

Big Bend Community Based Care Policy & Procedure

Series: 600: Legal Issues
Policy Name: Change of Custody
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Policy

It is the policy of Big Bend Community Based Care, Inc. (BBCBC), to pursue a change in legal or physical custody when a child receiving case management services is removed from the home or changes placement.

Procedure

A. Emergency Relative Placements.

1. If the parent is out of the home for less than thirty (30) days and has not been court ordered out of the home (i.e., hospitalization), the placement of the child with a relative is permitted as long as the parent has arranged for, or approves of, the relative placement.
 - a. This placement is handled in the same manner as visits in voluntary cases and will not require a change of custody.
 - b. The parent must ensure that the relative has a legally acceptable document that allows the relative to obtain routine medical care for the child.
 - c. At the parent's discretion, the statement may authorize the relative to consent to school and recreational activities for the child.
 - d. If the court is involved in the case, the court must be advised and approve this temporary change in living arrangements.
 - e. The DCM must notify CLS of the change.
 - f. CLS will file a motion with the court and set a date for the matter to be heard.
2. When emergency removal from a court-ordered placement occurs due to new or further incidents of abuse, neglect, or abandonment, a report must be made to the Abuse Hotline.
 - a. Only a Child Protective Investigator (CPI) can change the placement without prior court approval.
 - b. Placement with a (or another) relative may be made with or without the agreement of the current custodian.
 - c. The CPI will contact the CLS attorney prior, to or as soon as possible after the placement, in order to prepare for the shelter hearing which must be held within twenty-four (24) hours of approval of the emergency placement.

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3. Children will not be placed in any home that is not an approved relative/non-relative home without a completed and approved Unified Home Study.
 - a. The Unified Home Study shall be filed with the court and a copy placed in the case file.
 - b. Prior to requesting court approval of a relative placement at the shelter hearing, a background screening must be completed:
 - i. FDLE record checks on all adults residing in the household through LiveScan.
 - ii. If FDLE is not immediately accessible, this requirement will be met as soon as access and response can be accomplished.
 - iii. County and city law enforcement checks on all persons residing in the household.
 - iv. Delinquency background checks on all children age 12 or older residing in the household.
 - v. Florida Safe Family Network (FSFN) background checks on all persons residing in the household (both child and adult reports).
 - a) The DCM will consult with the supervisor if the background screening reveals any indication of criminal activity or abuse, neglect or abandonment by any of the adult household members, or delinquent activity by any child age 12 or older in the home.
 - b) If the decision is made to seek court approval of the placement, the court must be informed of the results of the background screening.
 - c. The non-custodial parent must be considered as the placement of choice unless the child would be placed at risk of harm with that parent or unless there is another existing court order restricting or prohibiting placement with that parent.
 - i. The provisions of the Uniform Child Custody Jurisdiction Act (UCCJA), Sections 61.1302—61.1348, F.S., must be followed prior to recommending placement with the non-custodial parent.
 - ii. The non-custodial parent is subject to the same checks as any relative placement.
 - d. If a child has been appointed a Guardian ad Litem (GAL), the GAL must be notified as soon as possible, by telephone, if the child is taken into emergency custody.
 - i. The DCM is responsible for assisting the CPI in informing any other pertinent parties of the emergency shelter hearing.
 - e. When the DCM is placing the child prior to obtaining the court order with a relative willing to care for the child and the DCM has reason to believe that the placement of the child will not provide adequate protection from the perpetrators, the DCM will contact the Abuse Hotline and initiate a report as well as contact the local CPI supervisor to assist and coordinate another change of placement.
 - i. Only a CPI can change a placement from a parent without prior court approval.
 - ii. The child must be placed in emergency shelter care prior to the shelter hearing.

B. Temporary Relative Custody.

1. When a child is to remain with a relative on more than an emergency basis (more than thirty (30) days), arrangements must be made to place the child in the temporary custody of the relative.

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- a. Before a recommendation can be made to the court that a child be placed in the temporary custody of a relative, regardless of geographic location, that relative's ability to care for the child must be assessed, including required background checks and a physical inspection of the home to ensure child safety.
 2. Following the same guidelines as for an emergency relative placement, a Unified home study and background checks must be completed.
 - a. Background screening is required on any new adult or child over the age of 12 years, residing in the home, who has not previously been screened within the past three (3) months.
 - b. Factors to assess and document in the predisposition study regarding a relative or non-relative's resource(s) and ability to care for the child include:
 - i. The relationship, if any, between the adult and the child;
 - ii. The attitude of the adult toward the child's parents (An adversarial relationship or extreme hostility toward a parent can create conflict and stress for the child and can seriously interfere with emotional growth);
 - iii. The potential caregiver's attitude towards reunification;
 - iv. Previous knowledge about the relationship with the child, including:
 - a) The degree of emotional attachment between the adult's family and the child's family;
 - b) The child's feelings concerning the placement;
 - c) Their capacity for parenting and an assessment of parenting skills.
 - v. Stability of the marriage, quality of the marital relationship and mutuality of the caregiver's decision to undertake the child's care if the adult is married;
 - vi. The adequacy of the physical setting to include another family member;
 - vii. Description of all members of the adult's home and their attitude toward placement of the child in their home;
 - viii. Financial ability to assume care of the child, with or without assistance;
 - ix. Willingness to work with the agency during the period of supervision;
 - x. Their understanding of and reaction to applicable department policies;
 - xi. Supportive services which will be necessary to maintain the placement.
 - a) Reunification plan;
 - b) The potential for permanency of this placement;
 - c) Potential problem areas.
3. Part of the evaluation of the relative's home must include a visit to that home by the DCM or, if the relative lives in another area, by another case worker in that area through a formal request for a home study sent through local protocol to the Community Based Care organization providing services in the area the prospective placement resource lives.

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4. Relatives who have indicated an interest in acquiring temporary custody of a child and whose homes will not be recommended as a placement for the child will be advised of this decision by the DCM and the contact documented in the file in FSFN chronological notes.
 - a. Such relatives may be appropriate to provide respite care or other types of support, and this possibility should be explored whenever possible.
5. A court order for temporary custody to a relative will include the powers ordinarily given to a guardian of the person, such as authority to give consent for ordinary medical care, dental care, and to make educational decisions for the child.
6. A judicial motion to change the child's placement must be filed with the court.
 - a. CLS will prepare the motion and set the court hearing.
 - i. The DCM must initiate the motion by informing CLS of the need.
 - ii. The DCM will provide information regarding the circumstances of the need for a change of placement as well as a copy of the approved Relative Caregiver Home study.
7. If the relative becomes interested in being a foster home, the fact that the child is in the home will not be a barrier to foster care licensure, and licensure as a foster home may proceed without the removal of the child from the relative placement.
 - a. Upon licensure as a foster care home, the DCM will contact CLS to notify them of the need for a hearing to change the placement of the child from relative custody to foster care.
 - b. The placement in FSFN must be changed from a relative placement to a foster placement.
8. The DCM must notify the Guardian ad Litem, if appointed, of the hearing date and time, and of the decision to place the child with a relative prior to the hearing.
9. Any known agencies already involved with the case must be notified of the placement change.
 - a. Agencies that are critical to the success of the case plan, to the child's safety, or to the family's welfare must be notified of the change by the DCM within twenty-four (24) hours of placement change.
 - b. The DCM will notify the Access Florida section of the Economic Services program if the child is on public assistance.
 - i. The DCM will assist the relative in arranging for possible payment made to the relative, if applicable.
 - ii. The DCM must complete the Relative Caregiver Communication form.
 - a) Submit it to the Economic Services office within one (1) week of placing the child in the temporary legal custody of said relative, and after the court approves the Relative Caregiver Home study.
10. A recommendation for protective supervision must be made initially in a relative placement which occurs as the result of a child protective investigation or court action initiated by protective supervision.
 - a. Termination of supervision may later be requested if supervision is determined unnecessary.

C. Non-Relative Placements.

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1. Court-ordered placement of a child with an adult non-relative will be recommended when:
 - a. The parent has arranged for, or agreed to, the placement and the placement seems to be in the best interest of the child; or
 - b. The parent does not object to the placement; and
 - c. All of the following criteria are met:
 - i. No financial support from the department is required; and
 - ii. The non-relative does not wish to become a foster home (a court-ordered non-relative placement under Chapter 39, F.S., would supersede a Section 409.175, F.S., requirement for licensure after ninety (90) days).
2. A visit to the non-relative's home and a home study must be completed by the counselor.
 - a. An FSFN search (adult and child reports) and a criminal records check of all household members age 12 and older currently living in the non-relative's home must be completed.
 - b. Household members 12 through 17 must be screened for delinquency records.
 - c. If this background screening reveals any indication of criminal activity or abuse, neglect or abandonment by any of the adult household members or delinquent activity by any child in the home, the counselor must consult with his or her supervisor for guidance in whether to recommend the placement.
 - i. If the decision is made to recommend the placement, the court must be advised of the results of the screening.
3. Non-relative placements will not be used in lieu of emergency shelter care unless all necessary clearances have been obtained.
 - a. Non-relative placements are subject to the same background screening and home studies as relative placements.
 - b. Non-relative placements are subject to the same requirements for protective supervision as relative placements.
4. If the non-relative later becomes interested in being a foster home, the non-relative placement must not be considered a barrier to foster care licensure, and licensure as a foster home may proceed without the removal of the child from the non-relative placement.
 - a. Once the non-relative becomes licensed, legal custody should be changed to the department

D. Referral to Foster Care.

1. Foster care placement is appropriate for children who, on an ongoing basis, cannot be assured adequate care and protection through the provision of in-home supportive services or through placement with a relative or non-relative.
2. A DCM will not recommend a child to foster care placement unless:
 - a. Preventive services have been provided to the family and have failed to alleviate the problems, necessitating out-of-home placement; or

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- b.** It has been clearly established that available preventive services to the family would not be sufficient to provide necessary protection to the child as documented in the Motion to Change Placement file with the court by CLS.
- 3.** As part of the referral process, foster care and involved protective supervision staff must confer to determine what services the child is currently receiving, what services will be needed and what staff are responsible for providing those services.
 - a.** The Service Planning Conference Checklist should be used to guide the discussion at this staffing.
 - b.** A change from protective supervision to foster care requires a court order for a change of custody to the department.

E. Legal Procedures.

- 1.** The DCM will consult with the CLS attorney about proper proceedings for the case.
 - a.** When the CLS attorney agrees that the particular circumstances of a case require court action, the attorney will file a motion for a change of custody or placement and for any conditions necessary to provide protection to the child.
- 2.** The DCM will tell the parent or other custodian and the child, if of sufficient age and understanding, of the planned court action and why it is considered necessary.
 - a.** The DCM will explain the court process, including the parent's right to expect a summons, be present at all court hearings, hire an attorney at their own expense, and to bring witnesses to speak on their behalf.
 - b.** The DCM will also explain the rights of the child.
- 3.** The CLS attorney will schedule the hearing and provide notice to all pertinent parties.
- 4.** The DCM will attend the hearing and file all reports and court action forms in the client record.
- 5.** The DCM will update the chronological notes section of the statewide automated information system with a summary note regarding each legal proceeding.