Nathan Deal, Governor

Keith Horton, Commissioner

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Child Welfare Services County Letter No. 2014-01

To: County Departments of Family and Children Services
DFCS Regional Offices
State Office Staff

From: Dr. Sharon Hill, Division Director

Re: Policy Changes Related to Georgia House Bill No. 242

Purpose

The purpose of this county letter is to provide key policy and practice changes based on new or modified provisions outlined in Georgia's new Juvenile Code which becomes effective January 1, 2014. This county letter is being released pending the finalization and approval of the new Child Welfare Policy Manual.

Discussion

The Georgia Division of Family and Children Services (DFCS) is responsible for promoting the safety, wellbeing and permanency of Georgia's children. While doing so, we must adhere to the federal and state laws guiding the provision of child welfare services. House Bill (H.B.) 242 passed during the 2013 legislative session making key changes that impact the entire Juvenile Code. H.B. 242 revises provisions of the Juvenile Code relating to juvenile proceedings and enacts reforms supported by the Governor's Special Council on Justice Reform in Georgia. Among other goals of the bill, there is an overarching goal to focus on the best interest of each child. Currently, statewide policy and practice guidance is being finalized and will be released shortly. The new Child Welfare Policy Manual will incorporate the Juvenile Code revisions, Title IV-E, the Child Abuse Prevention and Treatment Act (CAPTA) and other state and federal statutes. Until that time, the following highlights some important policy changes based on the new Juvenile Code.

Policy Changes

A. **Definitions:** The following are some important new or modified definitions that impact our work:
   1. Under the new juvenile code, the term "deprivation" has been replaced with the term "dependency," which is the term used by all other states.
   2. Abandonment
      a. Any conduct on the part of a parent, guardian, or legal custodian showing intent to forgo parental duties or relinquish parental claims. Intent to forgo parental duties or relinquish parental claims may be evidenced by:

i. Failure, for a period of at least six months, to communicate meaningfully with a child;
ii. Failure, for a period of at least six months, to maintain regular visitation with a child;
iii. Leaving a child with another person without provision for his or her support for a period of at least six months;
iv. Failure, for a period of at least six months, to participate in any court ordered plan or program designed to reunite a child's parent, guardian, or legal custodian with his or her child;
v. Leaving a child without affording means of identifying the child or his or her parent, guardian, or legal custodian and:
(A) The identity of the child's parent, guardian, or legal custodian cannot be ascertained despite diligent searching; and
(B) A parent, guardian, or legal custodian has not come forward to claim the child within three months following the finding of the child;
vi. Being absent from the home of his or her child for a period of time that creates a substantial risk of serious harm to a child left in the home;
vii. Failure to respond, for a period of at least six months, to notice of child protective proceedings; or
viii. Any other conduct indicating intent to forgo parental duties or relinquish parental claims.

3. Abuse
a. Any non-accidental physical injury or physical injury which is inconsistent with the explanation given for it suffered by a child as the result of the acts or omissions of a person responsible for the care of a child;
b. Emotional abuse;
c. Sexual abuse or sexual exploitation;
d. Prenatal abuse; or
e. The commission of an act of family violence as defined in O.C.G.A. § 19–13–1 in the presence of a child. An act includes a single act, multiple acts, or a continuing course of conduct. As used in this subparagraph, the term 'presence' means physically present or able to see or hear.

4. Caregiver: Any person providing a residence for a child or any person legally obligated to provide or secure adequate care for a child, including his or her parent, guardian, or legal custodian.

5. Child in Need of Services (See Section G of this letter for CHINS information)
a. A child adjudicated to be in need of care, guidance, counseling, structure, supervision, treatment, or rehabilitation and who is adjudicated to be:
i. Subject to compulsory school attendance and who is habitually and without good and sufficient cause truant, as such term is defined in O.C.G.A. § 15–11–381, from school;
ii. Habitually disobedient of the reasonable and lawful commands of his or her parent, guardian, or legal custodian and is ungovernable or places himself or herself or others in unsafe circumstances;
iii. A runaway, as such term is defined in O.C.G.A. § 15–11–381;
iv. A child who has committed an offense applicable only to a child;
v. A child who wanders or loiters about the streets of any city or in or about any highway or any public place between the hours of 12:00 Midnight and 5:00 A.M.;

vi. A child who disobeys the terms of supervision contained in a court order which has been directed to such child who has been adjudicated a child in need of services; or
vii. A child who patronizes any bar where alcoholic beverages are being sold, unaccompanied by his or her parent, guardian, or legal custodian, or who possesses alcoholic beverages; or

b. A child who has committed a delinquent act and is adjudicated to be in need of supervision but not in need of treatment or rehabilitation.

6. Continued Custody Hearing:
   a. A hearing held shortly after temporary custody of the child has been taken for the court to determine whether or not probable cause exists to find the child a CHINS. (See Section G of this letter for CHINS timeframes for hearings).
   b. The court must either continue with temporary custody of the child, or release the child; and
   c. Refer the child to a Community Based Risk Reduction Program, or order the filing of a CHINS petition.
7. Dependent Child: A child who:
   a. Has been abused or neglected and is in need of the protection of the court;
   b. Has been placed for care or adoption in violation of law; or
   c. Is without his or her parent, guardian, or legal custodian.
8. Emotional abuse: Acts or omissions by a person responsible for the care of a child that cause any mental injury to such child's intellectual or psychological capacity as evidenced by an observable and significant impairment in such child's ability to function within a child's normal range of performance and behavior or that create a substantial risk of impairment, if the impairment or substantial risk of impairment is diagnosed and confirmed by a licensed mental health professional or physician qualified to render such diagnosis.
9. Neglect
   a. The failure to provide proper parental care or control, subsistence, education as required by law, or other care or control necessary for a child's physical, mental, or emotional health or morals;
   b. The failure to provide a child with adequate supervision necessary for such child's well-being; or
   c. The abandonment of a child by his or her parent, guardian, or legal custodian.
10. Person responsible for the care of a child
   a. An adult member of a child's household;
   b. A person exercising supervision over a child for any part of the 24 hour day; or
   c. Any adult who, based on his or her relationship to the parent, guardian, or legal custodian or a member of a child's household, has access to such child.
11. Prenatal abuse
   a. Exposure to chronic or severe use of alcohol or the unlawful use of any controlled substance, as such term is defined in O.C.G.A. § 16–13–21, which results in:
      i. Symptoms of withdrawal in a newborn or the presence of a controlled substance or a metabolite thereof in a newborn's body, blood, urine, or meconium that is not the result of medical treatment; or
      ii. Medically diagnosed and harmful effects in a newborn's physical appearance or functioning.

12. Status Offense: An act prohibited by law which would not be an offense if committed by an adult.
13. Sexual Exploitation: Conduct by a caregiver or other person responsible for the care of a child who allows, permits, encourages, or requires a child to engage in:
    a. Prostitution, in violation of O.C.G.A. § 16–6–9; or
    b. Sexually explicit conduct for the purpose of producing any visual or print medium depicting such conduct, in violation of O.C.G.A. § 16–12–100.
14. Unrestorably Incompetent: The court's determination that a child be deemed incompetent to proceed in adjudication, a disposition hearing, or a transfer proceeding, based upon an evidentiary hearing.

B. Investigations

1. Conducting an Investigation
    a. Prenatal Abuse has been added as a form of maltreatment. Georgia's new definition of prenatal abuse will be captured in the maltreatment code "N10-Prenatal Exposure/Fetal Alcohol Spectrum Disorder." This definition will be a part of the CAPTA policy and practices for addressing prenatally exposed infants in Investigations and Family Support Services. Notifications/referrals will be screened in and assigned to Investigations or Family Support Services.
    NOTE: Prenatal abuse may only be alleged after the birth of a child.
    b. Court-Ordered Examinations: DFCS now has the ability to request the court to order a medical or psychological examination of a child during an investigation, and PRIOR TO the filing of a petition, if needed. CPS staff shall make the request through the SAAG.
    c. Venue: A dependency case can now be initiated in the county in which a child legally resides or the county in which the child is present when the proceeding is commenced if the child is present without his or her parent, guardian or legal custodian or the acts underlying the dependency allegations are alleged to have occurred in that county. Formerly, a case could be initiated in the county of legal residence or where the child was found. The paramount decision as to where to file a dependency case shall be the immediate need to keep the child safe wherever the child is physically located.
2. Case Transfer and Visitation: At the moment of removal of the child from the home, the court will order specific visitation between the child and parent. Under the law, court-ordered visitation is presumed to be unsupervised. CPS must assess and make recommendations whether supervised visitation must be implemented. CPS and permanency staff must discuss the need for supervised visitation during the transfer staffing to determine safety concerns and ensure any recommendations for supervised visitation include the justification for the proposed visitation. The visitation recommendation shall consider the best interests of the child to include, without limitation, the child's love, affection, bonding and emotional ties with each parent/caregiver and siblings, as well as the uniqueness of every family and child. Child safety is the paramount concern.
3. Special Circumstances: If a physician takes a child into care, DFCS must file the petition instead of the physician, if there is still a belief that the child remains in imminent danger.

C. Legal

1. Juvenile Court Process

a. Dependency Hearing Timeframes (O.C.G.A. § 15-11-102)

i. A preliminary protective hearing shall be held promptly and no later than 72 hours after a child is placed in foster care, provided that, if the 72 hour time frame expires on a weekend or legal holiday, the hearing shall be held on the next day which is not a weekend or legal holiday.

ii. If a child is not released from foster care at the preliminary protective hearing, the following time frames apply:

(A) A petition for dependency shall be filed within five (5) days of the child's preliminary protective hearing;

(B) Summons shall be served at least 72 hours before the dependency adjudication hearing;

(C) The dependency adjudication hearing shall be held no later than ten (10) days after the filing of a petition for dependency;

(D) DFCS shall submit to the court its written report (case plan) within 30 days of the date a child who is placed in the custody of DFCS is removed from the home and at each subsequent review of the disposition order. If the DFCS report does not contain a plan for reunification services, a non-reunification hearing shall be held no later than 30 days from the time the report is filed; and

(E) If a disposition hearing is not held in conjunction with the dependency adjudication hearing, it shall be held and completed within 30 days after the conclusion of the dependency adjudication hearing.

iii. An initial periodic review hearing shall be held within 75 days following a child's removal from his or her home. An additional periodic review shall be held within four (4) months following the initial review. The initial review is conducted by the court and the additional periodic review may be conducted by the court or Judicial Citizen Review Panel (JCRP). The court may direct additional periodic reviews as necessary and these may be conducted by the court or JCRP.

NOTE: The permanency plan hearings required every six (6) months after the initial will also serve as review hearings to ensure compliance with federal case review requirements.

iv. Permanency plan hearings shall be held:

(A) No later than 30 days after DFCS has submitted a non-reunification case plan, or:

(B) For children under seven (7) years of age at the time a petition for dependency is filed, no later than nine (9) months after the child is considered to have entered foster care, thereafter a permanency plan hearing shall be held every six (6) months while the child continues in DFCS custody or more frequently as deemed necessary by the court until the court determines that the child's permanency plan and goal have been achieved; or

(C) For children seven (7) years of age and older at the time a petition for dependency is filed, no later than 12 months after the child is considered to have entered foster care. Thereafter, a permanency plan hearing shall be held every six (6) months while the child continues in DFCS custody or more frequently as deemed necessary by the court until the court determines that the child's permanency plan and goal have been achieved. Exception: Siblings who enter care at the same time as a child under seven (7) will also be reviewed in nine (9) months.

NOTE: DFCS practice will continue to be that SSCMs will schedule permanency plan hearings from the date of the child's removal from the home to ensure compliance with Title IV-E requirements.

b. Discovery: Discovery requests are generally handled by the SAAG. However, the Social Services Case Manager (SSCM) shall immediately contact the SAAG if DFCS receives a written request for discovery.

c. Best Interests Determinations: The Social Services Case Manager (SSCM) shall consider the "best interests" of the child whenever making recommendations to the court. Whenever a best interest determination is required (at any juvenile court proceeding), the court shall consider and evaluate all of the factors affecting the best interests of the child based on the child's age and developmental needs. Such factors shall include:

i. The physical safety and welfare of the child, including food, shelter, health and clothing;
ii. The love, affection, bonding and emotional ties existing between the child and each parent or person available to care for the child;
iii. The love, affection, bonding and emotional ties existing between the child and his/her siblings, half siblings and step-siblings and the residence of the other children;
iv. The child's need for permanence, including the child's need for stability and continuity of relationships with his/her parent, siblings, other relatives and any other person who has provided significant care to the child;
v. The child's sense of attachments, including his/her sense of security and familiarity, and continuity of affection for the child;
vi. The capacity and disposition of each parent or person available to care for the child, to give him/her love, affection and guidance, and to continue the education and rearing of the child;
vii. The home environment of each parent or person available to care for the child related to the child's nurturance and safety;
viii. The stability of the family unit and the support systems within the community to benefit the child;
ix. The mental and physical health of all individuals involved;
x. The home, school and community history of the child as well as any health or educational special needs of the child;
xi. The child's community ties including church, school and friends;
xii. The child's background and ties including familial, cultural and religious;
xiii. The least disruptive placement alternative for the child;
xiv. The uniqueness of every family and child;
xv. The risks to entering and being in substitute care;
xvi. The child's wishes and long-term goals;
xvii. The preferences of the persons available to care for the child;
xviii. Any evidence of family violence, substance abuse, criminal history or sexual, mental or physical child abuse in any current, past or considered home for such child;
xix. Any recommendation by a court appointed custody evaluator or Guardian Ad Litem (GAL); and
xx. Any other factors considered by the court to be relevant and proper to its determination.

d. Social Study: If the allegations of the dependency petition are admitted or the child is adjudicated dependent, the court may direct a person to complete a written social study and report. In most cases, the Comprehensive Child and Family Assessment (CCFA) will serve as the social study for the case. However, if there is no open Permanency case, the SSCM will have to complete a written social study and report concerning a child that has been adjudicated as a dependent child. Each social study shall include, but not be limited to a factual discussion of each of the following subjects:
   i. What plan, if any, for the return of the child to his or her parent and for achieving legal permanency for such child if efforts to reunify fail;
   ii. Whether the best interests of the child will be served by granting reasonable visitation rights to his or her other relatives in order to maintain and strengthen the child's family relationships;
   iii. Whether the child has siblings under the court's jurisdiction, and if so:
      (A) The nature of the relationship between such child and his or her siblings;
      (B) Whether the siblings were raised together in the same home, and whether the siblings have shared significant common experiences or having existing close and strong bonds;
      (C) Whether the child expresses a desire to visit or live with his or her siblings and whether ongoing contact is in such child's best interest;
      (D) The appropriateness of developing or maintaining sibling relationships;
      (E) If siblings are not placed together in the same home, why the siblings are not placed together and what efforts are being made to place siblings together or why those efforts are not appropriate;
      (F) If siblings are not placed together, the frequency and nature of the visits between siblings; and
      (G) The impact of the sibling relationship on the child's placement and planning for legal permanence;
   iv. The appropriateness of any placement with a relative of the child; and
   v. Whether a caregiver desires and is willing to provide legal permanency if reunification is unsuccessful.

2. Court Orders and Placement Authority
   a. Temporary custody orders no longer expire, which eliminates DFCS' need to request custody extensions. The court may terminate the disposition order when the purposes of the order have been accomplished. For cases where the current custody order will expire after 1/1/14, the SSCM shall consult with the SAAG about returning to court to extend custody and obtain an updated order that will not expire. These cases will need to be brought before the court prior to the expiration of the current order.
   b. Permanent Guardianship: If the court enters an order finding that reasonable efforts to reunify a child and family are detrimental to the child and that TPR/adoption are not in the best interests of the child, the court may place the child with a permanent guardian. Permanent guardianship orders shall:
      i. Remain in effect until a child turns 18 years of age or becomes emancipated;
      ii. Not be subject to review by the court unless a petition to modify, vacate or revoke the guardianship is filed; and
      iii. Establish a reasonable visitation schedule which allows the child to maintain meaningful contact with the parents through personal visits, telephone calls,

letters or other forms of communication or restrictions on a parent's right to visitation.

3. Mediation: The court may refer DFCS to mediation for any juvenile or dependency petition. IF DFCS is referred to mediation on a case, the SSCM shall:
   a. Staff the case with the County Director, Social Services Supervisor (SSS), Special Assistant Attorney General (SAAG) and any other county or regional staff as necessary to determine:
      i. The non-negotiable requirements related to dependency, services needed, case plan requirements, placement, etc.;
      ii. Areas where DFCS can be flexible in terms of the mediation agreement;
      iii. Procedures for the SAAG's review of the agreement to mediate and the mediation agreement prior to DFCS signing;
      iv. The next steps with the SAAG, including whether the SAAG should participate in mediation;

      NOTE: When necessary, the County Departments are encouraged to have the SAAGs present at mediation;
   b. Review the requirements and contents of the agreement to mediate (found in OCGA § 15-11-22) before attending the first mediation session. If the SAAG does not attend the mediation, submit the agreement to mediate to the SAAG before it is signed.
   c. Mediate in good faith. Discussions and agreements made at mediation should be consistent with the determinations made at the mediation staffing;
   d. Consult with the SAAG as necessary during mediation;
   e. Submit the mediation agreement to the County Director, SSS and SAAG for review and approval prior to signing;
   f. Document the mediation process in the Narrative of the Contact Detail in the GA. Statewide Automated Child Welfare System (SHINES) including, but not limited to, the following:
      i. Dates of any mediation meetings;
      ii. All attendees at any mediation including the name of the mediator;
      iii. Discussions that occurred at mediation meetings;
      iv. The outcomes of the mediation;
      v. Any review of the mediation agreement by the SSS and SAAG;
      vi. Whether or not a court hearing will be requested;
      vii. If and when the mediation agreement becomes a part of the court order.
   g. Upload any court order received related to mediation in External Documents in SHINES unless it is uploaded via the Case Plan Reporting System (CPRS);
   h. Anytime the mediation process conflicts with non-negotiable items identified by DFCS, stop participating in mediation and re-staff the case with the County Director, SSS and SAAG to determine next steps;
   i. DFCS is not required to reach an agreement and may withdraw from mediation at any time.

      NOTE: The County Department cannot refuse to mediate. However, though it must mediate in good faith, the County Department can withdraw from mediation at any time and is not required to reach an agreement. At least one mediation session must be attended.
4. Continuances
   a. Continuances shall be granted only upon a showing of good cause and only for a period of time shown to be necessary by evidence presented at the hearing.

Whenever any continuance is granted, the facts proving the need for the continuance shall be entered into the court record.

b. No continuance shall be granted that is contrary to the interests of the child. In considering a child's interests, the court shall give substantial weight to a child's need for prompt resolution of his or her custody status, the need to provide a child with a stable environment, and the damage to a child of prolonged temporary placements.

c. The SSCM shall:

   i. Prior to any continuance being granted, the SSCM shall notify the SAAG if the proposed continuance would cause DFCS to be out of compliance with Federal "reasonable efforts" findings, six (6) month review requirements or permanency hearing requirements for title IV-E.

   ii. If a continuance is granted and delays a reasonable efforts to prevent removal finding beyond sixty days of the child's removal from foster care, notify the Revenue Maximization (RevMax) Unit and update the Legal Action page in the GA. Statewide Automated Child Welfare System (SHINES);
   NOTE: If this occurs, the child would not be eligible for IV-E funding during this foster care episode;

   iii. If a continuance is granted that leads to a case review not occurring within six months of a previous review:
      (A) Through the SAAG, ask the court to schedule an **immediate** Judicial Citizen Review Panel (JCRP) if held in the county/circuit;
      (B) Contact the JCRP Coordinator to schedule a JCRP no later than the following (seventh) month if JCRPs are held in your county; or
      (C) If JCRPs are not held in the county/circuit, conduct a Judicial Case Review. **NOTE**: The JCRP review will meet the federal requirement that a case review be held within six months of the last case review.

   iv. If a continuance is granted that leads to a permanency plan hearing not being held within twelve months of a child's removal from the home or at least every twelve (12) months thereafter, notify RevMax and update the Legal Action page in SHINES. Request that the SAAG obtain the earliest possible date for the permanency plan hearing.
   NOTE: The child loses IV-E reimbursability until a permanency plan hearing is held and a finding of "reasonable efforts to finalize the permanency plan" is made.

5. Caregiver's Right to be Notified
   a. DFCS shall ensure that caregivers (i.e., foster, adoptive, relative or guardian resources and all other placements) receive written notice of any hearings or reviews as soon as the SSCM is aware of the hearing, but no later than seventy-two (72) hours prior to the hearing.
   b. However, for preliminary protective hearings or emergency hearings for which the SSCM does not receive more than 72 hours notice,, verbal notice must be provided to the caregiver and clearly documented in SHINES.
6. Court Review of Custodial Orders: The code section related to court reviews of permanent custody placements has been removed. However, those permanent custodial placements in effect prior to January 1, 2014 will continue to be subject to review by the court.
7. Court Appointed Special Advocate (CASA) and Guardian Ad Litem (GAL)

a. DFCS will request the appointment of a GAL when a dependency complaint is filed.
b. The SSCM's responsibilities to the CASA and/or GAL are:
    i. To arrange for the CASA and/or GAL to interview the child and all parties having knowledge of the child's situation;
    ii. To inform the foster parent or facility staff person that a CASA and/or GAL has been assigned to the child as soon as the identity of the CASA is known;
    iii. To immediately inform the CASA and/or GAL of the child's change in placement or any other significant change which could impact the CASA's and/or GAL's role or decision;
    iv. To share pertinent information regarding the child with the CASA and/or GAL in a timely manner; at a minimum, contacts between the CASA and/or GAL and DFCS need to occur on a monthly basis;
    v. To make the DFCS case record available for review in the DFCS office (after removing the names of reporters and, if the CASA has not been appointed as a GAL, all protected health information);
    vi. To provide written notification for the CASA and/or GAL to attend and participate in case plan meetings and reviews;
    vii. To provide copies of all current case plans;
    viii. To share and discuss with each other case specific recommendations, written suggestions and findings that will be included in reports to be submitted to the court (reaching consensus is not required).
c. DFCS shall notify the CASA and/or GAL of the development of any case plan of the child for which he/she is appointed and provide an opportunity for them to be involved in the development of the plan.
d. SSCMs shall provide written notification of the Family Team Meeting (FTM) or other forum to develop the case plan to the child, the child's attorney, and the Guardian Ad Litem (GAL) at least five (5) calendar days in advance of the meeting.
e. SSCMs shall provide written or verbal notice concerning the FTM or other forum to develop the case plan to the child's CASA when the CASA is not acting as the child's GAL.
f. DFCS shall allow the CASA and/or GAL access to all records and information relevant to a child's case to which he/she is appointed when the records are not otherwise protected from disclosure pursuant to O.C.G.A. § 19-7-5. The records and information shall not include records and information from the Office of the Georgia Child Advocate for the Protection of Children or from the Department of Juvenile Justice.

    NOTE: If a CASA is acting only in the capacity of CASA and not in the capacity of GAL, the CASA will not be allowed to review records and information in which third-party protected health information (PHI) has not been redacted.

8. Termination of Parental Rights (TPR): The code clearly defines the aggravated circumstances as one type of condition that would allow DFCS to file for TPR.
    a. Aggravated Circumstances is defined as meaning the parent has:
        i. Abandoned an infant;
        ii. Attempted, conspired to attempt, or has subjected a child or his or her sibling to death or great bodily harm;
        iii. Attempted, conspired to attempt, or has subjected a child or his or her sibling to torture, chronic abuse, sexual abuse, or sexual exploitation; or

iv. Committed the murder or voluntary manslaughter of his or her child's other parent or has been convicted of aiding or abetting, attempting, or soliciting the murder or voluntary manslaughter of his or her child's other parent.

b. Abandonment: The timeframe required to demonstrate abandonment has been reduced from twelve (12) to six (6) months (see definition of Abandonment for applicable timeframes).

c. Reinstatement of Parental Rights
   i. A child who has not been adopted after three years from the date the court granted TPR or the parents voluntarily surrendered and for whom the court has determined the permanency plan is no longer adoption, may petition the court to reinstate parental rights. The petition may be filed prior to the three-year timeframe if the child and DFCS or licensed child-placing agencies (with custody of the child) stipulate that the child is no longer likely to be adopted. A child fourteen (14) years of age or older shall sign the petition unless there is good cause why they should not.
   ii. The court shall grant the petition if it finds by clear and convincing evidence that a child is no longer likely to be adopted and that reinstatement of parental rights is in the child's best interests.
   iii. If the court grants the petition to reinstate parental rights, a review hearing shall be scheduled within six months. During such period, the court may order that a child be immediately placed in the custody of his or her parent or, if the court determines that a transition period is necessary and the child is in DFCS custody at the time of the order, order DFCS to provide transition services to the family as appropriate.

d. If a child wishes to have the parental rights of his/her parent(s) reinstated, the SSCM shall:
   i. Explore with the child, GAL, caregiver and the child's support team the following information:
      a. The child's reason for wanting reinstatement;
      b. Other permanency options available to the child;
      c. Any contact the child had with the parent(s) since TPR;
      d. The impact on the child's safety, permanency and well-being if parental rights are reinstated or if the parent chooses not to reinstate his/her rights;
      e. The current protective capacities of the parent(s) and the current child vulnerabilities;
      f. The child's expectations of what will occur if parental rights are reinstated.
   ii. Advise the child his/her GAL will assist the child in filing a petition to reinstate parental rights;
   iii. Complete a Relative/Non-Relative Care Assessment on the parent(s);
   iv. Staff the case with the SSS and SAAG to determine the recommendations DFCS will make regarding reinstatement;
   v. Attend and participate in any court hearings regarding reinstatement;
   vi. If reinstatement is granted, provide transition services to the child and family, when ordered by the court.

e. Compelling Reasons Not To Terminate Parental Rights: The code provides additional compelling reasons for determining that filing a TPR petition is not in the best interests of a child alleged or adjudicated to have committed a delinquent act to include the following:

i. A child's developmental needs require continued out-of-home placement for an additional number of months, and his or her parent, guardian, or legal custodian has cooperated with referrals, visitation, and family conferences, as well as therapy;
ii. A child is uncooperative with services or referrals; and
iii. The length of the delinquency disposition affects the permanency plan.

f. Termination of Parental Rights Timeframes: The TPR hearing shall be held within 90 days of the filing of the TPR petition. Thereafter, the final TPR order shall be completed within 30 days of the hearing.

D. Eligibility

1. Reasonable Efforts
   a. Considerations
      i. The code defines reasonable efforts as due diligence and the provision of appropriate services.
      ii. When determining whether reasonable efforts have been made, the court shall consider whether services to the child and his or her family were:
         (A) Relevant to the safety and protection of the child;
         (B) Adequate to meet the needs of the child and family;
         (C) Culturally and linguistically appropriate;
         (D) Available and accessible;
         (E) Consistent and timely; and
         (F) Realistic under the circumstances.
   b. Exceptions: Three new situations have been added to the circumstances where reasonable efforts are not required. These include a parent of an alleged dependent child who:
      i. Has been convicted of rape, sodomy, aggravated sodomy, child molestation, aggravated child molestation, incest, sexual battery, or aggravated sexual battery of the alleged dependent child or another child of the parent;
      ii. Is required to register as a sex offender and that preservation of a parent-child relationship is not in the alleged dependent child's best interests; or
      iii. Has had his or her rights to a sibling of the alleged dependent child terminated involuntarily and the circumstances leading to the termination of parental rights to that sibling have not been resolved.
   c. Burdens of Proof
      i. At the preliminary protective hearing, DFCS shall demonstrate:
         (A) It has made reasonable efforts to prevent placement of the child in foster care;
         (B) There are no appropriate services or efforts which would allow the child to remain safely in the home given the circumstances of the child and family at the time of removal, so the absence of efforts was justifiable; or
         (C) Reasonable efforts to prevent placement and to reunify the child are not required and why.
      ii. At the adjudication hearing, DFCS shall demonstrate:
         (A) It has made reasonable efforts to eliminate the need for removal of the child from his/her home and to reunify the child with his/her family at the earliest possible time; or
         (B) Reasonable efforts to prevent placement and reunify the child are not required and why.

iii. At every other hearing, DFCS shall demonstrate:
(A) It has made reasonable efforts to eliminate the need for removal of the child from his/her home and to reunify the child with his/her family at the earliest possible time;
(B) It has made reasonable efforts to finalize an alternate permanency plan for the child.

E. Foster Care

1. Placement of a Child: The physical placement of the child upon removal shall be approved by the court.
2. Changes in Placement: In addition to the current notification requirements, placement resources and Guardians Ad Litem must now also receive notice of a change in a child's placement and an opportunity to be heard.
3. Placement Resources: For the purpose of relative placement, "relative" has been defined to include spouses of relatives through blood, marriage, or adoption - even if the marriage was terminated by death or divorce. A relative placement refers to placement in the home of a relative who does not receive a foster care per diem for the care of the child. The relative placement may be a non-paid placement or the relative may receive TANF or an Enhanced Relative Rate (ERR) Subsidy.
4. Financial and Non-Financial Supports: The code no longer recognizes "live with fit and willing relative" (LWFWR) as a permanent placement for children, therefore DFCS is eliminating the Relative Care Subsidy program as an option for relatives. If a relative wishes to be a permanent option for a child and adoption is not an appropriate permanency plan, permanent guardianship with the relative should be the permanency plan selected.
   NOTE: Those relatives receiving the subsidy prior to 01/01/14 shall continue to be eligible to receive it as long as all other eligibility criteria are met and shall be subject to the required reviews.
5. Permanency Planning: Although "Permanent Placement with a Fit and Willing Relative" is a permanency option outlined in the Adoption and Safe Families Act (ASFA), effective 01/01/14, Georgia no longer recognizes it as a permanent placement for a child. In order of preference, the permanency plan options include:
   a. Reunification;
   b. Adoption;
   c. Permanent Guardianship;
   d. Another Planned Permanent Living Arrangement (APPLA), if the court finds and documents a compelling reason that reunification, adoption or permanent guardianship are not in the best interest of the child.
      NOTE: If DFCS finds that permanency for a child with a relative is in the child's best interest and adoption is not an appropriate permanency plan, then the permanency plan must be permanent guardianship with that child's relative.
6. Case Planning: Case plans must be thoroughly completed in accordance with Case Planning policy. The case plan for each child:
   a. Is a written document which is a discreet part of the case record, in a format determined by DFCS, which is developed jointly with the parent(s) or guardian(s) of the child in foster care and has a projected date of completion;
   b. Is developed within 30 days of the child's entry into foster care;
   c. Includes a description of the circumstances that resulted in the child being placed under the jurisdiction of the court and in foster care (e.g., reasons for removal);

d. Includes a description of the services offered and provided to prevent removal of the child from the home and to reunify the family;
e. Includes an assessment of the strengths and needs of the child and family and the type of placement best equipped to meet those needs;
f. Includes a description of the type of home or institution in which the child is placed;
g. Includes a discussion of the safety and appropriateness of the placement and how DFCS plans to carry out the judicial determination made with respect to the child;
h. Includes specific time-limited goals and related activities designed to enable the safe return of the child to his or her home, or, in the event that return to his or her home is not possible, activities designed to result in permanent placement or emancipation;
i. Includes assignment of specific responsibility for accomplishing the planned activities and the projected date of completion of the case plan objectives;
j. Includes a statement that DFCS has made diligent efforts to place siblings together or that such a placement is not in the best interests of the siblings, and if siblings are not placed together, the efforts made to allow frequent visitation/interaction unless not in the siblings' best interests;
k. Includes a plan for assuring the child receives safe and proper care, and services are provided to the parent(s), guardian or legal custodian, child, and placement provider in order to improve the conditions in the parents', guardian's or legal custodian's home to facilitate the child's safe return to his/her own home or the permanent placement of the child;
l. Includes a plan for assuring services are provided to the child and placement provider to address the needs of the child while in foster care;
m. Includes a discussion of the appropriateness of the services provided to the child under the plan and the date time-limited services will be terminated;
n. Includes a schedule for visitation between the child, his/her siblings and any other appropriate relatives and an explanation if no visits are scheduled;
o. Where appropriate for a child 14 years old or over, includes a written description of the programs and services which will help such child prepare for the transition from foster care to independent living;
p. During the 90-day period immediately prior to the date on which the child will attain 18 years of age or prior to the child's planned exit from foster care if the child remains in the care of DFCS past age 18, a DFCS case manager and, as appropriate, other representatives of the child provide the child with assistance and support in developing a transition plan that is personalized at the direction of the child, includes specific options on housing, health insurance, education, local opportunities for mentors and continuing support services, and work force supports and employment services, includes information about the importance of designating another individual to make health care treatment decisions on behalf of the child if the child becomes unable to participate in such decisions and the child does not have, or does not want, a relative who would otherwise be authorized under State law to make such decisions, and provides the child with the option to execute a health care power of attorney, health care proxy, or similar document recognized under State law, and is as detailed as the child may elect;

q. Documents the steps to finalize a placement when the case plan goal is or becomes adoption or placement in another permanent home. When the case plan goal is adoption, at a minimum such documentation shall include child-specific recruitment efforts such as the use of Tribal, State, regional, and national adoption exchanges including electronic exchange systems to facilitate orderly and timely in-State/Tribal service area and inter-State/Tribal service area placements;

r. Includes a discussion of how the case plan is designed to achieve a safe placement for the child in the least restrictive (most family-like) setting available that is in close proximity to the parent(s), guardian or legal custodian when the case plan goal is reunification and a discussion of how the placement is consistent with the best interests and special needs of the child;

s. If the child has been placed in a foster family home or child-care institution a substantial distance from the home of the parent(s), guardian or legal custodian in a different state, or outside of the Tribal service area, sets forth the reasons why such a placement is in the best interest of the child;

t. If the child has been placed in foster care in a State or Tribal service area outside of the State or Tribal service area in which the child's parent(s), guardian or legal custodian are located, assures that an agency case manager on the staff of the State or Tribal service area in which the home of the parents, guardian or legal custodian of the child is located, of the State or Tribal service area in which the child has been placed, or of a private agency under contract with either such State/Tribal agency, visits the child in such foster home or institution no less frequently than every six (6) months and submits a report on the visit to the State or Tribal agency of the State or Tribal service area where the home of the child's parent(s), guardian or legal custodian is located;

u. When an out-of-state group home placement is recommended or made, the case plan shall comply with O.C.G.A. § 39-4-4, the Interstate Compact on the Placement of Children. In addition, documentation of the recommendation of the multidisciplinary team and the rationale for such particular placement shall be included. The case plan shall also address what in-state services or facilities were used or considered and why they were not recommended;

v. If applicable, includes a statement that reasonable efforts have been made and a requirement that reasonable efforts shall be made for so long as the child remains in the custody of DFCS:

   i. To place siblings removed from their home in the same foster care, kinship care, guardianship or adoptive placement, unless DFCS documents that such a joint placement would be contrary to the safety or well-being of any of the siblings; and

   ii. In the case of siblings removed from their home who are not placed together, for frequent visitation or other ongoing interaction between the siblings unless DFCS documents that such frequent visitation or other ongoing interaction would be contrary to the safety or well-being of any of the siblings;

w. A plan for ensuring the educational stability of the child while in foster care, including:
   i. Assurances that **each** placement of the child takes into account the appropriateness of the current educational setting and the proximity to the school in which the child is enrolled at the time of placement; and
   ii. An assurance that DFCS has coordinated with appropriate local educational agencies (as defined under section 9101 of the Elementary and Secondary Education Act of 1965) to ensure the child remains in the school in which the child is enrolled at the time of **each** placement; or
   iii. If remaining in such school is not in the best interests of the child, assurances by DFCS and the local educational agencies to provide immediate and appropriate enrollment in a new school, with all of the educational records of the child provided to the school.

x. Incorporates the health and education records of the child including the most recent information available regarding
   i. The names and addresses of the child's health and educational providers;
   ii. The child's grade level performance;
   iii. The child's school record;
   iv. A record of the child's immunizations;
   v. The child's known medical problems;
   vi. The child's medications;
   vii. Any other relevant health and education information concerning the child determined to be appropriate by DFCS;

y. Includes a recommendation for a permanency plan for such child. If, after considering reunification, adoption or permanent guardianship, DFCS recommends permanent placement in another planned permanent living arrangement, the case plan shall include documentation of a compelling reason or reasons why termination of parental rights is not in the child's best interests;

z. Includes a statement that the parent, guardian or legal custodian of the child and the child have had an opportunity to participate in the development of the case plan, to review the case plan, to sign the case plan and to receive a copy of the plan or an explanation about why such persons were not able to participate or sign the case plan;

aa. Identifies the person within DFCS who is directly responsible for ensuring the case plan is implemented;

bb. Includes all components of the written report required by the court.

7. Visitation: Parent Visitation
   a. When a child is removed from his or her home, the court shall order reasonable visitation that is consistent with the age and developmental needs of a child if the court finds that it is in a child's best interests. The court's order shall specify the frequency, duration, and terms of visitation including whether or not visitation shall be supervised or unsupervised.
   b. There shall be a presumption that visitation shall be unsupervised unless the court finds that unsupervised visitation is not in a child's best interests.
   c. The SSCM shall:

i. Reassure family at removal that visitation will be regular, with the first visit being prompt;
ii. Arrange a face/face family visit with child within 7 days; and
iii. Request supervised visits, if there are any safety concerns.

F. Independent Living Services – Post Age 18 Reviews

a. The court may now conduct a review of the status and the services being provided for any child age eighteen and older receiving Extended Youth Support Services (EYSS) or other Independent Living Services.
b. SSCMs and the Independent Living Specialists (ILS) will be required to obtain relevant information for the court's review when requested.

G. Children in Need of Services (CHINS): DFCS has the responsibility to participate in the support of family-oriented prevention services for children who may be considered CHINS. (See Definitions for CHINS). The code supports a specified set of juvenile court procedures for these children, in which various public agencies including Department of Juvenile Justice (DJJ), DFCS, Department of Behavioral Health and Developmental Disabilities (DBHDD), Department of Education (DOE), and Department of Public Health (DPH), Department of Community Health (DCH) and private provider agencies shall collaborate to provide a continuum of services to children alleged or adjudicated to be CHINS and their families.

1. **The Role of DFCS and Other Agencies in CHINS cases:** DFCS, along with other public and private agencies, can be involved in CHINS cases in a number of ways, including:
   a. Identifying community resources available to children alleged or adjudicated to be CHINS;
   b. Providing services and referrals for services to children and families involved in these cases; and
   c. Responding to a court summons to appear at a number of hearings to offer testimony and recommendations during the various phases of CHINS cases;
   d. When appointed by the court, becoming the plan manager for unrestorably incompetent youth alleged to be a CHINS. As the plan manager for youth deemed unrestorably incompetent by the court, DFCS or other party shall:
      i. Coordinate a meeting with providers and the family;
      ii. Develop a treatment/case plan;
      iii. Coordinate and follow up on service provision; and
      iv. Provide updates to the court.
   e. Participating in routinely held multiagency staffing panel meetings aimed at identifying specific community resources available to children alleged or adjudicated to be CHINS; promoting increased cooperation, coordination, and integration between the agencies for the benefit of CHINS and their families.
      NOTE: The DFCS representative assigned to attend the multiagency staffing panel meeting should be well versed and knowledgeable about community resources and should develop long standing collaborative relationships with other community stakeholders to advance the coordination of services for CHINS to prevent further involvement in the child welfare and juvenile justice systems.
   f. When ordered by the court, arranging for a child to be placed in a foster family home, child care institution, or another substitute care setting approved by DFCS. This can occur as the result of the detention assessment, a parent being

unwilling or unable to assume custody of the child, or as part of the disposition for the child.

NOTE: County staff should be informed of their local jurisdiction's procedures for handling CHINS cases and should be prepared to participate in CHINS-related hearings, multiagency staffings, and client interviews. Through appropriate service provision and through collaboration with other agencies, staff can ensure that children alleged or adjudicated to be CHINS receive the services they need in an effective and efficient manner.

2. **Initiation of a CHINS case:**
   a. A CHINS case can be initiated by the filing of a complaint with the juvenile court in the county in which the behavior occurred or in which the child legally resides.
      i. A complaint alleging a child is a CHINS can be filed by a parent, guardian, or legal custodian, DFCS, school official, law enforcement officer, Guardian Ad Litem or any attorney who has knowledge of the facts alleged or is informed and believes that such facts are true.
      ii. The juvenile court intake officer is responsible for receiving CHINS complaints.
   b. When a school official is filing a complaint alleging a child is in need of services, documentation must be provided indicating the school officials have engaged the parent/guardian/custodian around the problem, attempted to resolve the issues using available educational approaches, and if the child is eligible or expected to be eligible for services under the Individuals with Disabilities Education Act (IDEA) the child's Individualized Education Plan (IEP) services and school placement is appropriate.
3. **Placement of a CHINS**
   a. A child may be taken into temporary custody pursuant to a court order or by a law enforcement officer when there are reasonable grounds to believe that a child has run away from his or her parent, guardian, or legal custodian or the circumstances are such as to endanger a child's health or welfare unless immediate action is taken.
   b. Before entering an order authorizing temporary custody, the court shall consider the results of a detention assessment and determine whether continuation in the home is contrary to the child's welfare and whether there are available resources that would prevent the need for custody. The court will make this determination on a case by case basis.
   c. If a child is taken into temporary custody by a law enforcement officer, the juvenile intake officer will administer a detention assessment and make a determination as to whether the child should:
      i. Be released;
      ii. Remain in temporary custody; or
      iii. Be brought before the court;
   d. If the determination of the detention assessment, completed by the juvenile court intake officer, concludes the alleged CHINS should be taken into temporary custody until the continued custody hearing:
      i. The child may be placed in a facility licensed by the Department of Juvenile Justice (DJJ) for a period no more than 24 hours, if a detention assessment has been administered and the child is alleged to be a runaway or habitually disobedient and ungovernable or has previously failed to appear at a hearing.

ii. The child may be placed in DFCS custody if the child's parents, guardian or legal custodian has not assumed custody of him or her within 12 hours of the time the child is taken into temporary custody.
iii. A continued custody hearing shall be held within 72 hours of the child being taken into temporary custody if the child is held in a DJJ facility, or 5 days if the child is placed with DFCS.
iv. If DFCS is given custody of a CHINS, DFCS can place an alleged CHINS in the same manner as a dependent child in a foster family home, child care institution (CCI) or a substitute placement [such as safety resource or relative placement] approved by DFCS. There may be a time period between the alleged CHINS being taken into temporary custody and held in a DJJ facility and the continued custody hearing that DFCS is asked to arrange a foster care placement for the child. In this instance, prior to taking custody, DFCS shall request a juvenile court order authorizing custody.
v. When a CHINS enters foster care, DFCS shall handle these children in the same manner as children placed through a dependency-related order.

e. In the event that a child alleged to be a CHINS is taken into temporary custody by law enforcement and a parent, guardian, or legal custodian has not assumed custody of his/her child, juvenile court will be notified and shall attempt to locate the parent, guardian, or legal custodian. If the court cannot locate the parent, guardian, or legal custodian the child shall be placed in the custody of DFCS.

4. **CHINS Hearings:**

a. Continued Custody Hearing:
i. A continued custody hearing shall be held within 72 hours of the child being taken into temporary custody if the child is held in a DJJ facility, or 5 days if the child is placed with DFCS.
ii. For children taken into temporary custody, if the court finds at this hearing that there is probable cause to believe that the child is a CHINS, the court can order that a petition be filed or that the child be referred to a Community-Based Risk Reduction Program. The following placement outcomes are possible:
(A) The child may remain in temporary custody and be placed in the least restrictive placement, including the temporary custody to DFCS; or
(B) The child may be returned to his or her home.
(C) If a child remains in the temporary custody of DFCS, a CHINS petition must be filed by an authorized person within five (5) days of the continued custody hearing.
iii. If the court orders the case to proceed, a petition may be filed by "any person who has knowledge of the facts alleged or is informed and believes that such facts are true." The petitioner has the burden of proving the allegations by clear and convincing evidence.

b. CHINS Petition and the Adjudication Hearing:
i. If the child is returned to his or her home, the petition must be filed within 30 days of the complaint being filed or within 30 days of the child's release from temporary custody. If the child remains in custody, a petition must be filed within five (5) days.
i. The adjudication hearing must take place within ten (10) days of filing the petition, if the child remains in custody or within 60 days of filing the petition, if the child is not in custody.

c. Disposition Hearing: A disposition hearing may then be held in conjunction with the adjudication hearing or within 60 days of the adjudication hearing. The court shall order the least restrictive and most appropriate final disposition, which may include:
   i. Permitting the child to remain with his caregiver with or without conditions prescribed by the court;
   ii. Placing the child on probation or unsupervised probation;
   iii. Requiring community service;
   iv. Requiring restitution;
   v. Imposing a fine;
   vi. Requiring the child to attend structured afterschool or evening programs or other court approved programs as well as requiring supervision during the day;
   vii. Any order authorized for the disposition of a dependent child;
   viii. If the child is placed in foster care, a case plan must be developed that conforms with O.C.G.A. § 15-11-404 (see Case Planning);
   ix. Any order authorized for the disposition of a delinquent child except the child shall not be placed in a secure or non-secure residential facility;
   x. Any combination of the above.

   NOTE: A CHINS order is in effect for the shortest time necessary to accomplish the purposes of the order and for not more than 2 years. The order may be extended under certain circumstances; and the court may terminate the order prior to expiration if the purposes of the order have been accomplished.

d. Review Hearing: After a disposition hearing, the court must review the case at least once within three (3) months after such disposition and at least every six (6) months thereafter so long as the order of disposition is in effect.

5. CHINS Protocol: The state office is in the process of developing a Memorandum of Understanding (MOU) with the aforementioned public agencies identified as having possible roles in CHINS. This MOU will outline various agreements regarding the handling of CHINS cases and cooperation amongst agencies in CHINS-related matters. The MOU will also include a model protocol for local agencies to use to develop similar agreements for the handling of CHINS cases on the local level. The following, without limitation, is recommended for moving forward:
   a. Local participation in the multiagency staffing panel initiated through the courts;
   b. Collaborative/shared responsibility amongst agencies;
   c. Working collaboratively with all partners;
   d. Developing a Community Resource Guide to facilitate a greater awareness and use of local "resources" to address needs of youth;
   e. Provision of services focused on the youth and families' needs; and
   f. Restorative Practice/Justice approach.

Implementation

The policy changes included in this county letter are effective January 1, 2014. Regional and County Leadership are encouraged to provide opportunities for staff to review the information to ensure that changes are incorporated into practice.

For additional information, questions, technical assistance or support, staff may direct requests through the Regional Field Program Specialist to the Policy Unit at PPPDUnit@dhr.state.ga.us. For consultation and assistance regarding CHINS issues

please contact Menelik Alleyne at mralleyne@dhr.state.ga.us or Rachel Davidson at radavidson@dhr.state.ga.us.