioning, extenuating circumstances (such as recent break ups, family illness or death, change in legal or placement status, etc.), and runaway history, the police should be notified based on the timeframes given below.

### Protocols for Locating Children Missing From Care

**Citation: DCF Pol. Man., Prac. Guide # 21-15PG**

If the outcome of the joint assessment does not necessitate immediate law enforcement notification or intervention, the area office or Careline staff will work with the facility staff, foster parents, and TFC agency staff to develop a plan to search for the child to ascertain his or her whereabouts.

When the child's whereabouts are unknown, DCF, facility staff, foster parents, and TFC agency staff will continue searching and a formal reassessment will be made within 3 hours or prior to the area office closing or the next Careline shift change during the child's absence.

If the reassessment determines that police intervention is still not needed, DCF, facility staff, foster parents, and TFC agency staff will update the plan to continue the search for the child, including additional action steps mutually agreed upon by DCF, facility staff, foster parents, and TFC agency staff, with another formal reassessment

scheduled within 3 hours or prior to the area office closing or the next Careline shift change during the child's continued absence.

The search and reassessment process should not exceed 6 hours before making the determination to contact the law enforcement and report the child as missing.

Upon notification of a runaway from either a foster parent placement or a congregate care setting, a social worker will be assigned to attempt to locate any child under age 15, all children who present as a danger to themselves or others, children with a history of poor decision-making that puts them in precarious situations, and children who do not have a history of frequent absences without leave (AWOLs).

A social worker shall be assigned to respond to the placement and have a discussion with the foster parent or placement staff to determine the frequency of child's AWOLs, where he or she has gone or been found in the past, whether police have been involved in the past, and who the child's contacts are. Based on the information obtained, the social worker, accompanied by police, if appropriate, may make attempts to locate the child at the addresses provided. The legal guardian and other family connections also shall be contacted in an attempt to locate the child.

When the area office receives a notification between 8:00 AM and 5:00 PM, the initial call will usually come from the school or other program that the youth attends during the day. The first step is to ensure that the absence is confirmed, not simply that the youth was absent from a class or marked absent but is actually elsewhere in the building or on the grounds. The next step is to contact the foster parent or facility staff to see if they are aware of the youth's whereabouts. If the youth has a cell phone, he or she needs to be called. The next step is to contact any transportation provider, to see what information they can provide. If the youth is involved with juvenile parole or probation, the juvenile justice social worker or probation officer needs to be contacted.

After all these sources have been checked and rechecked, other possibilities, such as birth family, other relatives, and friends need to be explored. Boyfriends or girlfriends need to be explored, if their contact information is known. If staff can access to the youth's social media accounts, those need to be explored as well.

All the above steps need to be repeated regularly and repeatedly throughout the day.

### **Determining the Factors That Led to a Child's Absence From Care**

This issue is not addressed in the statutes and regulations reviewed.

### **Determining the Suitability of Current and Subsequent Placements**

#### **Citation: DCF Pol. Man., Prac. Guide # 21-15PG**

When there is knowledge of the child's whereabouts, area office staff during business hours or Careline staff after hours and during holidays will work with facility staff, foster parents, and TFC agency staff to ensure the child's immediate return. A child's refusal to return immediately should not, by itself, be a reason for police intervention. Area office or Careline staff must work with the child to determine how to maintain the current placement or to determine whether another placement is needed. The TFC agency shall also work with the child and DCF to assist with maintaining the current placement or determining and facilitating an appropriate alternative placement.

### **Assessing the Child's Experiences While Absent From Care**

#### **Citation: DCF Pol. Man., Prac. Guide # 21-15PG**

When a child returns of his or her own accord or is returned to the placement setting by anyone, the facility staff, foster parent(s), or TFC agency staff will immediately notify area office staff during business hours or the Careline after hours and holidays in order to assess the child's needs and discuss planning. The caregiver or agency shall work with DCF to assess, plan for, and support the needs of the child. As appropriate, emergency mobile psychiatric services should be accessed to assist DCF foster homes, therapeutic foster homes, and community-based group homes with assessing the child's status.

If it is known or suspected that the child may have experienced physical abuse, sexual abuse or exploitation, community violence, or another type of traumatic event during the runaway episode, DCF staff shall determine whether it is appropriate to administer the DCF-approved trauma screening tool to identify any new trauma exposure

and the child's traumatic stress symptoms. The assessment shall include identification of any trauma-related needs of the child and whether the child feels safe now (upon return), both physically and psychologically, in the current placement.

The planning phase shall include developing or updating a safety plan for the child, if appropriate. The purpose of the safety plan is to ensure that the child has positive strategies and coping skills that, instead of running away, can be used during times of distress. The facility staff, foster parent(s), or TFC agency staff; the child; and the DCF social worker will participate in planning and understand and support the plan.

The need for general mental health assessment, trauma-specific assessment, or general mental health/trauma-specific treatment should be routinely assessed within a reasonable time following the child's return.

#### **Timeframes for Closing a Child's Placement After Running Away**

This issue is not addressed in the statutes and regulations reviewed.

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## Delaware

### **Responding to Youth Missing From Foster Care**

To better understand this issue and to view it across States, download the [PDF](#) (327 KB) of this publication.

*Current Through May 2020*

#### **Protocols for Reporting Children Missing From Care to Law Enforcement**

Not addressed in statutes reviewed.

#### **Protocols for Locating Children Missing From Care**

This issue is not addressed in the statutes and regulations reviewed.

#### **Determining the Factors That Led to a Child's Absence From Care**

This issue is not addressed in the statutes and regulations reviewed.

#### **Determining the Suitability of Current and Subsequent Placements**

This issue is not addressed in the statutes and regulations reviewed.

#### **Assessing the Child's Experiences While Absent From Care**

This issue is not addressed in the statutes and regulations reviewed.

#### **Timeframes for Closing a Child's Placement After Running Away**

This issue is not addressed in the statutes and regulations reviewed.

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## District of Columbia

### **Responding to Youth Missing From Foster Care**

To better understand this issue and to view it across States, download the [PDF](#) (327 KB) of this publication.

*Current Through May 2020*

#### **Protocols for Reporting Children Missing From Care to Law Enforcement**

#### **Citation: D.C. Code § 4-1323.01; CFSA Missing Children Policy**

The Child and Family Services Agency (CFSA) shall file a missing person report with the Metropolitan Police Department (MPD) for any child in the custody of CFSA immediately after discovering that the child is missing from the child's home or out-of-home placement.

The MPD immediately shall report a missing child to the National Center for Missing and Exploited Children, if either of the following applies:

- The child has been deemed critical missing by the MPD, as defined by MPD General Order 304-03.
- The child has been missing for more than 30 days from the date the agency filed a missing person report with MPD.

For the purposes of this section, the term 'child' means a person who has not reached age 18.

*In policy:* Immediate notification to the law enforcement agency in the jurisdiction in which the child is placed and the CFSA Absconder Unit is mandatory and critical. The Absconder Unit shall support the social workers' efforts to locate and return the child. For purposes of this policy, the term 'child' includes both infants and youth, as applicable.

When a child is believed to be missing or absconded, to have been abducted, or to have run away, the resource provider or caregiver shall take these steps in the following order:

- Make reasonable efforts to locate the missing child (e.g., contact neighbors, the school, and the missing child's friends)
- If a child is deemed to be missing, file a police report with the local law enforcement agency (in the jurisdiction where the home or facility is located or where the youth was last seen) within 1 hour from the time the child is missing
- Ensure receipt of the police report number
- Immediately report the missing child to the CFSA hotline and the assigned social worker and provide both the hotline and the social worker with the police report number
- If the child returns home, immediately notify the local law enforcement agency, CFSA's hotline, the assigned social worker, and other relevant parties who may have been notified that the child was missing

### **Protocols for Locating Children Missing From Care**

#### **Citation: CFSA Missing Children Policy**

When a social worker learns that a child is missing, the social worker shall immediately complete the following steps:

- Contact the resource provider or caregiver to confirm the report and to determine whether the child has returned
- If the child has not returned, verify that the resource provider or caregiver has filed a police report with the local law enforcement agency
- If the police report was not made, contact the law enforcement agency in the missing child's jurisdiction to make the report and ensure receipt of a police report number
- Immediately notify the following individuals that the child is missing:
  - The CFSA hotline
  - The supervisory social worker
  - The missing child's parents or legal guardians and significant relatives
  - The child's family court judge
  - The assistant attorney general (AAG) and guardian ad litem (GAL)
  - Other appropriate members of the child's case-planning team

The social worker shall use reasonable efforts to try and locate the missing/absconded child within 24 hours from receipt of notice that the child is missing. These efforts may include, but are not limited to, contacting the following entities or individuals:

- The local law enforcement agency (to verify that the child is not in their custody)
- Local emergency shelters, local hospitals, and homeless youth programs
- Most recent resource provider and any other resource providers with whom the child is known to have now or has had a close or long-term relationship
- Relatives, including the child's parents and siblings
- Neighbors and landlord of the child's last known address

- Teachers, counselors, and other personnel from the school that the child last attended or other schools the child attended, if there is knowledge that the child had a close relationship with persons at that school
- Probation or parole officer, if applicable
- Juvenile and adult detention centers, if applicable

Social workers shall follow up on all leads by telephone and/or home visits as new information is received regarding the location of the child. If the missing/absconded child is in the legal custody of CFSA and efforts to locate him or her are unsuccessful, the social worker shall immediately request assistance from the CFSA Absconder Unit to locate the missing/absconded child.

If the missing/absconded child is identified as being at high-risk, the social worker shall initiate a child locator staffing. The social worker shall consult with the supervisory social worker to determine the timeframe to conduct the staffing, which should take place as soon as possible, but no later than 7 days. The child locator staffing shall include the following individuals:

- The child's family, if deemed clinically appropriate by the social worker
- The ongoing social worker or supervisory social worker
- Child locator and CFSA Absconder Unit staff
- The child or youth's resource provider
- The assigned AAG and the GAL
- Placement Services Administration
- Other relevant parties in the case

The child locator staffing shall discuss why the child or youth has been identified as being at high-risk. A written plan shall be developed to locate the child or youth. Responsibility for each action step in the plan will be designated during the meeting. The child locator staffing shall determine the need for the social worker to contact NCMEC. A plan that is developed at the child locator staffing shall supersede any other plan.

### **Determining the Factors That Led to a Child's Absence From Care**

#### **Citation: CFSA Missing Children Policy**

Once a child is located, it is imperative that the social worker engage the child to determine why the child was missing or absconded and to prevent further disruptions.

### **Determining the Suitability of Current and Subsequent Placements**

#### **Citation: CFSA Missing Children Policy**

Once a child is located, the social worker shall determine the most appropriate placement for the child based on his or her safety and well-being and the circumstances that led to the child being missing or absconding.

### **Assessing the Child's Experiences While Absent From Care**

#### **Citation: CFSA Missing Children Policy**

Once a child is located, the social worker shall complete the following tasks upon the child's return:

- Immediately assess the child's safety
- Notify the following parties of the child's return:
  - Court absconder specialist
  - Local law enforcement agency
  - The child's parents, resource provider, and other relatives, as appropriate
  - The family court, AAG, and GAL
  - Other relevant parties who may have been notified that the child was missing
- Complete and submit the Request for the Withdrawal of Custody Order form and send it to the CFSA Absconder Unit for review

### **Timeframes for Closing a Child's Placement After Running Away**

This issue is not addressed in the statutes and regulations reviewed.

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## Florida

### Responding to Youth Missing From Foster Care

To better understand this issue and to view it across States, download the [PDF](#) (327 KB) of this publication.

*Current Through May 2020*

#### Protocols for Reporting Children Missing From Care to Law Enforcement

**Citation: Ann. Stat. §§ 39.0141; 937.021(4); Admin. Code § 65C-30.019**

Whenever the whereabouts of a child involved with the Department of Children and Families become unknown, the department, the community-based care provider, or the sheriff's office providing investigative services for the department shall make reasonable efforts, as defined by rule, to locate the child. If, pursuant to criteria established by rule, the child is determined to be missing, the department, the community-based care provider, or the sheriff's office shall file a report that the child is missing in accordance with § 937.021.

Upon the filing of a police report that a child is missing by the parent or guardian, the department, a community-based care provider, or a sheriff's office providing investigative services for the department, the law enforcement agency receiving the report shall immediately inform all on-duty law enforcement officers of the missing child report, communicate the report to every other law enforcement agency having jurisdiction in the county, and, within 2 hours after receipt of the report, transmit the report for inclusion within the Florida Crime Information Center and the National Crime Information Center databases. A law enforcement agency may not require a reporter to present an order that a child be taken into custody or any other such order before accepting a report that a child is missing.

*In regulation:* The child's caregiver, legal guardian, or child welfare professional shall immediately report a child as missing to law enforcement when any of the following apply:

- The child is under age 13.
- The child has a physical or mental incapacity or a developmental or behavioral challenge that renders the situation more dangerous than it would be for a child with more maturity or resources.
- The child is with others who may endanger his or her safety.
- The child is known or believed to be in a dangerous or life-threatening situation.
- The child is missing under circumstances inconsistent with established behaviors.

A missing child report shall be obtained by the caregiver, legal guardian, or child welfare professional from law enforcement at the time of notification. The child welfare professional shall enter the electronic missing child report in the Florida Safe Families Network (FSFN) within 24 hours of learning the child is missing. The department shall review the missing child report to ensure that it meets reporting criteria for case opening with the Florida Department of Law Enforcement/Missing and Endangered Person Information Clearinghouse and the National Center for Missing and Exploited Children.

#### Protocols for Locating Children Missing From Care

**Citation: Admin. Code § 65C-30.019**

When none of the criteria for an immediate report to law enforcement apply, the child's caregiver, legal guardian, or child welfare professional may take up to 4 hours from the time the child is first discovered missing to actively search for and attempt to locate the child prior to contacting local law enforcement. Active search efforts include the following:

- Searching the child's belongings
- Calling/texting the child's cell phone
- Checking the child's computer, social media accounts, or other online accounts
- Contacting the child's friends, relatives, or known associates
- Searching areas that the child is known to frequent

- Contacting the child's school
- Contacting the child's employer

After notifying law enforcement, the caregiver or legal guardian shall immediately notify the child welfare professional that the child's whereabouts are unknown. If the child welfare professional learns that the child's caregiver or legal guardian has not reported the child as missing to local law enforcement within the timeframes set forth in of this rule, the child welfare professional immediately shall report the child as missing to local law enforcement.

When the whereabouts of a child in the custody of the department are unknown, the child welfare professional shall notify the child's caregivers or legal custodians, guardian ad litem and attorney ad litem, if appointed, and Children's Legal Services within 4 hours. Children's Legal Services or the contracted legal provider must file notice with the court within 1 business day after being notified that a child is missing. Notice to the court shall be documented in FSFN within 2 business days.

Child welfare professionals shall be responsible for conducting both field-based and desk activities to locate the child, including the following:

- Onsite visits to locations where the child may be found
- Onsite collateral source contact interviews (e.g., interviews of teachers, employers, relatives)
- Use of electronic databases and information systems (e.g., parent locator services)
- Checking mobile apps that are popular among youth

For children reported missing while the family is receiving case management services, the case manager or designee shall make efforts to locate the child at a minimum of once a week for the first 3 months the child is missing and at a minimum of once a month thereafter.

### **Determining the Factors That Led to a Child's Absence From Care**

**Citation: Admin. Code § 65C-30.019**

Upon learning that the missing child has been located, the child welfare professional shall interview the child within 24 hours to determine the primary factors that contributed to the child running away (if the child ran away).

### **Determining the Suitability of Current and Subsequent Placements**

**Citation: Admin. Code § 65C-30.019**

Upon learning that a child missing while a family is receiving case management services has been located, the child welfare professional identified by the community-based care lead agency shall interview the child within 24 hours to determine the child's need for additional services and/or change in placement.

### **Assessing the Child's Experiences While Absent From Care**

**Citation: Admin. Code § 65C-30.019**

Upon learning that the missing child has been located, the child welfare professional shall interview the child within 24 hours to inquire into the child's experience while absent from care, including identifying if the child has a history of running away, sexual abuse, prostitution, or a current arrest on a charge of prostitution, or the child discloses being trafficked or reporting sexual exploitation. If any one of these indicators are present, the child welfare professional shall screen the child to determine if the child is a possible victim of trafficking.

When the child is located, the child welfare professional shall immediately notify the following individuals and agencies:

- The child's caregiver or legal guardian
- Law enforcement
- The guardian ad litem and attorney ad litem, if appointed
- Children's Legal Services or the contracted legal provider

### **Timeframes for Closing a Child's Placement After Running Away**

This issue is not addressed in the statutes and regulations reviewed.

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## Georgia

### Responding to Youth Missing From Foster Care

To better understand this issue and to view it across States, download the [PDF](#) (327 KB) of this publication.

*Current Through May 2020*

#### Protocols for Reporting Children Missing From Care to Law Enforcement

**Citation: DFCS Child Welf. Pol. Man., # 19.22**

*In policy:* The Division of Family and Children Services (DFCS) shall report immediately, and in no case later than 24 hours after receipt, information on missing or abducted children to the law enforcement authorities, for entry into the National Crime Information Center (NCIC) database of the Federal Bureau of Investigation (FBI) and to the National Center for Missing and Exploited Children (NCMEC).

If the child is determined to be missing from a foster care placement, the social services case manager (SSCM) will do the following:

- Contact the NCMEC within 24 hours of the child's disappearance by calling the hotline number at 1-800-THE-LOST (1-800-843-5678) or making a report on the website (<http://cmfc.missingkids.org/ReportHere>) and completing the online form designed for child welfare caseworkers, as follows:
  - If the initial contact is made before there is an active missing person police report, contact NCMEC again once there is an active missing person police report
  - Advise NCMEC not to identify a child as being in foster care during any of its activities
  - Provide the child's name, date of birth, Social Security number, placement address, and contact information for the SSCM
- Follow up with local law enforcement within 24 hours of filing the missing person report to confirm that the missing child has been added to the NCIC database of the FBI

#### Protocols for Locating Children Missing From Care

**Citation: DFCS Child Welf. Pol. Man., # 19.22**

DFCS shall have protocols for expeditiously locating any child missing from foster care, as follows:

- Notify the DFCS Missing Children Team within 24 hours
- File a runaway report in juvenile court within 2 business days that includes efforts made to locate the child

If a child is suspected to be missing, the SSCM will do the following:

- Contact the caregiver and other household members to determine when and where the child was last seen, the child's state of mind at that time, and if any of the child's possessions are missing
- In conjunction with the caregiver, coordinate and conduct a comprehensive search for the child that includes, but is not limited to, the following:
  - Attempting to contact the child on his/her cell phone or social media
  - Contacting the child's friends and persons with whom the child associates to determine if they have knowledge of the child's whereabouts
  - Visiting the locations where the child was last seen and where the child frequents
  - If the child is the temporary custody of DFCS, contacting the child's parents and family members to determine if they are aware of the child's whereabouts

If the child is determined to be missing, the SSCM will do the following:

- Ask the caregiver if he or she has already filed a missing person report with law enforcement
- Contact local law enforcement to confirm that a missing person report has been filed



- If the missing person report has not been filed, file the missing person report immediately but no later than 24 hours of determining that a child is missing
- Notify the child's parent(s) as soon as possible if the child is in foster care
- Solicit the parents' assistance in locating the child, if appropriate
- Notify the DFCS Missing Children Team immediately but no later than 24 hours after a child is determined to be missing
- Notify the juvenile court within 2 business days of the child's disappearance by filing a runaway report
- Notify the following:
  - The child's attorney, guardian ad litem (GAL), and court-appointed special advocate (CASA), if applicable
  - Any other division/department that also serves the child, including the child's school officials, probation officers, attorneys, service providers, etc.
- In conjunction with the caregivers, continue a comprehensive search to locate the child, as follows:
  - Interview the child's parents and other caregivers to determine the child's state of mind when last observed
  - Revisit locations where the child was last seen
  - Continue to make attempts to contact the child via cell phone, social media, etc.
  - Utilize voicemail, text messaging, and other messaging to communicate to the child the need to return or go to a safe place (e.g., police station, fire department, hospital)
  - Interview other children at the child's placement to determine if the child shared his/her plans or contact information for other friends
  - Inquire about the child's use of cell phones or social media
  - Contact law enforcement to determine if they have made any progress in locating the child
  - Continue to follow-up with the child's friends, parents, extended family members, and other adults with whom the child had a relationship for any updated information
- Address the following monthly with the supervisor and every 90 days (at a minimum) with the county director if the child remains missing:
  - Efforts made to locate the child
  - Additional strategies that may be employed to locate the child
  - The child's history of running away (if applicable) and whether the child seems to be running to a specific place or person
  - Whether it the child is known to be or is at risk of being a victim of commercial sexual exploitation
- Encourage the child to return every time there is any contact made with the missing child

### **Determining the Factors That Led to a Child's Absence From Care**

**Citation: DFCS Child Welf. Pol. Man., # 19.22**

DFCS shall have protocols for determining the primary factors that contributed to the child's running away or otherwise being absent from care and, to the extent possible and appropriate, responding to those factors in current and subsequent placements.

### **Determining the Suitability of Current and Subsequent Placements**

**Citation: DFCS Child Welf. Pol. Man., # 19.22**

DFCS shall develop a written runaway prevention plan for youth at risk of runaway behavior within 7 calendar days following a youth returning from a runaway episode.

A runaway prevention plan is a method of addressing circumstances and situations that might lead to a runaway episode or a recurrence of runaway behavior. The plan is a written document that helps to promote clarity and accountability. To be more effective, the runaway prevention plan should be developed collaboratively with children, their caregivers, and others working with the children. The plan needs to be realistic, positive, and based on a child's strengths, which will increase the chances of success. Since people and circumstances change, the plan should be updated to ensure it remains applicable to current circumstances.

When developing the plan, the SSCM should do the following:

- Help children identify their strengths in language that is easy to understand (e.g., good at being on time, friendly, respectful, athletic)
- Ask children what has prevented them from running away in the past (e.g., talking to their case manager, listening to music, talking to a friend, taking a walk, sports)
- Try to help children identify triggers, feelings or behaviors that occur when they have thoughts of running away (e.g., feeling overwhelmed, trapped, not knowing what to do)
- Ask children how their case manager and caregivers can best support them in remaining in their placement
- List any other supports that may be needed (e.g., counseling, mentoring)
- Include contact information for DFCS and other significant persons in the youth's support network, such as individuals the youth may contact at any time they find themselves in an unsafe situation or simply wish to return from runaway status

The SSCM will ask children, their caregivers, and all involved parties to sign the plan and give everyone a copy. This makes the plan feel like a real commitment between all the parties involved.

Some tips for plan development include the following:

- If a child runs away to see friends, work with caregivers to increase activities the child has with friends.
- If a child runs away to see birth family, increase family visits (if possible) and make efforts to secure placement with a relative with whom the child is willing to remain. If the agency can limit trauma to the child/young adult and increase connections with supportive people, the child/young adult will be more likely to make progress toward a stable adulthood.
- If a child runs away to reunite with parents or caregivers from whom he/she was removed, determine if the factors that prevented reunification in the past are still relevant. If not, follow the department requirements for pursuing the possibility of reunification.
- If a child runs away to use drugs, refer the child for a substance use assessment and any recommended treatment.
- If a child runs away because of problems with school, increase educational supports.
- If a child runs away because of conflicts with the foster caregivers, work with the child and the caregivers to resolve the conflicts. If it is not possible to resolve the conflicts between the child and caregivers, then seek a more suitable placement for the child.

### **Assessing the Child's Experiences While Absent From Care**

**Citation: DFCS Child Welf. Pol. Man., # 19.22**

DFCS shall have protocols for determining the child's experiences while absent from care, including screening the child to determine if the child is a possible sex trafficking victim.

When the child is located, the SSCM will do the following:

- Make face-to-face contact with the child within 24 hours.
- Notify the parent and the placement resource that the child in foster care has been located immediately, but no later than 24 hours.
- Notify the DFCS Missing Children Team immediately, but no later than 24 hours after a child is located.
- Notify law enforcement, the court, GAL, CASA, and any other entities actively assisting DFCS with the search.
- Call the NCMEC hotline number immediately to notify them that the missing child has been located, if they did not locate the child.
- Make every effort to place children previously missing from foster care in the same placement they were in prior to becoming missing, when appropriate.
- Interview the child within 24 hours of the child's return to determine factors that contributed to the child being missing, the child's experiences while absent from care, and to assess whether the child is at risk or is a victim of sex trafficking.
- Arrange for a medical examination within 48 hours of the child's return. In child protective services cases, the parent must obtain the medical examination.

- Refer the child and family for appropriate services to address identified issues related to the runaway episode or other identified at-risk behaviors.
- Develop a written runaway prevention plan with the child, their caregivers, and others working with the child to address situations that might lead to a recurrence of the runaway behavior.
- Visit the child more frequently (weekly or more often as needed) to work with the child and caregiver(s) to stabilize their relationship and to address the factors that led to the runaway episode and prevent further disruption.
- Update the case plan when there are newly identified or modified services, treatment, and/or needs based on the runaway episode.
- Document all case management activities.

If the results of the assessment suggest a child is a victim of sex trafficking, the SSCM will do the following:

- Contact the Georgia Bureau of Investigation immediately, but no later than within 24 hours, to provide notification and to discuss next steps
- Follow the procedures outlined in the Commercial Sexual Exploitation/Domestic Minor/Sex Trafficking Case Management Protocol
- Obtain services specifically to address the issues for the child determined to be at risk or a victim of sex trafficking

### **Timeframes for Closing a Child's Placement After Running Away**

**Citation: DFCS Child Welf. Pol. Man., # 19.22**

DFCS shall do the following:

- Notify the Revenue Maximization Specialist (RMS) within 24 hours of determining that a child in foster care is missing and within 24 hours of when the child is located
- Maintain an open foster care case on any missing child in the temporary or permanent custody of DFCS to continue efforts to locate the child and address the concerns that brought the child into foster care

If the child is determined to be missing, the SSCM will send a Notification of Change to the RMS to notify them that the child is on runaway status or otherwise missing from the foster care placement. The RMS will terminate title IV-E reimbursements for a title IV-E-eligible child.

When the child is located, the SSCM will submit a new title IV-E application, if a child returns to foster care from a runaway/missing episode. NOTE: New determinations of all eligibility factors, including judicial determinations of 'contrary to the welfare' and 'reasonable efforts,' are required if the child returns to foster care after 6 months, as this is considered a new placement episode for title IV-E.

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## **Guam**

### **Responding to Youth Missing From Foster Care**

To better understand this issue and to view it across States, download the [PDF](#) (327 KB) of this publication.

*Current Through May 2020*

#### **Protocols for Reporting Children Missing From Care to Law Enforcement**

Not addressed in statutes reviewed.

#### **Protocols for Locating Children Missing From Care**

This issue is not addressed in the statutes and regulations reviewed.

#### **Determining the Factors That Led to a Child's Absence From Care**

This issue is not addressed in the statutes and regulations reviewed.

#### **Determining the Suitability of Current and Subsequent Placements**

This issue is not addressed in the statutes and regulations reviewed.

### **Assessing the Child's Experiences While Absent From Care**

This issue is not addressed in the statutes and regulations reviewed.

### **Timeframes for Closing a Child's Placement After Running Away**

This issue is not addressed in the statutes and regulations reviewed.

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## **Hawaii**

### **Responding to Youth Missing From Foster Care**

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*Current Through May 2020*

#### **Protocols for Reporting Children Missing From Care to Law Enforcement**

Not addressed in statutes reviewed.

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#### **Timeframes for Closing a Child's Placement After Running Away**

This issue is not addressed in the statutes and regulations reviewed.

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## **Idaho**

### **Responding to Youth Missing From Foster Care**

To better understand this issue and to view it across States, download the [PDF](#) (327 KB) of this publication.

*Current Through May 2020*

#### **Protocols for Reporting Children Missing From Care to Law Enforcement**

##### **Citation: Standard for Responding to and Reporting on Runaway Youth**

*In policy:* In no case later than 24 hours after receiving information on missing or abducted children or youth, State child welfare agencies are required to report to law enforcement for entry into the National Crime Information Center database of the Federal Bureau of Investigation and to the National Center for Missing and Exploited Children (NCMEC).

If a child in the custody of the Department of Child and Family Services (CFS) runs away, or is discovered to be missing from care and the child's whereabouts are unknown, the child's worker must notify the following parties:

- Immediately:
  - Local law enforcement

- The child's birth parents, unless they cannot be found or parental rights have been terminated
- Within 24 hours:
  - The child's attorney and guardian ad litem
  - NCMEC at the 24-hour call center: 1-800-THE LOST (1-800-843-5678) or at <http://cmfc.missingkids.org> and obtain a reference number
  - The child's probation or parole officer, if the child is involved with juvenile probation or the Idaho Department Juvenile Corrections

If the worker believes that a child has unwillingly left foster care or has been removed by an unauthorized person, the CFS social worker will request that the child be placed on the Amber Alert system when making the report to law enforcement. Local law enforcement officials will work with CFS to decide if Amber Alert criteria are met and will activate the Amber Alert network, if appropriate.

No later than the next business day from when the child was reported missing, the CFS social worker must follow up with NCMEC at the 24-hour call center. The CFS social worker must remain in contact with law enforcement and NCMEC (if applicable) on a weekly basis until the child is located.

### **Protocols for Locating Children Missing From Care**

#### **Citation: Standard for Responding to and Reporting on Runaway Youth**

The purpose of this standard is to provide direction and guidance to CFS programs regarding reporting and responding requirements for runaway youth and missing youth. This standard is intended to achieve statewide consistency in the development and application of CFS core services and will be implemented in the context of all-applicable laws, rules, and policies. State child welfare agencies are required to develop and implement specific protocols for expeditiously locating any child missing from foster care.

The CFS social worker must continue ongoing efforts to locate any child missing from placement and must actively search for the child until the child is found. Ongoing efforts may include the following:

- Contacting relatives and friends
- Utilizing social media
- Contacting schools and community programs in which the child may have participated

When a child is missing and/or is known to be on the run, a critical incident report must be completed. In addition, the CFS social worker must document all efforts to locate the child on a weekly basis until the child is located.

When information is received regarding the possible location of a missing child, the CFS social worker must staff the case with a supervisor immediately. The supervisor will assist in determining the most appropriate course of action in order to assess the child's safety.

### **Determining the Factors That Led to a Child's Absence From Care**

#### **Citation: Standard for Responding to and Reporting on Runaway Youth**

State child welfare agencies are required to determine the primary factors that contributed to the child's running away or otherwise being absent from care and, to the extent possible and appropriate, respond to those factors in current and subsequent placements.

### **Determining the Suitability of Current and Subsequent Placements**

#### **Citation: Standard for Responding to and Reporting on Runaway Youth**

When a missing child has returned to care, the CFS social worker must interview the child as soon as appropriate to determine the reasons why the child ran away or was absent from care. If the interview identifies reasons why the child ran away or was absent from care, the CFS social worker must, to the extent possible, address those factors in the child's current and future placements.

### **Assessing the Child's Experiences While Absent From Care**

#### **Citation: Standard for Responding to and Reporting on Runaway Youth**

If a child in CFS custody returns to foster care after being reported to law enforcement as a runaway or missing person, the child's CFS social worker will ensure the appropriate law enforcement officials are notified immediately, but no later than 24 hours from when the CFS social worker was notified of the child's return to foster care. If the child has been placed on the Amber Alert system, the CFS social worker shall notify law enforcement officials within 1 hour of the child's return.

No later than 24 hours from when the child returns to foster care, the child's CFS social worker must do the following:

- Update the critical incident report
- Notify the child's attorney and the guardian ad litem
- Notify the child's parents, unless they cannot be found or have had their parental rights terminated
- Notify NCMEC
- Notify the child's probation or parole officer, if appropriate

The CFS social worker must interview the child as soon as appropriate to determine the following:

- The reasons why the child ran away or was absent from care
- The child's experiences while absent, including screening to determine if the child was a sex or labor trafficking victim

If the child indicates or reports to the caseworker or a caregiver that he or she was of a victim of any crime, including being a child victim of human trafficking, the CFS social worker must report the information to law enforcement immediately, but no later than 24 hours.

Foster youth who run away or are abducted are at a higher risk of being child victims of human trafficking. For this reason, all youth who experienced a runaway episode or abduction must be screened for human trafficking upon their return.

### **Timeframes for Closing a Child's Placement After Running Away**

This issue is not addressed in the statutes and regulations reviewed.

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## **Illinois**

### **Responding to Youth Missing From Foster Care**

To better understand this issue and to view it across States, download the [PDF](#) (327 KB) of this publication.

*Current Through May 2020*

#### **Protocols for Reporting Children Missing From Care to Law Enforcement**

**Citation: Admin. Code Tit. 89, § 329.30**

Whenever a child for whom the Department of Children and Family Services has legal responsibility is believed to be missing or on runaway or to have been abducted from a placement facility, the caregiver shall report the incident to department casework staff no later than the next business day. If the child is believed to be at risk due to the child's age or degree of vulnerability, the caregiver shall report the incident immediately to the following:

- Department casework staff, if the incident occurs during normal working hours
- The State Central Register during after-hours or on weekends

As soon as the child's caseworker learns that a child is missing, the worker shall verbally notify the local police authorities (city police or sheriff's office) and follow their procedures for reporting a missing child that include filing a missing persons report at the police station in the district in which the minor most recently resided. The worker shall provide as much identifying information about the child as possible to police authorities, including a photograph of the child and whether fingerprints are on file with the Illinois State Police.

After the police report has been made, the worker shall file an unusual incident report in accordance with 89 Ill. Adm. Code 331.

In addition to the notification required above, the caseworker also shall notify the following:

- The child's parents, guardian, or legal custodian
- The juvenile court of jurisdiction
- The National Center for Missing and Exploited Children (NCMEC) and Child Find of America

### **Protocols for Locating Children Missing From Care**

#### **Citation: Admin. Code Tit. 89, § 329.30**

After making the required notifications, the caseworker shall attempt to locate the child by doing the following:

- Inquiring of the following persons if they have knowledge of the possible location of the child:
  - Past known caregivers who have cared for the child for at least 6 months within the last 2 years or any other caregivers with whom the child is known to have had a close relationship
  - Relatives, including the child's parents
  - Neighbors and landlord of the child's last known address
  - Close friends and classmates of the child, including any known boyfriends or girlfriends
  - Teachers, counselors, and other personnel at the school that the child last attended or at other schools the child attended, if there is knowledge that the child had a close relationship with persons at that school
  - Other staff of the department or purchase of service agency who might have knowledge of the possible location of the minor
- Reviewing the Public Aid Client Information Systems screen to seek the location of the minor and any other person with whom the caseworker suspects the minor might be living
- Inquiring of local emergency shelters and homeless youth programs whether they have any information as to the whereabouts of the child
- Requesting any of the persons contacted above to contact the caseworker if they subsequently receive any information about the child's location

The child's caseworker shall periodically (no less than once per month) check with the local police or appropriate local law enforcement agency on the status of the report. Whenever the caseworker obtains new information that may lead to the whereabouts of the child, the caseworker shall immediately report the information to the local police or appropriate local law enforcement agency.

The caseworker also shall keep the court informed of any changes in the child's status.

At their monthly supervisory meeting, the worker and supervisor shall discuss what is being done to locate the missing child and review what steps are being taken.

### **Determining the Factors That Led to a Child's Absence From Care**

#### **Citation: Admin. Code Tit. 89, § 329.40**

When a child who has been missing, on runaway, or abducted has been found and returned, the child's caseworker shall conduct a thorough follow-up interview with the child to determine the circumstances behind the child's disappearance.

### **Determining the Suitability of Current and Subsequent Placements**

#### **Citation: Admin. Code Tit. 89, § 329.50**

When a child who has been missing, on runaway, or abducted has been found and returned, the child's caseworker shall determine whether the child should be returned to the placement from which the child disappeared or whether a new placement is in the child's best interests. New placements must comply with the requirements of 89 Ill. Adm. Code § 301 (Placement and Visitation Services).

### **Assessing the Child's Experiences While Absent From Care**

#### **Citation: Admin. Code Tit. 89, § 329.40**

When a child who has been missing, on runaway, or abducted has been found and returned, the child's caseworker shall do the following:

- Conduct a thorough follow-up interview with the child to determine the circumstances behind the child's disappearance
- Schedule a medical examination for the child within 24 hours
- Determine what needs to be done for the resumption of the child's educational program
- Replace any clothing or personal items the child may need, if these have been lost
- Inform the police, NCMEC, Child Find of America, and all others who were notified of the absence that the child has been located
- Complete a report of the incident that can be promptly accessed and reviewed if the child disappears again

### **Timeframes for Closing a Child's Placement After Running Away**

This issue is not addressed in the statutes and regulations reviewed.

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## Indiana

### **Responding to Youth Missing From Foster Care**

To better understand this issue and to view it across States, download the [PDF \(327 KB\)](#) of this publication.

*Current Through May 2020*

#### **Protocols for Reporting Children Missing From Care to Law Enforcement**

**Citation: Child Welf. Man. Ch. 2, § 24**

*In policy:* The Indiana Department of Child Services (DCS) will make ongoing diligent attempts to expeditiously locate any child missing from his or her placement. This includes a child who is placed or remains in home through an in-home child in need of services determination, trial home visit, or informal adjustment, or a child involved in an open assessment.

When a child involved in an open DCS case or assessment runs away or is missing, DCS will do the following:

- Ensure the appropriate local law enforcement agency (LEA) is contacted immediately (no later than 24 hours) to report the child missing
- Verify with the Indiana State Police (ISP) that the child has been entered into the National Crime Information Center (NCIC) database
- Complete the National Center for Missing and Exploited Children (NCMEC) form
- Email the NCMEC form, with a current photograph of the child attached, to the DCS child abuse hotline immediately (no later than 24 hours) for reporting to NCMEC
- Ensure NCMEC is contacted to report the child's missing status and to provide requested details regarding the missing child
- Ensure the child's parent, guardian, or custodian is notified, unless a termination of parental rights (TPR) has been finalized
- Ensure the court is notified (if there is an open case)
- Update the child's placement and document all actions taken in the case management system

#### **Protocols for Locating Children Missing From Care**

**Citation: Child Welf. Man. Ch. 2, § 24**

When notified that a child involved in an open DCS case or assessment has run away or is missing, the family case manager (FCM) will do the following:

- Advise the resource parent(s), residential provider, or custodial parent to contact the appropriate local LEA to file a runaway/missing person report



- Gather pertinent information from the child's caregiver(s) and other household members regarding the following:
  - When and where the child was last seen
  - The child's last known state of mind
  - Any unusual events prior to the child's disappearance
  - Whether any of the child's possessions are missing from his or her placement
- Ensure the child has been reported as missing to ISP and local LEA (within 24 hours) to request that the child is entered into the NCIC database, if not already done, and request ISP and local LEA reports
- Complete the NCMEC form with pertinent information
- Utilize the email button within the NCMEC form to generate an email to the hotline and ensure supporting documents and a current photograph of the child are attached to the email prior to sending
- Verify with the hotline that NCMEC is contacted immediately (no later than 24 hours) after the youth has gone missing or runaway
- Notify the FCM supervisor of the child's absence from care
- Notify the parent, guardian, or custodian (unless a TPR is finalized) of the child's runaway or missing status and inquire about the child's whereabouts and any recent contact with the child
- Notify the court of the child's runaway or missing status (if there is an open case)
- Attempt to contact the child on his or her cell phone or social media, if applicable
- Visit locations the child frequents (e.g., school, park, movie theaters)
- Contact the child's family, friends, school staff, employer, and other individuals who have a close relationship with the child to inquire about the child's whereabouts and any recent contact with the child
- Report new relevant information to ISP and local LEA, if applicable
- Document the runaway/missing person episode, corresponding documents, and efforts to locate the child in case management system

Note: The FCM should continue regular attempts to contact the child, visits to locations the child frequents, and contact with the above individuals throughout the child's absence from care. Any new information gained should be reported to ISP and local LEA. All efforts and information gathered should be discussed with the FCM supervisor and documented in the case management system.

### **Determining the Factors That Led to a Child's Absence From Care**

**Citation: Child Welf. Man. Ch. 2, § 24**

When the child is located, DCS will do the following:

- Interview the child concerning the reason(s) the child ran away
- Convene a child and family team (CFT) meeting within 5 business days of the child's return to discuss circumstances that led to the runaway episode

### **Determining the Suitability of Current and Subsequent Placements**

**Citation: Child Welf. Man. Ch. 2, § 24**

When the child is located, DCS will convene a CFT meeting within 5 business days of the child's return to discuss and respond to the child's needs, circumstances that led to the runaway episode, placement concerns, safety issues, and any additional topics that may affect stability for the child.

Note: A new placement cannot be entered for a child until the Indiana Human Trafficking Screening Tool has been completed for the child who had a runaway or missing person episode.

### **Assessing the Child's Experiences While Absent From Care**

**Citation: Child Welf. Man. Ch. 2, § 24**

When the child is located, DCS will do the following:

- Notify the child's parent, guardian, or custodian; the court (if there is an open case); ISP; local LEA; NCMEC; and all other parties previously contacted to assist in the search for the child

- Interview the child concerning the reason(s) the child ran away and where and with whom the child was residing
- Complete the Indiana Human Trafficking Screening Tool in the case management system
- If recommended by the Indiana Human Trafficking Screening Tool, complete the Indiana Human Trafficking Assessment Tool
- Discuss the case and the results of the Indiana Human Trafficking Assessment Tool to determine next steps regarding the following:
  - Safety needs
  - Placement
  - Service referrals
  - Involvement of LEA
  - The need for a human trafficking forensic interview
- Document the results of the Indiana Human Trafficking Assessment Tool in the case management system

When the child is located, the FCM will do the following:

- Ensure the FCM supervisor is aware that the child has been located
- Notify ISP; local LEA; NCMEC; the parent, guardian, or custodian (unless TPR is finalized); and the court (if there is an open case)
- Interview the child as soon as possible (within 48 hours) and complete the Indiana Human Trafficking Screening Tool in the case management system
- If recommended by the Indiana Human Trafficking Screening Tool, complete the Indiana Human Trafficking Assessment Tool
- Discuss the case and the results of the Indiana Human Trafficking Assessment Tool with the FCM supervisor to determine next steps regarding the following:
  - Safety needs
  - Placement
  - Service referrals
  - Involvement of LEA
  - The need for a human trafficking forensic interview
- Contact the hotline to make a new report if a child discloses human trafficking
- Convene a CFT meeting within 5 business days of the child's return to discuss and plan to meet the child's needs, with a focus on safety, and respond to the needs of current and subsequent placements
- Update the Child and Adolescent Needs and Strengths Assessment, in accordance with the critical case juncture of returning from a runaway or missing person episode
- Document all decisions and actions in the case management system

The FCM supervisor will do the following:

- Discuss the case and the Indiana Human Trafficking Assessment Tool with the FCM
- Utilize the Human Trafficking Assessment Scoring Guide to provide guidance on next steps

### **Timeframes for Closing a Child's Placement After Running Away**

#### **Citation: Child Welf. Man. Ch. 2, § 24**

DCS will continue to make foster care payments to the resource parent(s) for a maximum of 5 days when a child in out-of-home placement is missing or runs away if the intent is for the child to return to the same resource parent(s). A bed hold will end prior to 5 days if there is no intent for the child to return to the resource home. If the child does not return to the placement within 5 consecutive days of absence, then the placement and per diem charge will be terminated for that child, unless otherwise approved by the DCS regional manager.

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## Iowa

### Responding to Youth Missing From Foster Care

To better understand this issue and to view it across States, download the [PDF](#) (327 KB) of this publication.

*Current Through May 2020*

#### Protocols for Reporting Children Missing From Care to Law Enforcement

**Citation: DHS Employees' Man., Tit. 17, Ch. E**

*From the [manual](#):* The Department of Human Services shall report immediately (no later than 24 hours) any missing or abducted child or youth in foster care to law enforcement for entry into the National Crime Information Center (NCIC) and also to the National Center for Missing and Exploited Children (NCMEC) at 1-800-THE-LOST (1-800-843-5678) or <https://www.missingkids.org>.

When a child is absent from his or her placement, the department shall do the following:

- Immediately contact law enforcement and provide the child's name, date of birth, height, weight, and any other unique identifiers, such as eyeglasses and braces
- Inform law enforcement when the child went missing and what clothing the child was wearing
- Report immediately, and in no case later than 24 hours, after receiving information regarding missing or abducted children or youth to law enforcement for entry into the NCIC database of the Federal Bureau of Investigation and also to NCMEC

When immediate attempts to locate the child are unsuccessful, the facility must report the child to law enforcement as a missing person. The facility may make the report on behalf of a child placed in group care or shelter care. The report shall be made as follows:

- Begin with local police and report to the sheriff or State police, as needed
- Give to the law enforcement agencies and State Patrol Communications the following:
  - All pertinent identifying information about the child
  - The worker's name and home and work telephone numbers or the caregiver's phone number
- Identify whether the child has been adjudicated as a child who committed a delinquent act or a child in need of assistance

If there is reason to suspect that the life or well-being of the child may be in jeopardy, the department must do the following:

- Immediately request the local law enforcement agency to enlist the aid of the Iowa Division of Criminal Investigation or direct the guardian to do so
- Be aware of what information is needed to issue an Amber Alert, if the local law enforcement determines that an Amber Alert should be issued

An Amber Alert is used only when there is an abduction and the child is in danger. An Amber Alert is not used for a runaway, unless the child is known to have been abducted and the child's life is in danger.

#### Protocols for Locating Children Missing From Care

**Citation: DHS Employees' Man., Tit. 17, Ch. E**

The care provider shall notify the department when a child under the supervision or care of the department has an unauthorized absence from placement.

The department shall take immediate action to locate a child under the department's care or supervision when there is an unauthorized absence from placement. For the purpose of these procedures, 'unauthorized absence' means any unplanned absence due to any of the following:

- Actions taken by the child (e.g., running away)
- Actions of others (e.g., abduction)

- The lack of attention or supervision by the caregiver

When a child is absent from his or her placement, the department shall do the following:

- Instruct foster care homes, group homes, residential treatment centers, shelters, and other such placements to immediately inform the department regarding any child or youth that is absent from care
- Obtain as much information as possible about the circumstances surrounding a child's absence
- Make an immediate and reasonable initial effort to locate the child by, at a minimum, contacting the school, parents, relatives, friends, and other contacts or locations identified as likely places the child may be
- Identify and contact any other individuals whom the child may have contacted for assistance while on the run and encourage them to help locate the child or return the child to foster care
- Contact the child's parents and inform them the child is missing or abducted; gather any information from the parents that may be helpful in the search for the child
- Search diligently and regularly for the child at places the child is frequently known to go to
- Notify the juvenile court
- Notify the court and the guardian ad litem, as needed, in writing within 2 working days (or within the court's preferred time limit if one has been established) when there is reason to believe that parents or others have done any of the following:
  - Failed to divulge or concealed facts known to them about the whereabouts of the child
  - Aided and abetted the unauthorized absence of the child
  - Contributed to the delinquency of the child

When a child remains on the run for a long period of time, the department shall do the following:

- Contact law enforcement on an ongoing basis about what is being done to locate the missing juvenile
- Contact parents and others involved regularly to see if they have more information about the child's whereabouts or activities
- Discuss with the Iowa Department of Public Safety the need for posting photographs of missing persons to State and national internet sites

### **Determining the Factors That Led to a Child's Absence From Care**

**Citation: DHS Employees' Man., Tit. 17, Ch. E**

When the child is located, the caseworker shall identify the factors that contributed to the child or youth being absent from foster care and determine what the child's or youth's experiences were while absent, including screening the child to determine if the child is a possible victim of sex trafficking. To the extent possible, the department shall respond to those factors in the current and subsequent placements.

### **Determining the Suitability of Current and Subsequent Placements**

**Citation: DHS Employees' Man., Tit. 17, Ch. E**

When the child is located, the caseworker shall identify, and to the extent possible, respond to the primary factors that contributed to the child or youth being absent from foster care. The responses to these factors shall be documented in case notes. The caseworker shall provide a description of how these responses will be incorporated and integrated into the current placement and how it is believed that they will positively affect the current and any subsequent placement.

### **Assessing the Child's Experiences While Absent From Care**

**Citation: DHS Employees' Man., Tit. 17, Ch. E**

When the child is located, the caseworker shall arrange for the child's return to the placement. The caseworker may negotiate with a runaway child as to when the child is willing to return. The safety and well-being of the child should be the first consideration in the negotiation. The agreed-upon return time should always be within 48 hours of the contact.

If a parent sabotages attempts to pick up a runaway child, the caseworker must notify law enforcement.

When the child is located, the caseworker shall do the following:

- Notify the parent or caretaker as soon as possible when the child is found, unless there a reason to believe this may further endanger the child
- Determine what the child's or youth's experiences were while absent, including screening the child to determine if the child is a possible victim of sex trafficking
- Screen all located youth for possible sex trafficking by asking the child or youth the following:
  - How long were you on the run?
  - Where have you been staying?
  - Who has helped you and provided for you during your absence?
  - Were you threatened, abused, or assaulted during your absence?
- Assess a victim of trafficking for trauma exposure, as follows:
  - Determine if the exploiter has access to the child
  - Determine if the child needs to be placed in a secure facility or shelter for the child's safety
- Notify the juvenile court when appropriate
- Determine if the location of the child can be shared
- Immediately address any medical needs of the child
- Develop and implement a safety plan with the child, with the plan identifying who the child can contact if the child is feeling unsafe or wants to run and safe places or locations the child can go temporarily as an alternative to running
- Engage the child in selection of a foster care placement, if applicable
- Offer additional services to the child, parent, or caregiver
- Develop the permanency plan in consultation with the child, when appropriate
- Reassess the educational needs of the child or youth, if the child or youth has missed a significant amount of school

### **Timeframes for Closing a Child's Placement After Running Away**

**Citation: DHS Employees' Man., Tit. 17, Ch. E**

Payment may be made for a reserved bed while a child is on the run from a placement for 14 days. The maximum may be extended up 30 consecutive days with approval of the service area manager.

The provider shall notify the worker within 24 hours after the child runs away. When reserve bed payment requires approval of the service area manager (more than 14 consecutive days), the following must be included in the child's case file:

- The provider's written rationale for the extended period of reserve bed days
- The service area manager's written approval

If the child's whereabouts are unknown at the end of the allowable reserve bed period, the income maintenance worker will close the Medicaid case.

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## **Kansas**

### **Responding to Youth Missing From Foster Care**

To better understand this issue and to view it across States, download the [PDF](#) (327 KB) of this publication.

*Current Through May 2020*

#### **Protocols for Reporting Children Missing From Care to Law Enforcement**

**Citation: PPS Pol. & Proc. Man. § 5245**

*In policy:* When a child in the custody of the Department for Children and Families (DCF) is missing from an out-of-home placement due to being a runaway, being abducted, or missing for an unknown reason, the child welfare case management provider (CWCMP) shall take the following actions:

- Report the missing child to the Special Response Team in the Prevention and Protection Services (PPS) Administration within 2 hours by sending an email to DCF.AWOLyouth@ks.gov and include all information available about the child and the circumstances
- Report immediately, and in no case later than 2 hours, after receiving information on missing or abducted children or youth, to law enforcement authorities for law enforcement to enter into the National Crime Information Center database of the Federal Bureau of Investigation
- Report immediately, and in no case later than 24 hours after receiving information on the missing or abducted child to the National Center for Missing and Exploited Children (NCMEC)
- Within 24 hours, provide the law enforcement agency, PPS Special Response Team, and NCMEC with the following information (as available):
  - A current photo/physical description of the child, including a description of the clothing worn at the time the child was last seen, hair and eye color, height, weight, complexion, eyeglasses or contact lenses, braces, body piercings, tattoos and/or other unique physical characteristics
  - Contact information of the child, including information about cell phone numbers, email addresses, social networking contacts, aliases, and nicknames
  - Suggested location, people, or direction where the child could be located, including parents and relatives
  - Medical/physical/emotional/mental health condition/diagnosis/disabilities and medication information that may impact the child's decision-making process and health, including any past suicide attempts and/or any other endangerments or risks, such as gang activity, online enticement, or commercial/sexual exploitation
  - Possessions the child may have with them

### **Protocols for Locating Children Missing From Care**

#### **Citation: PPS Pol. & Proc. Man. § 5245**

When the child is missing, DCF/CWCMP staff shall do the following:

- Contact the child's parent(s)/primary caregiver(s), if parental rights are still intact and whereabouts are known, to make them aware of the child missing from placement, elicit their assistance in locating the child, provide frequent updates on search efforts, and consult regarding whether to issue a press release
- Notify the court of the child's missing status
- Contact the child's school to make them aware of the child's missing status and ask for their assistance in locating the child
- Contact friends, other relatives of the child, and others who may have information (e.g., teachers, counselors, coaches, court-appointed special advocates), through all available means, including social media, to obtain information from them and also gain their assistance in locating the child
- Provide emotional support to the parents/primary caregivers, siblings, and placement provider in dealing with the child's missing status

Ongoing efforts to locate a missing child include the following:

- For a child who has been missing for 1 to 5 days, at least daily efforts shall be made to complete the following actions to obtain updated information:
  - Contact parents/primary caregivers, siblings, and the placement provider
  - Follow up with law enforcement to check on the status of the investigation
  - Check social media (age appropriate) for any updates
  - Contact friends and other relatives of the child, through all available means, including social media (age appropriate), to obtain updated information and assistance in locating the child
  - Contact the child's school to check attendance and determine if any staff have information or knowledge of the child's whereabouts

- Attempt to contact the missing child via mobile devices
- Update the PPS Special Response Team and the assigned foster care liaison on all the efforts made to locate the youth and any status changes weekly
- For a child who has been missing over 5 days, at least weekly efforts shall be made to complete the following actions to obtain updated information:
  - Contact parents/primary caregivers, siblings, and the placement provider
  - Follow up with law enforcement to check on the status of the investigation
  - Check social media, including post(s) with NCMEC, for any updates
  - Contact friends and other relatives of the child, through all available means including social media, to obtain updated information and assistance in locating the child
  - Contact the child's school to check attendance and determine if any staff have information or knowledge of the child's whereabouts
  - Attempt to contact the missing child via mobile devices

### **Determining the Factors That Led to a Child's Absence From Care**

This issue is not addressed in the statutes and regulations reviewed.

### **Determining the Suitability of Current and Subsequent Placements**

**Citation: PPS Pol. & Proc. Man. § 5245**

When the child returns, DCF/CWCMP staff will reassess the child's placement, treatment, and permanency plans and make changes as appropriate.

### **Assessing the Child's Experiences While Absent From Care**

**Citation: PPS Pol. & Proc. Man. § 5245**

When the child returns, DCF/CWCMP staff will do the following:

- Reassess the child's safety, permanency, and well-being, including whether they were a victim of sex trafficking and whether they engaged in any other self-harming behaviors
- Notify law enforcement immediately, no later than 2 hours after the child returns or is located
- Notify parents, the placement, school, courts, the DCF foster care liaison, and the PPS Special Response Team of child's return as soon as possible, but no later than 24 hours from learning of child's return
- Interview the child to gather details about where they were, who was with them, why they left, how they left, etc.
- Develop and monitor a safety plan with the placement provider, child, and birth parents to reduce the risk of future incidents

### **Timeframes for Closing a Child's Placement After Running Away**

This issue is not addressed in the statutes and regulations reviewed.

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## **Kentucky**

### **Responding to Youth Missing From Foster Care**

To better understand this issue and to view it across States, download the [PDF](#) (327 KB) of this publication.

*Current Through May 2020*

### **Protocols for Reporting Children Missing From Care to Law Enforcement**

**Citation: Stds. of Prac. Man. Ch. 4, § 4.67**

In policy: When a child that is committed to the Cabinet for Health and Family Services is reported as missing, the social worker must do the following:

- File a missing person report with the local law enforcement agency (city, county, or State) no later than 12 hours after receiving notification that a child has gone missing
- Notify local law enforcement immediately, but no later 24 hours after a child has gone missing, and provide the following information:
  - Any information that could aid in locating the child
  - A complete description of the child with a recent photo (if available)
  - The child's possible whereabouts, known places or locations the child frequents, and known habits of the child
  - The child's date of birth, school, and grade
  - The circumstances surrounding the disappearance
  - Medical and/or dental providers' names
  - The complete name and description of (if applicable) the abductor, or the last person with whom the child was seen, or any vehicle involved

Record the name and badge number of the officer who takes the report and the case number of the missing person report

- Ask that all data regarding the missing child be entered into the Law Information Network of Kentucky, the National Crime Information Center, and the Kentucky Missing and Exploited Children Unit
- Notify the National Center for Missing and Exploited Children, providing the following information, to the extent available:
  - The child's full name
  - The child's date of birth
  - The date child went missing
  - City and State from where child went missing
  - Guardian information, including agency name and telephone
  - Law enforcement information, including agency name and telephone
  - A recent photo of the child (if available)
  - Physical descriptive information (e.g., height, weight, hair and eye color, clothing worn)
  - Any risks or endangerments to the child
  - Circumstances surrounding the incident
  - A description of any person who may be with the child

### **Protocols for Locating Children Missing From Care**

#### **Citation: Stds. of Prac. Man. Ch. 4, § 4.67**

When a child committed to the cabinet is reported as missing, the social worker must provide notice to the court of the child's disappearance within 24 hours and request a pickup order. The social worker will request that the pickup order explicitly asks that the child be returned to the Department of Community Based Services or directly to a placement.

#### **Determining the Factors That Led to a Child's Absence From Care**

This issue is not addressed in the statutes and regulations reviewed.

#### **Determining the Suitability of Current and Subsequent Placements**

This issue is not addressed in the statutes and regulations reviewed.

#### **Assessing the Child's Experiences While Absent From Care**

#### **Citation: Stds. of Prac. Man. Ch. 4, § 4.67**

When child that has been missing is located, the social worker must do the following:

- Attend court proceedings regarding the child upon his/her return to placement
- Arrange transportation for the child to their placement resource upon his or her return
- Interview the child within 48 hours of their return to evaluate the following:
  - Factors that contributed to the child's disappearance



- The child's current level of functioning
- The child's experiences while missing
- Screening for human trafficking victimization while absent from their placement
- Refer the child to the local child advocacy center, if applicable, and make a corresponding report to centralized intake, as needed, for any alleged maltreatment that occurred while child was missing

### **Timeframes for Closing a Child's Placement After Running Away**

This issue is not addressed in the statutes and regulations reviewed.

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## **Louisiana**

### **Responding to Youth Missing From Foster Care**

To better understand this issue and to view it across States, download the [PDF](#) (327 KB) of this publication.

*Current Through May 2020*

#### **Protocols for Reporting Children Missing From Care to Law Enforcement**

**Citation: DCFS Pol. Man., Pol. # 6-1215**

*In policy:* Upon notice that a child in foster care has run away, has been kidnapped, is lost, or is otherwise missing, the following shall be done immediately:

- The case manager shall immediately contact a State or local law enforcement agency to report the child's runaway or absent status. The case manager shall request and document the law enforcement file number of the report.
- Even when a caregiver has made a report of the child's status, the case manager shall follow up with a State or local law enforcement agency to coordinate efforts to locate the child and to ensure all necessary information has been reported.
- The case manager immediately shall request law enforcement enter the child on the National Crime Information Center's (NCIC) database and record the NCIC case number in the case record. Case managers must notify law enforcement that the child is in foster care.
- The case manager immediately shall ask the law enforcement agency to evaluate if the report meets criteria for the Louisiana Amber Alert System.
- The case manager shall list the child as a missing child or endangered runaway on the National Center on Missing and Exploited Children's (NCMEC) database. This referral shall be reported immediately, but in no case should the reporting exceed 24 hours since the child's departure.
- The case manager immediately shall provide the local law enforcement agency with a recent photograph of the child and/or description of the child, which may include photographs, fingerprints, marks, scars, tattoos, and any other identifying information.

Within 3 calendar days of a notice that a child in foster care has run away, has been kidnapped, is lost, or is otherwise missing, the case manager shall follow up with the law enforcement agency to coordinate efforts to locate the child and, if necessary, to confirm the child has been entered on the NCIC database and the Louisiana Amber Alert System, if the case meets Amber Alert criteria.

#### **Protocols for Locating Children Missing From Care**

**Citation: DCFS Pol. Man., Pol. # 6-1215**

When a child in foster care is on runaway, missing, or kidnapped, the following procedures shall be followed to ensure all avenues to locate the child are taken. It also should be noted that all children in foster care on runaway are to be considered missing children, regardless of the reason for their running away or the behaviors associated with the runaway incident. Collaborative work with all professionals named in this policy regarding the runaway, missing, or abducted child is essential.

When notifying other agencies that a child is missing or has run away, the case manager shall advise the other agencies of the necessity of maintaining the confidentiality of the child's foster care status.

Immediately upon noticing a child in foster care has run away, has been kidnapped, is lost, or is otherwise missing, the case manager shall notify the child's parents, court-appointed special advocate (CASA), and the child's attorney that the child is missing or has run away.

Within 24 hours of a notice that a child in foster care has run away, has been kidnapped, is lost, or is otherwise missing, the following shall be done:

- The case manager shall notify the court the child is missing, has run away, or been abducted.
- In regions where necessary only, the case manager shall file a verified complaint through the juvenile court, which may issue a pick-up order for the child in accordance with local court procedures for such filings.

Within 3 calendar days of a notice that a child in foster care has run away, has been kidnapped, is lost, or is otherwise missing, the following shall be done:

- The following information shall be sent to State Office Field Operations:
  - Details of the runaway/missing/kidnapped incident, including dates
  - Most recent, clear photograph available and the date it was taken
  - Date the child was last seen
  - Physical characteristics, distinguishing features, and clothes the child was wearing at the time of disappearance
  - Any possible locations and addresses where the child may be found
  - Individuals the child is known to contact
  - The number of runaway incidents in the past 6 months and where the child was found on each occasion
  - Any indication, suspicion, or proof of human trafficking, which includes forced labor, prostitution, exotic dancing, or pornography production
- The case manager shall make appropriate contacts to family, friends, previous places the child was located when on runaway, other agencies, etc., in an attempt to locate the child.

The case manager shall document each contact and effort made to locate the child in the case notes. The documentation should include the telephone numbers and addresses used for contacts.

### **Determining the Factors That Led to a Child's Absence From Care**

**Citation: DCFS Pol. Man., Pol. # 6-1215**

If the child has runaway three or more times in a 6-month period, the case manager worker shall convene a meeting of individuals selected by the youth and people important to the youth to discuss their continued reasons for running away and what would help them to feel safe or content enough to not run anymore. The case manager shall attend the meeting.

### **Determining the Suitability of Current and Subsequent Placements**

**Citation: DCFS Pol. Man., Pol. # 6-1215**

When the foster child is located, the child should be returned by the case manager to the same foster care placement, if the placement can safely provide care for the child, is willing to accept the child, and is still appropriate based on information collected from the child regarding the events leading to the runaway episode. An assessment to determine the appropriateness of returning the child to the same placement must be made when the child states he or she ran away because he or she was mistreated. If there is any indication the child may have been abused and/or neglected, the matter shall be reported to centralized intake. Law enforcement shall be contacted as appropriate.

### **Assessing the Child's Experiences While Absent From Care**

**Citation: DCFS Pol. Man., Pol. # 6-1215**

When a missing child has been found, the following parties shall be notified immediately:

- Law enforcement, with a request to notify NCIC
- The child's parents
- The CASA
- The child's attorney

When the child's whereabouts become known, the following shall be notified by the next working day:

- The court
- DCFS State Office Field Operations
- NCMEC, if a child was reported as missing to them
- Any others contacted and/or requested to help in the search for the child

Within 3 working days after a child who had previously been missing is located, the following actions shall be completed and documented:

- An in-person, private interview with the child by the case manager
- A medical exam of the child
- An updated photograph taken

Within 5 working days of the child being located, a staffing to include the child welfare manager, supervisor, and case manager shall be held to discuss the information collected and need for services or actions. When there is any concern of forced labor and/or prostitution, exotic dancing, or participation in pornography (indicators of trafficking of children for sexual purposes), a summary of the runaway/missing/kidnapped event and the required documents shall be sent to the State Office. Once the packet of forms is received by the State Office, a staffing will be scheduled by the next working day to occur within a week. The staffing will include the human trafficking representative from State Office Field Operations, Foster Care, and Child Protection Investigations. The necessity for further intervention will be determined during the staffing.

If further intervention is necessary, it may include any of the following by the human trafficking representatives:

- A case review
- Further interviews with the child
- Reports to law enforcement not previously made by the field office
- Consideration of resources available to assist with suspected or confirmed trafficking

### **Timeframes for Closing a Child's Placement After Running Away**

#### **Citation: DCFS Pol. Man., Pol. # 6-1215**

When a missing child is absent from the foster care placement overnight, the Tracking Information and Payment System (TIPS) code 100 109 shall be entered in the service authorizations. When entering this code, the child's TIPS number shall be used as the provider number. This code is to be entered no later than the next working day when a child is reported missing. This code allows the data system to track a child as missing.

If the child is in an in-home, payable placement that will accept return of the child, and it is expected the child will return quickly, TIPS code 100 109 is used. This will keep the placement authorization for the provider open, to pay the placement for the purpose of reserving space for the child for up to the first 15 days of the missing status. This shall not exceed 15 days. After 15 days of absence, the case manager shall end the placement authorization for the provider.

If a provider accepts payment during the first 15 days to reserve space for the child but then refuses to accept placement of the child when he or she is found during that timeframe, the Department of Children and Family Services shall attempt to recoup any payment provided to reserve space for the child.

For 6 months following the date the child went missing, efforts should continue by law enforcement systems, the case manager, the foster parent/caregiver, and the parents to locate the runaway or missing foster child. The case manager should document efforts monthly in case documentation.

If, after a 6-month search, the child is not located, the case manager shall do the following:

- Submit a letter to the court documenting efforts to locate the child and requesting that the department be relieved of custody
- Advise the parents, the CASA, and the child's attorney of the department's request to the court for release of custody

Until the department is relieved of custody, the foster child's case record shall remain open and the case manager should continue efforts to follow up with law enforcement, family, and friends at least monthly in an attempt to locate the child. Once relieved of custody, the foster care case record should be closed and transferred to the parish with court of jurisdiction.

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## Maine

### Responding to Youth Missing From Foster Care

To better understand this issue and to view it across States, download the [PDF](#) (327 KB) of this publication.

*Current Through May 2020*

#### Protocols for Reporting Children Missing From Care to Law Enforcement

**Citation: OFCS Pol. Man. § V.B.**

*In policy:* When a youth in the care and custody of the State is reported missing, the caseworker must complete the following actions within the first 24 hours:

- Communicate with the law enforcement entity that covers the area the child resides in and file a missing person's report
- Confirm with law enforcement that they have or will place the information into the National Crime Information Center database
- If there is reason to believe that the youth possibly was abducted, alert law enforcement of that possibility right away and give as much detail as possible about who was last with the child, the relationship between the two, etc.

The caseworker who filed the missing person's report is responsible for immediately documenting what the plan will be to respond to law enforcement's notification that the child has been found and being held for pick up. Those plans are to be recorded both in the narrative log and as 'special instructions.'

If the youth is missing for 24 hours, the caseworker must report to the National Center on Missing and Exploited Children (NCMEC).

#### Protocols for Locating Children Missing From Care

**Citation: OFCS Pol. Man. § V.B.**

Office of Child and Family Services (OCFS) staff have a responsibility to respond immediately when youth in the care and custody of the State have run away or are missing.

OCFS believes youth should have a safe place to sleep every night and should have responsible adults to care for them. This policy is designed to delineate tasks that OCFS staff must do when youth, who are in the care and custody of the State, become missing and/or have run away from an approved placement.

When a youth in the care and custody of the State is reported missing, the caseworker must complete the following actions within the first 24 hours:

- Conduct a review of case records in an effort to determine where the child may have gone and/or who may have been involved in the child's disappearance or unauthorized absence

- Contact other individuals who may have had previous contact with the missing child, including school personnel, physical and mental health providers, law enforcement personnel, friends, neighbors, relatives, family members, other children who may have shared a placement with the child, etc.
- Contact other community partners to inform them that the child may be missing and request they keep the office informed if they come in contact with the child or learn about his/her whereabouts
- Connect with the local homeless youth outreach agencies, as well as emergency shelters
- Notify the assigned guardian ad litem (GAL)
- Review the Human Trafficking and Commercial Sexual Exploitation Policy (HTCSEC) (IV. D-2B) and assess the level of risk the youth is at utilizing the screening tool and follow next steps

The caseworker's ongoing responsibilities while youth is missing include the following:

- Maintain ongoing contact with the birth family (when appropriate), as well as the child's current placement provider to share information and to obtain new or additional information regarding the child
- Keep the GAL informed of the attempts to locate the youth weekly or when there is a change
- Ensure ongoing contact and collaboration with NCMEC and law enforcement

When a youth in the care and custody of the State has run away from an approved placement, caseworker responsibilities include the following:

- Plan with the youth around when, where, and how to contact them, using all relevant communication technology available, and make a plan for the next meeting with them
- Review the HTCSEC Policy (IV. D-2B) and screening tool and follow next steps based on screening tool risk factor category

### **Determining the Factors That Led to a Child's Absence From Care**

**Citation: OFCS Pol. Man. § V.B.**

When a youth in the care and custody of the State has run away from an approved placement, the caseworker must gather information around the circumstances of the youth's absence from their approved placement.

### **Determining the Suitability of Current and Subsequent Placements**

**Citation: OFCS Pol. Man. § V.B.**

When a youth in the care and custody of the State has run away from an approved placement, the caseworker must review all the youth's options given the situation. If the youth does not agree to return to their previous placement, the caseworker must plan with them to determine where they will be staying and follow next steps in the Selection of Substitute Care Placement Policy (V. D) for next steps with regard to placement.

### **Assessing the Child's Experiences While Absent From Care**

**Citation: OFCS Pol. Man. § V.B.**

When a missing youth in the care and custody of the State is located, the caseworker's responsibilities include the following:

- Pick the youth up as soon as possible from law enforcement and assess the need for safety, placement, and care
- Contact the law enforcement entity where the youth was reported missing to notify them that the youth has been located and that the missing person's report should be cancelled
- Contact any other individuals or organizations who have been contacted about the youth's status, including, but not limited to, the GAL, NCMEC, other law enforcement agencies, and community partners
- As soon as possible and no later than 24 hours after the child has been located, utilize the screening tool found in the HTCSEC Policy (IV. D-2B) and follow next steps based on the results of the screening
- Gather information around the circumstances of the youth's absence from their approved placement

### **Timeframes for Closing a Child's Placement After Running Away**

This issue is not addressed in the statutes and regulations reviewed.

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## Maryland

### Responding to Youth Missing From Foster Care

To better understand this issue and to view it across States, download the [PDF](#) (327 KB) of this publication.

*Current Through May 2020*

#### Protocols for Reporting Children Missing From Care to Law Enforcement

**Citation: Code of Regs. § 07.02.11.18; Pol. Directive SSA-CW # 16-04**

When the local department is informed that a child in out-of-home placement is missing, has been abducted, or has not returned home at a prearranged time, the local department caseworker shall do the following:

- Notify the local law enforcement agency and obtain a complaint number
- Consult with the local law enforcement agency regarding the procedure to be followed to return the child and whether the local department or local law enforcement will pick up the child

*In policy:* When a child is identified as a run away, missing, or abducted, the caseworker shall complete the following steps:

- Immediately have the resource provider contact the police and file a runaway/missing person report
- If the resource provider cannot file the report, file the report and request a police complaint number
- Contact the National Center for Missing and Exploited Children (NCMEC) by filing a missing child report
- Work with NCMEC to provide any additional information required
- Supply the police department with an up-to-date picture of the child and ensure that the police have entered the child in the National Crime Information (NCIC) database

#### Protocols for Locating Children Missing From Care

**Citation: Code of Regs. § 07.02.11.18; Pol. Directive SSA-CW # 16-04**

When the local department is informed that an out-of-home placement child is missing, has been abducted, or has not returned home at a prearranged time, the local department caseworker shall do the following:

- Notify the following:
  - The parents or legal guardian and their attorney, unless guardianship is granted to the local department
  - The attorney for the child
  - The local department's attorney
- Compile information on the child's last known whereabouts and activities
- Contact and speak with any person who may have relevant information, including the following:
  - Relatives and friends
  - School personnel
  - Persons at the child's place of employment, if applicable
  - Persons in the child's neighborhood of origin
  - Persons in the out-of-home placement neighborhood
- Document the child's runaway or missing status with a begin and end date in the case plan
- Document weekly search efforts to locate the child in the case record
- Keep the parents, legal guardian, placement provider, and attorneys updated weekly on the status of the search for the child
- Maintain weekly contact with local law enforcement regarding the search status for the child

*In policy:* Once initial steps have been taken for documenting a runaway or missing child, the caseworker shall do the following until the child returns or the out-of-home placement case is closed by the courts:

- Make reasonable efforts to locate the child, including the following:

- Having continuous conversations with family and friends
- Checking with the child's school
- Monitoring the child's social media regularly
- Calling and texting the child's cellular phone and emailing
- Visiting areas the child likely may be residing
- Consult police/law enforcement weekly concerning progress toward locating the child
- Maintain contact with the resource provider
- If information is discovered that the child may be residing in another State, contact the police in the State where the child may be residing

### **Determining the Factors That Led to a Child's Absence From Care**

**Citation: Code of Regs. § 07.02.11.18; Pol. Directive SSA-CW # 16-04**

When the child is located, the caseworker shall interview the child regarding the reasons for running away, if applicable, and record the discussion on the contact sheet.

*In policy:* Within 5 business days of the child's return, the caseworker will conduct a face-to-face visit with the child at the placement. During this visit, the caseworker shall have a conversation with the child concerning the reasons the child ran away, the child's experiences, and where the child resided during the runaway episode.

The caseworker shall process the reasons the child ran away and discuss accommodations that may prevent the child from running away again. The child may have multiple reasons for running away, and the caseworker shall address each of the reasons.

### **Determining the Suitability of Current and Subsequent Placements**

**Citation: Code of Regs. § 07.02.11.18**

When the local department is informed that a child in out-of-home placement is missing, has been abducted, or has not returned home at a prearranged time, the local department caseworker shall develop a plan for the child's placement upon return.

### **Assessing the Child's Experiences While Absent From Care**

**Citation: Code of Regs. § 07.02.11.18; Pol. Directive SSA-CW # 16-04**

When the child is located, the local department with jurisdiction over the child is responsible for the following:

- Ensuring that the child has transportation to the local department
- Assisting local law enforcement or other responsible party with transportation of the child to a placement if found within the local department's jurisdiction
- Retrieving the child, if he or she is found in another jurisdiction or State
- Notifying the parents or legal guardian, placement provider, and attorneys that the child has been found
- Obtaining a physical examination of the child and appropriate follow-up medical care for the child

*In policy:* Once the child is located, the caseworker shall do the following:

- Notify law enforcement that the child has been located and ensure the child is removed from the NCIC database
- Notify NCMEC that the child has been located
- Conduct a face-to-face visit with the child within 5 business days

At the face-to-face visit, the caseworker shall ask specific questions about where and with whom the child was residing and how the child was taking care of him- or herself. The caseworker also shall ask if the child has a 'special friend' with whom he or she resided during the runaway episode, the nature of the relationship, and whether they felt safe.

The caseworker shall make close observations for any evidence of physical abuse, sexual abuse, or new tattoos or brands the child may have gotten while on runaway. The caseworker shall pay close attention to any unexplained purchases, such as new clothes, cellular phones, sex paraphernalia, or large amounts of cash, or any other known indicators of possible sex trafficking victimization.

If during the conversation the caseworker suspects the child has been a victim of human sex trafficking or the child admits to being a victim of human sex trafficking, the caseworker immediately shall make a child protective services report and notify the local law enforcement agency within 24 hours. For youth suspected of being victims, the caseworker shall refer the child for a full human trafficking assessment. For youth who are confirmed victims, the caseworker shall refer the child to appropriate specialized therapeutic services within 48 hours.

### **Timeframes for Closing a Child's Placement After Running Away**

**Citation: Code of Regs. § 07.02.11.18**

The caseworker shall contact the current placement provider to determine if the provider is willing to hold the child's placement. If the placement provider is willing to hold the placement, the following terms apply:

- Payment of the board rate may be made for up to 30 days.
- No difficulty-of-care stipend payment may be made for the period the child is on runaway or missing from the placement.
- If the child fails to return within 30 days, the provider cannot be paid beyond the 30-day time limit.

If the placement provider will not hold the child's placement or the 30-day time period has expired, the caseworker shall do the following:

- Contact the financial unit to stop the foster care payment for the child
- Conduct a new placement search for the child

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## **Massachusetts**

### **Responding to Youth Missing From Foster Care**

To better understand this issue and to view it across States, download the [PDF \(327 KB\)](#) of this publication.

*Current Through May 2020*

#### **Protocols for Reporting Children Missing From Care to Law Enforcement**

**Citation: Code Regs. Tit. 110, § 7.115; DCF Pol. #2016-002**

Whenever the Department of Children and Families learns that a foster child has run away or is missing from a foster/preadoptive home or from any temporary substitute care placement, the department shall immediately notify the local police department or other appropriate law enforcement agencies that the child has run away or is missing (or ensure that the foster/preadoptive parent(s) have done so) and provide such agencies with all known information that would assist them in locating the child. The name and telephone number of the department employee who should be notified if the child is located must also be provided.

Whenever the department receives information concerning the possible or suspected current whereabouts of a child who has run away or is missing from a foster home or from any temporary substitute care placement, the department immediately shall notify the appropriate law enforcement agencies and provide such information to them. If possible, the assigned department social worker also shall attempt to locate the child by going to the suspected location of the child.

*In policy:* Within 24 hours after a child or youth age 20 or younger in department care or custody is identified as missing, the department must contact the National Center for Missing or Exploited Children (NCMEC). If the child is in the care or custody of parent or caregiver, either the parent/caregiver or the department must notify NCMEC within 24 hours if the child is, or is at risk of being, a sex trafficking victim.



## Protocols for Locating Children Missing From Care

### Citation: Code Regs. Tit. 110, § 7.115

Whenever a foster parent learns that a foster child has run away or is missing, the parent shall immediately notify the department and then the local police. Such notice shall include at least the following information:

- The name and age of the child who ran away
- The time when the child was last seen
- The location where the child was last seen
- A physical description of the child when last seen, including a description of the clothing worn by the child at that time
- Any known or suspected locations where the child might be found and any known or suspected individuals who might know the whereabouts of the child

Whenever the department learns that a foster child has run away or is missing from a foster home or from any temporary substitute care placement, the department immediately shall do the following:

- Notify the child's parent(s) (unless the parents' parental rights have been terminated) and notify the foster parent(s) that the child has run away or is missing, and provide them with the name and telephone number of the department employee who should be notified if the child is located
- If the child was committed to the department by court order, notify the juvenile probation office of the court that issued the order
- Contact any individuals who might know the whereabouts of the child, attempt to obtain any information such individuals have concerning the whereabouts of the child, and provide such individuals with the name and telephone number of the department employee who should be notified if the child is located

## Determining the Factors That Led to a Child's Absence From Care

### Citation: DCF Pol. #2016-002

Within 1 day after a missing child has been located, the social worker will consult with the child to determine the primary factors that contributed to the child running away or otherwise being missing.

## Determining the Suitability of Current and Subsequent Placements

### Citation: Code Regs. Tit. 110, § 7.115; DCF Pol. #2016-002

When a child who has run away from a foster home or from any temporary substitute care placement is located by the department, the department shall interview the child as soon as possible to determine what changes, if any, should be made in the circumstances or conditions of the child's care or placement.

If the child has not returned to the foster home, the department will notify the foster parent(s) whether the child will be placed back in that foster home and inform the parents of the following:

- If the child will return, the date and time when the child will return to the foster/preadoptive home
- If the child will not return, the reason for the child not being placed back in that foster/preadoptive home

*In policy:* As soon as possible after the missing child has been located, the social worker will do the following:

- Consult with the child's parents, placement resource, and others, as appropriate, about the circumstances under which the child became missing and their perspective on the location and/or type of placement that will keep the child safe and stable
- Consult with the placement resource and others with relevant information to discuss whether it is safe and appropriate for the child to return to the last place the child resided before being reported as missing
- Identify whether other children in the setting may be at risk, including for sexual exploitation or human trafficking
- For a child in department custody, determine where the child wants to live and, if a change is needed, what type of placement the child would prefer

## Assessing the Child's Experiences While Absent From Care

**Citation: Code Regs. Tit. 110, § 7.115; DCF Pol. #2016-002**

When a child who has run away or is missing from a foster home or from any temporary substitute care placement is located by the foster parent or returns to the foster home, the foster parent immediately shall give notice to the department. Such notice shall include at least the following information:

- The fact that the child has been located or has returned to the foster home
- The current location of the child
- The current physical and emotional condition of the child and whether it appears likely that the child requires medical, psychiatric, or other treatment
- Whether it appears likely that the child will attempt to run away from his or her current location

When a child who has run away from a foster home or from any temporary substitute care placement is located by the department, the department shall do the following:

- Ensure the child receives any required medical, psychiatric, or other treatment as soon as needed
- Notify the following that the child has been located:
  - The appropriate law enforcement agencies
  - The child's parent(s) (unless the parents' parental rights have been terminated)
  - The foster/preadoptive parent(s)
  - If appropriate, the juvenile probation office of the court that committed the child to the department

*In policy:* When the child is located, the department also shall notify the following:

- NCMEC
- The State police Amber Alert coordinator
- All others, including the multidisciplinary team coordinator, who were previously notified that the child was missing

Within 1 working day, the social worker will consult with the child in a trauma-informed and age-appropriate manner about the child's experiences while away to determine whether the child is a possible victim of sexual exploitation or human trafficking. If the child is a suspected or known victim of sexual exploitation or human trafficking, the social worker must do the following:

- File a 51A (child abuse report) if the child is younger than age 16
- Notify the district attorney and local law enforcement that the child of any age has been located and is a suspected or known victim of sexual exploitation or human trafficking

If needed (e.g., sexual exploitation is suspected, the child has an injury, or the child is in an acute psychiatric state), the social worker will arrange for a medical screening and/or a mental/behavioral health evaluation.

**Timeframes for Closing a Child's Placement After Running Away**

This issue is not addressed in the statutes and regulations reviewed.

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## Michigan

### Responding to Youth Missing From Foster Care

To better understand this issue and to view it across States, download the [PDF](#) (327 KB) of this publication.

*Current Through May 2020*

**Protocols for Reporting Children Missing From Care to Law Enforcement**

**Citation: Foster Care Manual, FOM 722-03A**

*From the Foster Care Manual:* The term 'absent without legal permission' (AWOLP) is used when a child who is placed with the Michigan Department of Health and Human Services for care and supervision is absent from an approved placement without legal permission.

Foster parents, relative/unrelated caregivers, parents, and/or residential facility staff must immediately notify law enforcement agencies (i.e., State police, local police, the sheriff's department) and the supervising agency when a youth under their care fails to return at the expected time or leaves a home without permission. Upon notification, the supervising agency must immediately file a missing person report with the local law enforcement agency, classifying the youth as missing and endangered.

Within 24 hours of the child's absence from his or her placement, the supervising agency must notify the National Center for Missing and Exploited Children (NCMEC).

Caseworkers and monitoring workers must take the following actions within 1 business day of the child's absence:

- Confirm the child has been classified as missing and endangered on the Law Enforcement Information Network (LEIN)
- Obtain the NCIC number (the number assigned by the National Crime Information Center (NCIC) to all records that verifies that the missing youth was entered into NCIC) from the law enforcement agency where the missing youth was reported missing

### **Protocols for Locating Children Missing From Care**

#### **Citation: Foster Care Manual, FOM 722-03A**

Within 24 hours of the child's absence, the supervising agency must notify the following:

- The court of jurisdiction
- The parents, if appropriate
- The lawyer-guardian ad litem

The supervising agency must take the following actions within 1 business day of the child's absence:

- Update the information system with an AWOLP placement
- Document actions taken to locate the child in the information system
- Complete an unauthorized leave report and send a copy to the court
- Provide a copy of the unauthorized leave report to the local law enforcement agency to ensure that the child is entered on LEIN as missing and endangered
- Document that the child's AWOLP status has been reported to NCMEC

As soon as possible, but within 2 business days of the child's absence, the supervising agency must commence a diligent search for the child. Required actions include the following:

- Review all available information in the case file for information on the potential location of child
- Contact family members, unrelated caregivers, friends, known associates, churches, or a neighborhood center
- Contact the school that the child last attended to verify that the child is not in attendance and determine if there are friends/teachers who may have information
- Contact the local school district office to determine if the child has enrolled in a new school
- Complete an internet search and search social networking sites for the child, the child's parents, known relatives, and acquaintances, if applicable
- Forward any new contacts or results to the court and law enforcement

Ongoing AWOLP diligent search efforts require, at a minimum, that the caseworker complete a diligent search every calendar month until the child is located. The assigned caseworker must document all efforts to locate a child and any child-initiated contacts in the case service plan. The caseworker must continue to notify law enforcement of any new information to aid in their efforts to locate the youth.

### **Determining the Factors That Led to a Child's Absence From Care**

**Citation: Foster Care Manual, FOM 722-03A**

As soon as possible, but no later than 5 business days after locating the youth, the supervising agency must meet with the youth to determine the primary factors that contributed to the youth running away.

Caseworkers may utilize the *DHS-5333, Conversation Guide on Return from AWOLP* during the discussion with the youth. The conversation shall be structured to determine the primary factors that contributed to the youth being absent from foster care and shall include discussion of the following questions:

- What led the youth to leave placement?
- Did the placement address the youth's needs?
- Was there an incident that caused the youth to leave the placement?

**Determining the Suitability of Current and Subsequent Placements****Citation: Foster Care Manual, FOM 722-03A**

As soon as possible, but no later than 5 business days after locating the youth, the supervising agency must meet with the youth to determine the ways in which the youth's placement should respond to the primary factors that contributed to the youth running away.

*From the Conversation Guide:* The conversation with the youth following his or her return also should identify future placement needs and services, including a discussion of the following questions:

- What are the youth's preferences for the next placement?
- What can the current or next placement do to the needs of the youth?

**Assessing the Child's Experiences While Absent From Care****Citation: Foster Care Manual, FOM 722-03A**

As soon as possible, but no later than 1 business day after locating the youth, the supervising agency must take the following actions:

- Notify NCMEC that the child has been located
- Notify local law enforcement that the child has been located

As soon as possible, but no later than 5 business days after locating the youth, the supervising agency must meet with the youth to determine the youth's activities while AWOLP, including if the youth was a victim of sex trafficking. If it is suspected that the youth was a victim of human trafficking, the caseworker must immediately contact centralized intake for a complete investigation.

*From the Conversation Guide:* Upon locating a youth who is AWOLP, Federal mandate requires a conversation to determine the primary factors that contributed to the youth being absent from foster care and to determine the youth's experiences while absent. This guide is provided to offer potential approaches to identify reasons a youth may have left their placement and potential trauma or risk the youth was exposed to during the AWOLP episode, including being a victim of sex trafficking. This conversation should also identify future placement needs and services. Questions to ask during the conversation about the youth's experiences while absent from care include the following:

- How did you support yourself while AWOLP (i.e., obtain food, shelter)?
- Did you earn any money? Did anyone take your money or a portion of your money? Did anyone hold your money for 'safe keeping'?
- When you were AWOLP, were you living or staying by yourself, with your family, or with others? If others, with whom did you live?
- Did anyone at the place(s) you lived monitor you or stop you from contacting your family, friends, or others?
- Did anyone take and keep your identification documents?
- Did anyone provide you with identification that didn't belong to you?
- Did anyone ask you to lie about your age or your experiences while AWOLP?

- If you did borrow or owe money, were you pressured to do anything you didn't want to do to pay it back? Are you currently in debt to someone?
- Did anyone make you feel scared or unsafe?
- Did anyone hurt you or threaten to hurt you? Did anyone threaten to hurt your family?
- Did anyone take a photo of you that you were uncomfortable with?
- Did you give out your contact information to anyone while AWOLP, including cell phone number or social media information? If so, to whom did you give it?
- In any situation while AWOLP, did anyone provide you with illegal drugs, substances, or alcohol?

### **Timeframes for Closing a Child's Placement After Running Away**

This issue is not addressed in the statutes and regulations reviewed.

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## **Minnesota**

### **Responding to Youth Missing From Foster Care**

To better understand this issue and to view it across States, download the [PDF](#) (327 KB) of this publication.

*Current Through May 2020*

#### **Protocols for Reporting Children Missing From Care to Law Enforcement**

**Citation: Ann. Stat. § 260C.212, Subd. 13(b); DHS Best Practice Guide**

The local social services agency shall report immediately, but no later than 24 hours, after receiving information on a missing or abducted child to the local law enforcement agency for entry into the National Crime Information Center (NCIC) database of the Federal Bureau of Investigation, and to the National Center for Missing and Exploited Children (NCMEC).

*From Minnesota Department of Human Services [Best Practice Guide](#): Caregivers, including foster parents, relative caregivers, and staff of residential facilities, shall immediately (within 24 hours) report any missing youth to the following:*

- Local law enforcement agency, providing a description of what youth was last wearing, time last seen, is believed that a youth has unwillingly left placement or has been removed by an unauthorized person, etc., so its agency staff can enter the information into the NCIC database
- The child's caseworker and on-call worker, if after business hours

When a caseworker learns that a youth for whom an agency is legally responsible is missing, they shall immediately contact (within 1 business day) the following:

- The law enforcement agency to ensure a verbal report was made by the caregiver and to provide any additional information
- NCMEC

NCMEC will publish the report on its website and distribute posters locally and nationally. The name and identifying information will be published, but the youth will not be identified as a youth in foster care. This does not violate confidentiality.

#### **Protocols for Locating Children Missing From Care**

**Citation: Ann. Stat. § 260C.212, Subd. 13; DHS Best Practice Guide**

The local social services agency shall expeditiously locate any child missing from foster care.

*From the practice guide: As soon as a youth enters care, a photograph must be taken for the social services case file. The caseworker also shall record physical descriptive information, such as height, weight, hair and eye color, and complexion, and identifiers such as eyeglasses or contact lenses, braces, body piercings, tattoos, and other unique*

physical attributes. If a youth has a history of running away, the caseworker will create a safety plan with all parties and clearly designate roles and responsibilities.

Supervisors and primary caseworkers (the youth's assigned worker who has responsibility for case management, service coordination, and delivery) are expected to work aggressively to locate a missing youth and return them to an approved placement.

When a caseworker learns that a youth for whom an agency is legally responsible is missing, they shall immediately contact (within 1 business day) the following:

- The youth's parent(s), guardian, or legal custodian
- The youth's school and request that they contact the caseworker if youth contacts or arrives at school
- The guardian ad litem
- Other team members who may need to know
- The county attorney to request that an ex parte order be filed with the juvenile court to have the youth picked up

Caseworkers are to follow the steps outlined below anytime a youth is missing:

- Develop a plan with specific strategies to locate the youth
- Meet weekly with the supervisor regarding efforts to locate the youth
- In consultation with the supervisor, review and/or revise the plan, as needed, to ensure progress is made toward locating the youth and establishing safety
- Attempt to contact the youth via phone or text
- Check social media sites, such as Facebook, Twitter, etc.

When a youth's whereabouts are unknown, caseworkers must make a sustained effort to locate the youth by contacting the people, agencies, or organizations (and others as identified by the specific case) listed below at least monthly and requesting that each person/agency contact the caseworker immediately if information becomes available that could assist in locating the youth. People, agencies, or organizations to contact include the following:

- The local law enforcement agency
- Local emergency shelters and homeless youth programs
- The most recent caregiver and any other caregivers with whom the youth has a close or long-term relationship
- Relatives, including parents and siblings
- Neighbors and the landlord at the last known address
- Close friends, classmates, or community members with whom the youth may have developed a significant relationship
- Teachers, counselors, or other school personnel
- Other employees of an agency who may have knowledge of possible locations of the youth
- Other information systems such as MAXIS (Minnesota Statewide Automated Eligibility System), MMIS (Medicaid Management Information System), PRISM (Providing Resources to Improve Support in Minnesota) child support system, and TCIS (Trial Court Information System)
- Probation officers (if applicable)
- County juvenile or adult detention centers

### **Determining the Factors That Led to a Child's Absence From Care**

**Citation: Ann. Stat. § 260C.212, Subd. 13; DHS Best Practice Guide**

The local social services agency shall determine the primary factors that contributed to the child's running away or otherwise being absent from care and, to the extent possible and appropriate, respond to those factors in current and subsequent placements.

*From the practice guide:* When a youth for whom an agency is responsible runs away from a placement and is still missing after 24 hours, agency staff and caregiver(s) must make a decision regarding continuation of the youth's placement location. When deciding whether to return the youth to the last placement, caseworkers shall do the following:

- Interview caregivers and the youth separately to determine why the youth ran away
- Discuss the reasons given by caregivers and the youth with the supervisor to determine whether the reasons for running away are related to the placement itself and whether services would be beneficial to stabilize the placement and mitigate future incidents
- Update the out-of-home placement plan to address current service needs and placement decisions

### **Determining the Suitability of Current and Subsequent Placements**

#### **Citation: Ann. Stat. § 260C.212, Subd. 13; DHS Best Practice Guide**

The local social services agency shall determine the primary factors that contributed to the child's running away or otherwise being absent from care and, to the extent possible and appropriate, respond to those factors in current and subsequent placements.

*From the practice guide:* Any new placement in a substitute care setting must include a determination of the individual needs of the youth and the ability of prospective caregiver(s) to meet those needs. If a youth has a history of running away or indicates that they will not accept a specific placement, caseworkers shall discuss with the youth and take into account where they want to live or what type of placement youth is willing to accept, such as any of the following:

- A particular relative
- A former caregiver or another adult with whom youth has formed a relationship
- Reunification with parent(s), if possible
- A group home or congregate care setting
- A supervised independent or transitional living setting (if the youth is able to live independently and is between the age of 18 and 21)

The caseworker will update the out-of-home placement plan to address current service needs and placement decisions.

### **Assessing the Child's Experiences While Absent From Care**

#### **Citation: Ann. Stat. § 260C.212, Subd. 13; DHS Best Practice Guide**

The local social services agency shall determine what the child experienced while absent from care, including screening the child to determine if the child is a possible sex trafficking victim. The agency shall report immediately, but no later than 24 hours, to the local law enforcement agency any reasonable cause to believe a child is, or is at risk of being, a sex trafficking victim.

The local social services agency shall determine appropriate services with respect to any child for whom the local social services agency has responsibility for placement, care, or supervision when the local social services agency has reasonable cause to believe is, or is at risk of being, a sex trafficking victim.

*From the practice guide:* Once a youth has been located and is in a safe placement, caseworkers shall do the following:

- Conduct a thorough follow-up interview with the youth using the required Runaway Youth Debriefing form to determine the primary factors that contributed to the run, to screen the youth for possible sex trafficking or sexual exploitation, and to help them problem solve to develop solutions
- Inform law enforcement, NCMEC, and all others who were notified of the run that the youth has been located
- Determine if there is reason to believe that the youth has been a victim of sex trafficking; make a report to law enforcement within 24 hours
- Determine if there is reason to believe that the youth has been sexually exploited; refer the youth to a Safe Harbor regional navigator to determine appropriate services
- Review the youth's placement options
- Ensure that a medical examination is scheduled as soon as possible, if it is determined that one is necessary, taking into account the amount of time on the run and experiences while on the run
- Replace clothing or personal items the youth may need

- Address the youth's service, treatment, and placement needs and revise the service plan, if needed
- Ensure that a court hearing is held within 72 hours of the youth being picked up to review appropriate placement and services
- Take a current photo of the youth (and update annually) and place it in the court and social services case files

### **Timeframes for Closing a Child's Placement After Running Away**

**Citation: Ann. Stat. § 260C.212, Subd. 13; DHS Best Practice Guide**

The local social services agency shall not discharge a child from foster care or close the social services case until diligent efforts have been exhausted to locate the child and the court terminates the agency's jurisdiction.

*From the practice guide:* The caseworker must keep the juvenile court informed of ongoing search efforts by filing court reports and attending court hearings. These cases shall remain open; court hearings will be held at least every 3 months.

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## **Mississippi**

### **Responding to Youth Missing From Foster Care**

To better understand this issue and to view it across States, download the [PDF](#) (327 KB) of this publication.

*Current Through May 2020*

#### **Protocols for Reporting Children Missing From Care to Law Enforcement**

**Citation: Code of Rules § 18-006-104, Part VII; DFCS Policy § D(VII)(17)(c)**

When the caseworker receives a report that a youth in care has runaway or is missing, the worker must complete following actions:

- Notify the youth court and law enforcement agency immediately in person of missing/runaway youth and sign a runaway petition (if the child ran away) within 1 working day
- Follow up with law enforcement within 1 working day and one time per week until the child has been located

*In policy:* In addition to the actions described above, the worker must notify the Division of Family and Children's Services (DFCS) State Office immediately of the runaway so that the child's status may be reported to the National Center for Missing and Exploited Children (NCMEC). The notification must include all the following information that is available:

- Pictures and videos of the child
- The circumstances of the disappearance and description of clothing last worn
- A summary of child's family history, including names of parents
- The child's date of birth, health status/concerns, complexion, hair color, eye color, height, weight, and identifying characteristics (e.g., scars, tattoos, or piercings)
- The child's cellular phone number(s)
- The child's friends and hangouts
- The child's social media use and accounts
- The name and phone number of local law enforcement agency involved
- The DFCS worker's agency contact numbers

If the child is under age 18, the DFCS State Office will report the runaway to NCMEC. If the child is age 18 or older, the DFCS State Office will assist local law enforcement with reporting the runaway to NCMEC.

NCMEC will generate posters and work with local law enforcement to locate the child.

#### **Protocols for Locating Children Missing From Care**

**Citation: Code of Rules § 18-006-104, Part VII**



When the caseworker receives a report that a youth in care has runaway or is missing, the worker must complete following actions:

- Staff the incident with the regional director immediately upon receipt of information regarding the status of the child
- Complete the required notifications to law enforcement, the youth court, and NCMEC
- Notify the child's birth parent(s) or guardian
- Follow up with the resource parent/provider within 24 hours
- If there are allegations of maltreatment, enter a report in the information system within 24 hours of notification

### **Determining the Factors That Led to a Child's Absence From Care**

#### **Citation: DFCS Policy § D(VII)(17)(c)**

When the child is located or returns, the worker must interview the child to assess the reasons why the child was missing or ran away from care. Questions that may be asked, as appropriate, include, but are not limited to, the following:

- What caused you to leave or runaway?
- Did anyone encourage you to leave?
- Did you leave with someone? Who?

### **Determining the Suitability of Current and Subsequent Placements**

This issue is not addressed in the statutes and regulations reviewed.

### **Assessing the Child's Experiences While Absent From Care**

#### **Citation: DFCS Policy § D(VII)(17)(c)**

When the child is located or returns, the worker will complete the following actions:

- Notify the youth court immediately in person or by phone that the child has been located
- Notify law enforcement immediately in person or by phone that the child has been located
- Notify the DFCS State Office immediately via email so that the child's status may be reported to NCMEC
- Notify the child's birth parent(s)/guardian and placement providers as soon as possible; attempts to notify shall continue until contact has been made
- Take an updated photograph of the child and include any new physical attributes (e.g., hairstyles, tattoos, piercings)

The worker will interview the child to assess their experiences while they were missing/runaway from care. Questions that may be asked, as appropriate, include, but are not limited to, the following:

- Where did you go?
- What is the first thing you did after you left?
- What types of things have you been doing while you were gone?
- Did you leave with someone? Who?
- Did anything happen to make you feel uncomfortable or that hurt you?

The DFCS worker shall staff with the area social work supervisor to make appropriate referrals for placement and to medical, mental health providers, and law enforcement, as needed. The worker shall document in a narrative and in the case file all information gathered regarding the child during their time missing/runaway from care.

### **Timeframes for Closing a Child's Placement After Running Away**

#### **Citation: Code of Rules § 18-006-104, Part VIII**

Board payments will not be paid to the placement resource when a child is placed on runaway status.

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# Missouri

## Responding to Youth Missing From Foster Care

To better understand this issue and to view it across States, download the [PDF](#) (327 KB) of this publication.

*Current Through May 2020*

### Protocols for Reporting Children Missing From Care to Law Enforcement

**Citation: CW Man. § 4.9.1**

*In policy:* When a child in care is determined to be a runaway, the case manager should immediately, but no later than 24 hours, notify law enforcement to file a missing child report. The resource provider should initiate contact with local law enforcement and the child's worker if the child is missing or has run away from their premises. This includes the Highway Patrol, so they can add the child to their system, which can be searched across the State.

Within 24 hours, the case manager shall notify the National Center for Missing and Exploited Children (NCMEC). When reporting to NCMEC, the case manager should be prepared to provide the following information:

- The child's case manager's name and contact information
- Information regarding the law enforcement agency involved, including the case number and assigned law enforcement officer's contact information
- Descriptive information regarding the missing child, including date of birth, height, weight, physical description (eye color, hair color, complexion, tattoos, piercings, etc.), clothing worn at the time the child was last seen, and medical and/or mental health conditions
- Details surrounding the circumstances leading to the child's missing status

### Protocols for Locating Children Missing From Care

**Citation: CW Man. §§ 4.9.1; 4.9.5**

When a child in care is determined to be a runaway, the case manager should take the following steps:

- Notify the juvenile officer, guardian ad litem, and the child's parents
- Contact family members, friends, counselors, school faculty, or others who may have information about the whereabouts of the child; continue to make these contacts a minimum of once per month until the child is located
- Follow procedures for creating a protective service alert
- Check with the Family Support Division and food stamp assistance information monthly to see if the child is receiving assistance or is listed in separate household receiving benefits
- Immediately send out a statewide protective service alert

If the court of jurisdiction does not agree to a release of custody and the child is not located, the worker should continue to do the following:

- Contact law enforcement, family, relatives, friends, and all other contacts once per month in an effort to locate the child for a minimum of 6 months
- Monthly cross-check the Family Support Division and food stamps databases
- If after 6 months, the child is not located, continue to contact law enforcement, relatives, and other contacts on a quarterly basis in effort to locate child
- Continue to provide a written summary to the court on all actions taken to locate child
- Resubmit the request for release of jurisdiction at all court hearings

### Determining the Factors That Led to a Child's Absence From Care

**Citation: CW Man. § 4.9.4**

When a runaway or missing child is located, the case manager should schedule a family support team (FST) meeting within 72 hours of child's return to address the reasons the child ran away (i.e., didn't like the rules, placement issues, couldn't handle responsibilities in home, ran to be with friends, parents, others).

### **Determining the Suitability of Current and Subsequent Placements**

#### **Citation: CW Man. § 4.9.4**

When a runaway or missing child is located, the case manager must assess the factors that led to the child being absent and, to the greatest extent possible, address those factors in subsequent placements. The case manager also should do the following:

- Determine whether to do the following:
  - Return child to the previous resource provider
  - Place child in a new or temporary placement
  - Place child in a more secure or restrictive environment
  - Seek approval for a nontraditional placement (i.e. friend of child, older sibling, parents who rights are been terminated but continue their relationship with child)
- Schedule an FST meeting within 72 hours of child's return to address the following:
  - Safety concerns
  - Additional support services the child may need
  - Unexplored or nontraditional placements options
  - Potential changes in the child's case plan

It is important for FST members to consider case-specific information when addressing these issues or making changes to the child's case plan. Members should consider the specific needs of the child, especially when considering alternative placement settings. Any child age 12 or older should be included in the FST meeting.

### **Assessing the Child's Experiences While Absent From Care**

#### **Citation: CW Man. § 4.9.4**

When a runaway or missing child is located, the case manager should determine the child's experiences while absent, including whether the child fell victim to commercial child sexual exploitation (CSEC). Indicators that a child is involved in CSEC include, but are not limited to, the following:

- Has frequent runaway episodes
- Has a heightened sense fear or distrust of authority
- Is unable to identify where they were while they were gone
- Has money or material goods without a clear explanation of how they were obtained
- Has physical injuries with no explanation of how they were received
- Has a sexually transmitted infection (STI) or a history of STIs
- Uses drugs and/or alcohol
- Reports sexual assaults by strangers
- Talks about a paramour but does not provide their identity
- Has frequent unexplained absences from school
- Is involved in gang activity
- Appears fearful, anxious, depressed, tense, nervous, paranoid, or hypervigilant
- Has multiple cell phones
- Has hotel keys or talks about staying in hotels
- Has suspicious tattoos or other signs of branding
- Has inappropriate, sexually suggestive activity on social media, the internet, or cell phone apps
- Refuses to talk about their experiences while on runaway status
- Associates and/or has relationships with age-inappropriate friends

When a runaway or missing child is located, the case manager also should also complete the following actions:

- Immediately assess the safety of child

- Notify law enforcement, the juvenile office, the guardian ad litem, the resource provider, the child's parents and their attorney, as appropriate, of the child's return
- Determine whether to arrange for medical or mental health screening
- Arrange for a medical examination of the child within 24 hours of the child's return

Once a child is located, the case manager must talk to the child to determine the factors that led to the child's absence and their experiences while they were gone. Questions to ask include, but are not limited to, the following:

- What made you leave your placement?
- Where did you go when you left?
- How did you take care of yourself while you were gone?
- Who helped you while you were gone?
- Did you have to do anything in exchange for their help?
- Did anyone hurt you?
- Did you do anything that made you uncomfortable?
- Are you worried about anything that happened to you while you were away?

The case manager also should notify NCMEC of the child's return.

If a child provides information that may indicate they were abused or involved in trafficking, the following must occur immediately but no later than 24 hours after receiving the information:

- The case manager must immediately contact the child abuse hotline to make a report of child abuse and neglect.
- The case manager should inform the hotline of any suspicion of involvement in human trafficking.

In addition, the case manager shall do the following:

- Ensure that law enforcement is notified of the concern
- Make a referral to the Child Advocacy Center for a forensic interview to further explore the child's experiences in care if there is an indication the child was abused or trafficked
- Contact the National Human Trafficking Resource Center

### **Timeframes for Closing a Child's Placement After Running Away**

#### **Citation: CW Man. § 4.9.5**

The first priority of the worker always shall be to locate a runaway child and remedy the reasons that the child has run. However, there may be individual cases where the Children's Division may want to explore a request for release of jurisdiction from the court. All requests for release of custodial responsibility should be evaluated on a case-by-case basis by the case manager, their direct supervisor, and FST team members. During the FST meeting, there should be a thorough review of documented efforts and consideration of the following factors:

- The age of the child
- The number and type of previous placements
- The current and concurrent case plan
- Whether termination of parental rights has or has not occurred
- The child's progress and compliance in cooperating with the division's services
- The child's run history (one-time event verses chronic runs)
- Whether the child is running to a specific place or person
- Whether there is an exit plan in place for the child to provide ongoing support

It is important that a child never be released from custody without an exit plan in place as it is the division's responsibility to ensure that youth leaving the foster care system either have support services in place or know how to obtain them as needed in the future. Noncompliance cannot be used as the sole reason to request termination of custodial duties by the division. With this understanding, there may be rare situations where it is appropriate to

request a release of jurisdiction when it is clear that there is a documented history of chronic and repeated noncompliance on the child's part to accept placements and services offered by the division or in cases in which the child has been missing without contact for a minimum of 12 months.

This does not include cases in which the child has run to a nonapproved placement and remains in contact with the worker. Placement issues need to be addressed by the worker, the child, FST members, and the court.

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## Montana

### Responding to Youth Missing From Foster Care

To better understand this issue and to view it across States, download the [PDF](#) (327 KB) of this publication.

*Current Through May 2020*

#### Protocols for Reporting Children Missing From Care to Law Enforcement

**Citation: CFSD Pol. Man. § 408-6**

*From the policy manual:* When the Centralized Intake (CI) hotline receives a report that a child in foster care is missing, CI will contact law enforcement and make a runaway youth report or verify that a report has been made.

#### Protocols for Locating Children Missing From Care

**Citation: CFSD Pol. Man. § 408-6**

Whenever a Montana foster youth is missing or has runaway, the Child and Family Service Division (CFSD) must implement protocols to locate children missing from foster care.

For purposes of this policy, 'foster youth' is defined as youth in foster care placement, including, but not limited to, the following:

- Paid or unpaid kinship, foster care, congregate care, or a residential treatment facility
- Youth on a trial home visit
- Youth in placement per a protection plan under the 30-day voluntary placement statute
- Youth for whom CFSD has a diversion court agreement with birth family and the youth is remaining in the home
- Youth for whom CFSD has court-ordered care and control, but the youth continues to reside in their birth parent's home

The procedure for locating youth missing from foster care include the following actions:

- CFSD staff, congregate care or residential treatment facility staff, or foster parents will call the CI hotline to report missing or runaway foster youth.
- CI will collect information from the reporter that is listed on the on 'Missing or Runaway Foster Youth Referral Form' to collect the required information.
- CI will contact law enforcement and make a runaway youth report or verify a report has been made.
- CI also will document the activity in the information system.

Tribal title IV-E social services agencies also will issue reports of missing or runaway foster youth to CI, as this is a requirement under the title IV-E contracts. CI will follow the same procedures that apply to other reports of missing children when referrals of missing or runaway foster youth are received from communities located on any of Montana's Indian Reservations. Within 1 working day, the Tribal social services staff assigned to the missing or runaway foster youth's case will be expected to provide additional information not available when the CI referral was issued.

#### Determining the Factors That Led to a Child's Absence From Care

**Citation: CFSD Pol. Man. § 408-6**

Whenever a Montana foster youth is missing or has runaway, CFSD must implement protocols to determine the factors that lead to the child's being absent from foster care.

### **Determining the Suitability of Current and Subsequent Placements**

This issue is not addressed in the statutes and regulations reviewed.

### **Assessing the Child's Experiences While Absent From Care**

#### **Citation: CFSD Pol. Man. § 408-6**

Once the foster youth is located, CFSD and Tribal title IV-E social services agencies will be responsible for the following:

- Determining the factors that led to the foster youth being absent from foster care and to the extent possible address those factors in subsequent placements
- Determining the foster youth's experiences while absent from care, including whether the child is a sex trafficking victim
- Reporting related information as required by the Federal Department of Health and Human Services
- Immediately reporting to local law enforcement any time it has been determined a youth has been sex trafficked

Once the youth is located, CFSD must notify law enforcement that the youth has been located and remove any public service announcements that have been issued.

### **Timeframes for Closing a Child's Placement After Running Away**

This issue is not addressed in the statutes and regulations reviewed.

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## **Nebraska**

### **Responding to Youth Missing From Foster Care**

To better understand this issue and to view it across States, download the [PDF](#) (327 KB) of this publication.

*Current Through May 2020*

#### **Protocols for Reporting Children Missing From Care to Law Enforcement**

##### **Citation: DCFS Prot. & Safety Proc. #29-2017**

*In policy:* The Division of Children and Family Services (CFS) believes that specific steps need to be taken to locate missing youth and ensure their safety.

When a CFS specialist is unable to locate a youth or believes that a youth is missing, the specialist will do the following:

- Contact local law enforcement immediately to provide the following information:
  - The child's full name; date of birth; Social Security number; gender, height, and weight; and race/ethnicity
  - A physical description of the child, including tattoos, piercings, body markings, and what the youth was last wearing
  - The date, time, and location where the youth was last seen
  - The names of the last persons who may have seen the youth
  - Information about the youth's general health, any medical conditions or concerns, and current necessary medication use
  - Recent changes in the youth's behavior
  - Information on whether the youth is at risk of possible sex trafficking (i.e., past history, association with certain people, suspected parental involvement)
  - Information regarding any individuals who have shown unusual attention or interest in the youth

- Information about any social media accounts the youth may have
- The youth's phone number
- Verify with law enforcement that the youth's information has been entered into the National Crime Information Center
- Report the missing youth immediately to the National Center for Missing and Exploited Children (NCMEC)
- Document that NCMEC was notified and include the date of notification, the name of the assigned case manager, and the associated report number
- Notify the youth's guardian ad litem, the county attorney, the parent's attorney, and the court, if applicable

### **Protocols for Locating Children Missing From Care**

**Citation: Admin. Code Title 390, § 11-002.01T; DCFS Prot. & Safety Proc. #29-2017**

When a child is determined to have run away, the worker will take the necessary steps to locate and recover the child. The worker will notify law enforcement and the parent and provider, if the child is placed out of the home, as soon as possible.

*In policy:* When a CFS specialist is unable to locate a youth or believes that a youth is missing, the specialist will do the following:

- Contact the youth's foster parents, school personnel, friends, work associates, local shelters/at-risk programs/community designated safe places, or any other entity that may have last seen the youth to gather any information they may know about the missing youth
- Notify the youth's parents (if rights are intact) that the youth is missing and inquire if the parents know where the youth may be located
- Obtain written parental consent (if rights are intact) to use the youth's picture for the purposes of a missing youth poster through the Nebraska Missing Person's Clearinghouse and NCMEC
- Maintain active ongoing contact with the missing youth's parents (if parental rights are intact) until the youth is located
- Maintain active ongoing contact with law enforcement until the youth is located
- Contact the youth's school, friends and family of the youth, professionals who have worked with the youth, the youth's place of employment, and the youth's social media sites and phone to show ongoing active efforts to locate the youth

### **Determining the Factors That Led to a Child's Absence From Care**

**Citation: DCFS Prot. & Safety Proc. #29-2017**

When the child is located, the CFS specialist will discuss with the youth and the placement provider the reasons the youth was missing and plan actions to prevent future episodes of the youth going missing from care.

### **Determining the Suitability of Current and Subsequent Placements**

**Citation: Admin. Code Title 390, § 11-002.01T**

When the child is located, the worker should determine the child's current status and future placement and services.

### **Assessing the Child's Experiences While Absent From Care**

**Citation: DCFS Prot. & Safety Proc. #29-2017**

When a CFS specialist is notified that the youth has been located, the specialist will do the following:

- Determine the youth's need for medical attention or a mental health or substance use screening
- Ensure the youth feels safe, comfortable, and cared about
- Notify law enforcement, NCMEC, and all other agencies assisting in the search for the youth
- Notify the youth's parents (if parental rights are intact), the guardian ad litem, the county attorney, the parent's attorney, and the court

Through discussion with the youth, the specialist will determine the experiences the youth had while missing from care. The specialist will utilize the Nebraska Human Trafficking Task Force Screening Tool to determine if the youth is a possible victim of human trafficking while missing from care.

When the specialist has concerns that the youth may be involved in or a victim of sex trafficking, the specialist will do the following:

- Consult with the CFS supervisor, CFS administrator, and the service area administrator
- Contact the abuse and neglect hotline to make a report, as a 'law enforcement only' report, unless there are allegations that a parent or caregiver has involved the youth in human trafficking and an initial assessment is necessary
- Contact the Child Advocacy Center for a forensic interview for the youth
- Contact and utilize the Salvation Army Trafficking Specialists for case consultation and additional resources such as the following:
  - Victim advocacy
  - Housing, shelter, food, and transportation
  - Literacy, job training, life skills, and employment
  - Medical care and dental care and mental health treatment
  - Law enforcement coordination
  - Interpretation, translation, and immigration
  - Substance abuse assessment and treatment
  - Legal services
  - General educational development preparation

The hotline will notify law enforcement immediately.

### **Timeframes for Closing a Child's Placement After Running Away**

This issue is not addressed in the statutes and regulations reviewed.

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## Nevada

### **Responding to Youth Missing From Foster Care**

To better understand this issue and to view it across States, download the [PDF \(327 KB\)](#) of this publication.

*Current Through May 2020*

#### **Protocols for Reporting Children Missing From Care to Law Enforcement**

**Citation: Child Welf. Pol. Man. MTL # 0210**

*In policy:* Licensed foster homes and caregivers are required to verbally notify the child welfare agency and law enforcement immediately (followed by written notice as soon as practicable but no later than the business day immediately following the event) upon determination that a child is missing, has runaway, is suspected to have been abducted, or is the victim of sexual exploitation. A child is determined to be missing when the location of the child is unknown and there has been no contact with the child for 3 hours, despite multiple attempts to make contact (in person, electronic, social media, etc.).

Verbal notification to the agency and law enforcement must occur immediately when any of the following apply:

- The child is age 5 or younger.
- The child has a cognitive delay.
- The child is vulnerable due to medical needs.
- The child has runaway or abduction is suspected.



When reporting a missing child, the foster parent should speak directly to an agency caseworker, intake worker, or on-call worker. The foster parent should be instructed to file a police report with their local law enforcement agency, obtain the law enforcement report number, and provide it to the caseworker. If the foster parent is unable to file a report, the caseworker must ensure a report is made with the local law enforcement agency.

The caseworker must make a report to the National Center for Missing and Exploited Children (NCMEC) as soon as practicable but no later than 24 hours of becoming aware that the child is missing and/or exploited. The caseworker will provide law enforcement and/or NCMEC with all requested pertinent information about the child, some of which might include the following:

- The child's full name, including known aliases and nicknames
- A current photo of the child
- For exploited children, the date, time, and location where the crime was committed
- For missing children, the following information:
  - The date, time, and location where child was last seen, if known
  - The names of the persons who saw the child last, if known
  - Any pertinent medical history, conditions such as developmental disability, or if they are medically fragile

The caseworker also shall do the following:

- Identify and secure any computers and wireless devices used by the child and provide law enforcement access to these items
- Ask law enforcement to look for clues in any chat and social networking websites the child has visited
- Provide law enforcement any known information about the child's social networking
- Compile descriptive information about the child, including items and information such as the following:
  - A recent photo of the child
  - A description of the clothing worn at the time the child was last seen
  - Cell and other phone numbers
  - Date of birth, hair and eye color, height, weight, complexion
  - Identifiers such as eyeglasses or contact lenses, braces, body piercings, tattoos, and other unique physical attributes
  - Any general health and medical conditions the child may have

### **Protocols for Locating Children Missing From Care**

#### **Citation: Child Welf. Pol. Man. MTL # 0210**

child involved with or in the custody of the agency is missing, abducted, or runaway.

The child welfare caseworker must ensure notification to the birth parent or legal guardian within 24 hours. If unable to reach the birth parent or legal guardian, the caseworker must make recurring efforts to notify the parents.

The caseworker also must do the following:

- Notify the supervisor via text message, telephone, or email when notification to law enforcement has been made according to agency policy and procedure
- Notify the child's service providers that the child is missing and/or is a victim of exploitation no later than 2 business days after becoming aware of the issue

Service providers may include, but are not limited to, the following:

- The child's legal representative (guardian ad litem, court-appointed special advocate, or attorney)
- The child's therapist
- The child's probation or parole officer
- The child's independent-living service provider/case manager

After initial contacts, the child welfare caseworker must make reasonable efforts to locate the child at least every 30 calendar days until the child is located or the case is closed. Efforts should include, but are not limited to, the following:

- Continue to seek information from the parents, relatives, adult mentors, child's attorney, friends, and others who may have information about the child's whereabouts while the child is in missing or on runaway status
- Ask the other children in the home if they have heard from or know where the child may be
- Check past locations the child has been known to frequent or where they were previously found
- Check all the child's contacts (i.e., local family members, friends, teachers, significant other) to ask if they have heard from the child and if they know of his/her whereabouts
- If at any time new information is obtained on the child's location, immediately contact all law enforcement agencies and other agencies notified that the child was missing
- Check social media of the youth, friends, and family
- Continue to call or text youth directly on their cell phone

Caseworkers must document their actions of continued efforts to locate the child with a monthly case note until the child has been located.

### **Determining the Factors That Led to a Child's Absence From Care**

**Citation: Child Welf. Pol. Man. MTL # 0210**

Upon a child's return to care, the child welfare caseworker must interview the child utilizing the returning child debriefing tool. The returning child debriefing tool asks questions to help identify why the youth ran away; what they did while they were gone; reasons that contributed to their absence; if they have any immediate safety, medical, or emotional needs upon return; and if there is anything that could have been done to prevent them from leaving.

Guidelines for completing the tool include the following:

- Within 24 hours of the child's return, a trusted adult must complete an interview with the child utilizing the tool to initiate strategies to prevent the youth from leaving and make referrals for appropriate services.
- The tool is required to be completed for the first runaway episode if a child has been missing for 24 hours or longer.
- After subsequent runaway episodes, the caseworker must review the tool to consider changes and possible referrals to support runaway prevention.
- At the next supervision of the case, the caseworker must review the tool and determine if additional supports are needed.

### **Determining the Suitability of Current and Subsequent Placements**

This issue is not addressed in the statutes and regulations reviewed.

### **Assessing the Child's Experiences While Absent From Care**

**Citation: Child Welf. Pol. Man. MTL # 0210**

Upon a child's return to care, the child welfare caseworker must ensure that all the following steps are completed:

- Welcome the child back and ensure the child knows and is aware of the concerns regarding his/her safety and well-being by friends, family, and others who have significant relations with the child
- Assess and meet the child's immediate physical and health needs
- Notify the supervisor, child's parents, legal guardian (if parental rights have not been terminated), parole or probation officer (if child is on parole or probation), and any other agencies and people who were contacted that the child has been located
- Cancel reports to law enforcement and NCMEC
- Inform local law enforcement as soon as reasonably practicable but no later than 24 hours of becoming aware that the child has been located
- Notify NCMEC and file a recovery report within 48 hours of becoming aware that the child has been located
- If applicable, notify the Attorney General's Office, Missing Children's Unit

- Identify services the child may need

If the child was missing, returns from running away or being absconded, or is suspected of being a victim of exploitation, a screening for sexual exploitation must be completed within 24 hours of the child's return. This screening is not required if the child has previously been identified as a victim of exploitation through the use of the Nevada Rapid Indicator Tool (NRIT). The NRIT assesses whether any of the following applies to the child:

- The child is a confirmed victim of commercial sexual exploitation.
- The child is at high risk of commercial exploitation.
- No indicators apply to this youth at this time.

### **Timeframes for Closing a Child's Placement After Running Away**

#### **Citation: Child Welf. Pol. Man. MTL # 0210**

If a child turns age 18, has not elected to remain on court jurisdiction, and is on missing/runaway status, case closure will be reviewed and recommendations made pursuant to agency procedure.

If the case is closed, the caseworker must follow agency procedure on case closure. In addition, the caseworker must notify the following of case closure:

- NCMEC
- All parties to the case
- The child's service providers, including, but not limited to, the therapist, independent-living specialist, and parole or probation officers

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## **New Hampshire**

### **Responding to Youth Missing From Foster Care**

To better understand this issue and to view it across States, download the [PDF](#) (327 KB) of this publication.

*Current Through May 2020*

#### **Protocols for Reporting Children Missing From Care to Law Enforcement**

##### **Citation: DCYF Policy Man., Pol. # 1558**

*From the Division for Children, Youth and Families (DCYF) [policy manual](#):* When a youth involved with DCYF is missing, the parent or caregiver must contact local law enforcement immediately and in no case later than 24 hours. If the report is not made by the parent or placement provider, the caseworker or supervisor must notify the law enforcement agency that the youth is missing and verify that the youth is entered into the National Crime Information Center (NCIC) database, including the following information:

- The name of the youth
- The name of the reporter
- The relationship of the reporter to the missing youth
- The name, age, and address of the authorized residence
- All identifying characteristics of the missing youth (with a recent photo, if available)
- The last known location of the youth
- The length of time the youth has been missing
- All other information considered important by either the reporter or the law enforcement agency

When the caseworker determines, based on available information, that the youth may have been abducted, he or she must do the following:

- Apprise the local law enforcement agency of the reason it is believed the youth was abducted, including a description of the vehicle and/or person suspected, if known
- Request the activation of the New Hampshire Child Abduction Emergency Alert Plan

If there is reasonable cause to believe that the youth is at a specific location or is identified on a website (e.g., Backpage or a dating site), the caseworker shall notify the law enforcement agency and request the youth be apprehended. If that specific location is out of State, the caseworker shall notify the Deputy Compact Administrator for the Interstate Compact for Juveniles (ICJ).

The caseworker shall obtain the corresponding missing person report number generated by the law enforcement agency.

The caseworker also shall complete the following actions:

- Advise the law enforcement agency on the steps DCYF is taking to search for the missing youth, such as the following:
  - Making collateral contacts
  - Attempting to further determine the whereabouts of the youth and any special circumstances (e.g., medical/mental health condition) through ongoing case contacts
  - Obtaining any history significant to the possible whereabouts of the youth
- Complete the missing child/youth worksheet, with a picture of the child/youth and the plan for placement of the child/youth when recovered, and send it to the 'DHHS-DCYF-Youth Runaway' email address before the end of his or her work hours

DCYF administration shall designate one staff with access to this email account as responsible for providing notifications to the National Center for Missing and Exploited Children (NCMEC) by the end of the business day in which an email was received.

### **Protocols for Locating Children Missing From Care**

#### **Citation: DCYF Policy Man., Pol. # 1558**

When a youth involved with DCYF is missing, all efforts will be made to determine whether the youth has been abducted or has run away. Upon receipt of a notification that a youth with an open family services case is missing, the caseworker shall make collateral contacts, including the following:

- Checking with the school or where the youth should be at the time of the notification
- Contacting the current caregiver (the youth's parent or placement provider) for the following purposes:
  - Assess/determine if they know the youth's whereabouts
  - Inquire about any family or friends of the youth who may know more information, or any websites the youth frequently visited or used
  - Request that they contact law enforcement to open a missing child report providing all details from the youth's last known whereabouts and appearance
  - If the child has been in a placement, ask that they notify the parent that the youth is missing, and law enforcement has been notified

The caseworker also should do the following:

- Inform the parent or guardian that the caseworker will reach out every 2 weeks to share any information received and ask if they have heard from the youth
- Advise contacts that any person can add information to the NCMEC report by calling the NCMEC at 1-800-THE-LOST

Staff notified that a youth is missing between the hours of 4:30 pm and 8:00 am Monday through Friday, or on weekends and holidays, must direct the caller to call Central Intake. Intake staff will make the notification to NCMEC outside of business hours as necessary and prepare a referral for the caseworker assigned to the case. The caseworker must attempt to contact the youth's parents as soon as possible but no later than the close of the next business day if the child is in placement, unless otherwise instructed by the law enforcement agency.

The supervisor must verify the following with the caseworker:

- Contact was made with local law enforcement agency and the youth is entered into NCIC as a missing person.

- The youth is reported to NCMEC.
- A timely determination has been made of whether the youth was abducted or ran away.

During the absence of the youth, the caseworker shall support efforts to locate and return a missing youth by doing the following:

- Reviewing initial efforts to locate the youth with his or her supervisor within 24 hours and establishing an ongoing plan to locate the youth
- Maintaining ongoing contact with the parents or guardians, siblings, friends, school personnel, professionals, other collateral contacts, and any caseworker who may know the youth to attempt to determine the possible location of the youth
- Reviewing any websites that the youth is reported to have used every couple of weeks to monitor for updates, as accessible
- Maintaining contact with the local law enforcement and other responding agencies to provide and receive updates on any new information
- Reviewing efforts to locate the youth with his or her supervisor every 14 calendar days after the date of the youth's disappearance
- Documenting all efforts and communications in the case contact log

The field administrator shall provide oversight at least once every other week that ensures efforts to locate the youth continue.

### **Determining the Factors That Led to a Child's Absence From Care**

**Citation: DCYF Policy Man., Pol. # 1558**

When the youth is located, the caseworker must meet with the youth within 24 business hours, but no later than 72 hours, after their return to complete a screening. The screening should determine the primary factors that contributed to the youth's running away or otherwise being absent from care.

### **Determining the Suitability of Current and Subsequent Placements**

**Citation: DCYF Policy Man., Pol. # 1558**

When the youth is located, the caseworker must take the following action:

- Meet with the youth within 24 business hours, but no later than 72 hours, after their return to complete a screening to determine the youth's willingness to stay at his or her current residence
- Determine service planning for each youth after he or she returns from an abduction or runaway episode
- Ensure that the youth's case plan addresses the primary factors that contributed to the runaway or absence episode for the current and subsequent placements
- Clearly define efforts for follow-up case coordination and service planning with the agencies involved, including consideration of any other supports the youth may need for general health or well-being

### **Assessing the Child's Experiences While Absent From Care**

**Citation: DCYF Policy Man., Pol. # 1558**

When the youth is located, the caseworker must take the following action:

- Contact the New Hampshire ICJ deputy compact administrator for the return of all children or youth found in another State
- Support the parent or placement provider in picking up the youth located in New Hampshire and returning the youth to the appropriate residence
- Take a photograph of the youth upon their return and appropriately document any new physical characteristics (such as marks and tattoos)
- Work collaboratively with the involved agencies to ensure the following notifications are made, if they were not previously completed:
  - Notify the local law enforcement agency

- Notify the parents or guardians, unless otherwise requested by a law enforcement agency
- Contact NCMEC to identify that the youth has been located
- Update the supervisor and the field administrator
- As appropriate, notify the supervising family court, court-appointed special advocates or guardians ad litem, schools, service providers, and other individuals or agencies involved
- Work collaboratively with law enforcement and other responding agencies to interview the youth and coordinate further investigative efforts, such as with law enforcement, child advocacy centers, or the New Hampshire Attorney General's Office, as follows:
  - Make efforts to avoid multiple interviews to support the youth's emotional well-being
  - Follow policy 1554 (Response to Human Trafficking – Screening, Referral and Case Planning) for children or youth determined to be victims of human trafficking

In collaboration with law enforcement and other responding agencies when available, the caseworker must meet with the youth within 24 business hours, but no later than 72 hours, after his or her return to complete a screening. Children or youth might experience a wide range of traumatic events while missing (including abduction or human trafficking), and the screening process must prioritize their well-being. The screening should determine the following:

- The child's activities and experiences while absent, including if he or she may be a victim of human trafficking
- Other individual(s) who may have been assisting or were involved in the incident

The caseworker must refer matters to law enforcement when information obtained during screening indicates the youth may have been or was a victim of a crime. If there is concern that a missing youth was a victim of human trafficking and is at risk for continuing to put themselves in harm's way, immediate services may be sought to keep the youth safe.

### **Timeframes for Closing a Child's Placement After Running Away**

**Citation: Admin. Rules § He-C 6355.21; DCYF Policy Man., Pol. # 1558**

Foster care programs shall continue to be reimbursed by DCYF at their authorized board and care and treatment rate for up to 10 consecutive days if the following conditions are met:

- The foster care program remains available to expedite the return of the child to the program.
- The child has not been placed into another DCYF-funded residential treatment program during that time period.

If a child runs away, the foster care program shall not bill Medicaid during the time that the child is absent without leave.

If it is known at the time a child runs away that the child will not be returning to the foster care program, then the child's payment authorization to the program shall be closed out immediately.

*In policy:* The youth's DCYF case must remain open during the youth's absence unless otherwise determined by the DCYF director.

In determining whether to keep a case open if a youth is missing and does not return before their 18th birthday, the DCYF director may identify circumstances where it is appropriate to close a case when a youth has not returned. If there are no other children in the case that the division is still working with, the caseworker should consult with their supervisor and/or field administrator about the appropriateness of asking the court to close the case, if applicable. ([Back to Top](#))

## **New Jersey**

### **Responding to Youth Missing From Foster Care**

To better understand this issue and to view it across States, download the [PDF \(327 KB\)](#) of this publication.

*Current Through May 2020*

#### **Protocols for Reporting Children Missing From Care to Law Enforcement**

**Citation: Dept. of Children & Fam. Pol. Man., CP&P-VIII-E-2-100**

*From the policy manual:* If a child for whom the Division of Child Protection & Permanency (CP&P) is responsible is reported as runaway or missing, CP&P must do the following:

- Contact the police to file a missing person report
- Provide to the police any known information regarding life-threatening medication the child is on
- Determine if the police have any information regarding the child's current whereabouts

**Protocols for Locating Children Missing From Care****Citation: Dept. of Children & Fam. Pol. Man., CP&P-VIII-E-2-100**

If a child runs away while residing in a CP&P-supported living arrangement, the caseworker must notify the parent that the child has run away and keep him or her advised of the situation.

If a child is receiving CP&P services under a court order, the caseworker must notify the court in writing that the child has run away.

Location efforts include, but are not limited to, the following:

- Contacting relatives and friends
- Consulting the deputy attorney general (DAG) to determine whether court intervention is appropriate
- Checking the last known address and inquiring if the neighbors and/or the landlord have information, when appropriate
- Inquiring at child's last place of employment, if appropriate
- Contacting the probation and/or parole departments, if appropriate

**Determining the Factors That Led to a Child's Absence From Care****Citation: Dept. of Children & Fam. Pol. Man., CP&P-VIII-E-2-100**

Upon the return of a runaway child for whom CP&P is responsible, CP&P must contact the child's parent to determine the reason the child ran away.

**Determining the Suitability of Current and Subsequent Placements**

This issue is not addressed in the statutes and regulations reviewed.

**Assessing the Child's Experiences While Absent From Care****Citation: Dept. of Children & Fam. Pol. Man., CP&P-VIII-E-2-100**

Whenever a local office receives a referral indicating that a runaway child has been located, the following are determined:

- The child's principal place of residence
- The legal status of the child (e.g., whether the child is a delinquent currently under the court's jurisdiction)
- Whether the child is under the supervision of CP&P and, if so, which office supervises the child
- Whether the child is under the supervision of any other social services agency
- Whether the child's parent or guardian has been contacted

Upon the return of a runaway child for whom CP&P is responsible, CP&P shall do the following:

- Determine which local office is responsible for the child's return and/or the responsibilities of other local offices or other agencies involved with the child
- Contact the child's parent to determine the following:
  - The parent's willingness and ability to arrange and pay for the child's return
  - The need for services, what specific services are needed, and the plan for the child
  - The parent's willingness to consent to any needed services

Determine that placement is necessary and obtain a court order to authorize out-of-home placement

- Determine that services are needed and complete a case plan assessment, signed by the parent or guardian

### **Timeframes for Closing a Child's Placement After Running Away**

**Citation: Dept. of Children & Fam. Pol. Man., CP&P-VIII-E-2-100** From the policy manual: **If a child for whom the Division of Child Protection & Permanency (CP&P) is responsible is reported as runaway or missing, CP&P must do the following: • Contact the police to**

If a child is receiving CP&P services under a court order, CP&P will terminate the case if the child is not located in 6 months, unless the case is in litigation. For cases in active litigation, the caseworker must consult the DAG regarding how long to maintain the litigation and/or warrant before termination. The caseworker must send written notification within 30 days of termination to all involved persons, agencies, and courts.

If a standing court order is applicable to the child, prior notification of the court is necessary for termination.

If a child age 16 or older is under the guardianship of CP&P and remains missing for 6 months, a recommendation for discharge of the child from guardianship may be made to the local office manager. If it is decided by the local office manager that the case remains open, renewed efforts to locate the child must occur every 3 months until the child is located, the child reaches age 18, or a recommendation is approved to discharge the child from guardianship.

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## **New Mexico**

### **Responding to Youth Missing From Foster Care**

To better understand this issue and to view it across States, download the [PDF](#) (327 KB) of this publication.

*Current Through May 2020*

#### **Protocols for Reporting Children Missing From Care to Law Enforcement**

**Citation: Admin. Code § 8.10.8.24**

The Protective Services Division (PSD) shall report immediately, but no later than 24 hours, after receiving information on missing or abducted children or youth to law enforcement authorities for entry into National Crime Information Center (NCIC) database of the Federal Bureau of Investigation.

PSD shall report immediately, but no later than 24 hours, after receiving information on missing or abducted children or youth to the National Center for Missing and Exploited Children.

#### **Protocols for Locating Children Missing From Care**

**Citation: Admin. Code § 8.10.8.24**

PSD shall make reasonable efforts to locate children or youth missing from foster care.

#### **Determining the Factors That Led to a Child's Absence From Care**

**Citation: Admin. Code § 8.10.8.24**

PSD shall make reasonable efforts to determine the factors that led to the child or youth being absent from foster care.

#### **Determining the Suitability of Current and Subsequent Placements**

This issue is not addressed in the statutes and regulations reviewed.

#### **Assessing the Child's Experiences While Absent From Care**

**Citation: Admin. Code § 8.10.8.24**

PSD shall make reasonable efforts to assess the child or youth's experience while absent from foster care, including whether the child or youth is a victim of sex or human trafficking. PSD shall immediately, but not later than 24 hours, notify law enforcement of children or youth who PSD has identified as victims of sex or human trafficking. PSD also



shall identify, document, and determine appropriate services for children or youth who have disclosed or who may be at risk of being the victim of human trafficking.

### **Timeframes for Closing a Child's Placement After Running Away**

This issue is not addressed in the statutes and regulations reviewed.

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## **New York**

### **Responding to Youth Missing From Foster Care**

To better understand this issue and to view it across States, download the [PDF](#) (327 KB) of this publication.

*Current Through May 2020*

#### **Protocols for Reporting Children Missing From Care to Law Enforcement**

**Citation: Rules & Regs. Tit. 18, § 431.8**

An authorized agency receiving a report of a child in foster care's absence without consent must report the absence to the local law enforcement agency and to the National Center for Missing and Exploited Children (NCMEC) immediately and in no case later than 24 hours after receiving notice of such absence.

In addition to the above requirement, a social services official must report to law enforcement and to NCMEC immediately, and in no case later than 24 hours of receiving the information, that following categories of children are missing or abducted:

- A child of a family for which the social services district has an open child protective services or open preventive services case
- A child or youth who is receiving federally funded independent-living services
- A child under the supervision of the social services district pursuant to a court order
- A youth over whom the social services district has supervision responsibilities in accordance with § 430.12(f)(4)(i)(b) of this title

An authorized agency receiving information that a child in foster care or a child for whom the social services district has responsibility has been identified as being a sex trafficking victim, as defined by applicable Federal law, must immediately, and in no case later than 24 hours after receiving such information, report such child to law enforcement.

Information provided to the authorized agency responsible for a child's care that might lead to the location of a child absent without consent from a foster care placement must be transmitted by the authorized agency to the local law enforcement agency within 24 hours after receipt of such information.

#### **Protocols for Locating Children Missing From Care**

**Citation: Rules & Regs. Tit. 18, § 431.8**

The name of a foster child who is absent without consent from a foster care placement must be reported no later than 24 hours from the time the absence occurs by the foster parent or staff of an agency boarding home, group home, or institution to the authorized agency responsible for supervising the placement of the child.

If the authorized agency receiving the report is a voluntary agency, that agency also must report the child's absence within 24 hours to the social services district that has custody of the child.

An authorized agency receiving a report of a child's absence without consent must report the absence to the child's parents within 24 hours of such absence, unless the parents' parental rights have been terminated or surrendered or the parents cannot be located.

When the family court has approved the foster care placement, the local social services commissioner in whose custody the foster child has been placed must provide written notice to the family court within 48 hours of the reported absence.

When a foster child is reported to an authorized agency as absent without consent, the case manager or case-planning supervisor is responsible for ensuring that diligent efforts are made no later than 72 hours after the report of the absence to contact the following persons for any information concerning the child's location:

- Members of the child's foster family household or the agency boarding home, group home, or institution where the child was placed
- Members of the child's birth family and extended family or legal guardian of the child
- The child's school principal, teachers, or other appropriate staff at the school last attended
- Close friends of the child, when known
- Adults known to be working with the child in recreational or educational activities
- Professional persons involved with the child's development, including, but not limited to, doctors, nurses, psychologists, psychiatrists, or clinical social workers
- The administrator or coordinators of the county's runaway and homeless youth services

If a child who is absent without consent cannot be located after conducting the required casework contacts, and the child remains in the custody of the local social services commissioner, the case manager is responsible for ensuring that a continuing effort is made to locate the child. Within each 30-day period following the child's absence, reasonable efforts must be made to obtain information on the child's location as long as the child remains in the custody of the local social services commissioner or until the child is discharged. Sources to be contacted for such information must include, but are not limited to, the following:

- Members of the child's foster family household or the agency boarding home, group home, or institution where the child was placed
- Members of the child's family and extended family, when known, or the legal guardian of the child
- The child's school principal, teachers, or other appropriate staff at the school last attended
- The administrator or coordinators of the county's runaway and homeless youth services
- The local law enforcement agency

Information gathered must be documented in the progress notes of the uniform case record for a foster child who is absent from a foster care placement. Such information must include persons contacted, dates of those contacts, and information pertaining to the child's absence.

### **Determining the Factors That Led to a Child's Absence From Care**

**Citation: Rules & Regs. Tit. 18, § 431.8**

Whenever a child in foster care is absent without consent, the authorized agency with either case management or case-planning responsibility for the child must determine and document in the child's case record the primary factors that contributed to the child running away or otherwise being absent without consent.

### **Determining the Suitability of Current and Subsequent Placements**

**Citation: Rules & Regs. Tit. 18, § 431.8**

Whenever a child in foster care is absent without consent, the authorized agency with either case management or case-planning responsibility for the child must respond to the factors that contributed to the child running away or otherwise being absent without consent in the child's current and subsequent foster care placements.

### **Assessing the Child's Experiences While Absent From Care**

**Citation: Rules & Regs. Tit. 18, § 431.8**

When a child is returned or returns voluntarily to foster care after being absent without consent, diligent efforts must be made to provide services to the child that will restore the child to a supportive environment. In addition to providing the foster care services required by this title, an assessment must be made of the child's need for

rehabilitative services. Such services may include, but are not limited to, the following:

- Remedial educational services
- Psychological counseling
- Medical services, in accordance with § 441.22 of this title
- Drug and alcohol abuse treatment, when available from a public agency

Whenever a child in foster care is absent without consent, the authorized agency with either case management or case-planning responsibility for the child must determine the child's experiences while absent from care, including screening the child as a possible sex trafficking victim, as that term is defined by applicable Federal law.

### **Timeframes for Closing a Child's Placement After Running Away**

#### **Citation: Rules & Regs. Tit. 18, § 431.8**

A child who is absent without consent from a foster care placement and who has been determined to be a runaway must be reported as absent to the system of record, and payment to the authorized agency for the child's foster care must be suspended no later than 7 consecutive calendar days after the child has been absent.

A child placed pursuant to article 3 of the Family Court Act who is absent without consent shall not be eligible for conditional release as set out in § 431.19 solely by reason of such absence. Such child shall have his or her placement interrupted, as provided in § 431.20, or shall be discharged from care, if one of the following events occurs:

- The local social services commissioner petitions for and the family court grants termination of the local social services commissioner's custody of the child.
- The court order granting custody of the child to the commissioner expires.
- The child reaches age 21 or, for a child placed restrictively pursuant to § 353.5 of the Family Court Act for an act committed when the child was age 16 or 17, the child reaches age 23.

A child age 16 or older who is absent without consent from a foster care placement and who cannot be located, or is located and refuses to return after the responsible authorized agency has used diligent efforts for 60 consecutive days, must be discharged from care if one of the following events occurs:

- The local social services commissioner petitions for and the family court grants termination of the local social services commissioner's custody of the child.
- The court order granting custody of the child to the commissioner expires.
- A voluntary placement agreement is revoked by order of the court or by expiration of the agreement.
- The child reaches age 21.

A child under age 16 who is absent without consent from a foster care placement and who cannot be located after the responsible authorized agency has used diligent efforts for 60 consecutive days must be continued as a case in suspended payment after the child has been absent for 7 consecutive calendar days in accordance with § 628.3 of this title. The child's status must be indicated as absent in the system of record until the child has been located or until one of the following events occurs:

- The local social services commissioner petitions for and the family court grants termination of the local social services commissioner's custody of the child.
- The court order granting custody of the child to the commissioner expires.
- A voluntary placement agreement is revoked by order of the court or by expiration of the agreement.
- The child reaches age 21.

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## **North Carolina**

### **Responding to Youth Missing From Foster Care**

To better understand this issue and to view it across States, download the [PDF](#) (327 KB) of this publication.

*Current Through May 2020*

## **Protocols for Reporting Children Missing From Care to Law Enforcement**

### **Citation: Child Welf. Man., Agency Plan for Abducted and Runaway Children**

*In policy:* Upon learning a child is missing, county child welfare agencies must notify law enforcement immediately. Placement providers must immediately report any missing child or youth to a local law enforcement agency and the county child welfare services agency. The placement provider must obtain the number of the missing person report from the law enforcement officer taking the report and provide the report number to the caseworker.

When a child or youth that the county child welfare services agency has legal responsibility for is missing, the agency must do the following:

- Provide immediate verbal notification to the appropriate law enforcement agency, follow up by sending a subsequent written notification within 48 hours, and obtain a copy of the law enforcement report for the case file
- Provide immediate notification (no later than 24 hours) to the National Center for Missing and Exploited Children (NCMEC) and provide NCMEC with the missing person's report number and current photograph of the missing child

Information that must be shared with law enforcement includes the following:

- The child's full name, aliases and nicknames, age and date of birth, Social Security number, driver's license number (if applicable), and other biographical information
- A description of the child (i.e., height; weight; hair, eye, and skin color; whether the child has braces; clothes worn, such as book bag and shoes; whether the child uses contact lenses, glasses, or dentures; whether the child has gold or silver teeth; any physical, hearing, speech, or vision impairments; moles; scars; body piercings; tattoos) and recent photographs
- Physical or psychological conditions, developmental delays, or any condition that may affect the ability of the child to respond to environmental dangers
- Other factors of endangerment, such as young age, hazardous location, medical needs, disability, etc.
- Medication and/or history of suspected substance use/abuse
- A copy of the most recent court order granting legal custody of the child and other relevant facts about the child's custody status
- Type of missing episode (if known), including runaway, family abduction, nonfamily abduction, or other
- When, where, and with whom the child was last seen
- Possible method of travel (e.g., car, bicycle, public transportation, on foot)
- Names and addresses of friends; relatives; present and former placement providers, including child care facilities/staff; and acquaintances
- Locations the child or youth is known to frequent
- Suspected destinations and accomplices
- Prior disappearances and outcomes

If a child is identified as 'high risk,' this must be communicated to law enforcement. It is important to inform law enforcement about any circumstances that could severely compromise the safety of a child who is missing. These circumstances include anything that would fall in the definition of a high-risk child, including the following:

- The child has a developmental disability that impairs the child's ability to care for him- or herself.
- The child is pregnant and/or parenting, and the infant/child is believed to be with the parent.
- The child is missing more than 24 hours before being reported to law enforcement.
- The child is believed to be in a life-threatening situation.
- The child's absence is inconsistent with his or her established pattern of behavior and the deviation is not readily explained.
- The child is known or believed to be a victim of human trafficking.
- Other circumstances are involved in the disappearance that would cause a reasonable person to conclude that the child should be considered 'at imminent risk.'

## **Protocols for Locating Children Missing From Care**

### **Citation: Child Welf. Man., Agency Plan for Abducted and Runaway Children**

When a child or youth that the county child welfare services agency has legal responsibility for is missing, the agency must provide immediate verbal notification to the child's family (if the child is not believed to have been abducted by family members) and the guardian ad litem and discuss collaborative efforts that all parties can take to locate the child.

Upon notification that a child is missing, the supervisor must do the following:

- Within 24 hours, confirm the caseworker has completed all the required reports and contacts
- Assist the caseworker in developing and implementing a plan that contains specific strategies to locate the missing child and ensure the child's safety as quickly as possible
- Meet with the caseworker on a weekly basis after the initial reporting requirements are completed
- If the child is high risk, obtain and review daily progress reports from the caseworker that include the following:
  - Ongoing strategies and efforts to determine the child's whereabouts
  - Contacts with law enforcement and others
  - Additional steps taken to assist in finding the child
  - A placement plan for when the child is located

When a child's whereabouts are unknown, and/or the circumstances of the child's disappearance are unknown, the caseworker must make a sustained effort to locate the child by contacting the following individuals, agencies, or organizations each week:

- Local police, sheriff's office, or other law enforcement agency working to locate the child
- Local emergency shelters and homeless youth programs
- The most recent caregiver and any other caregivers with whom the child is known to have had a close or long-term relationship
- Relatives, including the child's parents and siblings
- Neighbors and landlord of the child's last known address
- Close friends and classmates of the child, including any known boyfriends, girlfriends, or anyone else in the community with whom the child may have developed a significant relationship
- Teachers, counselors, and other school personnel from the school the child last attended, if there is knowledge that the child had close relationships with persons at the school
- Employees of the county child welfare services agency or placement provider who may have knowledge of the possible location of the child
- Probation offices, when appropriate
- County juvenile or adult detention centers

## **Determining the Factors That Led to a Child's Absence From Care**

### **Citation: Child Welf. Man., Agency Plan for Abducted and Runaway Children**

When deciding whether to return the child or youth to the placement they were in before being reported as runaway or missing, the caseworker should interview the caregiver and the child separately to determine why the child ran away.

## **Determining the Suitability of Current and Subsequent Placements**

### **Citation: Child Welf. Man., Agency Plan for Abducted and Runaway Children**

When a child is located, careful consideration should be given to their ongoing placement. When deciding whether to return the child or youth to the placement they were in before being reported as runaway or missing, the caseworker should interview the caregiver and the child separately to determine why the child ran away. Caseworkers should review the reasons provided with a supervisor to determine if the reasons for running away are related to the placement itself. Caseworkers and supervisors should determine whether placement stabilization or other services would be beneficial.

If the child or youth has a history of running away or indicates that he or she will not accept any placement selected by the agency, the caseworker should discuss with the child or youth where he or she wants to live or what type of placement he or she is willing to accept. Such alternate placements may include the following:

- A relative with whom the child is comfortable and has a relationship
- A former caregiver or another adult with whom the child has formed a relationship and with whom the child expresses a desire to be placed
- An independent transitional living arrangement, if appropriate
- Reunification with the child's parent(s)

Any or all these options must meet certain requirements, depending on the placement type, including any necessary approval by the court.

### **Assessing the Child's Experiences While Absent From Care**

#### **Citation: Child Welf. Man., Agency Plan for Abducted and Runaway Children**

The caseworker must make every effort to return the child to an authorized placement. In addition to making required contacts listed above, the following information must also be sought from the missing child:

- The child's location at the time of the contacts
- Any information about where they are staying currently or for any period
- Any information about the individuals they may be with
- Information about the health and safety of the child or youth
- If the youth is parenting, the health and safety of the infant or child
- Whether they are attending school and where
- Whether they are employed and where
- Any contact they have made with family members, friends, or probation and parole agents, etc.

If the child or youth was missing from care for another reason (i.e., they did not run away), caseworkers should carefully assess the factors associated with the child or youth's disappearance and their experiences while absent from care to address possible safety and risk issues and plan for placement accordingly.

### **Timeframes for Closing a Child's Placement After Running Away**

This issue is not addressed in the statutes and regulations reviewed.

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## **North Dakota**

### **Responding to Youth Missing From Foster Care**

To better understand this issue and to view it across States, download the [PDF](#) (327 KB) of this publication.

*Current Through May 2020*

#### **Protocols for Reporting Children Missing From Care to Law Enforcement**

**Citation: Admin. Code § 75-03-36-17; Foster Care Perm. Planning Man. § 624-05-15-50-34**

The child-placing agency shall have written policy outlining the critical incident recording and reporting process to the regional supervisor, and parent or custodian of the child, if any, when an incident requires the services of law enforcement, including in the case of a runaway or absent child.

*In policy:* The foster care case manager, upon determining that a foster child is missing, must make a report immediately, and in no case later than 12 hours, using three specific steps:

- Immediately report the incident and pertinent information to local law enforcement, including requesting that law enforcement enter the pertinent information into the National Crime Information Center
- Immediately report the incident and pertinent information to the National Center for Missing and Exploited Children (NCMEC)

- Immediately report the incident and pertinent information to the regional office

Pertinent information includes, but is not limited to, the following:

- Who, what, where, when, and exact time of the incident
- A description of the child's appearance (i.e., hair color/style, clothing, identifying marks)
- A photo of the child, if available
- The name, address, and telephone number of the provider
- Who last saw the child
- The date, time, and relevant content from the last case manager visit
- Whether this is the first time the child has been missing, if not, provide a brief history of prior missing episodes
- What was going on with the foster child at the time, including the possible primary factors that contributed to the foster child being absent from care
- Whether there is any suspicion of foul play such as abduction, human trafficking, or sexual exploitation

### **Protocols for Locating Children Missing From Care**

**Citation: Foster Care Perm. Planning Man. § 624-05-15-50-34**

The foster care case manager shall document the actions taken by the case manager and foster care provider to expeditiously locate the missing foster child.

### **Determining the Factors That Led to a Child's Absence From Care**

**Citation: Foster Care Perm. Planning Man. § 624-05-15-50-34**

The foster care case manager shall document the primary factors that led to the foster child running away.

### **Determining the Suitability of Current and Subsequent Placements**

**Citation: Foster Care Perm. Planning Man. § 624-05-15-50-34**

The foster care case manager shall document how case management will respond to the primary factors identified in current and subsequent placements.

### **Assessing the Child's Experiences While Absent From Care**

**Citation: Foster Care Perm. Planning Man. § 624-05-15-50-34**

Once the foster child is found, notifications to law enforcement, NCMEC, and the regional office should be repeated to inform all involved parties that the foster child is no longer missing or on the run.

The foster care case manager must screen the foster child to determine both the primary factors that led to the foster child running away and the foster child's experiences while absent from foster care. This includes determining if the foster child was a possible human trafficking victim. The North Dakota Runaway & Missing Youth Screening Tool shall be used to help identify if a child missing from foster care was a victim or exploited. The foster care case manager should determine how to best integrate this screening tool upon the missing child's return to foster care. Attention should be paid to the child's ability and willingness to participate in the screening. Every effort should be made to complete the screening before NCMEC is notified that the child has been located.

In the follow-up contact to NCMEC, the case manager will be asked if there was suspicion of or actual human trafficking/sexual exploitation while the child was absent from foster care. If the screening is not completed prior to contacting NCMEC and later it is determined the child was exploited, case management shall notify NCMEC of the findings.

In the event it is determined that the foster child was a victim or sexually exploited, case management will work to ensure needed medical screenings are initiated, services are provided to the child, and all required documentation is completed.

### **Timeframes for Closing a Child's Placement After Running Away**

This issue is not addressed in the statutes and regulations reviewed.

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## Northern Mariana Islands

### **Responding to Youth Missing From Foster Care**

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#### **Protocols for Reporting Children Missing From Care to Law Enforcement**

Not addressed in statutes reviewed.

#### **Protocols for Locating Children Missing From Care**

This issue is not addressed in the statutes and regulations reviewed.

#### **Determining the Factors That Led to a Child's Absence From Care**

This issue is not addressed in the statutes and regulations reviewed.

#### **Determining the Suitability of Current and Subsequent Placements**

This issue is not addressed in the statutes and regulations reviewed.

#### **Assessing the Child's Experiences While Absent From Care**

This issue is not addressed in the statutes and regulations reviewed.

#### **Timeframes for Closing a Child's Placement After Running Away**

This issue is not addressed in the statutes and regulations reviewed.

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## Ohio

### **Responding to Youth Missing From Foster Care**

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*Current Through May 2020*

#### **Protocols for Reporting Children Missing From Care to Law Enforcement**

Not addressed in statutes reviewed.

#### **Protocols for Locating Children Missing From Care**

This issue is not addressed in the statutes and regulations reviewed.

#### **Determining the Factors That Led to a Child's Absence From Care**

This issue is not addressed in the statutes and regulations reviewed.

#### **Determining the Suitability of Current and Subsequent Placements**

This issue is not addressed in the statutes and regulations reviewed.

#### **Assessing the Child's Experiences While Absent From Care**

This issue is not addressed in the statutes and regulations reviewed.

#### **Timeframes for Closing a Child's Placement After Running Away**

This issue is not addressed in the statutes and regulations reviewed.

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# Oklahoma

## Responding to Youth Missing From Foster Care

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### Protocols for Reporting Children Missing From Care to Law Enforcement

**Citation: Ann. Stat. Tit. 10A, § 1-9-123; DHS Pol. for § 340:75-6-48.3**

When notified a child or youth has run away or is missing from a foster placement, the Department of Human Services shall, within 24 hours of notification, report such status of the child or youth to local law enforcement, the National Crime Information Center (NCIC), and to the National Center for Missing and Exploited Children (NCMEC).

The department shall report to law enforcement authorities immediately, and in no case later than 24 hours, after receiving information on a child or youth who has been identified as being a sex trafficking victim.

*In policy:* When the placement provider learns the child or youth is missing, the provider must file a report with law enforcement and contact the assigned caseworker, providing details of the incident and information reported to law enforcement.

When the caseworker is notified the child or youth is missing, the caseworker must do the following:

- Immediately file a report with the appropriate law enforcement jurisdiction and request that the child or youth be reported to the NCIC
- Report the child to NCMEC within 24 hours after receiving notification of the child or youth missing from care

### Protocols for Locating Children Missing From Care

**Citation: Ann. Stat. Tit. 10A, § 1-9-123; DHS Pol. for § 340:75-6-48.3**

The department shall develop and implement specific protocols to expeditiously locate any child or youth missing from foster care.

*In policy:* When the caseworker is notified the child or youth is missing, the caseworker must do the following:

- Immediately notify the district attorney; the child or youth's attorney; and, when applicable, his or her parent or parents
- Submit the necessary paperwork, as determined by the court of jurisdiction, within 1 business day to request that the court issue a pick-up order indicating the child or youth is a ward of the court
- Document no later than 1 business day after the episode, the missing-from-care placement episode in the State information system, with an exit reason of AWOL (runaway) when the child or youth has an open removal and is in department custody
- Contact any relative or collateral, including, but not limited to, a court-appointed special advocate (CASA), guardian ad litem, service provider, counselor, therapist, or school personnel, who may have information about the child or youth's whereabouts
- Immediately notify the child welfare supervisor and district director to inform them the child or youth is missing from care and to confirm all steps are being taken to locate the child or youth, including reporting the child to NCMEC within 24 hours after receiving notification of the child or youth missing from care

The caseworker must continue to make ongoing efforts to locate the child or youth until he or she is safely returned to an approved placement, including, but not limited to, contacting the appropriate law enforcement jurisdiction, relatives, any collaterals, or other sources that may assist the department in locating and protecting the child or youth. These efforts must take place as often as needed and never less than once per month until the child or youth is located.

### Determining the Factors That Led to a Child's Absence From Care

**Citation: Ann. Stat. Tit. 10A, § 1-9-123; DHS Pol. for § 340:75-6-48.3**

The department shall develop and implement specific protocols to determine the primary factors that contributed to the child or youth running away or otherwise being absent from foster care.

*In policy:* When the child or youth is located, the caseworker will assess the reasons the child or youth left the previous placement without department permission by evaluating his or her safety in the previous placement and having a private conversation with the youth about why he or she left, if he or she felt safe there, and where he or she wants to live.

### **Determining the Suitability of Current and Subsequent Placements**

**Citation: Ann. Stat. Tit. 10A, § 1-9-123; DHS Pol. for § 340:75-6-48.3**

The department shall develop and implement specific protocols to respond, to the extent possible and appropriate, to those factors that contributed to the absence from care or runaway behaviors in the current and subsequent placements of the child or youth.

*In policy:* When the child or youth is located, the caseworker immediately shall assess the child's safety and determine whether to return him or her to a department-authorized placement, when he or she is in department custody.

The caseworker may consider seeking expedited placement approval with the person with whom the child or youth was found including, but not limited to, any of the following:

- A parent whose parental rights were terminated, when reinstatement is applicable per title 10A, § 1-4-909 of the Oklahoma Statutes
- A parent who has not completed the court-ordered individualized service plan, when this is a safe option or safety can be ensured through a safety plan, and the court grants approval for reunification
- A person who is not a department-authorized placement provider, by seeking expedited placement provider approval for such person

Approval to place the child or youth with the person with whom he or she was found is determined on a case-by-case basis, unless the person has a felony conviction per Admin. Code § 340:75-7-15. The automatic bar to placement for certain criminal history does not apply to a parent.

### **Assessing the Child's Experiences While Absent From Care**

**Citation: Ann. Stat. Tit. 10A, § 1-9-123; DHS Pol. for § 340:75-6-48.3**

The department shall develop and implement specific protocols to determine what the child or youth experienced while absent from care, including an appropriate screening to determine if the child or youth is a possible victim of sex trafficking.

*In policy:* Immediately, or no later than 1 business day, after the caseworker has located a child or youth missing from care, the caseworker shall do the following:

- Notify the following:
  - The appropriate law enforcement jurisdiction with a request that NCIC be notified that the child or youth was located
  - The district attorney, the child or youth's attorney, and, when applicable, the child or youth's parent or parents
  - Child protective services (CPS) programs staff to close the protective service alert and reports to NCMEC, when applicable
- Submit the necessary paperwork, as determined by the court of jurisdiction, to recall the pick-up order
- Contact any relative or collateral, including, but not limited to, the court-appointed special advocate, guardian ad litem, service provider, counselor, therapist, or school personnel, who was contacted for information on the whereabouts of the child or youth to report his or her return
- Immediately report the child or youth to the appropriate law enforcement jurisdiction, in no case later than 24 hours, after receiving information on a child or youth who was identified as a sex trafficking victim

### **Timeframes for Closing a Child's Placement After Running Away**

**Citation: Admin. Code § 340:75-7-52(11); DHS Pol. for § 340:75-6-48.3**

When a child is out of the resource home for family reunification purposes, preplacement visits, or is a runaway for up to 7 consecutive days, the resource parent receives a maintenance payment when the child is expected to return to the resource home by the end of 7 business days.

*In policy:* The following protocol applies when a child or youth missing from care cannot be located:

- After a 1-year search, when there are no other children in the case, the child or youth is not in permanent Department of Human Services custody, and he or she was not located, the caseworker will submit a progress report to the court documenting the efforts to locate the youth over the 1-year time frame and request dismissal of the dependency case.
- The caseworker advises each parent of the request for dismissal of the dependency case.
- When the court does not dismiss the dependency case, the case remains open and the caseworker continues to make efforts every 30 calendar days until the child or youth is located or the case is dismissed. The caseworker requests that the dependency case be dismissed at each subsequent court review.
- When the dependency case is dismissed, the caseworker will do the following:
  - Notify law enforcement and the child's or youth's parent or parents, when applicable
  - Submit the necessary paperwork, as determined by the court of jurisdiction, to recall the pick-up order
  - Notify CPS and programs staff to close out the protective service alert and reports to NCMEC, the Oklahoma Office of the Inspector General, or both, when applicable
  - Update removal and custody status information in the State information system
  - Close the child welfare case

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## Oregon

### Responding to Youth Missing From Foster Care

To better understand this issue and to view it across States, download the [PDF](#) (327 KB) of this publication.

*Current Through May 2020*

#### Protocols for Reporting Children Missing From Care to Law Enforcement

##### **Citation: Admin. Rules § 413-080-0053; CW Proc. Man. Ch. 4, § 18**

When a caseworker receives information that a child or young adult in substitute care is missing, the caseworker must ensure law enforcement and the National Center for Missing and Exploited Children (NCMEC) are notified immediately and in no case later than 24 hours after receiving information on the missing child or young adult.

*In policy:* The following activities should be completed when the caseworker is informed that a child or youth is missing:

- Report the situation to law enforcement agency (LEA) immediately and in all cases within 24 hours
- Document the date and time of the report, the report number, and the name of the officer taking the report
- Be prepared to provide a recent photo of the youth, if one is available
- Provide the following additional information:
  - A physical description, including tattoos and piercings, what the youth was wearing when seen last, and a description of personality traits
  - Information about the youth's routine, friends, activities, social media presence, etc., including any recent changes in his or her life
- After the report to the LEA has been made, report to NCMEC within 24 hours

While timelines vary on when to complete the above activities, efforts to locate the child/young adult must be commenced immediately.

#### Protocols for Locating Children Missing From Care

**Citation: Admin. Rules § 413-080-0053; CW Proc. Man. Ch. 4, § 18**

When a caseworker receives information that a youth in substitute care is missing, the caseworker must do the following:

- Make immediate efforts to locate the youth
- As soon as practicable, ensure the court and legal parties to the case are notified, unless notification may jeopardize the safety of the youth or interfere with an investigation

*In policy:* In addition to the required reports to LEA and NCMEC, the caseworker must ensure the following individuals or entities are notified on the same working day the information is received:

- The youth's parents (unless their parental rights have been terminated) and caregivers
- The court
- The attorney for the youth
- Attorneys for the parents
- The district attorney
- The court-appointed special advocated (CASA)
- The youth's Tribe, if applicable

There are many ways to search for a missing youth, including, but not limited to, physically looking, using the internet, using the phone, and asking others to help locate. These efforts may include the following:

- Searching the last place he or she was seen
- Going to the homes of his or her friends
- Checking regular hang outs and any place he or she frequents and leaving messages at these places
- Going to emergency shelter's homeless youth programs
- Checking with juvenile detention if it is a child who is missing and jails if it is a young adult
- Checking with hospitals
- If he or she is a victim of sex trafficking or at risk of being a victim of sex trafficking, checking clubs
- Checking Facebook, Twitter, and other social media sites
- If the missing youth is a victim of sex trafficking or at risk of being a victim of sex trafficking, checking known escort sites, such as Backpage, and ads
- Googling the youth's phone number, in case the number is in an ad
- Calling the youth's phone number or having someone he or she trusts call from their phone
- Using the phone's GPS system to try and determine a location
- Contacting individuals close to the youth

Looking for the youth includes reaching out and maintaining contact with those who know him or her well. These people may include the following:

- Relatives, including parents and siblings
- Neighbors and the landlord of his or her last known address
- Close friends and classmates, including any known boyfriends or girlfriends
- Teachers, counselors, and other school personnel from the school he or she last attended or other schools the youth attended, if there is knowledge that he or she had a close relationship with persons at that school
- Employers and coworkers where he or she was employed
- Other department staff, such as former caseworkers
- Mental health providers
- Tribal staff
- The youth's attorney, CASA, probation or parole officer, advocate, or case manager
- Runaway and homeless programs

The caseworker must maintain regular contact with the individuals close to the youth. Updates to and from these individuals are important and may identify the location of the youth. The caseworker also should maintain regular contact with the LEA and the NCMEC case managers to provide any new information on the youth's possible whereabouts and to receive updates on efforts to locate him or her.

## Determining the Factors That Led to a Child's Absence From Care

**Citation: Admin. Rules § 413-080-0053; CW Proc. Man. Ch. 4, § 18**

When a child or young adult missing from substitute care is located, the caseworker must determine and, to the extent possible, address the primary factors that contributed to the missing status of the child or young adult.

*In policy:* When the caseworker understands the primary factors contributing the youth being missing, the caseworker must try to address those factors, if at all possible. Even if the youth has a different caregiver when he or she returns, the circumstances that led to the youth being missing may be addressed in the new environment.

## Determining the Suitability of Current and Subsequent Placements

**Citation: CW Proc. Man. Ch. 4, § 18**

In determining whether to return a youth to the last placement he or she was in, the worker should gather information from the youth and the caregiver separately about why the youth went missing. If the reasons are related to the placement itself, the caseworker must staff the placement decision with a supervisor.

If the youth has a history of running away or indicates that he or she will not accept any placement selected by the department, the worker should discuss with the youth where he or she wants to live or what type of placement he or she is willing to accept. Such placements may include the following:

- A particular relative with whom the youth is comfortable. The requirements for relative placement must be met to place him or her with that relative.
- A former caregiver or another adult with whom the youth has formed a relationship and with whom the he or she expresses a desire to be placed. Again, all certification requirements must be met to place him or her with that adult.
- Independent-living services, while not a placement, has associated housing programs. If the youth is considering independent-living services, the caseworker will determine if he or she is eligible and appropriate for these services.
- Reunification with the youth's parent or parents. If he or she expresses a desire to live with his or her parent, the caseworker should determine if the factors preventing a reunification in the past are still a factor and, if not, follow requirements for pursuing a possible reunification.

By attempting to limit trauma to the youth and increase his or her connections with supportive people, he or she will be more likely to move forward in making progress toward a stable adulthood.

## Assessing the Child's Experiences While Absent From Care

**Citation: Admin. Rules § 413-080-0053; CW Proc. Man. Ch. 4, § 18**

When a youth missing from substitute care is located, the caseworker must do the following:

- Determine the youth's experiences while missing
- Determine if the youth is a sex trafficking victim or at risk of being a sex trafficking victim
- Ensure the court and legal parties to the case are notified the youth has been located

*In policy:* When the youth is located, the caseworker must ensure this information is shared within 24 hours with those who were informed that he or she was missing. At a minimum, the notifications must include the following:

- Parents or caregivers
- Law enforcement and NCMEC
- The court (including all parties)
- The Tribe

The caseworker should make face-to-face contact with the youth within 3 business days after the youth has been located to determine the following:

- The primary factors that contributed to the missing status of the youth and, to the extent possible, address them

- The youth's experiences while missing
- If the youth is a sex trafficking victim or at risk of being a sex trafficking victim

This information must be gathered from the youth and may be gathered from others. The caregiver at the time the youth went missing is likely to have a critical perspective, and friends of the youth likely have relevant information. The information gathered also should include the following:

- Contact information for the youth
- If there are adults the youth trusts and would return to or speak to
- What the youth is looking for in a placement or at home (using motivational interviewing, if possible)

The caseworker must ensure information is gathered in a developmentally appropriate manner, considering the following:

- The age and developmental stage of the youth
- The mental and physical health of the youth
- The best person to gather information
- Ways to continue to gather information by being in contact more than usual (daily, weekly, etc.)

### **Timeframes for Closing a Child's Placement After Running Away**

#### **Citation: CW Proc. Man. Ch. 4, § 18**

When a youth is abducted or has run away, the Department of Human Services may authorize substitute care payments to the substitute caregiver for up to 7 days following the date the youth was determined to be missing when the following two criteria are met:

- The plan is for the youth to return to the same substitute care placement.
- No other substitute caregiver is receiving a maintenance payment for the youth.

Permanency and administrative hearings will continue as scheduled when a youth is missing, as follows:

- Regularly scheduled permanency hearings and Citizens' Review Board (CRB) hearings will continue.
- Reports to the court and CRB will include documentation on the agency's efforts to locate the youth.
- The youth's legal parents will continue to receive notification of the hearings and reviews.

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## **Pennsylvania**

### **Responding to Youth Missing From Foster Care**

To better understand this issue and to view it across States, download the [PDF](#) (327 KB) of this publication.

*Current Through May 2020*

#### **Protocols for Reporting Children Missing From Care to Law Enforcement**

Not addressed in statutes reviewed.

#### **Protocols for Locating Children Missing From Care**

This issue is not addressed in the statutes and regulations reviewed.

#### **Determining the Factors That Led to a Child's Absence From Care**

This issue is not addressed in the statutes and regulations reviewed.

#### **Determining the Suitability of Current and Subsequent Placements**

This issue is not addressed in the statutes and regulations reviewed.

#### **Assessing the Child's Experiences While Absent From Care**

This issue is not addressed in the statutes and regulations reviewed.

### **Timeframes for Closing a Child's Placement After Running Away**

This issue is not addressed in the statutes and regulations reviewed.

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## **Puerto Rico**

### **Responding to Youth Missing From Foster Care**

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*Current Through May 2020*

#### **Protocols for Reporting Children Missing From Care to Law Enforcement**

Not addressed in statutes reviewed.

#### **Protocols for Locating Children Missing From Care**

This issue is not addressed in the statutes reviewed.

#### **Determining the Factors That Led to a Child's Absence From Care**

This issue is not addressed in the statutes reviewed.

#### **Determining the Suitability of Current and Subsequent Placements**

This issue is not addressed in the statutes reviewed.

#### **Assessing the Child's Experiences While Absent From Care**

This issue is not addressed in the statutes reviewed.

#### **Timeframes for Closing a Child's Placement After Running Away**

This issue is not addressed in the statutes reviewed.

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## **Rhode Island**

### **Responding to Youth Missing From Foster Care**

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*Current Through May 2020*

#### **Protocols for Reporting Children Missing From Care to Law Enforcement**

**Citation: Code of Rules, Tit. 214, § 030-00-1**

A child or youth is determined to be missing when he/she cannot be located within the following timeframes:

- Within 1 hour for children age birth to 13
- Within 1 hour for youth of any age determined to be high risk
- Within 24 hours for youth age 14 and older

When a child cannot be located and is determined to be missing from any placement, the placement provider, or parent/guardian if the child is placed at home, immediately shall do the following:

- Call the child abuse and neglect hotline of the Department of Children, Youth, and Families (DCYF)
- Notify the local police department to file a missing person report

Local law enforcement will enter missing child information into the National Crime Information Center.

#### **Protocols for Locating Children Missing From Care**

**Citation: Code of Rules, Tit. 214, § 030-00-1**

DCYF staff, providers, and law enforcement will work collaboratively to ensure that children identified as absent or missing from their living arrangement are located immediately.

### **Determining the Factors That Led to a Child's Absence From Care**

**Citation: Code of Rules, Tit. 214, § 030-00-1**

Once any missing/runaway child or youth is located, DCYF will assess the youth to determine the primary factors that contributed to the child or youth's running away.

### **Determining the Suitability of Current and Subsequent Placements**

**Citation: Code of Rules, Tit. 214, § 030-00-1**

DCYF staff, providers, and law enforcement will work collaboratively to ensure that children identified as absent or missing from their living arrangement have their current placement evaluated to ensure that the child or youth is placed in the most appropriate and supportive setting that maintains the child or youth's safety.

### **Assessing the Child's Experiences While Absent From Care**

**Citation: Code of Rules, Tit. 214, § 030-00-1**

DCYF staff, providers, and law enforcement will work collaboratively to ensure that children identified as absent or missing from their living arrangement are assessed for potential exploitation and receive the appropriate services and supports, if necessary. Once any missing/runaway child or youth is located, DCYF will assess the youth to determine the child or youth's experiences while absent from care.

### **Timeframes for Closing a Child's Placement After Running Away**

This issue is not addressed in the statutes and regulations reviewed.

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## **South Carolina**

### **Responding to Youth Missing From Foster Care**

To better understand this issue and to view it across States, download the [PDF](#) (327 KB) of this publication.

*Current Through May 2020*

#### **Protocols for Reporting Children Missing From Care to Law Enforcement**

**Citation: Hum. Serv. Pol. & Proc. Man. § 550.4**

*From the policy and procedure manual:* If a child runs away or goes missing from placement, the worker shall, after receiving information on the missing or abducted child, report the case within 24 hours, to law enforcement authorities for entry into the National Crime Information Center database of the Federal Bureau of Investigation in accordance with their protocols for such action.

The worker should provide the following information:

- Correct identifying information and any special circumstances that could place the child or the public at increased risk, including age, medical conditions, medications that could affect health or conduct if missed, physical or mental disabilities, history of criminal conduct or physical violence that could affect the responding officer's or the public's safety, and any history of suicidal ideation or action
- Whether the child has run away previously and was found at or known to have been at a particular location
- Addresses of parents, family, friends, and any significant persons in the child's life
- Any other information that could lead to helping locate the child
- A photo of the child



The worker shall file a report with the National Center for Missing and Exploited Children (NCMEC). The worker shall sign the release and verification form for NCMEC, indicating his or her job title on the form and that the signer is executing the release on behalf of the Department of Social Services (DSS), the child's custodian.

### **Protocols for Locating Children Missing From Care**

#### **Citation: Hum. Serv. Pol. & Proc. Man. § 550.4**

When a child is reported as missing from foster care, the worker shall do the following:

- Notify the following persons:
  - The parent/legal guardian
  - The child's guardian ad litem
  - School officials
  - Any service providers who may be affected
- Obtain a copy of any missing person report and place it in the child's case file
- Upon receipt of a signed pick-up order from a judge (if applicable), supply the order to law enforcement

The worker also shall do the following:

- Consult with the State office IV-E coordinator if the child's runaway/missing status continues for 30 days or longer
- Contact parents and/or other relatives or friends at least every 2 weeks (by letter, phone, or visit) to explore possible leads on the child's whereabouts
- Conduct follow-up contact with law enforcement at least every 2 weeks to determine the status of their efforts in locating the child
- Contact the Office of Investigation at least every 2 weeks to share information regarding efforts to locate the child
- Document all efforts to locate and retrieve the child in the case file

### **Determining the Factors That Led to a Child's Absence From Care**

#### **Citation: Hum. Serv. Pol. & Proc. Man. § 550.4**

As soon as possible after a child runs away from care, the worker shall meet with the foster family/caregiver to determine primary factors that possibly contributed to the child's running away or being absent from care.

### **Determining the Suitability of Current and Subsequent Placements**

#### **Citation: Hum. Serv. Pol. & Proc. Man. § 550.4**

To the extent possible and appropriate, the worker shall respond to the factors that contributed to the child's running away in current and subsequent placements. Upon the child returning to care, the worker shall place the child in a setting that addresses or remedies the issues that led to the child's runaway status, consulting the information provided by the foster parent/caregiver.

### **Assessing the Child's Experiences While Absent From Care**

#### **Citation: Hum. Serv. Pol. & Proc. Man. § 550.4**

Upon the child returning to care, the worker shall do the following:

- Determine the child's experiences while absent from care, including screening the child to determine if the child is a possible sex trafficking victim
- Notify NCMEC no later than 24 hours after the child's return
- Follow the local community response protocol, including the following:
  - Calling the local child advocacy center (CAC) to determine whether the CAC believes a medical needs assessment of the child is necessary
  - Arranging for a forensic interview if a forensic interview is recommended by the CAC

- Conducting a multidisciplinary team (MDT) meeting for a case staffing for commercial sexual exploitation of children, if recommended by the CAC
- Report to law enforcement any related information obtained from the CAC case staffing of the child, if recommended
- Place a copy of the child's medical needs assessment, a copy of the forensic interview (if applicable), and the results of the MDT meeting in the child's case file

If, at any point, the worker has reasonable cause to believe that the child has been a victim of sex trafficking, the worker shall follow the protocol for screening and service planning for sex trafficking victims.

### **Timeframes for Closing a Child's Placement After Running Away**

**Citation: Hum. Serv. Pol. & Proc. Man. § 550.4**

The agency shall not seek court-ordered emancipation of a child solely due to the child's runaway status.

Runaway foster children are in agency custody until a court relieves the agency of custody or the child reaches adulthood. It is not appropriate for DSS as custodian to ask the court to be relieved of custody or to ask for a child to be emancipated when the sole basis for the request is that the child is on runaway status.

To ask the court to emancipate a child, DSS must be able to show to the court that the child is not at risk of harm, is self-sufficient, and is self-supporting. To ask to be relieved of custody, DSS must be able show the child is not at risk of harm and that appropriate arrangements for care of the child are in place.

Children on runaway status are considered to be in foster care.

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## **South Dakota**

### **Responding to Youth Missing From Foster Care**

To better understand this issue and to view it across States, download the [PDF](#) (327 KB) of this publication.

*Current Through May 2020*

#### **Protocols for Reporting Children Missing From Care to Law Enforcement**

Not addressed in statutes reviewed.

#### **Protocols for Locating Children Missing From Care**

This issue is not addressed in the statutes and regulations reviewed.

#### **Determining the Factors That Led to a Child's Absence From Care**

This issue is not addressed in the statutes and regulations reviewed.

#### **Determining the Suitability of Current and Subsequent Placements**

This issue is not addressed in the statutes and regulations reviewed.

#### **Assessing the Child's Experiences While Absent From Care**

This issue is not addressed in the statutes and regulations reviewed.

#### **Timeframes for Closing a Child's Placement After Running Away**

This issue is not addressed in the statutes and regulations reviewed.

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# Tennessee

## Responding to Youth Missing From Foster Care

To better understand this issue and to view it across States, download the [PDF](#) (327 KB) of this publication.

*Current Through May 2020*

### Protocols for Reporting Children Missing From Care to Law Enforcement

**Citation: Supp. to Policy # 31.2**

From the *Protocol for Reporting Runaways, Absconders and Escapees* (Supplement to Policy # 31.2): Upon determining that a youth has run away from a placement, the caseworker, foster parent, or contract provider agency staff must complete the following steps immediately in the order listed below:

- The foster parent or contract provider agency staff shall contact local law enforcement (LE) and have the youth entered as a 'missing person.'
- The contract provider agency staff or foster parent next contacts the caseworker.
- LE is responsible for entering the youth into the National Crime Information Center (NCIC) and into the Missing Children of Tennessee databases.
- The reporter obtains the NCIC number and provides it to the caseworker within 1 business day. If LE cannot immediately provide the number, the caseworker makes it a priority to obtain the number as soon as possible.
- The caseworker requests a copy of the NCIC report, which is documented in the youth's case file.
- The caseworker next contacts the Department of Children's Services (DCS) Absconder Unit (DCS AU) to notify the unit of the youth's status.
- The caseworker files a report with the National Center for Missing and Exploited Children.
- The DCS AU provides follow up with the caseworker within 3 business days to ensure this step has been completed.

### Protocols for Locating Children Missing From Care

**Citation: Supp. to Policy # 31.2**

Upon determining that a youth has run away from a placement, the caseworker must do the following:

- Telephone the parents or caregiver to report the youth has run away
- Within 24 hours of the runaway incident, file a petition and request an attachment with the committing court and request copies of both

Upon notification that a custodial youth has run away, the caseworker conducts a thorough investigation of the youth's last known whereabouts. This investigation must include, but is not limited to, the following:

- Contacting contract agency staff, parents, foster parents, or other caregivers
- Contacting the youth's friends, school personnel, police, hospitals, clinics, and Department of Human Services Child Support Offices
- Contacting other individuals/agencies with which the family may have been in contact
- Checking social media sites for information

The caseworker must do the following:

- Make one unannounced home visit weekly for the first 30 days
- After the first 30 days, make one unannounced home visit monthly
- Contact the youth's parents or caregivers by telephone at least two times per month
- If the parents do not live together, contact each parent separately
- Conduct a full diligent search immediately if the family has moved without notice to DCS

The DCS AU provides assistance by prioritizing cases based on the medical or mental health needs and condition of the youth, age of the youth, and length of time on runaway. The unit gathers pertinent information to investigate what happened at the location of the run and the youth's background and history to prioritize the case. The type of support

the DCS AU provides is determined by the priority level, as follows:

- Low priority: The DCS AU tracks and monitors the youth through available reports and contacts the regional absconder representative at least one time per month.
- Moderate priority: The DCS AU assists caseworkers by phone with guidance and possible resources to assist the search. DCS AU tracks the youth through social media and other media avenues to assist the caseworker in determining the possible location of the youth.
- High priority: The caseworker partners with the regional absconder representative to identify high-risk youth for an active search. The caseworker and DCS AU staff actively seek the youth by going to relative homes, schools, community centers, malls/shopping centers, and contacting local law enforcement. The DCS AU obtains information from known friends, associates, and relatives of the youth to identify any possible leads and known locations.

### **Determining the Factors That Led to a Child's Absence From Care**

**Citation: Admin. Pol. & Proc. § 31.2**

*From the policy manual:* Once a youth has been located and returned to custody, the caseworker determines the primary factors contributing to the youth running away or being absent from care in order to appropriately respond to the youth's needs in subsequent placements.

### **Determining the Suitability of Current and Subsequent Placements**

**Citation: Admin. Pol. & Proc. § 31.2**

Once a youth has been located and returned to custody, the caseworker will convene a child and family team (CFT) meeting prior to placement, whenever possible, to determine how to best meet the youth's needs and to discourage future runaway episodes.

### **Assessing the Child's Experiences While Absent From Care**

**Citation: Admin. Pol. & Proc. § 31.2**

Once a youth has been located and returned to custody, the caseworker must do the following:

- Within 1 business day of recovery of the youth, notify the LE that entered the youth into NCIC, the regional absconder representative, and the absconder unit
- Notify the parents or legal guardians that the youth has been located
- By the next business day, notify all courts where a runaway petition/attachment was filed
- Immediately send a referral packet to the placement team to ensure a safe placement is available as runaway youth are located
- Ensure that any youth who reports sexual assault, physical assault, intravenous drug use, and/or is a victim or suspected victim of trafficking receives an immediate medical evaluation from a hospital emergency room, child advocacy center, or a community health-care provider to reduce the chance of contracting HIV, STDs, and/or pregnancy

The youth may choose to refuse a medical evaluation but should be taken to a health-care provider regardless so the youth may discuss the decision with a medical professional. Any youth that has been on a runaway episode for more than 24 hours and does not have any injuries should be scheduled for an Early Periodic Screening, Diagnosis and Treatment Standards interperiodic medical exam as soon as possible after returning to their placement.

Caseworkers and any CFT member must make an immediate child abuse hotline referral when any youth reports commercial sexual exploitation.

### **Timeframes for Closing a Child's Placement After Running Away**

This issue is not addressed in the statutes and regulations reviewed.

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# Texas

## Responding to Youth Missing From Foster Care

To better understand this issue and to view it across States, download the [PDF](#) (327 KB) of this publication.

*Current Through May 2020*

### Protocols for Reporting Children Missing From Care to Law Enforcement

**Citation: Fam. Code § 264.123; DFPS Pol. Handbook §§ 6461.1; 6461.2**

If a child in the managing conservatorship of the Department of Family and Protective Services (DFPS) is missing from the child's substitute care provider, including a child who is abducted or is a runaway, DFPS shall notify the following that the child is missing:

- The appropriate law enforcement agencies
- The court with jurisdiction over the DFPS's managing conservatorship of the child

DFPS shall provide the notice no later than 24 hours after the time DFPS learns that the child is missing or as soon as possible, if a person entitled to notice cannot be notified within 24 hours.

*From the [policy handbook](#):* If a child in DFPS's managing conservatorship runs away, is discovered to be missing, or is suspected to have been abducted from a substitute care placement, and the child's whereabouts are unknown, the caseworker must notify the following:

- His or her supervisor
- Appropriate law enforcement officials in the jurisdiction where the child went missing
- The National Center for Missing and Exploited Children (NCMEC)
- The special investigator (SI) program director and regional director assistant, after the caseworker files a missing person or runaway report with NCMEC and with the law enforcement agency with jurisdiction for the location from which the child went missing

The caseworker must provide these notifications immediately and no later than 24 hours after learning the child is missing.

*From the [Locating Missing Children in DFPS Conservatorship: Resource Guide](#):* If a child in DFPS's managing conservatorship runs away or is discovered to be missing from a substitute care placement and the child's whereabouts are unknown, the child's caseworker must notify the appropriate law enforcement (LE) officials (within 24 hours, or as soon as possible) and obtain the LE case number. The caseworker files a missing person/runaway report with the LE agency having jurisdiction at the location from where the child went missing. If a missing child meets the definition of an endangered child, the caseworker must report this information to law enforcement so the child can be designated as such in the National Crime Information Center (NCIC) and the Texas Crime Information Center.

### Protocols for Locating Children Missing From Care

**Citation: Fam. Code § 264.123; DFPS Pol. Handbook §§ 6461.1; 6461.3**

If a child in the managing conservatorship of DFPS is missing from the child's substitute care provider, including a child who is abducted or is a runaway, DFPS shall notify the following persons that the child is missing:

- The child's attorney ad litem and guardian ad litem
- The child's parent, unless the parent cannot be located or contacted, has had his or her parental rights terminated, or has executed an affidavit of relinquishment of parental rights

DFPS shall make continuing efforts to determine the location of a missing child until the child returns to substitute care, including the following:

- Contacting the following on a monthly basis:
  - The appropriate law enforcement agencies

- The child's relatives
- The child's former caregivers
- Any State or local social service agency that may be providing services to the child
- Conducting a supervisory-level review of the case on a quarterly basis if the child is age 15 or younger to determine whether sufficient efforts have been made to locate the child and whether other action is needed

*From the policy handbook:* The caseworker must provide notice that the child is missing or has run away to the following parties:

- Appropriate law enforcement officials
- The court
- The child's parents
- The parents' attorney
- The child's attorney ad litem, guardian ad litem, and court-appointed special advocate
- The SI
- NCMEC
- The child's probation or parole officer, if applicable

The caseworker must continue ongoing efforts to locate the child, and the assigned SI must actively assist the caseworker in searching for the child until the child is found or the court dismisses conservatorship of the child. The SI must remain in contact with law enforcement and NCMEC, if applicable, on a weekly basis until the child is located.

*From the resource guide:* The SI assigned to the case will take the following actions:

- Obtain needed information from the caseworker, including the LE and NCMEC case numbers
- Collect recent photos of the child
- Gather information on all relatives, friends, and associates
- Obtain all relevant health information for the child, including information on medications
- Obtain a copy of all court orders granting DFPS conservatorship of the child
- Contact the LEA where the report was filed and provide the LEA with all photos; court orders; diagnoses; medication information; and available information on family, friends, and associates of the child, if not already done
- If the caseworker has not already done so, notify NCMEC

The SI requests that law enforcement or NCMEC produce a flier on the child and confirms that the child is entered in the NCIC database. The SI provides the caseworker with a copy of any fliers produced by the LEA or NCMEC.

The SI remains in contact with the caseworker, LEA, and NCMEC (if applicable) on a continuous basis, but at a minimum on a weekly basis, until the child is located. This includes monthly contacts with the child's relatives, former caregivers, and any State or local social service agency that may be providing services to the child.

The SI conducts a search through all accessible internet sites and cell phone records. The SI should document evidence of the child's location; online activity; and/or the online enticement into, or compelling the child into, human trafficking activity. The SI should consider the child's online activity, such as whether the child has a blog, instant messaging accounts, Facebook, or other social media accounts. The SI should also investigate whether the child's cell phone activity has continued or stopped.

The SI reviews the child's record and interviews case reporters, parents, other caregivers, witnesses, siblings, friends, school staff, neighbors, and any other persons with information about the child and family.

### **Determining the Factors That Led to a Child's Absence From Care**

**Citation: Fam. Code § 264.123**

After a missing child returns to the child's substitute care provider, DFPS shall interview the child to determine the reasons why the child was missing.

### **Determining the Suitability of Current and Subsequent Placements**

**Citation: DFPS Pol. Handbook § 6461.5**

If the reasons the child ran away or was absent from care are revealed during the interview, the caseworker must, to the extent possible, address those factors in the child's current and future placements.

**Assessing the Child's Experiences While Absent From Care****Citation: Fam. Code § 264.123; DFPS Pol. Handbook § 6461.5**

If a child has been reported as a missing child, DFPS shall notify the appropriate persons when the child returns to the child's substitute care provider no later than 24 hours after the time DFPS learns that the child has returned or as soon as possible, if a person entitled to notice cannot be notified within 24 hours.

After a missing child returns to the child's substitute care provider, DFPS shall interview the child to determine the reasons why the child was missing, where the child stayed during the time the child was missing, and whether, while missing, the child was a victim of sex trafficking. DFPS shall report to an appropriate law enforcement agency any disclosure made by a child that indicates that the child was the victim of a crime during the time the child was missing. DFPS shall make the report no later than 24 hours after the time the disclosure is made. DFPS is not required to interview a missing child if, at the time the child returns, DFPS knows that the child was abducted, and another agency is investigating the abduction.

*From the policy handbook:* If a child in DFPS's managing conservatorship returns to substitute care, the caseworker and/or the SI, whoever made first contact with the child, must interview the child to determine the following:

- The reasons the child ran away or was absent from care
- The child's experiences while absent, including screening to determine if the child was a sex or labor trafficking victim

If the interview identifies the child as a victim of trafficking, the caseworker must immediately, or no later than 24 hours after the identification, report the situation to local law enforcement.

The interviewer must contact the regional director assistant for further guidance. If the caseworker completes the interview, the caseworker must share the information with the SI, and if the SI completes the interview, the SI must share the information with the caseworker.

*From the resource guide:* With law enforcement cooperation, the caseworker conducts an interview with the recovered child. It is best practice to involve the SI in the interview process, if possible, due to their expertise. The interviews should consist of questions to determine the following:

- If any child abuse and/or neglect occurred while the child was missing
- If there are any indicators of human trafficking activities
- Other experiences of the child while absent from care
- The reasons why the child ran away from care

If not present at the interview, the caseworker shall share interview results with the SI so the SI can complete the found survey.

If child abuse/neglect or human trafficking is suspected, the caseworker shall schedule a forensic interview in coordination with law enforcement at a child advocacy center as soon as practical. The caseworker must consult with the assigned SI on all suspected human trafficking cases.

If the caseworker learns that abuse (including sex and human trafficking) and/or neglect occurred in the child's placement or by a household or family member while the child was missing from placement, the caseworker will make a referral to statewide intake. If the caseworker is made aware of allegations of sex or labor trafficking that may have occurred while the child was missing from placement, and the alleged perpetrator is not a household or family member, the caseworker will work with the SI to notify law enforcement.

**Timeframes for Closing a Child's Placement After Running Away**

This issue is not addressed in the statutes and regulations reviewed.

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# Utah

## Responding to Youth Missing From Foster Care

To better understand this issue and to view it across States, download the [PDF](#) (327 KB) of this publication.

*Current Through May 2020*

### Protocols for Reporting Children Missing From Care to Law Enforcement

**Citation: Div. of Child & Family Serv. Practice Guidelines, § 300.8**

*From the [Practice Guidelines](#):* If the child is under age 18, the caregiver must notify the caseworker immediately that the child is missing. This includes the last time the child was seen, when the caregiver noticed he or she was missing, and what he or she was wearing.

Upon receiving information from the caregiver that the child is missing, the caseworker will do the following:

- Staff the case within 2 hours of receiving the information with members of the Child and Family Team (CFT) to determine if the child has run away or is missing, kidnapped, or abducted
- File a missing person report immediately with the law enforcement agency where the child resides and provide any necessary information in the report that will promote the safe return of the child, including the following:
  - Demographic information and recent photographs of the child
  - Blood type, dental records, scars, marks, tattoos, and other identifiable features
  - Where the child was last seen
- Work with law enforcement to determine if an Amber Alert should be issued
- Obtain a case record (police report and number) from the law enforcement agency
- Request that the child be placed on the National Crime Information Center database for missing persons within 2 hours of the report being made
- Report that the child is missing to the National Center for Missing and Exploited Children (NCMEC)
- For the report to NCMEC, gather case information and relevant materials, including the following:
  - The child's full name and date of birth
  - The date the child went missing
  - The city and State from where child went missing
  - Guardian information, including agency name, and telephone
  - Law enforcement information, including agency name and telephone

NCMEC also requests comprehensive information regarding the child in order to be able to effectively assist in locating the child. This includes physical descriptive information (e.g., height, weight, hair and eye color, clothing worn) any risks or endangerments to the child, circumstances surrounding the incident, a description of any person who may be with the child, and a photograph.

### Protocols for Locating Children Missing From Care

**Citation: Div. of Child & Family Serv. Practice Guidelines, § 300.8**

If it is determined that the child has run away, the caseworker will do the following:

- Notify the parent(s) and/or guardian within 24 hours that the child has run away
- Engage the parent(s) and/or guardian to determine if the child has run to the parent(s) and/or guardian, as follows:
  - If the family does know where the child is but refuses to disclose the location of the child, the caseworker will ask if the child's basic needs are being met.
  - If the family does not know where the child is but commits to notifying the caseworker if the child makes contact with the family, the caseworker will continue to follow-up with the family on possible leads. Any information gained from these conversations will be given to law enforcement to aid in finding the child.



- The caseworker will inform the family of the current statute regarding harboring a runaway.
- Notify the assistant attorney general (AAG) that the child has run away and pursue a warrant under Utah Code Ann. § 78A-6-106(6)
- Notify the guardian ad litem and child's parent or guardian who has a right to parent-time with the child that a warrant has been issued
- If it is during the school year, contact the school and request that they notify the Division of Child and Family Services if the child contacts or arrives at school
- Notify other members of the CFT that the child has run away
- Try to make contact with the child through a variety of means, including texting, email, and social media (Facebook, Twitter, etc.), as well as through any other family or relational contacts at least weekly until the child has been located or 8 weeks from the time the child was reported as runaway, whichever is sooner, to assess if the child is safe and their needs are being met
- If the child responds to the outreach made by the caseworker, gather critical information regarding the safety and well-being of the child

If the child makes contact, the caseworker will encourage the child to come back into care. This must be done with sensitivity to the child and his or her situation, as the child may have been running from an unsafe situation and does not trust the division or the caseworker.

### **Determining the Factors That Led to a Child's Absence From Care**

**Citation: Div. of Child & Family Serv. Practice Guidelines, § 300.8**

Once the child is located, the caseworker will determine the primary factors that caused or contributed to the child's absence from care. The caseworker will select a placement for the child that accommodates the child's needs and takes into consideration the factors and experiences that led to the child running from care.

### **Determining the Suitability of Current and Subsequent Placements**

**Citation: Div. of Child & Family Serv. Practice Guidelines, § 300.8**

If the child engages in chronic runaway behavior (i.e., has run away more than three times a year or more than once in a 30-day period), the caseworker will assess with the CFT the reasons the child is running and implement strategies to address the behavior. This could include the following:

- Assessing the placement to determine if the placement best meets the needs of the child
- Considering a higher or lower level of care if it better meets the needs of the child
- Determining if the child is running to something/someone such as family, peers, and/or intimate relationships
- If the child is running to someone, consider making these relationships part of the CFT
- Assessing if there are issues at school that have an impact on the placement or contribute to the runaway behavior, such as bullying or other negative peer relationships or struggles with academic progress
- Addressing with the child's treatment provider issues relating to the runaway behavior
- If necessary, conducting a professional staffing with the region permanency specialists

Once the child is located, the caseworker will assist the resource family consultant to give resources to the placement that may aid in the placement's ability to care for the child, including research articles and training materials.

A CFT meeting will be convened as soon as possible after the child has been returned to determine the correct placement of the child and to determine if additional services are needed as a result of any trauma or behavioral needs the child may have.

### **Assessing the Child's Experiences While Absent From Care**

**Citation: Div. of Child & Family Serv. Practice Guidelines, § 300.8**

Once the child is located, the caseworker will do the following:

- Remove the child from the NCMEC website

- Assess if the child is a victim of commercial sexual exploitation of children (CSEC), including conducting an interview with the child in a neutral location after the child's physical needs have been met and the child is safe
- Screen the child for CSEC by asking the following screening questions:
  - Did someone control, supervise, or monitor your work/actions?
  - Could you leave your job or work situation if you wanted to?
  - Was your communication ever restricted or monitored?
  - Were you able to access medical care?
  - Were you ever allowed to leave the place you were living/working?
  - Under what conditions?
  - Was your movement outside of your residence/workplace ever monitored or controlled?
  - What did you think would have happened if you left the situation?
  - Was there ever a time when you wanted to leave but felt that you could not?
  - What do you think would have happened if you left without telling anyone?
  - Did you feel it was your only option to stay in the situation?
  - Did anyone ever force you to do something physically or sexually that you didn't feel comfortable doing?
  - Were you ever physically abused (shoved, slapped, hit, kicked, scratched, punched, burned, etc.) by anyone?
  - Were you ever sexually abused (sexual assault/unwanted touching, rape, sexual exploitation, etc.) by anyone?
  - Did anyone ever introduce you to or provide you with drugs or medications?

If the child reports that they may be victims of CSEC, the caseworker will access the appropriate resources to address the CSEC. This includes, but is not limited to, the following:

- Report to law enforcement within 24 hours that the child may be a victim of CSEC and assist in the investigation
- Access the appropriate mental health care, preferably with a therapist that specializes in treating victims of CSEC
- Inform the placement that the child may be a victim of CSEC

### **Timeframes for Closing a Child's Placement After Running Away**

#### **Citation: Div. of Child & Family Serv. Practice Guidelines, § 300.8**

The caseworker will staff the case with their regional administrative team to determine if the out-of-home caregiver should continue to be paid, as outlined in Administrative Guidelines § 060.8, while the child is on the run. The agreement to pay the out-of-home caregiver will not exceed 10 days.

If the child is on the run for more than 8 weeks, the caseworker will contact the law enforcement agency who took the initial report to give further information, including dental records, scars, marks and tattoos, jewelry type, blood type, and other identifiable features in the event that a deceased is discovered locally or nationwide.

If the child is on the run for more than 12 weeks, the caseworker will staff the case with regional administration to determine if the case should remain open or if a petition to close the case should be filed. If a petition is filed requesting the case be closed, the caseworker must address in the petition what steps have been taken to find the child. If possible, the caseworker will include verification that the child is safe while the child has been on the run and whether the child will continue to be safe. If the case is to remain open, the caseworker will make monthly attempts to locate the child.

If the child over age 18 has run away, the caseworker will convene a professional staffing within 24 hours to determine if the case should remain open as the child is over age 18. The professional team will consider the following:

- The overall safety of the child
- The age and developmental level of the child

- The child's ability to meet his or her own needs
- The child's relationships and the level of support the relationships will provide
- Whether the case should remain open or whether the foster care case should be closed, and the child be released from care

If it is determined that the child is not safe on his or her own, the caseworker will follow the practice guidelines for a runaway child under age 18. If it is determined by the professional team that the child should remain in care, the caseworker will notify the AAG that a warrant will need to be filed with the juvenile court.

If it is determined that the child can meet his or her own needs and remain safe on his or her own, the caseworker will ask the AAG to file for an early review to close the case.

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## Vermont

### Responding to Youth Missing From Foster Care

To better understand this issue and to view it across States, download the [PDF](#) (327 KB) of this publication.

*Current Through May 2020*

#### Protocols for Reporting Children Missing From Care to Law Enforcement

**Citation: Fam. Serv. Pol. Man., Policy # 155**

*From the [policy manual](#):* The Department for Children and Families (DCF), Family Services Division caseworker is responsible to take all actions detailed in this policy to locate a child missing from his or her placement and to document all efforts in case notes.

The efforts described below must be completed by the end of the business day:

The caseworker shall immediately notify the appropriate law enforcement agency and provide the child's photograph to them. The law enforcement agency with jurisdiction is of the town from which the child ran away or went missing. If the child is known or suspected to be a victim of trafficking, the worker shall share this information with the law enforcement lead investigator. District staff will consult with the Interstate Compact on the Placement of Children (ICPC) deputy compact administrator on all cases in which trafficking is known or suspected to have occurred.

The caseworker shall ensure a general broadcast communication is issued and the child has been entered into the National Crime Information Center database. Additionally, district staff will report all missing children and youth to the National Center for Missing and Exploited Children.

The caseworker should discuss the use of an Amber Alert in cases where the child has been abducted. A written, notarized report may also be requested by law enforcement. Centralized Intake and Emergency Services (CIES) is responsible for these tasks after hours, on weekends, and holidays.

The caseworker will determine if there are any unusual circumstances that would place the child at a higher level of risk. If unusual circumstances are present, the worker will contact law enforcement immediately to indicate there is a higher level of risk to the child. Unusual circumstances refer to a missing child who meets any of the following criteria:

- Is under age 13
- Is believed to be out of an area familiar to him or her
- Is at increased risk due to age or developmental level
- Is intellectually or developmentally delayed or has a mental health diagnosis that would increase risk to the child
- Is substance dependent or requires prescribed medications
- Was absent for more than 24 hours before being reported to law enforcement
- Is in a potentially life-threatening situation
- Is believed to be with others who could endanger his or her welfare

- Is suspected or known to be a victim of sex trafficking
- Is currently at risk of self-harm or suicidal ideation
- Is absent under circumstances inconsistent with his or her established patterns of behavior and this absence cannot be readily explained
- Disappeared under circumstances that would lead a reasonable person to conclude that the child should be considered at higher risk

### **Protocols for Locating Children Missing From Care**

#### **Citation: Fam. Serv. Pol. Man., Policy # 155**

If a child is missing, the caseworker shall notify the child's parents or caregivers as soon as possible but before the end of the day. If the child's parents or caregivers are suspected of facilitating or having knowledge of the runaway—or harboring or trafficking the child—the caseworker shall consult with a supervisor and law enforcement before notifying the child's parents or caregivers.

Caseworkers will attempt to ascertain the whereabouts of the child, in conjunction with law enforcement and the Vermont Intelligence Center (VIC), and through contact with family, friends, and other community partners and providers (e.g., school personnel, foster parents, residential staff, other service providers). Any information gathered should be provided to law enforcement.

If it is suspected that the youth ran away with their peers or other youth in DCF custody, coordination should occur between district offices and workers. If the caseworker reasonably suspects the youth is at a specific location, the caseworker should notify the law enforcement agency with jurisdiction and request that the youth be picked up. If the jurisdiction is outside the State of Vermont, the worker will notify and seek consultation from ICPC deputy compact administrator.

The caseworker shall maintain weekly contact with law enforcement and the VIC and update them with any new information. At least weekly, the worker shall continue to make efforts to locate the child in conjunction with law enforcement. This may include, but is not limited to, the following:

- Contacting the child's friends and family to request information about the child's whereabouts and persons with whom the child may be associating
- Contacting school personnel from the school the child last attended or at other schools the child previously attended, if it is believed the child maintains a close relationship with persons at that school
- Contacting the child's adult probation officer, if applicable
- Contacting any other individuals who are believed to have knowledge of the child's whereabouts
- Utilizing social media to search for the missing child and determine a possible location based on any updates he or she may have posted

The caseworker and a supervisor shall formally review all efforts to locate the youth within 7 days of the youth's runaway and every 14 days thereafter.

### **Determining the Factors That Led to a Child's Absence From Care**

#### **Citation: Fam. Serv. Pol. Man., Policy # 155**

After the child has been located, the caseworker shall interview the child in person within 7 business days of his or her return to care. Topics caseworkers should cover include, but are not limited to, the following:

- Why did the child leave their previous placement?
- Did the child feel unsafe in their previous placement?
- Did anyone encourage the child to leave?

### **Determining the Suitability of Current and Subsequent Placements**

#### **Citation: Fam. Serv. Pol. Man., Policy # 155**

The caseworker, supervisor, resource coordinator, and client placement specialist shall discuss plans for the child's placement upon return to DCF care.

## Assessing the Child's Experiences While Absent From Care

### Citation: Fam. Serv. Pol. Man., Policy # 155

When the child has been located, law enforcement should be notified immediately. Parents or caregivers should be notified that the child has been located as soon as possible but by the end of the day. Division staff will ensure the child's basic needs are met immediately upon their return. Basic needs include safety and protection for the child, safe housing, food, personal hygiene, clothing, medical care, and mental health supports.

The caseworker shall interview the child in-person within 7 business days of his or her return to care and take a photograph of the child at that time. The interview may be conducted in conjunction with law enforcement and shall be when the circumstances of the child's absence are not solely related to running away. If the child is suspected or known to be a victim of trafficking, division staff should discuss with law enforcement the appropriate timing of investigation and/or consultation in order to support the victim and provide a trauma-informed response.

The interview shall be conducted in a nonjudgmental, nonthreatening, comfortable, and child-friendly location when possible. Topics workers should cover include, but are not limited to, the following:

- Where did the child go?
- What is the first thing the child did after leaving?
- What else did the child do while he or she was gone?
- How did the child meet basic needs (e.g., housing, food, clothing)?
- Did the child perform any sort of sexual act to meet any of his or her basic needs?
- Who was the child with, if anyone, while absent?
- Did anyone loan or give the child money?
- Did anyone provide the child with expensive gifts or favors?
- Did anyone pressure the child into doing something he or she did not want to do?
- Did anyone take a photo or video of the child that made him or her uncomfortable?
- Was the child the victim of a crime (including physical or sexual assault) while he or she was gone? Any affirmative answers should be referred to law enforcement and other service referrals should be considered.
- Did the child engage in any risky behaviors (e.g., substance use, self-harm, sexual activity, any sexual acts in exchange for basic needs or under the influence of exploitation or coercion) while he or she was gone?
- Did the child engage in any behaviors that might put him or her at risk of sexually transmitted infections?
- What supports or services would the child like to have to help with any experiences he or she had while they were away?
- What were the best and worst things about being away?
- Does the child plan to run away again? If so, why?
- What can the worker do to help prevent the child from not running away again?

When the caseworker knows or suspects that the youth engaged in risky behaviors such as sexual activity or substance use, they will schedule an appointment with the primary care physician. Workers should assess the appropriateness of a SANE (Sexual Assault Nurse Examiner) exam, health screening, and/or trauma screening. Workers should enlist the help of victim specialists or make victim services referrals as appropriate.

If information is learned that causes division staff to believe a child or youth may have been a victim of sex trafficking while missing or on run, a report of child abuse must be made to CIES. Children and youth under age 18 cannot legally consent to providing sex or sexual acts in exchange for money, drugs, food, clothes, housing, or meeting basic needs. Consultation with the ICPC deputy compact administrator is required for all trafficking cases.

## Timeframes for Closing a Child's Placement After Running Away

### Citation: Fam. Serv. Pol. Man., Policy # 155

Division staff will update the placement form after the child has been missing or on run for 3 days. When a child has run away or is temporarily absent from a foster home or other placement, payment may continue for up to 15 days if the plan is for the child to return to that placement.

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## Virgin Islands

### Responding to Youth Missing From Foster Care

To better understand this issue and to view it across States, download the [PDF](#) (327 KB) of this publication.

*Current Through May 2020*

#### Protocols for Reporting Children Missing From Care to Law Enforcement

Not addressed in statutes reviewed.

#### Protocols for Locating Children Missing From Care

This issue is not addressed in the statutes and regulations reviewed.

#### Determining the Factors That Led to a Child's Absence From Care

This issue is not addressed in the statutes and regulations reviewed.

#### Determining the Suitability of Current and Subsequent Placements

This issue is not addressed in the statutes and regulations reviewed.

#### Assessing the Child's Experiences While Absent From Care

This issue is not addressed in the statutes and regulations reviewed.

#### Timeframes for Closing a Child's Placement After Running Away

This issue is not addressed in the statutes and regulations reviewed.

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## Virginia

### Responding to Youth Missing From Foster Care

To better understand this issue and to view it across States, download the [PDF](#) (327 KB) of this publication.

*Current Through May 2020*

#### Protocols for Reporting Children Missing From Care to Law Enforcement

**Citation: Child & Family Serv. Man., Part E, § 17.13**

*From the [Child & Family Services Manual](#):* The local department of social services (LDSS) shall provide immediate verbal notification to the appropriate local law enforcement agency and the National Center for Missing and Exploited Children (NCMEC) within 24 hours upon receiving information on any child who is missing or running from care. The LDSS should follow up by sending subsequent written notification within 48 hours or as required by law enforcement protocol. The LDSS should ask law enforcement to enter information about the child into the FBI's National Crime Information Center database, which includes information on missing persons.

Once a report is filed with law enforcement, the LDSS shall contact NCMEC. NCMEC can only accept reports from the legal guardian. Information to be shared with law enforcement and NCMEC (as appropriate) includes the following:

- Biographical information and photographs
- Names and addresses of friends, relatives, present and former foster parents and placement staff, and acquaintances
- Suspected destinations
- Prior disappearances and outcome

Other information regarding special circumstances that should be highlighted in communications with law enforcement officials may include, but are not limited to, the following:

- The child is younger than age 13.
- The child or youth is intellectually disabled.
- The child or youth is drug dependent, including prescribed medication and/or illegal substances and if the dependency is life-threatening.
- The child or youth was missing more than 24 hours before being reported to law enforcement.
- The child or youth is believed to be in a life-threatening situation.
- The child or youth is believed to be in the company of adults who may endanger his or her safety.
- Other circumstances involved in the disappearance would cause a reasonable person to conclude that the child or youth may be considered 'at imminent risk.'

If the worker believes that a child or youth has unwillingly left the foster care placement or has been removed by an unauthorized person, the worker should request that the child be placed on the Amber Alert system when making the report to law enforcement. The local law enforcement officials will determine if Amber Alert criteria are met and will activate the network when appropriate.

### **Protocols for Locating Children Missing From Care**

#### **Citation: Child & Family Serv. Man., Part E, § 17.13**

When a child or youth has runaway or is discovered to be missing from the foster care placement and the child or youth's whereabouts are unknown, the service worker should do the following:

- Provide immediate verbal notification to the following:
  - The parents, unless the parents cannot be found or have had their parental rights terminated
  - The child's or youth's guardian ad litem (GAL)
- Provide notification of the disappearance within 24 hours, or as soon as possible, to the following:
  - Family members
  - Service providers
  - Other appropriate persons

The service worker should discuss with all parties the collaborative efforts they can all take to locate the child or youth.

The service worker shall continue to make efforts to locate the child or youth each month that the child or youth remains missing or on runaway status. Data show most youth run to friends, family, or the streets. It is very important to know who and how to contact their friends or family. It is also very important to be aware of the youth's hangouts and activities.

Efforts to locate the child or youth shall include, but are not limited to, contacting the following:

- Law enforcement
- Birth parents, family members, and relatives
- Former caregivers
- Other agencies that may be providing services
- NCMEC

Efforts should also be made to track the child or youth's activities via Facebook or other social media sites. It will be necessary to work with the police or NCMEC to obtain access to restricted pages.

The case of a missing child or youth should be staffed on a quarterly basis with a supervisor to ensure that efforts made to locate the child or youth have been sufficient and no other actions are needed.

When information regarding the possible location of a missing child or youth is received, the service worker should staff immediately with a supervisor to assess the most appropriate course of action to secure the child's safety.

#### **Determining the Factors That Led to a Child's Absence From Care**

This issue is not addressed in the statutes and regulations reviewed.

#### **Determining the Suitability of Current and Subsequent Placements**

**Citation: Child & Family Serv. Man., Part E, § 17.13**

If a youth runs to see his or her birth family, the worker should assess current safety issues and consider placement with family or an increase in family visits.

**Assessing the Child's Experiences While Absent From Care****Citation: Child & Family Serv. Man., Part E, § 17.13**

When the child returns to the foster care placement after being reported to law enforcement as a runaway or missing person, the service worker should ensure that appropriate law enforcement are notified immediately of the child or youth's return but no later than 24 hours after the service worker was notified. When the child or youth had been placed on the Amber Alert system, the service should notify law enforcement within 1 hour of the child or youth's return, consistent with the protocol established by local law enforcement.

Parents and the GAL should be notified as soon as possible after the service worker has been notified of the child's return. Other parties notified of the runaway or missing status of the child should be notified of the child or youth's return within 24 hours but no later than 48 hours of the child or youth's return.

Engaging the youth is essential when they return. It is important for the youth to feel welcome, supported, and cared about. Their immediate needs should be met. The worker should always talk to a youth about a run episode. The main focus of the discussion is to determine if the youth is okay and to gather enough information to develop a plan to help the youth not to want to run in the future. The information obtained in this process may prevent a future run and help the service worker develop targeted information.

Some questions to ask may include the following:

- Are you ok?
- Do you need any supports, services, or medical attention?
- What do you need right now to feel safe?
- Is there anything I can do to make it easier to stay?
- Was there anything that would have changed your mind to keep from running?
- What did you hope to happen when you left?
- Did you have a plan on how to take care of yourself and did it work out?
- What made you decide to return?
- What are your plans for the future?
- What do you want to see happen in the next 3 months?

LDSS shall report to law enforcement within 24 hours after receiving information on a child or youth who has been identified as being a sex trafficking victim.

**Timeframes for Closing a Child's Placement After Running Away**

This issue is not addressed in the statutes and regulations reviewed.

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## Washington

**Responding to Youth Missing From Foster Care**

To better understand this issue and to view it across States, download the [PDF](#) (327 KB) of this publication.

*Current Through May 2020*

**Protocols for Reporting Children Missing From Care to Law Enforcement****Citation: DCF Child Welfare Policies, § 4550**

*From the DCYF [policy manual](#):* Department of Children, Youth and Families (DCYF), Children's Administration (CA) staff are required to respond when a youth is missing from care (MFC). The response includes the following actions:



- A run report must be filed with law enforcement (LE) and the National Center for Missing and Exploited Children (NCMEC) when a youth is MFC. CA staff cannot give NCMEC consent to release a child's information.
- Caregivers must be informed of the requirement to file a run report with LE and contact NCMEC when a youth is MFC. Caregivers must be informed they cannot give NCMEC consent to release youth information.
- The caseworker must document the LE run report number in a case note. If the caregiver did not file a run report or contact NCMEC, the caseworker must immediately contact LE to file a run report and obtain the LE run report number and contact NCMEC to make a run report.
- LE and NCMEC must be contacted for a youth remaining on the run at age 18 to terminate the run report.

### **Protocols for Locating Children Missing From Care**

#### **Citation: DCF Child Welfare Policies, § 4550**

When a youth is MFC, CA staff are responsible for the following:

- Active and ongoing efforts must be made to locate a youth who is MFC within 24 hours of notification and until the youth returns to out-of-home care.
- When a youth is MFC overnight or longer, the case must be staffed with a supervisor within 2 calendar days, excluding weekends and holidays.
- An attorney must be requested for a youth who is MFC overnight or longer, if the youth does not have an attorney.

When a youth is MFC, CA staff must do the following:

- Notify individuals or agencies important to a youth within 24 hours of learning the youth is MFC, including, but not limited to, the following:
  - The legal parent or guardian
  - Relatives
  - The child's attorney, court-appointed special advocate, and guardian ad litem
  - The child's school
  - The child's therapist
  - The child's Tribe, if applicable
- Make ongoing search efforts to locate the child beginning within 24 hours of learning the youth is MFC and continue until the youth returns to care. Ongoing outreach and search efforts may include, but are not limited to, the following locations, individuals, and entities:
  - Bus stations
  - Youth centers
  - Family members' and friends' homes
  - Places the youth may frequently be found
  - School
  - Homeless shelters
  - Available agency databases
  - Probation/parole officers, if applicable
- Communicate with family, friends, and known associates
- Search social media websites
- Notify the regional MFC lead within 48 hours of learning a youth is MFC

The caseworker must conduct an MFC staffing with the supervisor within 2 calendar days (excluding weekends and holidays) for a youth MFC overnight or longer. The MFC staffing includes the following:

- Search strategies and efforts
- Protective factors and vulnerabilities of the youth
- Individuals contacted
- Potential reasons the youth ran
- Determining if the youth needs an attorney appointed

- Determining if a pick-up order and warrant are needed
- Discussing if a court hearing should be scheduled

If a court hearing is scheduled, the following areas must be discussed:

- Placement problems or whether no appropriate placement options are available
- Additional services needed to support or stabilize the youth
- Search and run prevention that have occurred
- Any efforts to locate the youth

The caseworker must document the following in a monthly case note until the youth returns to out-of-home care or ages out of care:

- Continued efforts to locate the youth
- Any contact with the youth
- Other critical information obtained related to the youth's health, safety, or whereabouts
- Any follow-up action taken since entry of the prior case note

### **Determining the Factors That Led to a Child's Absence From Care**

**Citation: DCF Child Welfare Policies, § 4550**

At the MFC staffing, the caseworker and the supervisor will discuss potential reasons the youth ran.

### **Determining the Suitability of Current and Subsequent Placements**

**Citation: DCF Child Welfare Policies, § 4550**

The run prevention plan is developed using information gathered from the youth during the returning debriefing interview and should focus on the following:

- Services or activities that the youth needs to help him or her stay in care, including, but not limited to, the following:
  - An increase in family time or other safe, positive social connections
  - Independent-living skills
  - Medical visits
  - Substance use disorder treatment
  - Behavioral health services
- Interventions that could prevent the youth from running from care, including, but not limited to, the following:
  - Alone time
  - Time to visit with friends
  - Listening to music
- Creating a list of individuals that youth will reach out to if they have a desire to run in the future
- Talking to youth about what they are feeling during the 'need to run' moment

### **Assessing the Child's Experiences While Absent From Care**

**Citation: DCF Child Welfare Policies, § 4550**

When youth return to care, CA staff must do the following:

- Notify LE, NCMEC, and other individuals important to the youth's case within 24 hours of the youth's return to out-of-home care
- Assess and address any identified health or safety concerns and assist the youth in accessing appropriate care within 24 hours of the youth's return to out-of-home care
- Conduct a debriefing interview with the youth within 2 calendar days (excluding weekends and holidays) of the youth's return to out-of-home care, as follows:
  - Evaluate the youth for health and safety concerns and assist with appropriate care and safe placement
  - Discuss the youth's interest in re-establishing connections with their birth family, including parents, grandparents, and siblings, including discussing skills and strategies to safely reconnect with any

identified family members, and provide guidance and services to assist the youth

- Develop a run prevention plan or review and update an existing run prevention plan with any new relevant information with the youth
- Complete the CSEC Screening Tool DSHS 15-476, as required by the [Commercially Sexually Exploited Children \(CSEC\) policy](#).

### **Timeframes for Closing a Child's Placement After Running Away**

**Citation: DCF Child Welfare Policies, § 4550**

The youth's dependency must continue while he or she is on the run until his or her 18th birthday, at which time the caseworker must request to dismiss the dependency, unless the youth enrolls in extended foster care.

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## West Virginia

### **Responding to Youth Missing From Foster Care**

To better understand this issue and to view it across States, download the [PDF](#) (327 KB) of this publication.

*Current Through May 2020*

#### **Protocols for Reporting Children Missing From Care to Law Enforcement**

**Citation: DHHR Foster Care Pol. Man. § 5.20**

*From the [policy manual](#):* When a child is missing, abducted, or is on runaway status, it is vital that information is reported quickly to law enforcement agencies to ensure the child's safe return. The Department of Health and Human Resources requires foster care providers to provide notification to the department immediately when a child runs away, is missing, or is abducted. When notified that a child is missing, abducted, or is on runaway status, the department worker is required to provide notification to law enforcement immediately, and in no case later than 24 hours after receiving information on missing or abducted children, for entry into the National Crime Information Center database of the Federal Bureau of Investigation. The department worker must notify the National Center for Missing and Exploited Children (NCMEC) within the first 24 hours as well.

The child's worker must take the following steps to ensure that the child is located safely and quickly:

- Contact law enforcement immediately, but no later than 24 hours, to report the child is missing, has been abducted or has run away
- File a runaway petition or missing person's report, if one has not been filed by the provider
- Provide law enforcement with any information needed to locate the child, including a recent photo to assist in the identification of the child
- Cooperate with law enforcement completely to locate the child

The worker then must contact NCMEC also within 24 hours. The worker should have the following information ready and available to report to NCMEC:

- The child's full name
- The child's date of birth, gender, height, and weight
- The date child went missing
- The city and State from which the child went missing
- Guardian information, including agency name and telephone number
- Law enforcement information, including agency name, telephone, and police report number

Additional information that may be requested by NCMEC, if available, include the following:

- Physical descriptive information (e.g., hair and eye color, clothing worn)
- Any risk or endangerment to the child
- Circumstances surrounding the incident

- A description of any person who may be with the child
- A recent photograph of the child

### **Protocols for Locating Children Missing From Care**

#### **Citation: DHHR Foster Care Pol. Man. § 5.20**

When a child is missing, the child's worker must do the following:

- Notify the child's birth parents, if parental rights have not been terminated, immediately about the child's situation
- Immediately notify their immediate supervisor and community services manager
- Notify the court, guardian ad litem, or attorney for the child

Workers should consult with their immediate supervisor and community services manager to consider additional options in locating missing children, while keeping the child and family's foster care status confidential.

### **Determining the Factors That Led to a Child's Absence From Care**

#### **Citation: DHHR Foster Care Pol. Man. § 5.20**

Once the child has been located, the worker will complete the Away from Supervision/Runaway Event Survey to determine the primary factors that contributed to the child's running away or otherwise being absent from care.

### **Determining the Suitability of Current and Subsequent Placements**

#### **Citation: DHHR Foster Care Pol. Man. § 5.20**

To the extent possible and appropriate, the child's worker must respond to the factors that contributed to the child's running away in current and subsequent placements.

### **Assessing the Child's Experiences While Absent From Care**

#### **Citation: DHHR Foster Care Pol. Man. § 5.20**

Once the child has been located, the worker will complete the Away from Supervision/Runaway Event Survey with the following information:

- Determining the child's experiences while absent from care, including screening the child to determine if the child is a possible sex trafficking victim
- Reporting such related information as required by the department
- Based on the child's experiences while away from supervision, scheduling appropriate evaluations or exams

The worker will notify law enforcement, NCMEC, and court of the child's return immediately but in no case later than 24 hours.

### **Timeframes for Closing a Child's Placement After Running Away**

#### **Citation: DHHR Foster Care Pol. Man. § 5.20**

If a child or youth has been away from supervision of the agency for more than 180 days and cannot be located, the department must seek a modification of disposition order releasing the department of care, custody, and control. If the rights of the child's parent have been terminated, the department cannot be released from its responsibility and must actively seek the whereabouts of the missing child or youth.

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## **Wisconsin**

### **Responding to Youth Missing From Foster Care**

To better understand this issue and to view it across States, download the [PDF](#) (327 KB) of this publication.

*Current Through May 2020*

## Protocols for Reporting Children Missing From Care to Law Enforcement

**Citation: Ann. Stat. § 48.78(2m); DCF Div. of Safety & Perm. Ongoing Ser. Stds.**

If an agency that has responsibility for the placement, care, or supervision of a child determines that a child is missing, the agency shall do all the following:

- Within 8 hours after making that determination, report that determination to a local law enforcement agency for entry of that information into the National Crime Information Center (NCIC) databases
- Within 24 hours after making that determination, report that determination to the National Center for Missing and Exploited Children (NCMEC)
- Share information about a missing child with law enforcement agencies, NCMEC, and other agencies that are involved in efforts to locate the missing child

*In policy:* This standard applies to all cases in which a youth is living in an out-of-home care setting and the whereabouts of the youth are either unknown or the youth does not have permission to be away from the out-of-home care setting. This policy applies beginning at the point a youth is removed from his or her home and the Department of Children and Families or a county agency has placement and care responsibility.

Once the agency has determined that a youth is missing from out-of-home care, the agency must do the following:

- Ensure that law enforcement has been notified that a youth is missing, including whether the youth is at-risk or has been a victim of sex trafficking
- Within 24 hours, notify NCMEC
- Inform NCMEC if the youth is at risk or has been a victim of sex trafficking

The following information shall be provided to NCMEC in the missing report:

- The youth's first and last name and date of birth
- The youth's race, gender, height and weight, and eye and hair color
- The date and time the youth was last seen
- The person who reported the youth missing to the agency
- The city, country, and State the youth is missing from
- The date of the missing report was made to law enforcement
- The law enforcement agency the report was made to
- A description of the circumstances surrounding the missing episode
- Indicators or facts that the youth was being groomed, recruited, or victimized through sex trafficking
- Special needs of the youth, such as medical conditions, allergies, cognitive/developmental delays, behavioral/emotional needs, history with running, history with or at-risk of drug and/or alcohol use, suicide risk, gang involvement, etc.
- Contact information for the agency with placement and care responsibility, including the contact person's name, phone number, email address, and agency name and address

Optional information includes the following:

- The street address, zip code, and county the youth is missing from
- A current photograph of the youth
- Vehicle information (i.e., make, model, year, color, license plate) associated with the youth's missing episode
- Any companion(s)/abductor(s) (i.e., name, sex, race, relationship to youth, physical appearance, known address) who may be accompanying the youth
- The youth's nickname(s)/alias(es)
- The youth's medication(s)
- Information about the youth's parents or guardian
- The youth's cell phone number and email address
- Contact information for the law enforcement agency that received the missing report
- The law enforcement case number
- Confirmation of whether the missing report also was made to the NCIC

## Protocols for Locating Children Missing From Care

### Citation: DCF Div. of Safety & Perm. Ongoing Ser. Stds.

Once the agency has determined that a youth is missing from out-of-home care, the agency must do the following:

- Make efforts immediately to inform the following:
  - The parent/caregiver, legal custodian, and guardian
  - The out-of-home care provider, if the youth was not with the provider when he or she went missing
  - The Indian child's Tribe, if applicable
  - The appropriate Interstate Compact on the Placement of Children (ICPC) or Interstate Compact for Juveniles (ICJ) contact, if a youth is placed in Wisconsin through the ICPC or ICJ
- Conduct and continue efforts to find the youth until the youth no longer meets the definition of missing in care
- Continue to do permanency planning activities, according to §§ 48.38 and 938.38 of the statutes
- Manage bed holds and provider payments

An agency may also want to inform the youth's school, mental health providers, legal representative, and other service providers working with the youth and family to coordinate efforts to locate the youth.

Agencies have the ability to determine the continued efforts to search, as this will vary depending on the circumstances of the missing episode, the individual youth, and case plan. An agency should consider the following activities in searching for a youth who has been determined missing:

- Contact the youth's friends, relatives, or significant others for possible information about his or her whereabouts
- Contact the youth's school, if school is in session
- If the youth has been missing before, contact any person the youth was found with or in the location the youth was located previously
- Determine whether any of the youth's friends or significant others also are missing and, if so, whether their families or friends have additional information
- Determine whether the youth or anyone taking the youth left any written information that may indicate where the youth has gone or been taken

## Determining the Factors That Led to a Child's Absence From Care

### Citation: DCF Div. of Safety & Perm. Ongoing Ser. Stds.

When a youth is no longer missing from out-of-home care, the agency with placement and care responsibility shall interview the youth about the missing episode to determine the primary factors that contributed to the youth's missing episode and follow-up on any safety or well-being concerns raised by the youth or his or her caregiver(s). The issues to be determined include the following:

- Determine whether the youth was missing as the result of a perpetrator or exploiter influence, such as being forced or coerced to run away
- Determine the child's or juvenile's motivation for running away, such as either of the following:
  - Whether the youth was running to something, such as peers, birth parent(s), or other family members
  - Whether the youth was running from something, such as an unsafe environment or unsafe person

## Determining the Suitability of Current and Subsequent Placements

### Citation: DCF Div. of Safety & Perm. Ongoing Ser. Stds.

Once the agency has determined the youth has been found and is again under the care and supervision of the agency, the agency must do the following:

- Revise the family interaction plan to consider any new safety concerns
- Discuss planning for the prevention of future missing-in-care episodes with the youth and family team to ensure youth safety, community safety, permanency, and well-being
- Describe the plan for the prevention of future missing episodes

This plan should be discussed with the youth; the youth's birth parent(s)/legal guardian; the out-of-home care provider; the youth's treatment team; the youth's Tribe, if applicable; and any other individual(s) who would be taking a role in the prevention of future missing episodes.

### **Assessing the Child's Experiences While Absent From Care**

**Citation: DCF Div. of Safety & Perm. Ongoing Ser. Stds.**

Once the agency has determined the youth has been found and is again under the care and supervision of the agency, the agency must do the following:

- Make efforts immediately to inform the following:
  - The parent/caregiver, legal custodian, and guardian
  - The out-of-home care provider
  - The Indian child's Tribe, if applicable
  - The appropriate ICPC or ICJ contact, if applicable
- Verify that law enforcement has been notified of the youth's return, if the youth was listed as a missing person
- Within 24 hours, notify NCEMC of the youth's return to out-of-home care
- Manage bed holds and provider payments
- Inform the court and court officials, as specified in interagency policies or agreements
- Obtain any appropriate court restrictions to maintain the youth safely in out-of-home care
- Seek any necessary follow-up medical care or counseling for the youth
- Assist the youth in obtaining any educational materials necessary to catch the youth up from the time he or she was considered missing, if school was missed

Agencies must evaluate the child's or juvenile's need for treatment and services within 1 business day following an episode of missing from care by interviewing the youth about the missing episode to determine the primary factors that contributed to the youth's going missing. As part of this interview, the agency shall assess the youth to determine if the youth was a possible sex trafficking victim during the missing episode, seek any necessary medical attention, and discuss planning for the prevention of future missing-in-care episodes with the youth and family team to ensure the safety of the youth and community, permanency, and well-being.

When the youth is no longer missing, an assessment shall be made to address the following:

- Determine if the missing episode was the result of the youth running away
- If the missing episode was due to the youth running away, assess the following:
  - Frequency of running
  - Consistency of destination
  - Safety of destination
  - Involvement in illegal activities
  - Likelihood to return on their own
  - Involvement with others
  - Realistic expectations
- Determine if the youth was a victim of any of the following during the missing episode:
  - Sex trafficking
  - Sexual assault
  - Physical abuse
  - Emotional abuse
  - Medical trauma
  - Alcohol and other drug abuse
  - Injuries

### **Timeframes for Closing a Child's Placement After Running Away**

**Citation: DCF Div. of Safety & Perm. Ongoing Ser. Stds.**

When a youth is considered missing from out-of-home care, the case shall not be closed just because the youth is missing from care. Any decision to close a case with an open court order for a youth who has not yet reached age 18, or who has reached age 18 with an open court order, should be done in consultation with the agency's legal counsel.

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## Wyoming

### Responding to Youth Missing From Foster Care

To better understand this issue and to view it across States, download the [PDF](#) (327 KB) of this publication.

*Current Through May 2020*

#### Protocols for Reporting Children Missing From Care to Law Enforcement

**Citation: DFS Prot. & Juv. Ser. Man., Pol. # 2.9(4)**

*From the [policy manual](#):* When any child or youth in the care of or under the supervision of the Department of Family Services (DFS) has been identified as a runaway, has been abducted, or is otherwise missing or absent from care, a DFS caseworker shall immediately, and in no case later than 24 hours, notify the following:

- Local law enforcement to be entered into the National Crime Information Center
- The National Center for Missing and Exploited Children
- The county attorney or district attorney
- The guardian ad litem or defense attorney
- The court or judge

#### Protocols for Locating Children Missing From Care

This issue is not addressed in the statutes and regulations reviewed.

#### Determining the Factors That Led to a Child's Absence From Care

**Citation: DFS Prot. & Juv. Ser. Man., Pol. # 2.9(4)**

Information on any child or youth in the care of or under the supervision of DFS who is a runaway or missing from care shall be documented in DFS data system. The information shall include the date the youth ran away/went missing and the date the youth returned, as well as the reason for leaving.

#### Determining the Suitability of Current and Subsequent Placements

This issue is not addressed in the statutes and regulations reviewed.

#### Assessing the Child's Experiences While Absent From Care

**Citation: DFS Prot. & Juv. Ser. Man., Pol. # 2.9(4)**

The human/sex trafficking screening shall be completed, with the results documented in the DFS data system.

The child or youth shall receive a medical examination. If the youth identifies any sex trafficking indicators, services shall be provided.

#### Timeframes for Closing a Child's Placement After Running Away

This issue is not addressed in the statutes and regulations reviewed.

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## State Policies Preventing Children from Running from Care

The Timothy Montoya Task Force to Prevent Youth from Running from Out-of-Home Placement, and its Prevention Subcommittee, is considering policy options to enhance prevention efforts. To aid this, the Office of Colorado’s Child Protection Ombudsman (CPO) has conducted research on approaches taken in other states’ statutes and regulations for consideration.

The following pages present four states – Kansas, Vermont, Wyoming and Texas – as examples of prevention efforts made in state policy and/or regulation. In conducting this research, the CPO searched for statute and regulation that included both the types of out-of-home care being considered by the task force (not including environments such as corrections facilities), locking capabilities, and guidance or restrictions on allowed use of seclusion and restraint. On the final page, Texas’ policy providing for runaway prevention education training is described. Federal resources providing overviews of related state policies can be found [here](#) and [here](#).

It is important to note that the CPO is providing this information as an informational resource, not as an endorsement, and this is not a comprehensive capture of task force considerations.

**Kansas:** Regulations specify a system that allows for “secure residential treatment facilities”, with entrances and exits exclusively controlled by staff. These are for youth with a certain diagnosis and with specific stated characteristics as described. Standard length of treatment is six months, although this can be extended. Regulations describe limited allowance of seclusion and restraint, and enumerate the rights to which youth in such facilities are entitled.

**Vermont:** Regulations define Secure Programs, which employ locked or inoperable doors and windows to prevent youth from leaving 24-hour residential care. Regulation also specifies regulations around the use of seclusion and restraint for youth in secure facilities.

**Wyoming:** Regulations describe Secure Residential Treatment Centers (RTCs) which use locked doors to prevent children from leaving and which must be nationally accredited. Limited use of physical restraint, related requiring training, and limited use of Seclusion Rooms is also included.

**Texas:** Texas recently enacted legislation creating requirements for certain caretakers to take training related to runaway prevention. Statute also requires the provision of trauma-informed care. Training materials for both of these are available for free online, without registration.

## Kansas Policies Preventing Children from Running from Care

*[This resource](#) compiles Kansas' licensing regulations for secure residential treatment facilities (K.A.R. 28-4-330 through 343), beginning with a table of contents on page 32. Below are snippets from these regulations; please refer to the full regulation text in the above link for complete context, exact sequencing, and more detail.*

**Locked Facilities** - [28-4-330 Definitions](#) (see page 35 of compilation [resource](#))

(n) **“Secure facility”** means a child care facility that is operated or structured to ensure that the **entrances and exits from the facility are under the exclusive control of the staff...** (o) **“Secure residential treatment facility”** means a secure facility operated or structured to provide a therapeutic residential care alternative to psychiatric hospitalization for five or more **youth with a diagnosis of a severe emotional, behavioral, or psychiatric condition.**

[28-4-335. Admission and release policies](#) (see page 52 of compilation [resource](#))

(b) **Any youth may be admitted** to the secure residential treatment facility **if the preadmission evaluation of the youth indicates all of the following:** (1) The youth is a danger to self or others. (2) The youth requires treatment in a secure setting. (3) Less restrictive care is not available.

(h) **Length of treatment.** (1) Each youth shall be **released or transferred within six months** of the youth's admission date. (2) A secure residential treatment facility may **request that a youth remain in the facility longer** than six months, if the treatment team determines that continued treatment in a secure residential treatment facility is necessary and the department approves.

[28-4-339. Rights of youth](#) (see page 72 of compilation [resource](#))

(a) **The rights of youth** while in the licensee's care or control **shall not be diminished or denied for disciplinary reasons.** (b) Each secure residential treatment facility shall establish and implement **written policies and procedures concerning the rights of the youth.**

**Seclusion and Restraint** - [28-4-338](#) (see page 65 of compilation [resource](#))

(1) **Involuntary seclusion** shall be permitted within a secure residential treatment facility **only when** a youth is out of control, continually refuses to obey reasonable and lawful requests, or behaves in a way that presents a threat to self or others. (2) Each secure residential treatment facility shall establish and implement **written policies and procedures** that govern the use of involuntary seclusion...(d)(1)Each facility shall establish and implement **written policies and procedures** that govern the use of **restraint.** (4) **Restraint or involuntary seclusion** shall never be used for punishment or for the convenience of staff. Restraint or involuntary seclusion shall **not be used for more than three consecutive hours** without medical reevaluation of its necessity, except between the hours of 12:00 midnight and 8:00 a.m.

## Vermont Policies Preventing Children from Running from Care

*[This resource](#) compiles Vermont's licensing regulations for secure residential treatment facilities (CVR 13-172-001). Below are snippets from these regulations; please refer to the full regulation text in the above link for complete context, exact sequencing, and more detail.*

### Locked Facilities

Secure Program: is a building secure Residential Treatment Program which employs **locked or inoperable doors and windows to prevent children/youth from leaving the building** i.e. a detention program or hospital.

Residential Treatment Program: (formerly called a Residential Child Care Facility) is a place, however named, which provides a planned program aimed at behavioral change, administered by qualified staff, for **children in a twenty-four hour residential setting...**

### Seclusion and Restraint

**Restraint, Mechanical:** The use of any device, article, or garment attached or adjacent to the child/youth's body that restricts freedom of movement.

**Restraint, Physical:** The application of physical force by one or more individuals that reduces or restricts the child/youth's freedom of movement, including an escort.

Secure Facilities shall be **exempt** from the following regulations...

648 A Residential Treatment Program shall prohibit all cruel, severe, unusual or unnecessary practices including, but not limited to:

- Strip searches;
- **Mechanical restraint.**
- **Locked buildings, rooms, recreation areas.**

...

Secure Facilities shall follow these additional regulations.

901 Orientation and on-going training shall include; Security procedures; **Trauma informed** use of **mechanical restraint**; **Trauma informed** execution of strip search.

...

905 **Mechanical Restraints** shall only be used by the program to **bring a child/youth into the facility, when exiting the facility, and off the premises** while in the custody of the facility.

## Wyoming Policies Preventing Children from Running from Care

Regulations on this topic can be found by going to [this link](#), selecting Family Services, Dept. of, then selecting Providers of Substitute Care Services, Certification of. Below are snippets from these regulations; please refer to the full regulation text for complete context and more detail.

**Locked Facilities** - WY Rules and Regulations 049.0029.10 ([file link](#))

RTC's [Residential Treatment Centers] provide services for children who require a combination of therapeutic, educational, and treatment services in a group care setting.

(b) **Secure RTC** is defined as an RTC or portion of an RTC, which **uses locked doors or any other physical measures to prevent children from leaving** the RTC.

(i) Secure RTCs shall comply with all standards set forth in [this Chapter](#)

(ii) A facility which offers both **secure and non-secure** care shall have a separate living unit or wing of a living unit provided exclusively for secure care.

(iii) **Locking hardware** is permitted on children's sleeping room doors if equipped with an approved electronic locking-release mechanism.

(iv) **All secure RTCs must be nationally accredited.**

WY Rules and Regulations 049.0029.3 [file link](#)

Health and safety requirements for adoptive homes, foster care and therapeutic foster care...

(viii) **Doors** shall be operable from the inside without the use of a key or special effort, **excluding secure facilities.**

**Seclusion and Restraint** - WY Rules and Regulations 049.0029.3 [file link](#)

(i) The purpose of **physical restraint** shall be to provide only that **degree of physical control** that the child is unwilling or unable to provide for him or herself and to prevent physical harm to self or others...The organization shall ensure that a child is **released from a restraint** as soon as the child gains control...An organization shall not permit the application of a restraint if a child has a documented physical or mental condition that would **contraindicate** its use...If the organization is using physical restraint, all staff and foster parents using physical restraint shall be **oriented and trained** in a nationally recognized program for appropriate behavioral intervention procedures...Each program choosing to use **physical restraint** shall have a written **physical restraint policy**...

A **Seclusion Room** is a safe and secure individual room in which a child, who is **beyond control and a danger to himself/herself or others**, may be temporarily **confined**...At the time of admission of the child to the facility, the child's parent or legal guardian shall be informed of the use of the Seclusion Room and the circumstances under which it will be employed and a **written consent must be obtained** from the child's parent or legal guardian authorizing the use of the Seclusion Room...**Time limits** are as follows: (A) One (1) hour for children nine (9) years of age and under; and (B) Two (2) hours for children ten (10) years of age and above... There shall be **no more than one (1) locked door** between the child and the staff member, unless a mechanism for supportive monitoring is in place.

## Texas Policies on Trauma-Informed and Runaway Prevention Education

*In 2023, Texas enacted a [bill](#) creating a requirement that caregivers of children in the conservatorship of the department under 10 years of age must complete runaway prevention education. That statute is provided below, along with related agency training and resources.*

### **Texas - V.T.C.A., Family Code § 264.015**

(a) The department shall include training in **trauma-informed** programs and services in any training the department provides to foster parents, adoptive parents, kinship caregivers, department caseworkers, and department supervisors...

(d) **Each foster parent, prospective adoptive parent, and relative or other designated caregiver** who provide care for children and youth in the conservatorship of the department who are 10 years of age or older **shall complete a training program** on:

(1) **runaway prevention measures**; and

(2) **proper procedures in the event a child or youth runs away** from the provider.


(e) The training under Subsection (d) may be:

(1) offered to providers who provide care for children in the **conservatorship** of the department who are **younger than 10** years of age who have a history of running away;

(2) included as part of existing licensing training provided by the department or contracted residential child-care providers; and

(3) offered in lieu of required training that is not relevant based on the age of the children for whom the person will be providing care.

The Texas Department of Family and Protective Services (DFPS) website has **two training modules** to comply with this statute: [Runaway Prevention](#) and [Trauma-Informed Care](#). These can be taken for free with no log-in required. Both are offered in English or Spanish. The DFPS also has a [Runaway Prevention Resource Guide](#) available online, with sections on runaway prevention, children at higher risk for runaway behavior, notifications, what to do if a child is at risk of running away, and a special section on **runaway prevention planning for children in substitute care**.

 <b>VERMONT</b> DEPARTMENT FOR CHILDREN AND FAMILIES <b>Family Services Policy Manual</b>		<h1>155</h1>
Chapter:	Coordinating with Others	
Subject:	Runaway, Abducted, and Missing Children & Youth	Page 1 of 16
Approved:	Aryka Radke, Deputy Commissioner	Effective: 7/10/2023
Supersedes:	Family Services Policy 155	Dated: 1/25/2018

## Purpose

To outline the steps taken when a child or youth in DCF custody runs away, is abducted, or is otherwise missing.

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## Related Policies

Family Services [Policy 51](#): Screening Reports of Child Abuse and Neglect  
Family Services [Policy 52](#): Child Safety Interventions – Investigations and Assessments  
Family Services [Policy 60](#): Juvenile Proceedings Act – CHINS (C) and (D) Assessments  
Family Services [Policy 94](#): Foster Care Placements & Collaboration with Caregivers

## Definitions

**Critically Missing Young Adult:** A term used by the National Center for Missing and Exploited Children (NCMEC) to describe young adults ages 18, 19, and 20 who are at an elevated risk of danger if not located as soon as possible due to the circumstances surrounding their disappearance.

**Missing or Absent Child or Youth:** A child or youth in DCF custody whose whereabouts are unknown to DCF or to the child’s caregivers. Further, federal law ([34](#)

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[U.S.C. § 11292](#)) defines a “missing child” as any individual less than 18 years of age whose whereabouts are unknown to the child’s parent or legal guardian; this includes children who have gone missing for any reason at all. This definition also includes situations where an emergency care order has been issued and the child cannot be located and/or it is believed a parent or caretaker may have absconded with the child(ren).

***Runaway Child or Youth:*** A child or youth in DCF custody who is voluntarily missing from care for more than three (3) hours. A child may be considered a runaway sooner than three hours if any of the following are true:

- The child has stated they are running away;
- The child or another party contacts the parents, caretakers, or worker and indicates the child is not returning to their placement;
- The child misses a clearly stated appointment or curfew and the caretaker or worker has reason to believe the child does not intend to return;
- Some or all of the child’s possessions are missing;
- The child is under the age of 13; or
- The child has a history of runaway behavior.

***Abducted Child or Youth:*** A child or youth in DCF custody whose whereabouts are unknown and it is known or suspected that the child has been taken from their placement or other location by a person or persons either known or unknown to the child, in violation of a valid court order regarding the child’s custody status.


***Human Trafficking of Minors:*** A form of child sexual abuse. See **Sex Trafficking of Minors**. In addition to child protection definitions articulated in Title 33, [Chapter 49](#) of the Vermont Statutes, a definition of human trafficking, aggravated human trafficking, and companion definitions of other terms exists within Title 13 (Crimes and Criminal Procedure), [Chapter 60 \(Human Trafficking\)](#) of the Vermont Statutes. Additional definitions pertaining to human trafficking exist within [federal law](#).

Note that the definitions of human trafficking and sex trafficking differ for youth over the age of 18. Exploiting someone through “survival sex” is legally different for children compared to adults.

***Sex Trafficking of Minors:*** A range of crimes committed against children and adolescents, including but not limited to:

- the sexual exploitation of a minor;
- recruiting, enticing, harboring, transporting, providing, or obtaining by any means for the purpose of sexual exploitation;



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- exploiting a minor through survival sex (exchanging sex or sexual acts for money or something of value, such as shelter, food, or drugs);
- using a minor in child pornography;
- exploiting a minor through sex tourism, mail order bride trade, and early marriage; or,
- exploiting a minor by having her/him perform in sexual venues (e.g., peep shows or strip clubs).

## Introduction

Children and youth in DCF custody who run away from their placement settings (including kinship or foster placements, residential treatment programs, and in-state or out-of-state placements) are particularly vulnerable to sex trafficking and its dangerous health and mental health consequences. Children and youth are not developmentally, legally, or socially able to consent or make the “choice” to become involved in the commercial sex industry nor provide sex or sexual acts in exchange for money, drugs, food, clothes, housing, or meeting their basic needs. Risk factors for sex trafficking include a history of abuse, neglect and trauma; low self-esteem and minimal social support; and runaway and homeless youth.


As a general practice, the division attempts to identify youth who are at risk of going missing or running away based on their previous runaway behaviors, threats to run, and other overall risk factors. At the time of each placement or soon after placement, division staff provide foster/kinship caregivers with the [Child Information & Placement Checklist](#) to provide known information about the youth, which includes their history of running away.

## Policy

### Legal Framework

Title IV-E (42 U.S.C. § 671(35)) requires the division to develop and implement specific protocols for locating and ensuring the safety of youth who are missing from care, including all the following:

- Expeditiously locating any youth missing from foster care;
- Determining the primary factors that contributed to the youth’s running away or otherwise being absent from care;
- To the extent possible and appropriate, responding to those factors in current and subsequent placements;
- Determining the youth’s experiences while absent from care, including screening the youth to determine if the youth is a possible sex trafficking victim; and

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- Reporting to law enforcement authorities immediately, and in no case later than 24 hours, after receiving information on a missing or abducted youth for entry into the National Crime Information Center (NCIC) database of the Federal Bureau of Investigation and to the National Center for Missing and Exploited Children (NCMEC).

The notification requirements and efforts to locate missing children and youth described in this policy are primarily applicable to young people in DCF custody under the age of majority. However, situations involving youth ages 18+ in custody who have run away or are missing are included in this policy. Though not legally children, the National Center for Missing and Exploited Children (NCMEC) assists law enforcement with cases of critically missing young adults aged 18, 19, and 20.


### **Photographs of Children/Youth and Distinguishing Characteristics**

A photograph of each child and youth in DCF custody shall be taken every six months and each time a young person returns after missing or being on run. Photographs should be taken at a straight angle and include the child’s head and shoulders to encompass their entire facial features. Photographs of children and youth in DCF custody should be stored electronically and in the child’s file. Division staff may partner with the child’s parents, foster or kinship parents, residential treatment program staff, or others with a significant relationship with the child to obtain updated photos regularly.

Photographs should also be taken and filed of unique distinguishing characteristics (birthmarks, scars, piercings, tattoos, and/or brandings) that are **not** in private areas of the young person’s body. Additionally, youth should be asked if new tattoos have been obtained while missing or on the run. If so, the new tattoos should be photographed if they are not in a private area. If distinguishing characteristics are in a private area and not appropriate to be photographed, the division should attempt to obtain a verbal description of the distinguishing characteristic or tattoo (i.e., on what location on the body and in colored ink vs. black ink).

### **Efforts to be Completed by the End of the Business Day**

The assigned family services worker, with the support of their team as available and applicable, is responsible to take all actions detailed in this policy to locate a child or youth missing from their placement and to document all efforts in case notes. Centralized Intake and Emergency Services (CIES) is responsible for immediate and urgent tasks outlined in this section of the policy after hours, on weekends, and holidays.

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### Reporting to Law Enforcement


Federal law requires reporting to law enforcement authorities immediately, and in no case later than 24 hours, after receiving information on a missing or abducted child for entry into the National Crime Information Center (NCIC) database of the Federal Bureau of Investigation (FBI) and to the National Center for Missing and Exploited Children (NCMEC).

The law enforcement agency with jurisdiction is the town from which the child ran away or went missing. The family services worker shall immediately notify the appropriate law enforcement agency to file a missing child report and provide the child's photograph. Staff should be prepared to provide all identifying information on the missing child:

- The child's first and last name;
- The child's date of birth, gender, height, and weight;
- Any endangerments pertaining to the child; and
- The circumstances surrounding the child's disappearance.

Per [20 V.S.A. § 1823](#), once a law enforcement agency receives complete missing person details from a complainant, statute requires them to prepare a missing person report and disseminate it to the Commissioner of Public Safety, all law enforcement agencies within the jurisdiction where the missing person lives or was last seen, any other law enforcement agencies that can reasonably be expected to be involved in any investigation, any agency to which the complainant reasonably requests the report be sent or those requesting a copy, and all media in the region unless such disclosure would impede the investigation. Further, [20 V.S.A. § 1824](#) requires law enforcement to commence a search as soon as a report is received, and it **does not allow** agencies to set time limitations on when a search can commence (i.e., 24 hours after someone goes missing).

The family services worker shall request from law enforcement that a General Broadcast Communication (GBC) is issued and the child has been entered into the FBI's National Crime Information Center (NCIC) database. Division staff should provide law enforcement with instructions to enter into NCIC regarding where the child/youth should be taken when found. Most often, the instruction should be to take the youth to the police station (or hospital if they require immediate medical attention or need to be medically screened) to wait for a division employee prior to returning the young person to their placement. If the child is found with parents, NCIC will need instruction on whether the young person should stay at home or be brought to a police station to wait for division staff.

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### **Reporting to the National Center for Missing and Exploited Children (NCMEC)**

A report to law enforcement and entry into NCIC does not automatically generate a report to NCMEC. Therefore, division staff will report all missing children and youth to the National Center for Missing and Exploited Children (NCMEC) 24-Hour Call Center at 1-800-THE-LOST (1-800-843-5678) as required by federal law. See [NCMEC's Case Worker Quick Reference Guide](#) for a summary of the information NCMEC will hope to obtain from division staff. The division's [Missing Child/Youth Notification Form \(FS-155\)](#) is well-aligned with NCMEC's reference guide and the most pertinent information to gather and report. An [online NCMEC account](#) may be created for reporting missing children electronically, though a follow-up phone call should be expected.

[P.L. 117-348 of 2022](#) requires:

- more communication and details when the division reports missing or abducted children to law enforcement and NCMEC, which include maintaining regular communication with law enforcement and NCMEC in an effort to provide a safe recovery of a missing or abducted child or youth, including sharing information pertaining to the child's or youth's recovery and circumstances related to the recovery;
- the report submitted to law enforcement agencies and NCMEC to include, where reasonably possible:
  - a photo of the missing or abducted child or youth,
  - a description of the child's or youth's physical features, such as height, weight, sex, ethnicity, race, hair color, and eye color, and
  - endangerment information, such as the child's or youth's pregnancy status, prescription medications, suicidal tendencies, vulnerability to being sex trafficked, and other health or risk factors.


The division's [Missing Child/Youth Notification Form \(FS-155\)](#) has been updated to include this additional information.

#### **AMBER Alerts**

The family services worker should discuss the use of an AMBER Alert (America's Missing: Broadcast Emergency Response) in cases where the child has been abducted. A written, notarized report may also be requested by law enforcement.

#### **Notifications & Efforts to Locate the Child**

If a child is missing, the worker shall notify the child's parents or caretakers as soon as possible, but before the end of the day. If the child's parents or caretakers are suspected of facilitating or having knowledge of the runaway, or harboring or trafficking the child, workers shall consult with a supervisor and law enforcement before notifying the child's

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parents or caretakers. If the child is receiving a residential treatment level of care, the worker should consult with the child’s clinical team before notifying the parents or caretakers. CIES is responsible for this task after hours, on weekends, and holidays.

Division staff will attempt to ascertain the whereabouts of the child, in conjunction with law enforcement and the Vermont Intelligence Center (VIC), and through contact with family, friends, and other community partners and providers (e.g., school personnel, foster parents, residential staff, or other service providers). Any information gathered should be provided to the investigating law enforcement agency or agencies.

The family services worker will determine if there are any endangerment circumstances that place the child at a higher level of risk. If any of the following circumstances are true, the family services worker will inform law enforcement that there is a higher level of risk to the child. Endangerment circumstances that place a child at high risk refer to a missing child who:

- is under 13 years of age;
- is believed to be in an unfamiliar area;
- was missing for more than 24 hours before being reported to law enforcement;
- is in a potentially life-threatening situation;
- is suspected or known to be a victim of human trafficking or there is a concern of exploitation;
- has prior running away behaviors;
- has a life-threatening condition;
- is believed to be with others who could endanger their welfare;
- is believed to be with one or more contacts/strangers found through the internet or apps (online enticement/luring);
- has a suspected, documented, or diagnosed medical or mental health condition;
- has a disability (physical, developmental, intellectual/learning, behavioral/emotional, or sensory impaired);
- is believed to be using substances or impaired;
- requires prescription medication;
- is pregnant;
- is currently at risk of self-harm or suicidal ideation or attempts;
- is absent under circumstances inconsistent with their established patterns of behavior and this absence cannot be readily explained; or
- disappeared under other circumstances that would lead a reasonable person to conclude that the child should be considered at higher risk.

If it is suspected that the youth ran with their peers or other youth in DCF custody, coordination should occur between district offices and workers.

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If the family services worker reasonably suspects the youth is at a specific location, the worker should notify the investigating law enforcement agency and requests that the youth be picked up.

### Missing Child/Youth Notification Form

Staff shall email a runaway/missing alert and photo of the child to the Family Services Division and the deputy director of the VIC ([Ronald.LaFond@vermont.gov](mailto:Ronald.LaFond@vermont.gov)) using the [Missing Child/Youth Notification Form \(FS-155\)](#) with the following subject line: **[secure] Missing Child from \_\_\_\_\_ (District Office)**. The deputy director of the VIC should be included in immediate and ongoing efforts to locate the child.

Detailed protected health information is not shared in this division-wide notification. Health information may be shared in limited circumstances when there is a serious and imminent threat to the health and safety of the youth, which is done through the checkboxes on the [Missing Child/Youth Notification Form \(FS-155\)](#) as opposed to a detailed narrative.

### Out-of-State Coordination


If the youth has run away and it is suspected or known they are in another state, the assigned worker will notify and seek consultation from ICPC/ICJ deputy compact administrator. The ICPC/ICJ deputy compact administrator then sends an email with the [Missing Child/Youth Notification Form \(FS-155\)](#) and youth's photo to the other state's ICJ designee. This informs them that the youth may be in their state and requests assistance from them in picking up the youth and holding them under the ICJ Compact.

### Data Entry

District offices are responsible for data entry to document when youth are missing and when they return. Staff shall complete the Incident Form ([FS-585T](#)) by the end of the business day of determining a child or youth is either missing, abducted, or on runaway status. District directors will determine whether staff enter information directly into SSMIS or complete the form and give it to their administrative support staff for entry. CIES is not responsible for SSMIS data entry after hours, on weekends, and holidays.

### Ongoing Efforts to Locate the Child

A [High End Placement Meeting](#) may be utilized to pull together a team consultation focused on enhancing safety, locating the youth, and creatively exploring resources and options when a youth is missing or on run. The ICPC/ICJ deputy compact administrator and the deputy director of the VIC ([Ronald.LaFond@vermont.gov](mailto:Ronald.LaFond@vermont.gov)) should be included in these meetings if a child is missing. The plan, recommendations, and decisions

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should be documented in case notes. Important and specific instructions for what to do when the youth is located should be entered as a case note alert.

The family services worker shall maintain weekly contact with law enforcement and the VIC and update them with any new information. At least weekly, the worker shall continue to make efforts to locate the child in conjunction with law enforcement. This may include, but is not limited to, the following:


- Contacting the child’s friends and family to request information about the child’s whereabouts and persons with whom the child may be associating;
- Contacting school personnel from the school the child last attended or at other schools the child previously attended if it is believed the child maintains a close relationship with persons at that school;
- Contacting the child’s attorney, guardian ad litem (GAL), and other members of the child and family’s team;
- Contacting the child’s adult probation officer if applicable;
- Contacting any other individuals who are believed to have knowledge of the child’s whereabouts; and/or
- Utilizing social media to search for the missing child and determine a possible location based on any updates they may have posted.

Division staff will update the [FS-580: Placement Form](#) after the child has been missing or on run for three days and again upon the child’s return. When a child has run away or is temporarily absent from a foster home or other placement, payment may continue for up to 15 days if the plan is for the child to return to that placement.

The worker and a supervisor shall formally review all efforts to locate the youth within seven days of the youth’s runaway, and every 14 days thereafter. The worker, supervisor, resource coordinator, and client placement specialist shall discuss plans for the child’s placement upon return to DCF care.

If the worker, supervisor, and law enforcement agree that a press release is necessary (separate from the [Vermont Missing Persons Facebook Page](#)), this will be discussed with the Family Services Deputy Commissioner or designee. The child’s custody status cannot be released to the public. The final decision to issue a press release is made by law enforcement. If a press release is going to be issued, the DCF Commissioner’s Office shall be notified immediately.

If it is suspected that a parent abducted the child, staff should contact the Child Benefits Unit to discuss the appropriateness of accessing the Federal Parent Locator System (Family Services [Policy 88](#)). If the parent has a history of domestic violence or intimate partner violence, the worker should consult with the Domestic Violence Unit.

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If appropriate, a nationwide Protective Service Alert should be issued.

### **Stabilizing and Supporting the Child Upon Return**

Law enforcement should be notified immediately when the child has been located. Parents or caretakers should be notified that the child has been located as soon as possible, but by the end of the day. Additionally, anyone else who was notified about the child’s missing or runaway status should be informed they have been located as soon as reasonably possible.

Division staff, with the assistance of substitute care providers, will ensure the child’s basic needs are met immediately upon their return from being missing or on run. Basic needs include: safety and protection for the child, emotional support, safe housing, food, personal hygiene, clothing, medical care, and mental health supports.

### **Medical Care, STI Testing, and SANE Exams**


If the division knows or suspects a child has been trafficked, assaulted, or exploited while missing or on run, the child should be taken to the local emergency department for **immediate** medical evaluation as evidence collection can be obtained within 72 hours of the last contact, with decreasing yield as more time goes by. If the child was abused or exploited, it is likely they may be reluctant to disclose everything that may have happened. Full STI testing and a SANE (Sexual Assault Nurse Examiner) exam are medically indicated; however, the youth’s consent is required.

At a minimum, the child should be offered medical care immediately or within 72 hours. As previously stated, SANE exams require the youth’s consent but should be offered to them as appropriate. This should be offered in a sensitive way that ensures the child understands it is not something they are forced to undergo, but that the benefits are carefully explained to them. Additionally, division staff should use their best judgement regarding scheduling an appointment with the child’s medical home for a wellness exam and follow-up. Geographic distance in the child’s placement should not be a barrier in accessing medical care or seeking an alternative provider. Division staff may enlist the help of victim specialists or make victim services referrals as appropriate.

### **New Reports of Child Abuse**

If the young person is suspected to have been abused or exploited while missing or on run, a report of child abuse must be made to CIES (1-800-649-5285). If the report is accepted for a Chapter 49 investigation, the assigned worker should not speak to the youth about their experiences on run until a forensic interview coordinated with law enforcement occurs. Division staff should coordinate with law enforcement regarding



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the appropriate timing of investigation and/or MDT consultation to support the victim and provide a trauma-informed response.

### **Post-Run Interviews with Youth**

If an investigation is not pending, the assigned worker shall interview the child in-person within seven business days of their return to care and take a photograph of the child at that time. Exceptions to the in-person interview may be made by a supervisor and documented in case notes. Extenuating circumstances, such as medical needs/care or geographical distance, will be documented in case notes. The interview may be conducted in conjunction with law enforcement, and shall be, when the circumstances of the child’s absence are not solely related to running away.

The division’s designated human trafficking consultant (ICPC/ICJ deputy compact administrator) is a resource to staff regarding runaway youth, human trafficking, and planning for federally required screenings/youth interviews following runaway episodes.

The interview shall be conducted in a non-judgmental, non-threatening, comfortable, and child-friendly location when possible. The following topics should be used as thinking prompts; workers should use professional judgement regarding how to ask questions and guide the conversation with the child or youth. Topics workers should cover include, but are not limited to, the following:

- Why did the child leave their previous placement?
- When does the child indicate they ran or left their previous placement?  
→ *Division staff should be mindful of whether the timeframe aligns with when they were reported missing by the caregiver or program. Delays in reporting this information may warrant a regulatory response from RLSI.*
- Did the child feel unsafe in their previous placement?
- Did anyone encourage the child to leave?
- Where did the child go?
- What is the first thing the child did after they left?
- What else did the child do while they were gone?
- How did the child have their basic needs met (e.g., housing, food, clothing)?
- Did the child perform any sort of sexual act to meet any of their basic needs?
- Who was the child with, if anyone, while they were gone?
- Did anyone loan or give the child money?
- Did anyone provide the child with expensive gifts or favors?
- Did anyone pressure the child into doing something they did not want to do?
- Did anyone take a photo or video of the child that they were uncomfortable with?

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- Was the child the victim of a crime (including physical or sexual assault) while they were gone? Any affirmative answers should be referred to law enforcement and other service referrals should be considered.
- Did the child engage in any risky behaviors (e.g., substance use, self-harm, sexual activity, or any sexual acts in exchange for basic needs or under the influence of exploitation or coercion) while they were gone?
- Did the child engage in any behaviors that might put them at risk of sexually transmitted infections?
- Does the youth have any new tattoos or branding marks?
- What supports or services would the child like to have to help with any experiences they had while they were away?
- What were the best and worst things about being away?
- Does the child plan to run away again? If so, why?
- Does the young person want to return to their previous placement? Or are they requesting a different placement?
- What can the worker do to help prevent the child from not running away again?

If new information is learned during the post-run interview with the youth, the need for medical care and making a new report should be reassessed.


After speaking to the youth, if information is learned that causes division staff to believe they may have been a victim of sex trafficking while missing or on run, a report of child abuse must be made to CIES (1-800-649-5285). Children and youth under the age of 18 **cannot legally consent** to providing sex or sexual acts in exchange for anything of value, including money, drugs, food, clothes, housing, or meeting their basic needs. Consultation with the ICPC/ICJ deputy compact administrator is required for all trafficking cases.

### Cases Involving Custodial Interference

In situations where an emergency care order (ECO) has been issued and the child cannot be located and/or it is believed that a parent or caretaker may have absconded with the child(ren), division staff shall file a missing child report and request NCIC entry. If division staff believe the caretaker has taken the child into another state, NCIC entry is required prior to contacting the other state's law enforcement.

### Missing Children Not in DCF Custody

There are times when the division receives information about a runaway child who is not in the custody of DCF but may be involved with DCF as a child in a family that is open for investigation, a delinquent on probation, or a child in a family with an open family case or conditional custody order (CCO). In those instances, workers shall

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consult with a supervisor and the ICPC deputy compact administrator regarding appropriate actions to take, which may include contact with the parent(s) and law enforcement (with the parent’s knowledge).

**Out-of-State Runaways Found in Vermont**

If a youth from another state has run away and is found in Vermont, division staff in collaboration with law enforcement will first check for any warrants for the juvenile. If the youth has a warrant, they will be brought into DCF custody through the Interstate Compact on Juveniles (ICJ) and placed in a secure setting they are less likely to abscond from (they cannot be placed in a foster home/community setting).

If the situation pertains to a non-delinquent runaway and their parent or guardian can retrieve them within 24 hours, and there is no allegation of abuse/neglect (including human trafficking), the youth can be released to their guardian without further division involvement. If the youth’s parent or guardian cannot arrive in Vermont within 24 hours, cannot be reached, or the youth is alleging child abuse or neglect, then they will be brought into DCF custody through the Interstate Compact on Juveniles (ICJ).

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## Additional Resources

National Center for Missing and Exploited Children (NCMEC)

1-800-THE-LOST

1-800-843-5678

<https://www.missingkids.org/>

National Runaway Safeline

1-800-RUNAWAY

<http://www.1800runaway.org/>

Amber Alert

<https://vab.org/amber-alert-program/>

National Human Trafficking Resource Center

1-888-373-7888

<https://traffickingresourcecenter.org/>

The Polaris Project

<https://polarisproject.org/human-trafficking>

Vermont Intelligence Center

<http://hsu.vermont.gov/aboutus-vic>

Give Way To Freedom

<http://www.givewaytofreedom.org>

## Appendix I: Statutes Related to Missing Juveniles

### FEDERAL STATUTES

#### **National Child Search Assistance Act of 1990**

The [National Child Search Assistance Act of 1990](#) requires every federal, state, and local law enforcement agency to enter, without delay, reports of missing children under the age of 18 to NCIC.

#### **Prosecutorial Remedies and Other Tools to end the Exploitation of Children Today Act (PROTECT) of 2003 (P.L. 108-21)**

The [PROTECT Act](#) extends the requirements of law enforcement to enter the report of a missing 18 to 20-year-old into NCIC without delay and conduct an investigation into the young adult's disappearance.

#### **Suzanne's Law of 2003**

[Suzanne's Law](#) requires police to notify NCIC when someone between 18 and 21 is reported missing, as part of the national Amber Alert bill. Further, it ensures that no law enforcement agency establishes or maintains any policy that requires the observance of any waiting period before accepting a missing youth report.

#### **Adam Walsh Child Protection and Safety Act of 2006**

The [Adam Walsh Child Protection and Safety Act](#) mandates missing child cases are entered into NCIC by law enforcement within two hours of receipt.

#### **The Preventing Sex Trafficking and Strengthening Families Act of 2014 (P.L. 113-183)**

The [Preventing Sex Trafficking and Strengthening Families Act](#) mandates that state agencies "report immediately, and in no case later than 24 hours" information about each missing or abducted child both to law enforcement and to NCMEC.

#### **Bringing Missing Children Home Act of 2015**

This is a portion of the larger [Justice for Victims of Trafficking Act of 2015](#), that was enacted in May 2015. Among other improvements related to record-keeping, this legislation amended federal law to ensure that law enforcement agencies respond appropriately and coordinate with NCMEC and social service agencies when a child goes missing from foster care.

#### **Savanna's Act**

Savanna's Act ([25 U.S.C. § 5701 et seq.](#)) improves the response to missing or murdered Native Americans by increasing coordination among Federal, State, and Tribal agencies, expanding data collection, as well as providing additional grants and resources dedicated to reducing further tragedies.

### VERMONT STATUTES

#### **[20 V.S.A. § 1823](#)**

Once a law enforcement agency receives complete missing person details from a complainant, state law requires them to prepare a missing person report and disseminate it to the Commissioner of Public Safety, all law enforcement agencies within the jurisdiction where the missing person lives or was last seen, any other law enforcement agencies that can reasonably be expected to be involved in any investigation, any agency to which the complainant reasonably requests the report be sent or those requesting a copy, and all media in the region unless such disclosure would impede the investigation.

### **20 V.S.A. § 1824**

State law requires law enforcement to commence a search as soon as a report is received, and it does not allow agencies to set time limitations on when a search can commence (ex. 24-hours after someone goes missing).

### **20 V.S.A. § 1827**

State law calls on the Commissioner of Public Safety to support all agencies in missing persons cases, and coordinate state and local efforts when needed.

### **13 V.S.A. § 1311 & 20 V.S.A. § 1825**

State law identifies specific requirements for unemancipated minors, including runaways. The state defines a runaway child as: an unemancipated child under 18 years of age, voluntarily absent from the child's residence without the consent of his or her parent, foster parent, guardian, legal custodian, parent lawfully exercising parent-child contact, or other person having legal or physical responsibility for the child (13 V.S.A. § 1311). Reports regarding unemancipated minors, including runaways, are required to be entered into NCIC as soon as they are complete (20 V.S.A. § 1825).