Administrative Policies and Procedures: 14.12

Subject:	**Removal: Safety and Permanency Considerations**
Authority:	TCA 37-1-166; 37-1-401 et seq; 37-1-601et seq; 37-1-607; 37-5-105 (3); 37-5-106; 37-5-107
Standards:	**DCS Practice Model Standards**: 5-101, 6-509C; 11-303A, 11-304A, 11-305A, 1-306A, 12-104; **COA:** PA-CPS 10, PA-CPS 11
Application:	All Department of Children's Services caseworkers, supervisors of caseworkers, and the Office of General Counsel.

Policy Statement:

The Department of Children's Services (DCS) explores all home-based services and options in the effort to alleviate immediate safety issues and address the underlying needs before removing a child/youth from their home.

Purpose:

Provides guidelines and procedures for placing children into the State's custody.

Procedures:

A. Reasonable efforts to prevent removal

The DCS caseworker documents thorough reasonable efforts to secure culturally sensitive, appropriate and available services to meet the needs of the family and child/youth in order to prevent removal. Reasonable efforts never take precedence above the immediate safety of the child/youth. The DCS caseworker assesses the immediate safety of the child/youth, using the Safety Assessment from the FAST 2.0.

1. The parent/caregiver is involved, to the greatest extent possible, in the decisions regarding reasonable efforts. These efforts include but are not limited to:
   a) Intervention or direct services by DCS caseworker as part of an Immediate Protection Agreement (IPA);
   b) Use of family, neighbors, or other individuals in the community as a safety placement or resource;
   c) Holding a Child and Family Team Meeting (CFTM); or
   d) Arranging for services to increase safety/reduce risk.
2. Efforts to reduce risk and avoid removal are documented on the appropriate screens in ***TFACTS*** and DCS form ***CS-0797, Affidavit of Reasonable Efforts***, if applicable.

B. Legal procedures for removal	1. The DCS caseworker: a) Consults with the supervisor, and Regional General Counsel (RGC), or designee, regarding authorization to file a petition and to physically remove the child/youth from the home of the present caregiver; b) Consults with the RGC, or designee, whether or not the petition alleges severe abuse; c) Consults with the Master of Social Work to discuss aspects of the transition as it relates to minimizing trauma as a result of removing the child from the home; and d) Prepares for and testifies in all court proceedings pertaining to the removal; 2. The RGC, or designee, drafts and files the petition according to local procedures established by the Juvenile Court. 3. Native American children/youth are placed according to the placement preferences specified in the Indian Child Welfare Act of 1978 (ICWA). If a child/youth is being removed and it is confirmed that the child/youth is of Native American heritage and protected under the jurisdiction of the ICWA, the Tribe/Nation is notified as outlined in DCS Policy ***16.24, Children of Native American Heritage.*** 4. The decision to file an emergency petition is made after conferring with the Supervisor and the RGC, or designee. 5. If a child/youth is removed without a court order, the DCS case worker files a petition and requests an order as soon as possible but no later than 48 hours of DCS taking physical custody. 6. When petitions for emergency removals are filed, a Court hearing is held within seventy-two (72) hours of removal to determine if there was probable cause to conduct the emergency removal. 7. If the court upholds the emergency removal, a future court date is set to consider the Department's petition and to make decisions on the adjudication and disposition of the case.
C. Emergency removals and emergency ex-parte orders	1. **Exigent circumstances** exist for an emergency custodial removal to take place. The following circumstances may lead to an emergency custodial removal: *a)* **Exigent circumstances** exist when, based on the totality of the circumstances, there is reasonable cause to believe that the child/youth is in **imminent danger** of serious bodily injury and that custodial removal is reasonably necessary to avert that specific injury. *A DCS case manager may remove a child/youth that has been abandoned without a court order even if there are not exigent circumstances.* b) **Imminent danger** means there is an **immediate threat** to the child/youth's health or safety and there is reasonable cause to believe that the child/youth is likely to experience **specific**, serious, or irreparable physical harm in the time that would be required to obtain and enforce a court order. c) **Specific threat of harm** there is a particular injury or condition endangering the child/youth. The DCS caseworker is able to articulate the specific danger

and general concerns about the child/youth's welfare do not constitute a specific threat of harm.

d) The **threat of harm** is serious in situations including, but not limited to, conditions constituting severe child abuse as defined at Tenn. Code Ann. § 37-1-102(b)(23). This includes:

- Abuse or neglect that is likely to cause serious bodily injury or death;
- Abuse or neglect resulting in serious bodily injury, including but not limited to, second- or third-degree burns, a fracture of any bone, a concussion, subdural or subarachnoid bleeding, retinal hemorrhage, cerebral edema, brain contusion, injuries to the skin that involve severe bruising or the likelihood of permanent or protracted disfigurement, including those sustained by whipping a child/youth with objects;
- Rape or sexual battery of a child/youth; or
- Knowingly allowing a child/youth to be present within a structure where the act of creating methamphetamine is occurring.

e) **Immediate threat** of harm exists when there is not enough time to get a court order before (further) injury to the child/youth is likely to occur. The DCS caseworker should take into account whether the alleged perpetrator (AP) has access to the child/youth during the time required to get a court order. The DCS caseworker should also explore whether there are possible measures to ensure the child/youth's safety during the time required to get a court order.

2. Other considerations:

a) The DCS caseworker considers whether there are objective indications that the parent will flee with the child/youth, such as; a threat made by the parent to that effect; prior Child Protection Services (CPS) history of the parent fleeing; or a parent who is visiting the state but does not live in Tennessee.

b) When there is more than one child/youth residing in the home, a separate assessment is completed for each child/youth to determine the need for removal.

Note*:* A delay in responding to the referral regarding a child/youth believed to be in imminent danger may negate a finding that exigent circumstances existed unless additional information discovered at the scene independently establishes exigent circumstances. This does not prevent the filing of a petition for the non-exigent removal of a child.

3. If exigent circumstances **do not** exist, a court order is required before removing the child/youth from the home. If there is reasonable cause to believe that delay for a hearing would result in severe or irreparable harm, an emergency ex parte order may be requested before physical removal of the child/youth from the home.

4. A CFTM is held prior to an emergency removal, if possible, but it must be held prior to the seventy-two (72) hour court hearing to consider placement options for the child/youth with input from the family.

	5. The DCS caseworker notifies the CFTM facilitator and arranges for attendance of all appropriate parties for attendance as outlined in DCS Policy ***14.4. Engaging Families/Family Functional Assessments and Child and Family Team Meetings***.
D. Non-Emergency removals	A non-emergency removal is a legal proceeding in which DCS petitions to remove a child/youth from the home but does not ask for the child/youth to be removed immediately. This type of action is appropriate when the immediate safety of the child/youth is preserved due to *Immediate Harm Factors* being addressed through an IPA, form ***CS-0701*** (refer to DCS Policy ***14.9. Child Protective Services Immediate Protection Agreements***) or other measures. 1. The decision to file a non-emergency petition is made after conferring with the supervisor, the RGC or designee. 2. The voluntary time limited plan makes it possible for the child/youth to safely remain in the current setting until all parties can appear in court. 3. Prior to filing a non-emergency petition, a CFTM occurs with the decision from the team recommending the procedure. The CPSI consults with the Master of Social Work (MSW) to discuss aspects of the transition as it relates to minimizing trauma as a result of removal of the child from the home.
E. Petitioning for an adjudication and disposition with relatives	1. If the child/youth cannot safely remain in the home, the DCS case worker seeks family members or other possible caregivers that are known to the child/youth. 2. If such parties are located the DCS case worker determines if the person(s) can provide care and protection for the child/youth. If an appropriate caregiver is located, the DCS case worker confers with the supervisor and the RGC, or designee regarding the filing of a petition for adjudication and a disposition for legal and physical custody with relatives to obtain custody of the child/youth (refer to form ***CS-1005, Non-Custodial Expedited Placement Assessment Summary***). 3. DCS will not advise potential caregivers to file their own petitions if the change of custody is due to safety concerns, unless advised by the RGC, or designee, to do so, and approved by a CPS Supervisor at the Team Coordinator or Investigations Coordinator level or above.
F. Petitioning solely for adjudication	In some cases, it may be desirable to petition the Juvenile Court for adjudication even though placement into state custody is not necessary. The DCS case worker and supervisor consider this option solely for the purpose of seeking an adjudication of a child/youth as a victim of abuse or neglect and the naming of the responsible party. Obtaining an adjudication can provide legal protection for the child/youth and may be beneficial in future efforts to achieve safety and permanency.
G. Voluntary Placement Agreements	A parent/custodian may agree to a temporary situation in which he or she voluntarily agrees to give up custody of his or her child/youth for a short period of time and DCS agrees to accept responsibility for the child/youth. This type of voluntary placement agreement (VPA) should be clearly documented on DCS form ***CS-0428, Voluntary Placement Agreement***. This arrangement is completely voluntary, can be revoked at will by the parent and/or DCS. This agreement is reserved almost exclusively for

	circumstances in which a teenage mother wishes to bring her child into foster care with her or when a child/youth's behavior jeopardized the safety of a parent, sibling, or other family member. A VPA should never be considered in any CPS case where abuse or neglect exists. 1. The caseworker must evaluate if there is any evidence of abuse or neglect. 2. If there is no abuse or neglect present, a Child and Family Team Meeting must be held prior to the agreement if possible to determine if there are any less restrictive alternatives to DCS custody. 3. The caseworker must staff this case with a Supervisor and with the RGC. 4. The caseworker completes the Custodial Intake Packet. 5. The caseworker completes form ***CS-0428, Voluntary Placement Agreement***.
H. Physical Removal of a child/youth	The caseworker ensures that children/youth are separated from their families and removed from their homes in a manner to reduce trauma to the children/youth and their families. The caseworker: 1. Obtains proper legal authority from the RGC, or designee and/or the court to enact the removal and adheres to local protocols established; 2. Involves law enforcement, when necessary, to ensure the safety of the child/youth, the caseworker and any other individuals involved; 3. Notifies the parent/caregiver when the child has been placed into the state's custody; 4. Acquires or makes plans to acquire items necessary for the child's well-being that includes, but is not limited to; medication, clothing and toys; **Note:** Any items (clothes, toys etc.) contaminated from methamphetamine exposure may pose further risk. If possible, the child/youth is decontaminated (defined as, at a minimum, bathing the child/youth and changing their clothes) before being transported in the caseworker's car. If a child/youth is to be transported before decontamination, police assistance is to be obtained. See ***Work Aid-4, Protocol for CPS Investigations Involving Methamphetamine*** for additional information. 5. The caseworker asks the parents about any medical conditions or behaviors of the child/youth and shares all known information with the new caregivers and the case worker. 6. The designated caseworker ensures that the child/youth arrives at the placement, which may be a foster home, licensed childcare facility, or relative placement. The caseworker shares all known medical and behavioral history with the new caregivers. 7. Before the removal or as soon as possible thereafter, the caseworker discusses service planning with the child and family. Children/youth age six (6) or older are included in service planning unless there is a clinical justification (such as an intellectual or developmental disability) for not doing so. The discussion should include, if appropriate: a) Why the child/youth is leaving the home (This is done in language that is not accusatory or degrading of the parents);

	b) Communicating to the child/youth that the removal is not their fault, but is due to the lack of safety in their current home environment; c) Where the child/youth is going and what to expect in that setting; d) Under what conditions he/she may visit/contact the parent(s) or guardian(s); e) The court process including court hearings and permanency planning; f) Ensuring that any additional clothing, toys, special items or special equipment for the medically fragile child/youth, or medications are retrieved from the home for the child/youth; g) The child/youth's feelings about the removal and any other issues he/she wishes to discuss; and h) The names of other relatives the child/youth would want to contact or who might be resources for the child/youth. 8. Refer to the ***A Case Worker's Guide to Opening and Transitioning Cases*** that outlines the time frames, documentation and pertinent information required to be met by the caseworker or applicable staff serving the family.
Forms:	***CS-0206, Informed Consent to Routine Health Services for Minors*** ***CS-0428, Voluntary Placement Agreement*** ***CS-0475, Child Welfare Benefits Application*** ***CS-0543, Well Being Information and History*** ***CS-0544, Foster Home Placement Checklist*** ***CS-0627, Informed Consent Psychotropic Medications*** ***CS-0657, Education Passport-School Enrollment Letter*** ***CS-0660, Relative Caregiver Disclosure*** ***CS-0668, Authorization for Release of information to DCS*** ***CS-0682, Expedited Placement Summary*** ***CS-0691, Fingerprint Card Information*** ***CS-0701, Immediate Protection Agreement*** ***CS-0708, EPSD&T Physical Examination*** ***CS-0727, Initial Intake, Placement Referral and Checklist*** ***CS-0747, Child and Family Team Meeting Summary*** ***CS-0797, Affidavit of Reasonable Efforts*** ***CS-0921, Waiver of Criminal Convictions, PATH Training Modifications, Non-Safety Issues CPS Indications and Education Requirements*** ***CS-1005, Non-Custodial Expedited Placement Assessment Summary***

Collateral Documents:	***A Case Workers Guide to Opening and Transitioning Cases*** ***Becoming A Family Caregiver For A Child in Your Family Brochure*** ***Conducting Social Services Management System Checks in TFACTS*** ***Waiver Tip Sheet*** ***Work Aid-4, Protocol for CPS Investigations Involving Methamphetamine***

Glossary:	
Removal	Placement of a child into the Department's custody after legal custody is divested from a parent or caregiver.
Constructive Removal	This occurs at the time of a judicial order removing custody even temporarily from a custodian or on the date that a Voluntary Placement Agreement is signed and dated by all relevant parties. Refer to DCS Policy ***16.36 Title IV-E Funds***.