



## 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 will 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 guidelines of the notification, reporting, authorization, and funeral arrangement process, however, staff must be mindful that all cases are unique and additional support will be given by Executive Regional Staff.

#### **A. Child/youth Death:**

1. 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 to the proper facility.
2. If the manner of death was unexplained or under suspicious circumstances, the investigating law enforcement agency will contact the County Coroner or Medical Examiner for an investigation and post mortem examination and will contact the area District Attorney to provide information regarding the death.
3. If the death occurred in the hospital, the hospital staff will notify proper law enforcement agencies if appropriate, and arrange for disposition of the body for post mortem examination.

#### **B. Family Notification Guidelines:**

1. When a family must be notified about a child/youth's death a range of emotion is common in these situations; however, families should not be placed in the position of consoling the professional.
2. The meeting with the family will provide guidance regarding what steps will occur in the immediate future.
3. An understanding of DCS policies and procedures are necessary to provide professional and compassionate assistance to the family.
4. It is advised, the person delivering the notification of death is accompanied by another person.
5. Contact with the family will be made in person if at all possible.
6. Contact can be made by telephone if personal face-to-face contact is not possible. Follow up telephone contact with a face-to-face meeting.
7. If the parents/guardians cannot be located seek other sources for contact information.
8. Call the police or other law enforcement agencies for assistance if all attempts at contacting the parent/guardian have failed.

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9. When meeting with the family:
  - a) Meet with the family in private.
  - b) Use the child/youth’s name when speaking with the family.
  - c) Speak in short sentences and use plain language.
  - d) Avoid “euphemisms” for death (e.g. “gone to a better place”; “passed away” etc.). Actually, use the word “dead” or “death.”
  - e) Try to make eye contact and speak to all survivors, not just the most vocal family members.
  - f) Look for nonverbal communication from survivors. Be aware of body language. Try to sit. Touching an arm or shoulder can be appropriate.
  - g) Ask about any religious beliefs and family customs that may impact the next steps in the death investigation and/or burial process.
  - h) If the parent/guardian is alone, try to find someone to stay with them and provide emotional support before you leave.
10. 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 and place.
11. Do not “hit and run.” Remain with the family long enough for them to absorb it emotionally.
12. Try to be comfortable with silence. Sometimes doing nothing is actually doing something. Your presence alone can help survivors.
13. 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.
14. If the parent/guardian is alone, try to find someone to stay with them and provide emotional support before you leave.

**C. Identification:**

The resource parents, FSW, Contract Provider Agency Representative, or DCS facility staff person may identify the body, if necessary.

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

If all efforts at next-of-kin notification are futile, or if the body is unclaimed after 96 hours (4 days), Regional Administrator or designee, in consultation with the Commissioner or designee, must notify the County Coroner or Medical Examiner. If the Coroner or Medical Examiner, upon notification, does not make a demand for the body, then it will be buried as provided by Tennessee Law.

**E. Funeral and Burial Arrangements and Expenses:**

1. The Department of Children’s Services will provide for a funeral and burial for a child/youth who dies in custody if the parent/guardian or next of kin cannot be located or cannot afford to pay. The Family Service Worker (FSW) will need to determine what arrangements the parent/guardian and

relatives want to make regarding the funeral and burial. If they will assume full responsibility the body will be released to them for funeral arrangements.

## **2. Funeral Arrangements**

If the parent/guardian or next of kin request all or partial assistance from DCS with the funeral expenses the FSW in cooperation with the Regional Fiscal Unit will, within forty-eight (48) hours of child/youth's death, follow the procedures below:

- a) Obtain three (3) itemized estimates for basic funeral arrangements. Inquire with the family if they have a preference in choosing a funeral home and document that on the estimate. 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 up to \$150 for flowers.
- b) Obtain an estimate for a burial plot that the family has chosen.
- c) DCS will pay for a grave liner or vault if it is required for cemetery burial.
- d) The family will be responsible for arranging any religious services.
- e) Immediately scan the three (3) itemized funeral estimates, or the letter of justification, with the burial estimates to the DCS Office of Finance and Budget. If the family chooses to pay for certain items, document that on the estimates.
- f) The Assistant Commissioner of Finance and Budget/designee must give approval before the body is released to a funeral home.
- g) The DCS Office of Finance and Budget will email an authorized copy of the approved estimate and additional instructions to the FSW upon approval.
- h) The FSW in cooperation with the Regional Fiscal Unit will inform 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.
- i) The FSW completes a case service (PSG) request in **TFACTS**. The Regional Fiscal Unit will approve the valid request with the documentation and put it on a roster for Central Office Fiscal to make payment. The FSW staff may contact the Regional Fiscal Director for additional information or instructions. Send the completed invoice to the DCS Office of Finance and Budget.
- j) The FSW will document activities associated with planning the funeral and burial in **TFACTS** case recordings.

## **3. Releasing the Body to the Funeral Home**

When the funeral and burial estimates are approved, the DCS Team Coordinator/designee will contact the County Coroner, Medical Examiner, or hospital and authorize them to release the body to the specified funeral home.

4. If the family is assuming all costs related to the funeral and burial, the DCS Team Coordinator/designee will call the County Coroner, Medical Examiner, or hospital and advise them the body can be released to the family. The Team Coordinator or designee will contact the family to obtain the name of the funeral home that will pick up the body.

## **5. Death Certificate**

Generally, the funeral home or hospital will compile information for the death certificate. The parent/guardian or next of kin will provide that information. If there is no family, the DCS Family Service Worker will provide the information. The FSW may need to refer to the birth certificate and social security card to ensure the information is correct.

**6. Parents/Guardians/Resource Parents**

The parent's wishes are given priority, however, the FSW will consider the wishes of the resource parents if there is a close relationship and the child has been in their home for any significant amount of time. If there is a disagreement between the resource parents and the parents/guardians, the FSW or other neutral person can mediate a compromise.

**7. Open casket**

A child/youth that has an autopsy and/or donated organs or tissue can still have an open casket funeral, if that is the family's wish.

**F. Circumstances requiring an autopsy:**

1. 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. There is no charge for the autopsy.

**G. Circumstances when an autopsy may be requested:**

1. The County Coroner or 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 to determine the exact cause of death, to determine if proper medical care was given, to determine if there were other conditions present that were not detected and treated that may have contributed to the death, and/or to determine if there are inheritable problems whose early recognition may be of benefit to other family members. It is also an opportunity to further study the disease process for research and educational purposes so other patients may benefit from the advanced knowledge. The autopsy request may be for a full autopsy or for an autopsy that only examines a specific body part or region. If the family requests an autopsy, there may be a charge for which they will be responsible.
2. A Department of Children's Services Deputy Commissioner 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, being mindful of the family's religious and cultural beliefs. Department of Children's Services will be responsible for the costs of the autopsy.
3. A Department of Children's Services Deputy Commissioner of Child Health/designee may authorize an autopsy of a child/youth who was, at the time of death, in custody but not full guardianship if the parent, guardian or next of kin cannot be located with ninety-six (96) hours (4 days) despite diligent efforts to locate such persons. DCS will be responsible for the costs of the autopsy.

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4. A Deputy Commissioner of Child Health /designee may authorize an autopsy of a child/youth in full DCS guardianship. DCS will be responsible for the costs of the autopsy.

**H. Autopsy reports:**

The DCS Director of Nursing/designee will request the autopsy report from the appropriate County Coroner or Medical Examiner's office. Upon receipt, copies of the report are forwarded to the Safety Analyst, Child Safety Nurse, CPS Investigator and/or the Family Services Worker for inclusion in the case file.

**I. Documentation of autopsy:**

The CPS investigator or the FSW will enter a case recording into **TFACTS** explaining when the autopsy was conducted, who did the autopsy, the results if available, and if the autopsy was mandatory or requested and by whom.

**J. Donation of Organs and Tissue for Transplantation and/or Donation of a Body for Medical Research:**

The Department staff will assist in notifying the appropriate parent, guardian or legal next of kin so the decision about donation of 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 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 will take the following actions:

- 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 Deputy Commissioner 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) Immediately and diligently, 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 of organs and tissues. DCS staff will not initiate a discussion regarding donation or discuss donation issues with the family.
- g) The adjudication that brought the child/youth into custody is irrelevant to this protocol as the parental authority to donate all or part of their deceased child's body is statutory. This protocol applies even when the Court has ordered that DCS will have authority to make medical decisions and even when the Court has appointed a Guardian ad Litem to make medical decisions or otherwise render decisions concerning resuscitation and removal of life support

pursuant to DCS Policy [20.57. End of Life Decisions for Children in DCS Custody/  
Guardianship.](#)

**2. Child/Youth in Full Guardianship:**

**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.**

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 will take the following actions:

- a) 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.
- b) Immediately notify the Deputy Commissioner of Child Health/designee and the DCS General Council or designee, and the Guardian ad Litem of the request.
- c) Regional General Council will petition the Juvenile Court for a “determination of extraordinary medical care” and will schedule an expedited hearing.
- d) If the child/youth has expressed a desire or a refusal to donate organs or tissues for transplantation or their body for medical research, the Child Safety Nurse, CPS investigator or FSW must communicate this information to the physician, hospital personnel and/or organ procurement agency. This communication must include all pertinent information about the disclosure including when, where, how, and any documentation from the child/youth expressing that intention.
- e) If the child/youth was placed with resource parents, the Regional General Council must ensure that such persons receive notice of any hearings pursuant to *Tennessee Code Annotated* §§37-2-415(a)(17) and 37-2-416. Although resource 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.

**K. Organs Suitable for Donation:**

Organs that can be transplanted include, but are not limited to the heart, lungs, kidneys, pancreas, lungs, liver, intestines, and bone. Tissues that can be transplanted include, but are not limited to the cornea, skin, bone marrow, heart valves and connective tissue. A single donor might provide organs and tissue to eight or more people.

**L. Costs:**

The donor’s family is not responsible for the costs incurred through organ donation. The recipient, most times through the insurance carrier or Medicare, pays all costs related to the donation of organs and tissues.

**M. Religious Beliefs:**

A majority of religions around the world either support and encourage donation, or take no formal position but leave the decision to donate up to the individual and family. If a family member has a question, refer them to their clergy.

Refer to DCS Policy [20.57 End of Life Decisions for Children in Custody/Guardianship](#) for additional information on end of life decisions regarding children/youth.