



## Change of Custody

<b>Department Name:</b> Quality Management		
<b>CHAPTER:</b>	<b>SUBJECT:</b> Change of Custody	<b>POLICY NUMBER:</b> QM-021
<b>APPROVAL:</b>	<b>EFFECTIVE DATE:</b> 2/27/07	<b>REPLACES (policy # and date):</b> CFOP 175-39

- I. **PURPOSE:** This policy establishes procedures to be followed when there is a change of legal custody or placement for children under the supervision of the Children's Network of Southwest Florida.
  
- II. **REVIEW HISTORY:** New policy.
  
- III. **CONTACT:** Quality Management Department.
  
- IV. **PERSONS AFFECTED:** Children's Network of Southwest Florida and contracted Case Management Organizations.
  
- V. **POLICY:** The Children's Network of Southwest Florida requires that a thorough evaluation of the family and review by the court is mandated when custody or placement is changed for a child.
  
- VI. **RATIONALE:** When children have been subjected to abuse and/or neglect they are entitled to a safe and stable placement. By following the steps in the policy, case managers can be reassured that the placement is thoroughly evaluated and that legal safeguards are in place.
  
- VII. **CROSS REFERENCES:** Florida Statutes 39.5085; 39.522.

VIII. **DEFINITIONS:**

- a. **Change of Custody:** change the temporary legal custody (such as a change from temporary legal custody with the department to the legal custody of a relative or vice versa) or physical custody (under protective services supervision) of the child at a post disposition hearing without the necessity of another adjudicatory hearing.
- b. **Non-Relative Placement:** Placement of a child in the home of an adult non-relative who has been granted temporary custody or care of a child by court order.
- c. **Relative:** A grandparent, great-grandparent, sibling, first cousin, aunt, uncle, great-aunt, great-uncle, niece, or nephew, whether related by whole or half blood, by affinity (related by marriage), or by adoption. The term does not include a stepparent.
- d. **Relative Placement:** Either the emergency placement of a child with an adult relative in accordance with section 39.401(3), F.S., or temporary custody or placement with a relative with or without protective services supervision pursuant to a court order under section 39.41(2)(a)9.a., F.S.

IX. **PROCEDURES:**

**A. Emergency Relative Placements:**

1. If the only grounds for relative placement are that the parent is out of the home for a short period of time, such as in the case of medical care which requires the parent to be hospitalized, the placement of the child with a relative is permitted as long as the parent has arranged for or approves of the relative placement. These situations will be handled the same as visits in voluntary cases and will not require a change of custody. The parent must ensure that the relative has a legally acceptable document, such as a notarized statement signed by the parent which, during the parent's temporary absence, allows the relative to obtain routine medical care for the child. At the parent's discretion, the statement may authorize the relative to consent to school and recreational activities for the child. If the court is involved in the case, then the court must be advised and approve of this temporary change in living arrangements.

2. When emergency removal from a court-ordered placement is indicated due to new or further incidents of abuse, neglect or abandonment, a report must be made to the abuse hotline. Placement with a (or another) relative may be made with or without the agreement of the current custodian. The case manager will work with the Protective Investigator and the Child Welfare Legal Services (CWLS) attorney to prepare for the shelter hearing which must be held within 24 hours of the approval of the emergency placement.

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**3.** If a child has been appointed a guardian ad litem (GAL), that GAL must be notified as soon as possible if the child is taken into emergency custody. If the GAL is available and chooses to participate, he or she will be involved in the decision to place the child with a relative, non-relative or in emergency shelter.

**4.** The non-custodial parent must be considered as the placement of choice unless the child would be placed at risk of harm with that parent or unless there is another existing court order restricting or prohibiting placement with that parent. The provisions of the Uniform Child Custody Jurisdiction Act (UCCJA), sections 61.1302-.1348, F.S., must be followed prior to recommending placement with the non-custodial parent. The non-custodial parent and any household members should be subject to FCIC, DJJ, local law, and HomeSafenet background checks.

**5.** If the case manager determines that there is a relative willing to care for the child but the case manager has reason to believe that placement of the child with the relative prior to obtaining a court order will not provide adequate protection for the child, the case manager must place the child in emergency shelter care prior to the shelter hearing.

**6.** Prior to requesting court approval of a relative placement at the shelter hearing, a background screening must be completed. If this background screening reveals any indication of criminal activity or abuse, neglect or abandonment by any of the adult household members or delinquent activity by any child age 13 or older in the home, the case manager must consult with the unit supervisor for guidance on whether or not the placement can be made. If there are any convictions which are disqualifying as described in Florida Statutes 409.175, the family cannot be recommended for placement. If the decision is made to seek court approval of the placement, the court must be informed of the results of the background screening. The background screening must include the following:

- (a)** NCIC/FCIC checks on all adults residing in the household.
- (b)** FDLE checks on all adults residing in the household.
- (c)** County and city law enforcement checks on all persons residing in the household.
- (d)** Delinquency background checks on all children age 12 to age 26 residing in the household.
- (e)** HomeSafenet background checks (both child and adult reports) on all persons residing in the household.

**B. Temporary Relative Custody:**

1. When a child is to remain with a relative on more than an emergency basis (more than 30 days), arrangements must be made to place the child in the temporary custody of the relative.
2. Before a recommendation can be made to the court that a child be placed in the temporary custody of a relative, regardless of geographic location, that relative must have a written homestudy completed by the case manager to assure child safety and the homestudy must be filed with the court along with the required background screening checks. If the child was placed with the relative on an emergency basis, a background screening was required then, and a new screening is not required for any household members who were screened at that time. Screening is required on any new adult and over-12 child household members who have not otherwise been screened within the past 3 months.
3. As is the case in an emergency placement, if a child has been appointed a GAL, that person must be involved in the decision to place the child with a relative. Once the child is placed, the case manager must continue to involve the GAL in hearings or other events related to the child's placement.
4. When a child's placement is changed, any known agencies already involved with the child or the child's family and critical to the success of the case plan, to the child's safety, or to the family's welfare, must be notified.
5. Relatives who have indicated an interest in acquiring temporary custody of a child and whose homes will not be recommended as a placement for the child must be advised of this decision and the contact documented in the file. Such relatives may be appropriate to provide respite care or other types of support, and this possibility should be explored whenever possible.
6. A court order for temporary custody to a relative should include the powers ordinarily given to a guardian of the person, such as authority to give consent for ordinary and extraordinary medical care, dental care, psychological or psychiatric care and treatment, and to make educational decisions for the child.
7. If the relative becomes interested in being a foster home, the fact that the child is in the home should not be a barrier to foster care licensure, and licensure as a foster home may proceed without the removal of the child from the relative placement.

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8. A recommendation for supervision must be made initially in a relative placement which occurs as the result of a child protective investigation. Termination of supervision may later be requested if it is determined supervision is not necessary.

**C. Non-Relative Placements:** Court-ordered placement of a child with an adult non-relative will be recommended when:

1. The parent has arranged for or agreed to the placement and the placement seems to be in the best interest of the child; or,
2. The child has a pre-existing relationship with the adult non-relative; or,
3. The child is 16 years of age or older, has found or agreed to a placement on his or her own, the parent does not object to the placement; and,
4. All of the following criteria are met:

(1) The Children's Network and any contracted staff have not solicited or recruited the placement.

(2) No financial support is required to maintain the placement.

(3) The non-relative does not wish to become a foster home (a court-ordered non-relative placement under Chapter 39 would supersede a section 409.175 requirement for licensure after 90 days). However, if the non-relative later becomes interested in being a foster home, the non-relative placement must not be considered a barrier to foster care licensure, and licensure as a foster home may proceed without the removal of the child from the non-relative placement. Once the non-relative (or relative for that matter) becomes licensed, legal custody should be changed to the department.

(4) Before a recommendation can be made to the court that a child be placed in the temporary custody of a non-relative, regardless of geographic location, that non-relative must have a written homestudy completed by the case manager to assure child safety and the homestudy must be filed with the court along with the required background screening checks. If the child was placed with the non-relative on an emergency basis, a background screening was required then, and a new screening is not required for any household members who were screened at that time. Screening is required on any new adult and over-12 child household members who have not otherwise been screened within the past 3 months.

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(5) The following background checks must be completed prior to approval of the non-relative placement:

- (a) NCIC/FCIC checks on all adults residing in the household.
- (b) FDLE checks on all adults residing in the household.
- (c) County and city law enforcement checks on all persons residing in the household.
- (d) Delinquency background checks on all children age 12 to age 26 residing in the household.
- (e) HomeSafenet background checks (both child and adult reports) on all persons residing in the household.

If this background screening reveals any indication of criminal activity or abuse, neglect or abandonment by any of the adult household members or delinquent activity by any child in the home, the case manager must consult with his or her supervisor for guidance in whether to recommend the placement. If the decision is made to recommend the placement, the court must be advised of the results of the screening.

5. Non-relative placements shall not be used in lieu of emergency shelter care unless all necessary clearances have been obtained.

6. A recommendation for supervision must be made initially in a non-relative placement which occurs as the result of a child protective investigation or court action initiated by protective supervision. Termination of supervision may later be requested if it is determined supervision is not necessary.

**D. Referral to Foster Care:**

1. Foster care placement is appropriate for children who, on an ongoing basis, cannot be assured adequate care and protection through the provision of in-home supportive services or through placement with a relative or non-relative. No child will be referred to foster care unless preventive services have been provided to the family and have failed to alleviate the problems necessitating out-of-home placement; or unless it has been clearly established that available preventive services to the family would not be sufficient to provide necessary protection to the child. As part of the referral process, foster care and involved case management staff must confer to determine what services the child is currently receiving, what services will be needed and what staff are responsible for providing those services. The ITR staffing form should be used to guide the discussion at this staffing. A change from protective supervision to foster care requires a court order for change of custody to the department.

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**E. Legal Procedures:**

1. When the case manager, upon review and concurrence of the CWLS attorney, has determined that the particular circumstances of a case require court action, the attorney will file a motion for a change of custody or placement as well as for any conditions necessary to protect the safety of the child and promote the child's physical, mental and emotional development.

2. The case manager must tell the parent or other custodian and the child, if of sufficient age and understanding, of the planned court action and why it is considered necessary. The case manager will explain the court process, including the parent's right to expect a summons, be present at all court hearings, hire an attorney at their own expense, and to bring witnesses to speak on their behalf.

3. The case manager or supervisor shall attend the scheduled court hearing for the change of custody.