

	GEORGIA DIVISION OF FAMILY AND CHILDREN SERVICES CHILD WELFARE POLICY MANUAL			
	Chapter:	(5) Investigations	Effective Date:	October 2015
	Policy Title:	Juvenile Court Intervention During an Investigation		
Policy Number:	5.8	Previous Policy #:	N/A	

CODES/REFERENCES

- O.C.G.A. § 19-7-5 Reporting of Child Abuse and Neglect
- O.C.G.A. § 49-5-8 Powers and Duties of Department of Human Services
- O.C.G.A. § 49-5-1 and 49-5-8 Children and Youth Act
- O.C.G.A. § 49-5-41 Persons and Agencies Permitted to Access Records

REQUIREMENTS

The Division of Family and Children Services (DFCS) shall take court action during an investigation when:

1. The Social Services Case Manager (SSCM) cannot gain access to the alleged maltreated child(ren) within the required response time to assess child safety.
NOTE: Assistance can be requested from law enforcement prior to taking court action.
2. A court order for either a physical examination, psychiatric or psychological examination of a child or other children in the home is needed.
NOTE: This request may be made ex parte¹.
3. A dependency order is needed to restrain or otherwise control the conduct of a caregiver.
4. A safety plan cannot manage or control the present or impending danger in the home.
5. Risk cannot be controlled with the child safely remaining in the home.
6. Reasonable efforts have been made by DFCS to manage or control risk and present or impending danger in the home, and based on the assessment of the family, a child’s continuation in the home is contrary to the welfare of the child or placement would be in the child’s best interest (see Practice Guidance for Reasonable Efforts information, policy [17.3 Legal: Court Orders and Placement Authority](#) and [9.5 Eligibility: Reasonable Efforts](#)).
NOTE: The SSCM must provide sufficient information to the court related to present danger situations, impending danger safety threats and family conditions, including protective capacities and child vulnerabilities.
7. The child is in immediate danger and emergency removal is required. Emergency removals may be initiated by others, such as law enforcement. Ensure that the dependency complaint, the dependency petition, the preliminary dependency hearing order and other legal documents are obtained, reviewed and uploaded into Georgia SHINES External Documentation.

¹ Ex parte means made or undertaken on behalf of only one of the parties involved in a court case without involving all parties.

PROCEDURES

To initiate juvenile court action, the Social Services Case Manager (SSCM) will:

1. Consult with the supervisor to obtain approval.
2. If approved, complete a Legal Assistance packet, including information such as:
 - a. A legal assistance form that includes family demographic information, facts of the case that support the request for the court action, persons to be subpoenaed, etc.;
 - b. For dependency, a Foster Care Affidavit that supports the reason(s) a dependency petition is being filed;
 - i. A recommendation regarding supervised visitation when it is determined to be required for the safety of the child(ren);
 - ii. A Reasonable Efforts Checklist (located on the safety plan) that supports DFCS' efforts to prevent a child's removal prior to taking steps to remove the child from his/her home, unless reasonable efforts were not required;
3. Attend the court hearings and participate in the juvenile court process as outlined in policy [17.1 Legal: The Juvenile Court Process](#).

The SSCM will be knowledgeable about the following:

1. The rights, roles and responsibilities of the County Department when serving as custodian of a child in foster care or when otherwise involved with a family under the jurisdiction of the juvenile court;
2. The procedural safeguards for the parents, guardians or legal custodians and children under the jurisdiction of the juvenile court;
3. The juvenile court process, including courtroom etiquette;
4. The applicable federal and state laws;
5. Court order requirements for Title IV-E funding; and
6. Timeframes for custody and other legal actions.

PRACTICE GUIDANCE

Court Intervention to Protect Children

Determining when to initiate juvenile court action is one of the most difficult and important decisions DFCS makes. Involving the court too quickly may be a misuse of the authority granted to DFCS and the court. Not involving the authority and protection of the court when a child is not safe or is at significant risk may constitute a failure to adequately protect the child and failure to discharge the authority given to DFCS.

Some caregivers cannot or will not protect their child or ensure the child's needs are met. A child's right to protection and safety outweigh a caregiver's right to the child. Circumstances that may require court intervention include, but are not limited to:

1. Gaining access to interview/observe a child to ensure the child's safety;
2. Gaining access to the home to assess the home environment;
3. Identifying present danger situations or impending danger safety threats that cannot be managed by an in-home safety plan; and
4. Requiring family participation in services that will improve family conditions that impact child safety and well-being.

When circumstances present that removal of a child can be planned, convene a Family Team Meeting as outlined in policy [19.3 Case Management: Family Team Meetings](#).

The court may make any of the following orders of disposition or a combination of those best suited to the child's protection and physical, emotional, mental and moral welfare after a child has been adjudicated as a dependent child:

1. Permit the child to remain with his or her parent, guardian or legal custodian subject to conditions and limitations as the court prescribes, including supervision as directed by the court for the protection of such child; or
2. Grant or transfer temporary legal custody to any persons or entities;
NOTE: The transfer of temporary legal custody may be subject to conditions and limitations the court may prescribe. Such conditions and limitations shall include a provision that the court shall approve or direct the return of the physical custody of a child adjudicated as a dependent child to his or her parent, guardian or legal custodian either upon the occurrence of specified circumstances or at the direction of the court. The return of physical custody of a child adjudicated as a dependent child to his or her parent, guardian or legal custodian may be made subject to conditions and limitations the court may prescribe, including, but not limited to, supervision for the protection of such child.
3. Transfer jurisdiction over such child in accordance with the requirements of Code Section 39-4-4, the Interstate Compact on the Placement of Children;
4. Order such child and his or her parent, guardian or legal custodian to participate in counseling or in counsel and advice determined by the court;
5. Order the parent, guardian or legal custodian of such child to participate in a court-approved educational or counseling program designed to contribute to the ability of such parent, guardian or legal custodian to provide proper parental care and supervision of such child, including, but not limited to, parenting classes;
6. Order DFCS to implement and such child's parent, guardian or legal custodian to cooperate with any plan approved by the court; or
7. Order temporary child support for such child to be paid by that person or those persons determined to be legally obligated to support such child.

Dependency

A dependent child means a child who:

1. Has been abused or neglected and is in need of protection of the court;
2. Has been placed for care or adoption in violation of law; or
3. Is without his parent, guardian or legal custodian.

NOTE: A parent's, guardian's or legal custodian's reliance on prayer or other spiritual means for healing in lieu of medical care in the exercise of religious beliefs shall not be the sole basis for considering the child to be a dependent child; however, the religious rights of a parent, guardian or legal custodian shall not limit the child's access to medical care in a life-threatening situation or when the condition will result in a serious disability. The juvenile court has the authority to order medical care of a child without DFCS taking custody.

Reasonable Efforts

For every case prior to placement, DFCS commits to making reasonable efforts to prevent a child's removal. Although placement may not be prevented, a determination is later made as to whether or not reasonable efforts will make it possible for a child to return home. Reasonable efforts to prevent removal may include:

1. Using family resources, neighbors or individuals in the community as safety providers;
2. Using community agencies or services as safety providers;

3. Having the alleged maltreater leave the home, either voluntarily or in response to legal action;
4. Having the non-maltreating caregiver move to a safe environment with the child; and/or
5. Having the caregiver(s) place the child outside of the home.

Venue

DFCS has the responsibility of taking court action in any jurisdiction that will ensure the immediate safety of a child. For convenience of the parties, the court may transfer the proceedings to the county in which a child legally resides. A proceeding may be commenced:

1. In the county in which a child legally resides; or
2. In the county in which a child is present when the proceeding is commenced if such child is present without his or her parent, guardian or legal custodian, or the acts underlying the dependency allegation are alleged to have occurred in that county.

Court Ordered Visitation

When a child is removed from his/her home, the court will order reasonable visitation that is consistent with the age and developmental needs of a child if the court finds it is in the child's best interests. [O.C.G.A. § 15-11-112 Court Ordered Visitation](#) states that there be a presumption that visitation will be unsupervised unless the court finds that unsupervised visitation is not in the child's best interests. Thus, the court's order must specify the frequency, duration and terms of visitation, including whether visitation will be supervised or unsupervised.

DFCS has a responsibility in making recommendations to the court initially and on an ongoing basis, including whether visitation should be supervised or unsupervised. Information that must be considered includes, but is not limited to:

1. CPS history and prior Permanency (Foster Care) history;
2. Current allegations;
3. Current family conditions;
4. Sufficiency of the safety plan;
5. Caregivers' intent and attitudes towards support of the safety plan;
6. Progress towards the enhancement of caregiver protective capacities; and
7. The best interest of the child including safety, permanency and well-being (see policy [17.1 Legal: Juvenile Court Process](#) for Practice Guidance pertaining to a best interest determination).

NOTE: Within 30 days of the court finding that there is a lack of substantial progress towards completion of a case plan, the court shall review the terms of visitation and determine whether the terms continue to be appropriate for a child or whether the terms need to be modified.

FORMS AND TOOLS

N/A