State of Tennessee Department of Children’s Services
Protocol for Death of a Child/Youth in Department of Children’s Services Custody/Guardianship
Supplemental to DCS Policy: 20.27 & 20.57

The impact of the death of a child/youth is felt widely and can affect many people. Whether the family was prepared for the possibility of death or whether the death was an unexpected, sudden loss, the DCS staff professionally and compassionately guide the family and others affected by the loss through this most difficult time, keeping in mind their individual and cultural needs and religious beliefs. The procedures outlined in this protocol are designed to provide guidance on family notification, body disposition and autopsy, funeral arrangement and organ donation. All cases are unique and additional support will be given by Regional Administrative staff.

Protocol at a Glance:
While the details of these items are located within this protocol, the essential checklist to remember upon learning of a custodial child’s death is:

a) Contact your immediate supervisor and ensure the information reaches the Regional Administrator or Juvenile Justice Director (depending on the adjudication of the child)
b) Call the Child Abuse Hotline at 1-877-54ABUSE (regardless of presence/absence of an allegation of abuse or neglect)
c) Make a plan to notify the family and be mindful of who is best to deliver the news. It is best to go in person and with a peer or supervisor.
   ♦ After answering questions and giving the family time to process, it is okay to say the Department will pay for some or all of the expenses, and ask what funeral home they would like to use. Fiscal can explain this to the family, alongside you at a later date. Do not worry to gather all the details at the first meeting.
d) Contact regional DCS Fiscal with the information you have gathered. Fiscal staff will coordinate with you and make themselves available to speak with you and the family about funeral and burial planning, if the family wants DCS to help pay for these expenses. Please be aware fiscal staff will only be available to speak to the family via phone or in the DCS office.

Be aware of the following:

a) CPS Special Investigation Unit may investigate the circumstances of the child’s death, even if you have no allegations regarding the incident.
b) If the child has guardians, the guardians (not employees, foster parents, provider agencies, etc.) are the sole decision-makers in funeral and burial arrangements. DCS Fiscal will assist the family by paying for all services the Delegated Purchase Authority (DPA) allows.
c) DCS Fiscal is the most knowledgeable entity to coordinate and provide information on the Department’s involvement in funeral and burial planning. The FSW and Fiscal collaborate on communicating with the family on these plans; it is important no one work in silos during these circumstances.
d) The FSW is responsible for entering case recordings about case activities and submitting Case Service Requests (CSRs). As it pertains to funeral and burial arrangements, DCS Fiscal will provide the information for the CSR, so the FSW needs only to submit the information Fiscal provides.
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e) If the youth is in full guardianship, DCS will pay for the funeral and burial of the youth, but family notifications are not required.

A. Child/youth Death:

1. Immediately upon learning of a child’s death in custody, DCS employees contact the Regional Administrator or Juvenile Justice Director where the child/youth’s custodial case was held. The DCS employee then makes a report to the Child Abuse Hotline. This is done to ensure proper legislative notifications, regardless of a known allegation of abuse or neglect. Within four (4) hours of notification of the child’s death, the RA/designee documents in TFACTS they have received notification of the child death and have verified the date of death has been properly entered in TFACTS. Refer to DCS Policy 20.27, Child Death-Near Death Rapid Response.

2. The Regional Administrator or Juvenile Justice Director immediately contacts the appropriate Deputy Commissioner and/or the Commissioner about the child's death.

Helpful Notes:

a) If a child/youth is pronounced dead, but still remains in the home or facility, do not touch or move the body. Allow law enforcement to complete an investigation and arrange for the body to be transported.

b) If the manner of death was sudden and unexpected, or under suspicious circumstances, the investigating law enforcement agency contacts the County Medical Examiner for an investigation and post mortem examination.

c) If the death occurred in the hospital, the hospital staff notifies proper law enforcement agencies and the County Medical Examiner, who will determine if a post-mortem examination will be performed.

B. Family Notification Guidelines:

1. When possible and appropriate, two DCS employees, preferably the FSW and an experienced colleague (e.g., supervisor, peer), notify the family (i.e., parents, guardians) together. This is for physical safety, emotional support, and legal reasons. It is not legally-necessary to notify family of a death when the child/youth was in full guardianship, but there are circumstances where notifications may be appropriate. Regional leadership and regional legal counsel assist in making these decisions.

a) The purpose of the meeting with the family is to offer condolences and provide guidance regarding immediate next steps. Refer to policies 20.27, Child Death-Near Death Rapid Response and 20.57, End of Life Decisions for Children in Custody/Guardianship for more information.

b) Contact with the family is made in person. Contact can be made by telephone if personal face-to-face contact is not possible. If notification is by telephone, alert local law enforcement to be on stand-by in case of severe emotional or physical reaction or emergency. Follow-up telephone contact with a face-to-face meeting whenever possible.

♦ If the parents/guardians cannot be located, seek other sources (e.g., Central Office for a CLEAR search, etc.) for contact information. Call the police or other law enforcement agencies for assistance if all attempts at contacting the parent/guardian have failed.
c) Principles of death notification: “in person, in time, in pairs, in plain language, and with compassion.” Helpful guidelines when meeting with the family:

- Before arriving, decide who will speak, what will be said, and how much can be said.
- Meet with the family in private. Be sure you are speaking to the right persons.
- Use the child/youth's name when speaking with the family.
- Speak in short sentences and use plain language.
- Avoid “euphemisms” for death (e.g. “gone to a better place”; “passed away” etc.). Actually use the word “dead” or “death.”
- Try to make eye contact and speak to all survivors, not just the most vocal family members.
- Look for nonverbal communication from survivors. Be aware of body language. Try to sit. Touching an arm or shoulder can be appropriate.
- Ask about any religious beliefs and family customs that may impact the next steps in the death investigation and/or burial process.
- If the parent/guardian is alone, try to find someone to stay with them and provide emotional support before you leave.
- When a family must be notified about a child/youth's death a range of personal emotion is common in these situations; however, families are not placed in the position of consoling the professional.
- If expressions of anger are directed at you or others, try to accept them without taking offense. The family may just be venting. If they have significant misconceptions about the death of their child/youth, attempts to accurately inform the family is reasonable. If resistance is encountered, it is probably wise to return to the subject at another time.
- Plan to take time to provide information, support, and direction. Remain with the family long enough for them to absorb it emotionally.
- Repeat the answers to questions as many times as needed until the family members understand.
- Try to be comfortable with silence. Sometimes doing nothing is actually doing something. Your presence alone can help survivors.
- Accept the family's discomfort. Staff can support survivors in their pain, but removal of the pain is not within your abilities as a professional. Do not speak philosophically.
- Always leave a name and phone number with survivors. Plan to make a follow-up contact with the family the next day.

C. Identification:

The foster parents, Contract Provider Agency Representative, parents/guardian, caregiver, or DCS person may identify the body, if necessary. The individual identifying the body needs to have met the child/youth and personally know what the child looks like. If someone personally identifies the body, it
is advised they go with another person, so this additional person may offer assistance and emotional support.

Most identification is done via photograph in a comfortable sitting room. The photograph is often presented to the witness face down, and the medical examiner or morgue attendant explains what they're going to see to minimize shock. The identifiers are allowed to view the photo. The photograph or physical ID of the body (if necessary) will only include areas that are necessary for identification (example: face, birthmark, scar, or tattoo) and will, if possible, avoid showing gruesome or graphic injuries to make the experience as non-traumatic as possible.

D. **Disposition of the body when the family cannot be located:**

1. If all efforts at next-of-kin notification are futile, and/or the body is unclaimed after 96 hours (i.e. 4 days), Regional Administrator or Juvenile Justice Director or designee, in consultation with the Commissioner or designee, must notify the Medical Examiner. If the Medical Examiner, upon notification, does not make a demand for the body, then it will be buried by the Department of Children's Services.

2. **If the child is in full guardianship, it is not necessary to wait 96 hours for the child/youth's body to be claimed.** The Department of Children's Services coordinates the funeral and burial of the child/youth.

E. **Circumstances Requiring an Autopsy:**

1. Generally-speaking, the Medical Examiner finds an autopsy is necessary when:
   a) An unexpected, unexplained sudden death occurs;
   b) The death may have resulted from an overt or negligent act by someone;
   c) The cause of death cannot be determined adequately in the absence of an autopsy; or
   d) When there is some public health concern.

2. The County Coroner or Medical Examiner will take possession of the body to complete an investigation and autopsy when these circumstances exist.

F. **Circumstances when an Autopsy may be Requested:**

1. The County Medical Examiner, in consultation with the attending physician, may decline to do an autopsy if the death can be reasonably determined by the child/youth's medical condition. In these cases, a family may request an autopsy. If the family requests an autopsy, there may be a charge for which they are responsible.

2. The Department of Children's Services Executive Director of Child Health/designee can seek an autopsy with the written consent of at least one of the child/youth's parents or guardians or the child/youth's legal next of kin. If no consent is given, DCS Legal is consulted. **If the child/youth is in full guardianship, this written consent is not needed.** Department of Children's Services is responsible for the costs of the autopsy.

3. The Department of Children's Services Executive Director of Child Health/designee may authorize an autopsy of a child/youth who was in custody if the parent, guardian, or next of kin cannot be
located with ninety-six (96) hours (i.e., 4 days) despite diligent efforts to locate such persons. DCS is responsible for the costs of the autopsy.

G. Autopsy reports:

The DCS Director of Nursing/designee requests the autopsy report from the appropriate County Medical Examiner’s office. Upon receipt, copies of the report are forwarded to the DCS Safety Nurse, SIU Investigator and the Family Services Worker or Juvenile Justice Case Manager for inclusion in the case file.

H. Documentation of autopsy:

The SIU investigator enters a case recording into TFACTS explaining when the autopsy was conducted, who did the autopsy, and the results.

I. Funeral, Burial Arrangements, Expenses for a Child/Youth:

1. The Department of Children's Services provides for the funeral and burial of a child/youth who dies in custody, if the family chooses. The Family Service Worker (FSW) or designee asks what funeral and burial arrangements the parent/guardian would prefer; ongoing discussion with the family about funeral and burial arrangements occurs with the FSW (or designee) and DCS Fiscal. While fiscal staff are not available for in-home or community consultation with the family, DCS Fiscal are available to meet with the family and FSW at the DCS office or via phone. Fiscal staff may reference their internal checklist for assistance in planning funeral arrangements. If the family assumes full responsibility for costs, the body will be released to them for funeral arrangements. Regardless of whether DCS pays for the funeral and burial arrangements, the family is responsible for coordinating religious services.

   a) If DCS pays for the funeral and/or burial of the child/youth, the Assistant Commissioner of Finance and Budget/designee (refer to section I. 3.) must approve the funeral home before the body is released.

   b) When possible and within Delegated Purchased Authority (DPA) guidelines, DCS seeks to follow the parents’ wishes in all funeral and burial planning.

   c) If the child/youth was in full guardianship, DCS coordinates the funeral and burial but is not obligated to engage former family in the process. If cremation is requested for a child/youth in full guardianship, the decision will be made by the Commissioner or their designee. DCS Legal may be consulted with any questions about legal barriers to cremation.

   d) The FSW or designee documents activities associated with planning the funeral and burial in TFACTS case recordings. The FSW or designee submits Case Services Requests (CSRs) for funeral and burial arrangements, as needed. DCS Fiscal supplies the information for the CSR, but the FSW or designee is responsible for completing the CSR.

2. Funeral Arrangements

If DCS pays for the funeral and burial of the child/youth, the Regional Fiscal Team will contact the FSW, Team Leader (TL), or Team Coordinator (TC) within 24 hours of notification of a child’s death to begin the process of service and burial arrangements. These arrangements are determined no later than the time the body needs to be released to a funeral home. The following steps are completed by the Regional Fiscal Team:
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a) Obtains three (3) itemized estimates for basic funeral arrangements, based on the funeral homes identified by the family. If there is only one funeral home in the county, regional fiscal staff will write a letter of justification for using this funeral home. DCS will pay for flowers and for a flat grave marker at the burial site.

b) Obtains an estimate for a burial plot.

c) Submits the three (3) itemized funeral estimates, or the letter of justification, with the burial estimates to the Assistant Commissioner of Finance and Budget/designee. If the family chooses to pay for certain items, this is documented on the estimates.

d) Informs the selected funeral home and the cemetery to bill the state through the regional DCS office with an itemized statement of expenditures. The State of TN is a tax-exempt entity.

e) In collaboration with the FSW or designee, helps communicate all funeral and burial decisions to the family (if requested by the FSW or designee).

Note: If the child/youth is in full guardianship, the procedures outlined in “a” thru “g” are still completed, but former family does not have to be contacted.

3. Releasing the Body to the Funeral Home
   After the Assistant Commissioner of Finance and Budget or designee has approved a funeral home for the child/youth, the State Director of Investigations/designee contacts the County Medical Examiner or hospital to authorize the release of the body to the funeral home and provides notice to Regional Administrator or Juvenile Justice Director or their designees. Note: Foster parents may not release a body to a funeral home.

4. Death Certificate
   Generally, the funeral home or hospital compiles information for the death certificate. The parent/guardian or next of kin will provides needed information. If there is no family or the family is unable or unwilling, the DCS Family Service Worker (FSW) provides the information.

5. Cremation
   Cremated remains are given to the parents/guardian. If the child/youth is in full guardianship, executive regional leadership, in collaboration with the child/youth's assigned staff, decide who receives the cremated remains.

J. Donation of Organs and Tissue for Transplantation and/or Donation of a Body for Medical Research:
   The Department staff assists in notifying the appropriate parent, guardian or legal next of kin so the decision about donation or organs and tissue can be made in a timely manner and in compliance with applicable laws.

   When a body is donated for medical research, arrangements are made prior to death with full agreement by the person wanting to make the donation. No person, agency or organization will solicit a family to donate a body for research after death.

   1. Children in Custody but not in Full Guardianship
      When a request is made for donation of organs and tissues of a child/youth in custody, the FSW and the Regional Health Nurse takes the following actions (also refer to DCS Policy 20.57, End of Life Decisions for Children in DCS Custody/Guardianship):
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a) Advise the physician, hospital personnel and/or the organ procurement agency that DCS has no authority to make this decision.

b) Immediately notify the Executive Director of Child Health/designee and the DCS Regional General Council or designee of the request.

c) Provide the physician, hospital personnel and/or the organ procurement agency with any contact information for the parent(s), guardian, grandparent(s), and/or all adult siblings, if any.

d) Contact these family members and place them in communication with the physician, hospital personnel or organ procurement agency.

e) The parent/guardian can make the decision to donate or refuse to donate organs or tissues for transplantation if the child/youth is a suitable donor.

f) It is the responsibility of the hospital personnel or organ procurement agency to follow appropriate procedures to discuss donation or organs and tissues. DCS staff do not discuss donation issues with the family.

2. Child/Youth in Full Guardianship:

a) The Juvenile Court has jurisdiction to determine if donation of organs and tissue for transplantation and/or donation of a body for medical research can occur for a child/youth in full guardianship.

b) When a request is made for donation of organs and tissues of a child/youth in full DCS guardianship, the FSW and the Regional Health Nurse take the following actions:

   ♦ Advise the physician, hospital personnel and/or the organ procurement agency that parental rights have been terminated and that the Juvenile Court has jurisdiction to make the decision about organ/tissue donation.

   ♦ Immediately notify the Executive Director of Child Health/designee and the DCS General Council or designee, and the Guardian ad Litem of the request.

c) Following these actions, Regional Legal Counsel:

   ♦ Petitions the Juvenile Court for a “determination of extraordinary medical care” and schedules an expedited hearing.

      o If the child/youth has expressed a desire or a refusal to donate organs or tissues for transplantation or their body for medical research, this is communicated to the DCS Legal Counsel and physician.

   ♦ If the child/youth was placed with foster parents, the Regional General Council ensures such persons receive notice of any hearings pursuant to Tennessee Code Annotated §§37-2-415(a)(17) and 37-2-416. Although foster parents cannot make the ultimate decision about the donation of organs and tissues, they will have valuable information to assist the Court in reaching its decision.