

Manual for Domestic Violence Advocates



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A Product of:

*The St. Louis County Greenbook Initiative
Family Court of St. Louis County
St. Louis County Children's Division of the Missouri Department of Social Services
Missouri Coalition Against Domestic Violence, St. Louis Metropolitan Region*

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Foreword

Judge Susan Block, former Administrative Judge

Family Court of St. Louis County

December 2003

Susan Block, Administrative Judge of the Family Court of St. Louis County was the visionary for the Greenbook Initiative. She served as the Steering Committee chair from the inception of the Initiative until her retirement on December 31, 2003.

"The domestic violence community is to be congratulated for their leadership in developing this Manual. The Initiative agreed to fund the writing and publishing of the Manual because its goals are all about what the Initiative aims to achieve. A guiding principle of the Greenbook is to keep victims of domestic violence and child maltreatment safe and to hold perpetrators accountable. Effective advocacy on the part of domestic violence service providers aims to keep victims safe and ensure that non-offending adult victims are not blamed for exposing children to domestic violence. When advocates read and use the material in this Manual, they will be better equipped to intervene on behalf of their clients who are involved with DSS and/or the court. Such advocacy promotes accountability and interventions that are more effective by all of the Greenbook partners. As I leave the Family Court, I am confident that this Manual will become an important tool that promotes improved outcomes for victims of family violence."

Judge Tom DePriest, Administrative Judge

Family Court of St. Louis County

January 2004

"As I begin my tenure as Administrative Judge of the Family Court I fully appreciate the value of this Manual as a resource for advocates in the domestic violence community. The better informed advocates are about the role and mandates of the Court and DSS, the more effective they can be in working with these systems to better serve victims of family violence. This Manual recognizes that as Greenbook partners we must educate one another about what we do, hold one another accountable, and work together to better serve victims of domestic violence and child maltreatment."

Fred Simmens, Children's Division

Missouri Department of Social Services

March 2004

“The co-occurrence of domestic violence and child maltreatment is an extensive public dilemma with consequences reaching far beyond the family unit. Family violence involves behaviors that have overwhelming effects for individual victims, their families, neighbors, and the larger community. In an effort to improve the lives of Missouri's children, their families and communities the Children's Division (Department of Social Services) supports the use of this Manual by all those who advocate for victims of domestic violence. The Children's Division has partnered with the Greenbook Initiative to develop this Manual in order to provide advocates with information about various programs within the agency. The Manual attempts to successfully integrate child welfare, domestic violence service provider, and juvenile court response to the co-occurrence of domestic violence and child maltreatment. It is our hope that with the information in the Manual, advocates will be able to provide effective interventions that will end the vicious cycle of family violence, while holding perpetrators accountable.”

Sister Jeanne Meurer, former Chair

St. Louis Metropolitan Region of Missouri Coalition Against Domestic Violence

March 2004

“Domestic violence advocates have been waiting a long time for a manual to help them understand the various programs of the Department of Social Services in Missouri. At last, a Manual is available to guide us through the bureaucracy of the Children's Division and the Family Court when our clients are faced with neglect and abuse issues, and through the Family Support Division when our clients are faced with income maintenance or child support issues. We believe that this Manual will only further the efforts of the Greenbook Initiative, the funding source for the Manual, to assure greater understanding and cooperation among the partner agencies. And, because all domestic violence service providers will have access to the Manual, advocates will be better able to assist clients in obtaining all services in these systems to which they are entitled.”

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Introduction

The Department of Social Services (DSS) Advocacy Manual is a joint project of the St. Louis County Greenbook Initiative on Domestic Violence and Child Maltreatment and the Missouri Coalition Against Domestic Violence, St. Louis Metropolitan Region. The manual covers the laws, policies and practices of the St. Louis County Children's Division and Family Support Division of the Missouri Department of Social Services (DSS). It is designed by and for advocates of battered women so they can better assist women who are involved with DSS to negotiate the program or system in which they are involved.

The three major program areas on which this manual focuses are Children's Division, Income Maintenance, and Child Support Enforcement. All three programs used to be within the Division of Family Services (DFS) of DSS. Recently, DSS was restructured and now Income Maintenance and Child Support Enforcement are within the Family Support Division, while Children's Division has become a division in and of itself. Because many of the cases referred to Children's Division have court involvement, a section on the portion of the Family Court of St. Louis County that deals with neglect and abuse cases is included in this Manual.

This Manual refers to the abuse victim in the feminine gender and the perpetrator in the male gender. This is because the vast majority of victims of domestic violence are women and the vast majority of perpetrators are male. In the Children's Division and Court sections, the Manual refers to the non-abusing mother. This is not to say that women do not perpetrate child maltreatment; they do. But the focus of these sections is the co-occurrence of domestic violence and child maltreatment, which is largely perpetrated by males. For more information,

please see *Effective Intervention in Domestic Violence and Child Maltreatment Cases: Guidelines for Policy and Practice*, published by the National Council of Juvenile and Family Court Judges and *Advocacy Matters: Helping Mothers and Their Children Involved with the Child Protection System*, published by the Family Violence Prevention Fund.

The Manual was edited and co-written by four domestic violence advocates. Rachel Goltzman was responsible for the Children's Division, Nina Balsam, Esq. was responsible for the Court Section, Katie VonDeLinde was responsible for the Income Maintenance section, and Nicole Baran was responsible for the Child Support Enforcement section. Erica Kratofil, a social work graduate student, assisted with writing these sections. Many people within DSS and the Court, as well as others, reviewed the sections for accuracy. The authors want to alert the users of this manual that the information in the Manual was current at the time of publication¹, to the extent verifiable. Since laws, programs and policies change frequently, it is important to stay abreast of changes that may affect a woman's rights and responsibilities.

Funding for this Manual was provided by the St. Louis County Greenbook Initiative. While the authors recognize the great strides the partners involved in the Greenbook Initiative, the Family Court, the Children's Division, and the Domestic Violence Community have made in responding to the co-occurrence of child maltreatment and domestic violence, there are still institutional players that may not be responding in a manner that best protects non-abusing mothers and children and holds batterers accountable. Therefore, the Domestic Violence Community felt the need to draft a Manual that both explains the DSS and Court systems and provides guidance for advocacy within those systems.

¹April, 2006

Overview of Advocacy Within DSS and the Court

Jane entered a domestic violence shelter two weeks ago without financial resources, with a shaky employment history and two children under five years old. She decided to apply for “welfare” or Temporary Assistance to Needy Families as a financial bridge until she can find steady work. Jane goes to the offices of the Family Support Division and meets with a case-worker. The worker asks about Jane’s history of domestic violence, but Jane does not feel comfortable telling the worker about the abuse she has experienced. The worker tells Jane that she must disclose the name of her children’s father in order to receive financial benefits through TANF. Jane is afraid that if the state goes after her children’s father for child support he will be angry and intensify his search for Jane and perhaps even harm her family members. Jane is stuck between putting herself and her family at risk for future abuse if she discloses the father’s name and being financially destitute.

Jane’s difficult decision is a false dilemma. Proper advocacy from her domestic violence worker would give Jane clear information about the process of applying for TANF. The knowledge that her history of being abused by the children’s father gives her “good cause” not to disclose the father’s name in order to receive TANF. This same kind of advocacy can also assist battered women to receive the services they are entitled to with regard to the other programs highlighted in this manual. The Manual is called an advocacy manual because it gives advocates information necessary to assist battered women to successfully negotiate DSS programs. However, it also gives advocates information about the law, policy and practice that should be offered so that advocates can help to assure that battered women receive the services to which they are entitled from these systems.

Quality advocacy requires updated information and knowledge of systems, such as DSS, but why devote an entire manual to this venture and why specifically create sections on advocacy? The reasons are three fold:

1. DSS is a huge government bureaucracy with rules that can be confusing to those outside the system.
2. Laws change and the resulting policy and practice changes at DSS make it more necessary for battered women to have full information about their rights.
3. Advocacy within DSS is a responsibility of domestic violence advocates.

DSS is a huge government bureaucracy with confusing rules

How does one find eligibility requirements for daycare assistance in the State of Missouri? What happens after a child abuse hotline call is made? Finding the answers to these important questions can mean leaving messages on worker’s voice mail, paging through document after document, or searching through memos up-loaded on internet sites. DSS is a daunting agency with layers of bureaucracy, ever-changing rules, and over-worked, underpaid employees. In contrast, domestic violence advocates often work in small agencies that avoid bureaucracy and embrace flexibility. While frequently over-worked and underpaid they are also required to be “experts” on many subjects including dynamics of abuse, community resources, legal remedies, etc. Domestic violence advocates receive very little formal training on income maintenance, child support, and child protection. A study of domestic violence programs in Iowa found that none of the programs evaluated provided formalized training on these programs (VonDeLinde, 2001). Consequently, many domestic violence advo-

cates have avoided advocating for women in DSS because of limited time, limited resources, limited training, and an inability to gain clear, accurate information about this bureaucracy.

Law changes and the resulting changes in policy and practice at DSS make it more necessary for battered women to have full information about their rights.

State budget cuts and complex federal law changes continue to impact the lives of battered women. For example, the 1996 Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA) removed a financial safety net for women. As a result of this change, domestic violence activists worked to institute the Family Violence Option, which gives battered women the opportunity to safely comply with the new Temporary Assistance for Needy Family regulations. Finally, the Adoption and Safe Families Act (ASFA) instituted regulations regarding family reunification and the responsibility of workers before removing a child. These changes significantly impact the lives of the women advocates work with, and are important components of advocacy.

Other laws affect policy and practice within DSS and the Court system, and thereby affect the rights of those involved with these systems. These include laws that prohibit discrimination. One law, Title VI of the 1964 Civil Rights Act, requires, in part, that those government and non-governmental organizations that receive federal funding not discriminate against persons because of national origin. This law, along with the Americans with Disabilities Act, have been interpreted to require that organizations that deal with those who cannot read or write English well, or

who have a disability that precludes them from being able to read or understand written or spoken words, such as blindness or deafness, be afforded the opportunity to use the services provided by the organization in a language they do understand through the use of interpreters and translators. If DSS or the Court does not provide services to non-English speaking or disabled individuals in a manner that allows them to understand and utilize these services, they might be violating the law.

Advocacy within DSS is a responsibility of domestic violence advocates.

Domestic violence advocates frequently talk about terms such as “advocacy” and “empowerment” without agreeing on the definitions. “Safety Planning for Battered Women,” defines an advocate as “anyone who responds directly to help battered women in an organizational context.” She writes that woman-defined advocacy, “starts from the woman’s perspective, *integrates the advocate’s knowledge and resources* into the woman’s framework, and values her thoughts, feelings, opinions, and dreams.” Therefore, according to this definition, woman-defined advocacy requires that the advocate have adequate knowledge of the systems in which they are advocating.

Empowerment literally means to give power to another individual. True empowerment requires that advocates link women to existing resources and educate them as to how to obtain necessary resources. Because every woman’s situation is different, empowering advocacy will differ depending on the woman. For example, providing woman-defined empowering advocacy to a woman who does not speak English comfortably will be different

Overview of Advocacy Within DSS and the Court, con't.

than working with a woman with strong English skills, an understanding of bureaucracies, and formal education. Therefore, woman-defined empowering advocacy means that advocates cannot simply provide every woman with an application for food stamps. In some cases it may be necessary to help the woman complete the application, in others it may require assisting the woman with phone calls regarding eligibility. At a woman's request, domestic violence advocates may at times make telephone calls themselves to DSS workers. While this may feel uncomfortable to some advocates, direct contact with DSS workers may enable advocates to obtain answers or resources for women within the DSS bureaucracy more successfully than the

women themselves because of the advocate's perceived legitimacy in DSS' professionally-based system. At times, advocates' well-meaning desire to empower women to "do it themselves" is not a productive strategy within the DSS system. Finally, advocates must be a part of this process because they are the experts in domestic violence. Although DSS workers should receive training on domestic violence, high staff turnover rates and limited time devoted to training leaves DSS not as well-equipped as we might like. By advocating for women who have experienced domestic violence, advocates can educate DSS workers on how program requirements impact women who are victims of domestic violence.



References:

Davies, J. M., E. Lyon, and D. Monti-Catania (1998). *Safety planning with battered women: Complex lives/ difficult choices*. Thousand Oaks, Sage Publications. Chapters 5-7.

How Are Domestic Violence Programs Meeting the Economic Needs of Battered Women in Iowa? An Assessment and Recommendations <http://www.vawnet.org/NRCSDVPublications/BCSDV/Papers/BCS16_EN.php> , Katie M. Ciorba VonDeLinde. (March 2002). Building Comprehensive Solutions to Domestic Violence, www.vawnet.org <<http://www.vawnet.org>> .

When a report of child abuse/neglect is made, the Children's Division (CD), a division of the Department of Social Services (DSS), handles the case. This section explains some of the processes and procedures that the CD employs in handling an abuse/neglect case in its initial phases. This chapter will help the advocate understand:

- Missouri's Legal Definition of Abuse
- The procedures utilized by the CD, including ones that specifically address domestic violence;
- The role of the advocate in the CD system; and
- The laws that affect the CD on a national, state, and local level.



Missouri's Legal Definitions of Abuse

Type of abuse	Defining Law	Definition
Physical Abuse	§210.110(1) RSMo	Any physical injury inflicted on a child other than by accidental means or reasonable discipline by one responsible for the care, custody, and control of the child.
Sexual Abuse	§§566.100 RSMo, 556.061 RSMo	The use, persuasion, inducement, enticement, or coercion of any child under the age of 18 years, to engage in, or having a child assist any person to engage in, any sexually explicit conduct by one responsible for the child's care, custody, and control.
Emotional Abuse		A passive or active patterned, non-nurturing behavior by a parent/caretaker that negatively affects and/or handicaps a child emotionally, psychologically, physically, intellectually, socially, and/or developmentally. This includes name-calling, berating, rejection, and threatening.
Abandonment		A child is deserted by a parent/caretaker, and there are no apparent plans to return.
Educational Neglect	§167.031 RSMo	A parent/caretaker intentionally interferes with the child's mandatory attendance requirements, including not allowing the child to attend school, failing to get proper immunizations, or not enrolling him in school.
Medical Neglect	§210.166 RSMo	A deprivation or denial by one responsible for the care, custody, and control of the child, of medical treatment for a specific moderate to serious ailment, including failure to use prescribed drugs.
Lack of Supervision		A child under eight years old is left alone for any length of time or any minor child is left to care for a sibling under circumstances which are likely to result in serious injury or death. This also includes locking a child out of the home, promoting sexual activity, and leaving a child in the care of someone who has previously maltreated the child.
Inadequate Basic Care (Neglect)		A failure to provide food, clothing, hygiene, shelter. This includes unsanitary conditions or lack of heating in the home, failing to seek medical attention, or failing to seek mental health services for a child who threatens suicide or exhibits behavior that is dangerous to self or others.

(Definitions are from the "Missouri Division of Family Services Child Abuse and Neglect Screening Criteria", December 2002.)

Child Protection in Missouri

During the 1993-1994 legislative session, Missouri lawmakers revised the state's child abuse and neglect statutes. This legislation set up Missouri's "two track" approach to responding to reports of child abuse and neglect with the idea that not all families that engage with Children's Division (CD) require extensive services. Instead of completing a child abuse and neglect investigation of every report, the state is allowed to complete family assessments for any case that does not require the involvement of law enforcement officials or the removal of a child (Healey, 1997). The legislation aims for a flexible response that is community-based and culturally sensitive (Family and Community Trust; Healey, 1997). It is also intended to help shift the focus from an adversarial investigation to a strengths-based model with an emphasis on safety for children (Family and Community Trust).

Reporting Abuse

Mandated Reporters, Central Registry, and the Hotline Process

In order to facilitate mandated (required by law) and permissive (voluntarily) reporting, a hotline number and corresponding procedures were established by DSS. A report alleging child abuse/neglect is referred to as a hotline call. The unit of the CD that handles hotline calls is the Child Abuse and Neglect Hotline Unit (CANHU). A hotline call consists of a complaint, instituted by a reporter, and information gathering by a trained worker. Anyone may report child abuse, but Missouri requires that certain classes of people, known as mandated reporters, must report suspected abuse to the proper authorities. Included in this classification are health and educational professionals, social workers, foster parents, and religious ministers. Domestic violence advocates may be mandated reporters if they fall into one of these professional categories or they work with children. Mandated reporters cannot report anonymously, so long as they are informed that reporter information be held as confidential. Any reporter who gives their name to the hotline can obtain information concerning the disposition of the report and findings and informa-

tion concerning the case, at the discretion of the director based on the reporter's ability to assist in protecting the child. The state has defined what type of conduct constitutes abuse. The law imposes penalties for failure to report, and a mandated reporter who fails to report can be held liable for injuries incurred by the child as a result of their failure. The CD will never release the identity of the reporter; however, the family may be able to guess the identity of the reporter under certain circumstances.

Before getting into the details of hotline calls, assessments, investigations, and the like, it is important to understand that every case that comes before the CD is handled with the safety of the child in mind. Thus, some cases are referred to the Family Court because the child has been harmed. In those cases, some children are allowed to remain in the home while some are placed in alternative care, such as foster homes, group homes, relative care (family) or kinship care (friend of family). Along the way, we will make distinctions between the procedures based on court involvement.

What's This?

A *mandated reporter* is a person required by law to report any suspected child abuse (teachers, doctors, and social workers are included).

A *permissive reporter* is any other person who reports abuse and is not required to do so by law.

The Hotline Call

When a caller contacts the hotline, he/she must be able to give the CD worker:

- The address of the child or a way to get in touch with the family.
- A description of the child for identification purposes.
- The concerns the caller has about the child's safety. (*Interview with Patti Pitts, Social Service Worker.*)

If possible the CD worker will also collect the following information:

- The name of the child in question.
- The name of the parent(s).
- The child's birth date.
- The child's race.
- The name of alleged abuser.
- The birth date of alleged abuser.
- The address of alleged abuser.
- The name of parent(s) and/or legal guardian with whom child is residing.
- The birth dates of the parent(s) and/or legal guardian.
- The names and ages of other children living in the same home, even if they have not been abused.

The worker will then ask for:

- A description of the abuse and any bruises or marks on the child.
- The caller will also need to tell the worker when the abuse occurred.
- How the caller came to know about the alleged abuse.
- Any witnesses to the abuse — the worker will collect their names and contact information.
- Is the child in an immediate life-threatening situation - the answer to this question will frequently determine what step is taken next.

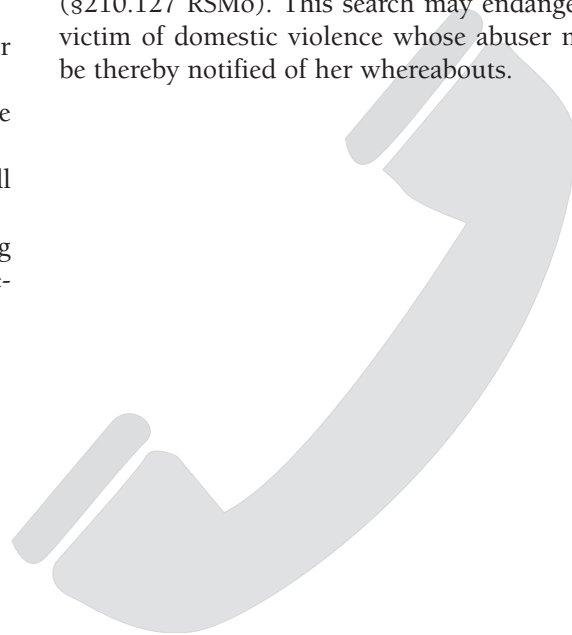
After the Hotline Call:

Investigation and Assessment

When a report of child abuse or neglect is made to the hotline, a trained CD worker determines whether the child is:

- The child is under age 18.
- The alleged perpetrator has care, custody and control of the child.
- The report meets the legal definition of abuse and neglect.

Information from the call is then forwarded electronically to a local office for investigation or assessment. **If a child is in immediate danger, the investigation must begin immediately.** All other cases begin within **24 hours** of the hotline call, unless the call is for educational neglect, which has a **72-hour** deadline. All investigations and assessments **must be completed within 30 days.** The Division is supposed to use structured decision making in responding to reports of neglect and abuse, with children at most risk having priority. The Division is required to conduct a diligent search for the biological parent of the child in the custody of the Division when the parent's identity or location is unknown. This search includes efforts to locate or identify the father of the child (§210.127 RSMo). This search may endanger a victim of domestic violence whose abuser may be thereby notified of her whereabouts.



Investigations

Investigations occur when the call is for:

- Severe Physical Abuse
- Sexual Abuse
- Child Fatality
- Abandonment

These are cases that, if true, would involve criminal violations or would likely result in a removal of the child or the alleged perpetrator from the home. These are co-investigated with law enforcement personnel.

During the investigation, the worker takes several steps, including:

- Contacting the reporter, if known, for additional information
- Determining the immediate safety of the children
- Interviewing witnesses
- Interviewing the non-offending parent
- Interviewing the alleged perpetrator(s)
- Determining whether the alleged abuse occurred by a preponderance of the evidence
- Evaluating the family's needs for services and making appropriate referrals

About 15% of all hotline calls result in an investigation. Children are to be seen within 24 hours of the report, but cannot be interviewed at school or the day care center where the abuse is alleged to have occurred. The questioning of a child shall cease if the child wishes a parent, guardian or attorney present during the questioning (§211.059.3 RSMo).

During the investigation, it may be necessary to remove the child from the home. Removing a child requires a court order (Court section, pg. 30).

- Police officers** have the authority to take protective custody and remove a child from the school setting.
- CD workers** can recommend that a child be removed from their home, but they do not have the authority to remove a child without court authorization.
- A child** cannot be removed from school by CD before the end of the day without a court order authorizing the removal from school.
- The child's parents** must be notified that their child has been placed in foster care.

What's This?

Preponderance of the evidence means that degree of evidence that is of greater weight or more convincing than the evidence which is offered in opposition to it or evidence which as a whole shows the fact to be proved to be more probable than not. §210.110(13) RSMo.

Investigations, con't.

- Children who are removed** from their homes may enter relative care (with a family member), kinship care (with someone they know), or foster care (with a licensed foster care family or group home). There is a preference in the law for a child to be placed with a relative, if it is not contrary to the best interests of the child.
- If a placement results** in the child attending a different school, the child's records shall be transferred within two days to the new school (§211.032.7 RSMo).
- Foster families** must undergo background checks before children can be placed with them. This check includes checking Order of Protection registries. Unless a court has determined that foster home placement with relatives is contrary to a child's best interest, the CD shall give preference to placement with relatives (§210.565 RSMo).
- Visitation** with their parents will be determined at the time of placement.

After an investigation is completed, the CD worker will decide what action should be taken on a case, or “make a finding”. A case can fall into one of three finding categories:

1. Preponderance of the Evidence

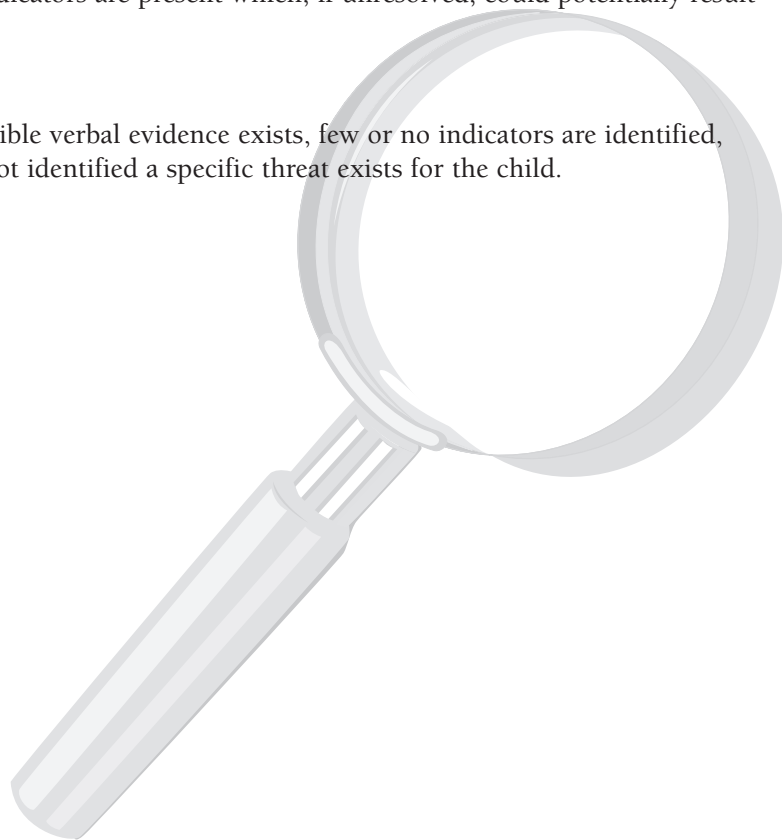
Abuse/neglect has occurred or is occurring, supported by the observation of visible signs, physical and/or credible verbal evidence provided to the CD worker by the child, perpetrator or witnesses.

2. Unsubstantiated–Preventative Services Indicated

Insufficient visible signs, physical and/ or credible evidence exist, but the social worker determines that sufficient risk indicators are present which, if unresolved, could potentially result in child abuse/neglect.

3. Unsubstantiated

Insufficient physical or credible verbal evidence exists, few or no indicators are identified, and the social worker has not identified a specific threat exists for the child.



Assessments

Assessment cases typically involve:

- Allegations of mild or moderate physical abuse
- Lack of supervision
- Educational neglect

CD defines Assessment as

“an approach, which provides for a prompt assessment of a child and their family when the child has been reported to the CD as a victim of abuse or neglect by a person responsible for that child’s care, custody or control. Family assessments include the provision of community-based services to reduce the risk of abuse and neglect and to support the family. This approach takes the place of the traditional investigation.”
(Child Abuse and Neglect in Missouri, 2003).

When an assessment begins, it is likely that the child will remain at home while in-home services are offered to the family. If the assessment reveals more serious problems in the family, the CD worker may implement the investigation protocol and eventually recommend that the child be removed from the home. The CD worker will refer the case to the Family Court. The Court may take protective custody of the child and grant legal custody to the DSS. The court can allow the parent to keep physical custody. This may occur in domestic violence cases to prevent the abuser from having access to the child, but allows the child to remain in physical custody of the non-offending parent.

During an assessment, the worker gathers information similar to what is needed for an investigation. Although CD retains records of assessments, assessments do not show up on child abuse/neglect background checks. Therefore, participation in an assessment will not prevent someone from seeking employment in the childcare field. About 85% of all hotline calls result in assessments.

After an assessment is completed, the CD worker will make one of five findings:

1. Services Needed

The family has an identified need for services, and there is sufficient risk that warrants CD involvement. CD will then open a case.

2. Services Needed-Linked

The family has an identified need for services that can be provided by community-based agencies. CD will not continue working with the family when the family assessment process is completed.

What’s This?

An *investigation* is a process conducted by CD workers to determine if abuse occurred and if the children are safe. This differs from an *assessment*, in which the family is evaluated for its need for services.

Assessments, con't.

3. Services Needed-Family Declined

The CD worker has identified a service that may be beneficial to the family; however, the family declined services. The child's safety has been assessed, and there is no evidence that warrants court intervention to require services. At that point, CD discontinues involvement with the family.

4. Services Not Needed

The family does not have an identified need for additional services.

5. Non-Cooperative/Child Safe

Enough information has been obtained to ensure that the child is safe, however, the

family refuses to participate in the family assessment process and the allegations do not warrant a co-investigation with law enforcement or court involvement.

Within 30 days of the hotline call, the CD worker must begin the assessment and develop a service plan. The worker should re-assess the service plan every 30 days and adjust as needed.

After 90 days, the worker should re-assess the family to determine if services are still needed, and therefore if CD should remain involved. If the worker believes that the child is in danger or is being harmed, she may refer the case to the Family Court at any time.

Record keeping

Regarding record keeping according to §210.152 RSMo:

- The CD is required to keep records of identifying information related to investigative reports.
- CD will retain the identifying information indefinitely if the CD worker has reason to believe the allegations after the investigation, by a preponderance of the evidence.
- For five years, identifying information will be retained if CD finds insufficient evidence of abuse or neglect, if the report came from a mandated reporter.
- For two years identifying information will be retained by CD, if the report came from a permissive reporter.
- During the time that CD retains the investigation report (indefinitely if by a preponderance of evidence), the investigation will appear on a child abuse/neglect background check.
- Investigative records may be given to a grand jury, juvenile officer, prosecuting attorney, law enforcement officer involved in an investigation of abuse or neglect, juvenile court or other court conducting abuse or neglect or child protection proceedings or child custody proceedings, and other entities needing the information to carry out its responsibilities under the law to protect children from abuse or neglect.

Missouri Law

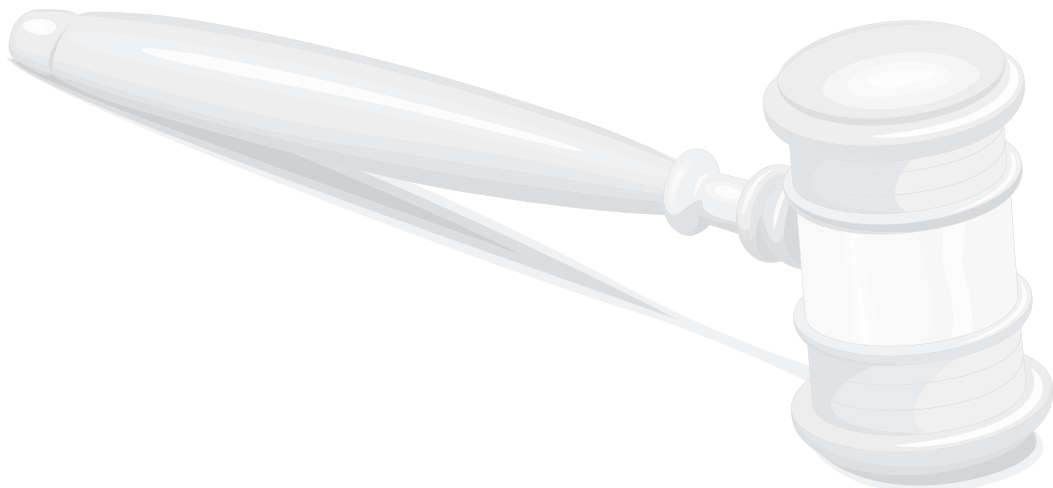
Appealing the Results of an Investigation

Because assessments do not show up on abuse/neglect background checks, the findings of an **assessment cannot be appealed**. The **findings of an investigation** can only be appealed if the investigation resulted in a finding of abuse and/or neglect, and can only be appealed by the alleged perpetrator.

The child abuse and neglect review board is comprised of non-CD professionals (such as doctors and nurses) and typically meets in Jefferson City. As a result, most review board hearings are conducted by conference call to allow all the parties to participate. The hearings are closed to everyone except the parties, their attorneys and those who are testifying on behalf of the parties. When there is a **request for a review**, the child abuse/neglect review board **must notify the child or parent, guardian or legal representative of the child** that a review has been requested.

Section 210.152 RSMo describes the process for appeals.

- **Within 90 days of a report of abuse or neglect**, the alleged perpetrator (if the alleged perpetrator is not a parent) and the parents of the child named in the report should receive written notification of the findings of an investigation.
- **If the finding is supported by a preponderance of the evidence**, then CD will retain all identifying information. This information should be kept confidential and released only to the Family Court, law enforcement personnel and prosecuting or circuit attorneys.
- **The alleged perpetrator has 60 days from receipt of notice** to request an administrative review by the designee of the local CD Director. (If criminal charges related to the investigation are pending, the request for review should be made within sixty days of the Circuit court's final disposition or dismissal of the case).
- **If the finding is upheld by the review board**, the alleged perpetrator has 60 days to request de novo (a whole new trial) judicial review of the case in the circuit court in the county in which he or she resides, or in Cole County (which is where the state office of CD is located).
- **The alleged perpetrator is allowed to appear** and present testimony during this review and can also subpoena any witness except for the alleged victim and the reporter.



The Local Process for Appeals

Section 210.152 RSMo governs the process for appealing a finding of child abuse or neglect. Under the state process, appeals begin with a hearing by the child abuse and neglect review board. At the local level, however, appeals typically begin with an administrative paper review by a local CD manager. If the manager upholds the finding, the alleged perpetrator can then appeal to the review board as described above. If the review board upholds the finding, the alleged perpetrator can then request a de novo judicial review in the circuit court where he or she lives, or in Cole County. As explained in the state section, appeals can only be requested by the alleged perpetrator and can only be requested when there is a finding of preponderance of the evidence.

Office of the Child Advocate

In 2004, the Missouri Legislature created the Office of Child Advocate for Children's Protection and Services (§37.705 RSMo). The purpose of the creation of this office is to assure that children receive adequate protection and care from services, and programs offered by the department of social services, the department of mental health, or the juvenile court. The advo-

cate is supposed to act independently of DSS, the Department of Mental Health and the Juvenile Court. The office will have access to all information necessary to investigate a complaint. If someone feels that their case is or was not handled appropriately, besides appealing the case, they can contact the Office of Child Advocate. In addition, if a mandated reporter makes a hotline call that is found to be unsubstantiated, they can request that the finding be referred to the Office of Child Advocate for review. The office is located in Jefferson City in the Office of Administration for assistance.

Missouri Law: False Accusations

According to §210.165 RSMo, anyone who intentionally files a false report of child abuse or neglect shall be guilty of a Class A misdemeanor on the first offense and of a class D felony on a subsequent offense. In practice, it is difficult to prove a false accusation. Charges of a false accusation must be filed in Cole County since the St. Louis County prosecutor does not feel that their office has jurisdiction in this matter. (Interview with Mary Beth Carpenter, Program Manager, Children's Division.)



Family Support Team Meetings

A Family Support Team Meeting (FSTM) is a planned meeting of the CD case manager, the CD supervisor, family members, the family's friends and supporters, and community service providers who join together to help strengthen a family and develop a supportive service plan. If the child is removed from the home, the guardian ad litem (GAL) and the deputy juvenile officer are also invited. The facilitator may be the family's caseworker, a community leader, or another member of the team who has training in facilitating FSTMs. The family should be at the center of the process and should be encouraged to invite family, friends and other helpers to attend. If a parent does not want to participate in a FSTM, a meeting will still be held without them (*Family Team Conferences in Domestic Violence Cases, 2003*), and a service plan will be formulated by the other members of the team. The team brainstorms together on the strengths of the family, the family's needs, and resources available to help the family meet its needs. The team then develops a plan and assigns specific tasks. Furthermore, if the family is involved with Children's Division and Family Support, FSTMs should occur to better coordinate services. There is always a FSTM when a child is removed from home even if the parent is unwilling.

According to §210.762 RSMo, if a case is being investigated and the child is removed, the CD worker must :

- Conduct a Family Support Team Meeting (FSTM) within 24 hours of the protective custody hearing held by the Court and another to determine placement of the children.
- If emergency placement must occur, a FSTM should be held within 72 hours after the placement (§210.762.1 RSMo).
- In that same timeframe, the worker must also develop an appropriate visitation plan if the child is removed from the home.
- Another FSTM must take place 30 days after removal. The CD worker should also create a service plan and begin permanency planning.
- FSTM's should take place 60 and 90 days after removal.
- FSTMs are then held every six months.
- Parents, legal counsel for the parents, foster parents, the legal guardian or custodian of the child, the GAL, and the volunteer advocate must be provided with notice and permitted to attend all FSTMs (§210.145.11 RSMo).
- A parent may authorize another individual, such as a support person, to be present at the FSTM (§210.762.2 RSMo).
- Parents have the right to video/audio tape the FSTM, but the content of the meetings are to be confidential, except for communications with law enforcement.
- Agreements made at the FSTM are reduced to writing at the conclusion of the meeting and dissenting views are to be recorded.

In every case, the CD works with the family to complete a Family Plan for Change. (When the court is involved, this plan becomes known as the *Service Plan*.) This plan will assist the family in making whatever changes are necessary to maintain safety and stability. If the family does not make an effort to comply with the Family Plan for Change and there are concerns for the child's safety, then CD can ask for assistance from the court. The court will send correspondence to the family asking to meet in the hopes of encouraging the family to participate with CD. If the family does not comply, then the child may be removed from the home by court order if she is in danger. If a child is removed from the home, a Service Plan is developed. The Service Plan lays out steps the parents must take in order to ensure the safety of the child and facilitate the return of the child to the home.

Reasonable Efforts to Preserve and Reunify Families

When the court becomes involved in a case and takes protective custody of a child, the CD must make reasonable efforts to keep the family together and/or find permanency for the child (§§ 211.183 RSMo and 211.447 RSMo). Pursuant to state law, the court's order must include a determination of whether CD has made reasonable efforts to prevent or eliminate the need for the removal and, if the child was removed, to make it possible for the child to return home. In support of its determination of whether reasonable efforts have been made, the court must enter findings, including a brief description of what preventative or reunification efforts were made and why further efforts could or could not have prevented or shortened the separation of the family. It is up to CD to prove that they engaged in reasonable efforts. These reasonable efforts are incorporated in the Service Plan.

Although the services required as part of reasonable efforts are not defined in federal or state law, the Department of Health and Human Services has provided a list of examples of the types of services that might be offered. It is the CD's responsibility to make appropriate referrals for services. It is important to note that not all services may be available due to lack of funding. Referrals might include:

- 24-hour emergency caretaker and homemaker services
- day care subsidies
- crisis counseling
- emergency shelter
- domestic violence shelter/services
- access to available emergency financial assistance
- respite care
- home-based family services
- self-help groups
- provision of or arrangements for mental health, drug and alcohol abuse counseling, vocational counseling, or vocational rehabilitation.

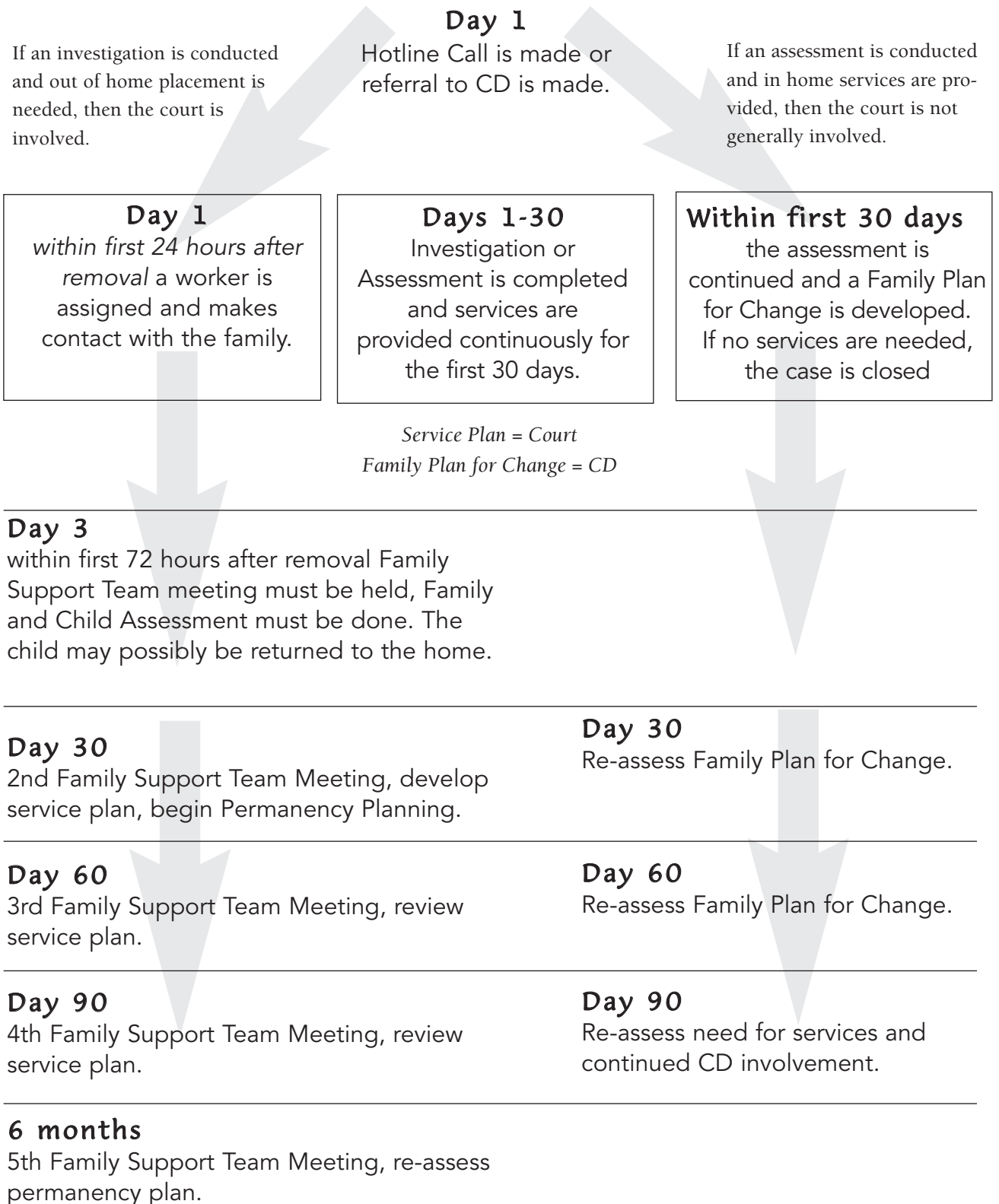
Remember that this list is not comprehensive, and the court will examine whether the efforts made fit the family's needs. If the woman has needs that are not being met, it is important for those needs to be made known to the CD worker. For more information regarding reasonable efforts, refer to the Appendix A.



What's this?

Finding – A court makes a finding when it states in an order that something is true or right. There are two types of findings, findings of fact (when the court says what facts it believes) and conclusion of law (when the court interprets the law as applied to the facts).

Timeline for Children's Division Service*



*Citing "Child Welfare Practice" timeline, written by CD, January 1998

Special Circumstances: Domestic Violence

The CD Unit at DSS has no formal assessment process for domestic violence. CD workers are supposed to ask, in whatever way they feel comfortable, if domestic violence is an issue for the family. If the family indicates that domestic violence is present, a safety plan should be developed and domestic violence services should be offered to the family. If a domestic violence victim chooses to remain with her abuser, all service planning related to the CD case will include both the victim and the alleged abuser.

When a family involved with the CD is identified as experiencing domestic violence, all information that is essential to the family's safety is filed in a separate section of the case record. These documents remain confidential even if the alleged perpetrator requests a copy of the CD

record. However, if the information in this file must be released as part of a court order, DSS informs the adult victim in advance to allow for safety planning (Missouri Department of Social Services Policy Section 5.1.4.5). Included in this file are items such as orders of protection, police records, written statements, witness statements, safety plans, and a narrative summary of violent incidents.

If a parent identifies that her spouse or the father of the children is abusing her, a separate FSTM should be held for each parent. This, however, does not automatically occur. An abused partner must request it. If a parent identifies abuse but does not want separate meetings held, the facilitator should conduct the meeting, but keep the following factors in mind.

- Are there any topics that should be avoided during the meeting?
- Does she want to discuss the domestic violence in the meeting, with or without the abuser present?
- Does she have safety concerns about anyone else who may attend the meeting?
- What does she want to do if the other parties bring up the subject?
- How will the abuser react if the violence is brought up?
- Are there other family or community members that he will want to bring to the meeting? How does she feel about that?
- Does she want a domestic violence advocate or service provider with her?
- Does she feel like she can express herself freely while the batterer is there?
- Are there safety precautions that need to be in place during the meeting?
- How will the facilitator know when the victim begins to feel afraid during the meeting?
- What surprise might occur during the meeting? What might go wrong?

If the presence of domestic violence is discovered during the course of an FSTM with both the victim and the abuser present, the facilitator may choose to end the meeting immediately or may choose to continue and address it later. (Family Team Conferences in Domestic Violence Cases, 2003).



Additional Services Available Through CD

The following descriptions of CD prevention and treatment services are from *Child Abuse and Neglect in Missouri (2003)*.

Parental Stress Helpline.

A DSS Parental Stress Helpline is available for parents who feel overwhelmed with parental pressures and responsibilities. The Helpline offers on-line crisis counseling to parents and provides referral to local agencies, which offer additional or more intensive services. Calls to the Parental Stress Helpline may be anonymous. However, if information is given that indicates child abuse/neglect has taken place, and identifying information is provided, the information must be forwarded to the CD county office for investigation.

You Need To Know...

The toll-free telephone number of the **Parental Stress Helpline** is **1-800-367-2543**.

The **Helpline** is available 24 hours a day, 7 days a week.

Family-Centered Services (FCS).

FCS are provided to families and children in their own homes when a child abuse/neglect investigation has resulted in a finding of preponderance of evidence, Unsubstantiated-Preventative Services Indicated or Family Assessment-Services Needed. These services are also provided to families who voluntarily seek help and to families whose children are placed out of the home. Services are provided following a family-centered assessment to identify risk

issues, family strengths and service needs. A Family Plan for Change is developed with the family to help them alter the conditions that brought them to the attention of CD. Services are designed to help the family direct their own affairs and provide suitable care for the children. The primary purpose of FCS is to improve and maintain the family unit or to reunify the family when alternative care services are provided. Services include a range of treatment and support services. The Family Plan for Change determines whether services are provided by CD staff or provided by community agencies through a contract. The services CD contracts out include day care, family and/or individual counseling, home-based, family-centered services, evaluation and diagnosis, home-maker services and respite care for children, among others.

Intensive In-Home Services (IIS).

IIS are designed to prevent unnecessary out-of-home placement of children. An in-home specialist provides a variety of services to the entire family to address the crisis that would normally necessitate out-of-home care for a child. Services are delivered immediately at the time of crisis and are time-limited, usually four to six weeks. In-home specialists carry small case-loads of two families. This enables them to spend as much time with the family as needed.

The emphasis of IIS is on strengthening the entire family by improving its problem-solving capabilities and teaching its members necessary life skills. Among other services, families may receive family therapy, individual and marital counseling, parenting education, child development training, household maintenance and nutritional training, job readiness training and referrals to other community resources. Families authorized for IIS may have children who have been abused or neglected, have committed a status offense, have displayed delinquent behavior, or who are seriously emotionally disturbed and are at imminent risk of being removed from the home. This service is voluntary and at least one caretaker must be willing to participate.

Additional Services Available Through CD, con't.

Out-of-Home Placement

Out-of-home care is provided in situations where a parent or parents are incapable of providing a child or children with adequate social, emotional and physical care. Out-of-home is defined as care provided in licensed foster or approved relative family homes, in licensed residential facilities, or in licensed foster group homes. The service provides safe settings for children. Children are placed only after it is determined that they cannot remain at home. Out of home placement generally requires a court order.

Crisis Nurseries

The first state-funded crisis nurseries began providing services to children and their families in May 1993. There are nine of these facilities. Crisis nurseries are childcare facilities that protect children by providing a safe environment at a time when the chances of abuse/neglect in the home are increased. Parents voluntarily request and arrange this service directly with the crisis nursery.

Background Screening and Investigation Unit

The Background Screening and Investigation Unit conducts background checks through the child abuse/neglect systems in CD. These checks are run on prospective foster and adoptive parents for CD and for current or prospective employees in the child or senior care industry (day care, residential care providers, schools, nursing homes, etc.). The purpose of the unit is to provide information on potential employees so that a prospective employer can assess if the person is an appropriate caretaker for children or adults.



The Role of the Advocate in the Children's Division System

As a domestic violence advocate, it is important to understand the additional stress placed on women already experiencing domestic violence, who must then survive the close scrutiny of CD. As many CD workers may not understand the nature and dynamics of domestic violence, it is important that the women feel empowered to speak up when they are not being provided the necessary services or their safety is put at risk. As advocates learn about procedures and laws on the national, state, and local levels, they can better assist battered women understand their rights in the system. (See page 19). Remember also that CD workers are often incredibly busy and may not communicate as frequently or thoroughly with the women as may be needed. If communication between a woman and her CD worker breaks down, the advocate may advise her to document her attempts to contact her worker (write down the dates, times, and if she left a message). She may also contact the worker's supervisor if communication becomes a problem. In addition, while CD workers may have the best intentions in terms of following protocols developed to protect the confidentiality of domestic violence victims, the advocate may want to encourage women to check that protocols are being followed. For example, a woman may want to be sure that all documents that relate to her safety are placed in the specified file.

Be aware that the role as a woman's advocate and one's involvement in her abuse/neglect case may come into conflict, particularly in the area of mandated reporting. This can place a domestic violence advocate in a conflicted position, given that some advocates are mandated to report child abuse by law. Domestic violence service providers should develop protocols for dealing with this situation.

Because CD workers are not required to screen for domestic violence by law, it is important to advocate that such an assessment takes place and that the presence of domestic violence be noted in any hotline or on-going services record. The successful abuser relies on secrecy above all else. Disclosure may assist a woman in receiving the

services she needs. However, disclosure may be used against her in court and other proceedings. While disclosure is entirely a choice of the woman, the advocate may be able to help her weigh the pros and cons of disclosing. Do not hesitate to communicate concerns with the CD worker (with the woman's consent, of course). Be aware, also, that one tactic a batterer might use is a false allegation against his partner. When a CD worker is made aware that the woman is experiencing domestic violence, she should incorporate that factor into the reasonable efforts she makes for family reunification. The service plan or Family Plan for Change should include referrals to the appropriate domestic violence service providers and community agencies. (See Appendix A for Reasonable Efforts in cases of the co-occurrence of domestic violence and child maltreatment). Separate service plans can be developed for each party with the woman's plan being placed in the separate file. The batterer can have restricted visitation or be required to attend a batterers' intervention program. This is one way that batterers can be held accountable for their abuse.



The Role of the Advocate in the Children's Division System, con't.

The advocate should develop a safety plan with the woman, and share that plan with the CD worker. Additionally, the advocate should help her and the CD worker develop a separate service plan that protects her safety and confidentiality by incorporating the safety plan. If possible, the advocate should attend the Family Support Team meetings. Remember that separate FSTMs can be held for the victim and the batterer, and

that her safety should be the ultimate concern if the batterer does attend the meeting. The woman also has a right to an interpreter or translator if English is not her first language or she is hearing impaired. Again, educating oneself and the woman on her rights in the system is the best way to advocate for her in the CD system and for her to feel empowered about her case.

The following contact information may be helpful:

St. Louis County Children's Division

9900 Page Avenue
St. Louis, MO 63132
Phone: (314) 426-8402
Fax: (314) 426-6035

South Service Center

7545 South Lindbergh, Suite 110
St. Louis, MO 63125
Phone: (314) 416-2700
Fax: (314) 416-2933

North Service Center

4040 Seven Hills Drive
Florissant, MO 63033
Phone: (314) 877-3050
Fax: (314) 877-3042

Jennings Service Center

8501 Lucas and Hunt Road
Jennings, MO 63136
Phone: (314) 877-2550
Fax: (314) 877-2551

If the advocate is unable to contact a family's CD caseworker, ask to speak with his or her supervisor. If the supervisor is unavailable or unable to assist the advocate, call a Program Manager or Supervisor III.



Influential Laws

SOCIAL SECURITY ACT OF 1935 (SSA)

The SSA created old age and disability benefits, in addition to providing for child welfare. Temporary Assistance (formerly called Temporary Assistance to Needy Families) exists under this law. The SSA also created the Children's Bureau, the precursor to modern child welfare agencies.

CHILD ABUSE PREVENTION AND TREATMENT ACT OF 1974 (CAPTA)

CAPTA established the National Center for Child Abuse and Neglect, supervised by the Department of Health and Human Services. The law also provided a definition of child abuse, outlined methods for the reporting and investigating of abuse and neglect, and set out guidelines for child abuse prevention and public education. CAPTA also provided funding for demonstration programs related to the prevention, identification and treatment of child abuse and neglect.

ADOPTION ASSISTANCE AND CHILD WELFARE ACT OF 1980

This law required states to provide less fractionalized services to families suffering abuse/neglect issues. Under this law, states created inventory and information systems to monitor families in crisis. This law provides matching funds to states that institute statutes and policies that require reasonable efforts be made to prevent the removal of children from their homes and reunify children with their parents.

FAMILY PRESERVATION AND SUPPORT SERVICES ACT OF 1993

This law created the Promoting Safe and Stable Families Program, which provided funding to states that have implemented permanency and family preservation programs. The law also provided financial incentives to states for implementing prevention programs for families not yet in crisis, as well as reunification and adoption programs.

ADOPTION AND SAFE FAMILIES ACT OF 1997 (ASFA)

This law requires states to establish permanency guidelines and timelines for children in CD's care in order to receive incentive-based funding for foster care and related programs. The law requires states to engage in "reasonable efforts" to prevent the removal of a child from his home, returning the child after removal, and finalize a permanency plan if a child cannot be returned to his home. The state does not have to engage in reasonable efforts if a parent has committed a serious felony against a child or a sibling of the child or has subjected the child to serious and/or chronic abuse. The law requires states to perform background checks on foster parents and prospective adopters and allows interested parties who provide care for the child, such as foster parents, pre-adoptive parents or any relative, to be heard at hearings involving the child.

For more information regarding reasonable efforts, refer to this section as well as the court section.

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Children’s Division Cases with Court Involvement — Neglect & Abuse Cases

Chapter 2

In St. Louis County, non-criminal cases involving child abuse and neglect are handled by the St. Louis County Family Court. These cases are often referred to the Children’s Division of the State of Missouri Department of Social Services (DSS) through a hotline call. The law that governs many of these cases is contained in the Missouri Statutes, specifically chapters 210 and 211, and a variety of federal laws, including the Adoption and Safe Families Act. Below are some acronyms that will be helpful in understanding the court-related neglect and abuse system. These terms, and several others, will be explored at length in the text that follows.

CPS: *Child Protective Services*, a unit in Family Court that handles child abuse/neglect cases

GAL: *Guardian ad Litem*, an attorney assigned to represent the best interests of the child

DJO: *Deputy Juvenile Officer*, a Court employee assigned to monitor individual cases and provide recommendations to the Court

ASFA: *Adoption and Safe Families Act*, a Federal law related to neglect and abuse proceedings

TPR: *Termination of Parental Rights*, a court proceeding to determine whether a parent’s rights and responsibilities regarding a child should be permanently severed



Overview of Proceedings

A neglect and abuse case originates with a hotline call, a police report, or some reasonable suspicion that a child is being abused or neglected. The details of the alleged incident may be communicated to the Child Protective Services Unit (CPS) of the Family Court. The Children's Division of DSS may refer a case to the CPS Unit after their investigation is completed. The CPS unit is comprised of staff attorneys, Deputy Juvenile Officers (DJO) and support staff. The DJO, in conjunction with the court legal staff, determines if there is sufficient evidence to establish that the allegations of abuse or neglect are true. If so, the CPS attorney for the DJO may file a petition, a formal court document, that alleges that the parent or someone else legally responsible for the child committed abuse or neglect of the child and the child is in need of protective court supervision.

Court hears evidence and decides if the child must remain in protective custody, to whom physical custody of the child shall be granted, and if the Children's Division has made reasonable efforts to prevent removal of the child. Reasonable efforts means the exercise of reasonable diligence and care by the Division to utilize all available services related to meeting the needs of the family (§211.183 RSMo). If it is determined that the child need not remain in protective custody, the child is released, typically, to his/her parents. However, a neglect and abuse petition can be pursued even if a child is not in protective custody, as when the child remains in the home during the proceedings because the Court has determined that the child is no longer in imminent danger.

What's This?

Abuse is defined by the law as "any physical injury, sexual abuse, or emotional abuse inflicted on a child other than by accidental means..."
§ 210.110 RSMo.

If the Court determines that the child is in imminent danger, the Court may take the child into protective custody. In practical terms, this means that the Court transfers custody of the child from the parents to the Children's Division or another suitable custodian. Physical custody is often entrusted to a foster family or a relative, but can be placed with a parent. The court must provide a hearing within 3 days, excluding Saturdays, Sundays, and holidays, of taking protective custody of the child. At that hearing, the



Overview of Proceedings, con't.

What's This?

Neglect is defined as "failure to provide...the proper or necessary support, education as required by law, nutrition or medical, surgical, or any other care necessary for the child's well-being."
§ 210.110 RSMo.

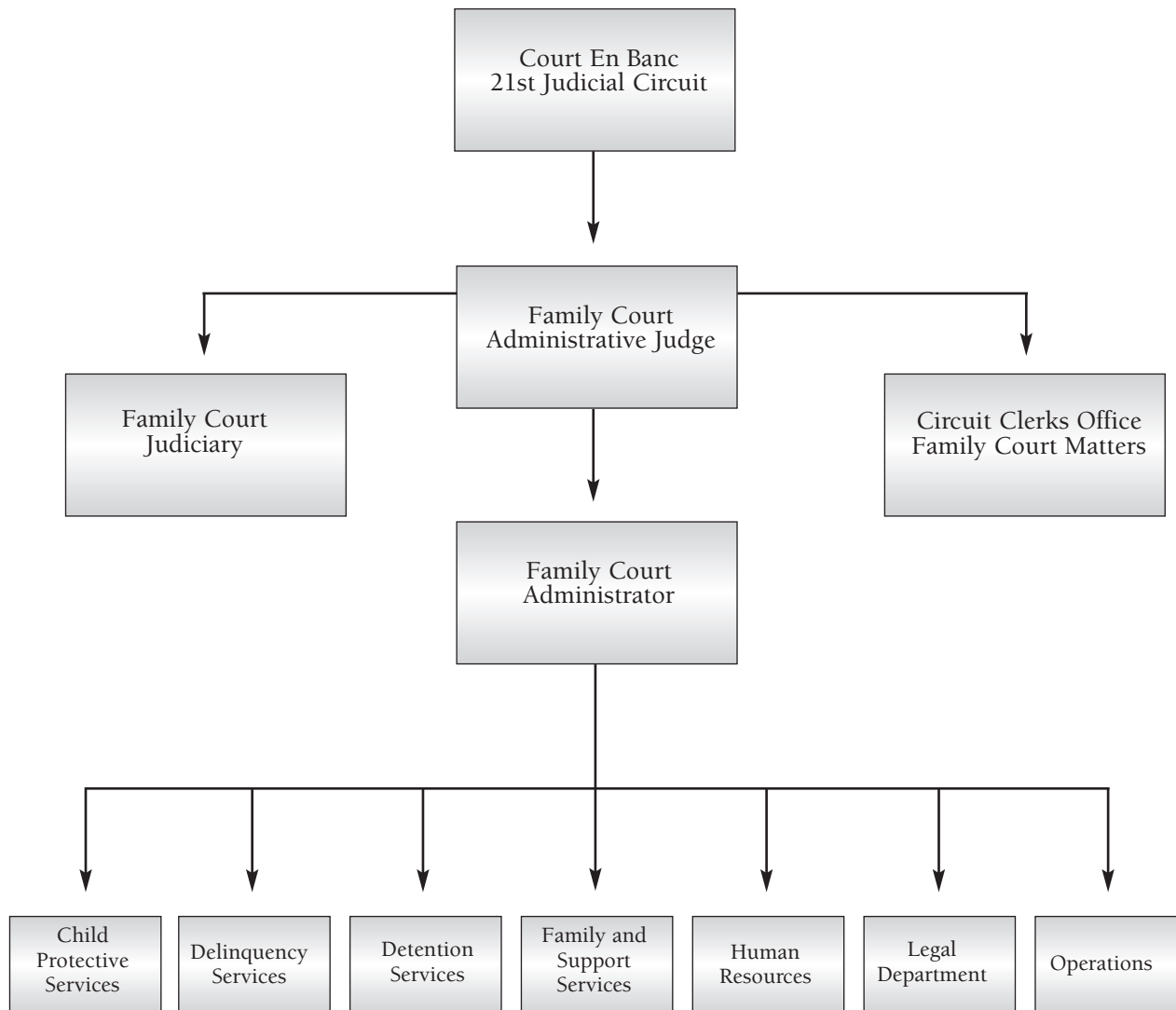
The next scheduled hearing is the adjudication hearing, which should occur no later than 60 days after the child is taken into protective custody. At the hearing, the Court will decide if the parents are responsible for the neglect or abuse alleged in the petition. If the parents are found not to be responsible, the case is dismissed. If the parents are found responsible for the abuse and neglect, a dispositional hearing will be held. The dispositional hearing must be held no later than 90 days after the child has been taken into custody. At the dispositional hearing, the Court will decide, among other things, who should be awarded temporary legal and physical custody of the child. If custody is removed from the parents, The Children's Division caseworker will develop a Service Plan for the family, which supplements the Order of the Court. Often concurrent plans are developed which contemplate reunification with the family or relative, kinship, or another planned living arrangement. Termination of parental rights may be considered if the other plans should fail. The Children's Division service plan should encom-

pass the reasonable efforts that the Children's Division will make to reunite the family prior to the Court being able to terminate parental rights.

While working toward permanency for the child, the Court will typically order the parents to complete a variety of tasks, such as taking parenting classes, finding suitable housing, or completing a substance abuse program, in order to eliminate the risk factors that contributed to the child being placed in foster care. Review hearings are conducted periodically. They are held every 90-120 days for the first year, and then no less than once every six months. During these review hearings, the Court evaluates the parent's participation in services, the child's adjustment to placement, parent-child interactions, and the appropriateness and effectiveness of services that are provided to the child and the parent. As a result, the Court may modify the custody arrangement by allowing overnight visitation, increasing the frequency of visits, or even reverting legal and physical custody back to the parents. A service plan is not required to have court approval, but it should be changed to reflect the changes in the Court's order. If it is not, the petitioner's attorney can request that the Court order that the service plan be changed. Thereafter, when a child has been in foster care for 12 months, a permanency hearing may be held. At that hearing, the Court determines whether the family will be reunited, a guardianship will be pursued, a petition to terminate parental rights will be filed, or some other form of permanency will be pursued. Thereafter, a permanency plan review hearing is held every six months until the child is no longer in the custody of the division.

St. Louis County Family Court Organizational Chart

CHART 1



(This is just an example of how family and juvenile courts are organized. If the advocate is not practicing in the St. Louis area, expect some differences from this organization. The purpose of this chart is to give the advocate a framework for their interaction with the court.)

The Law

A Brief Overview of the Adoption & Safe Families Act (ASFA)

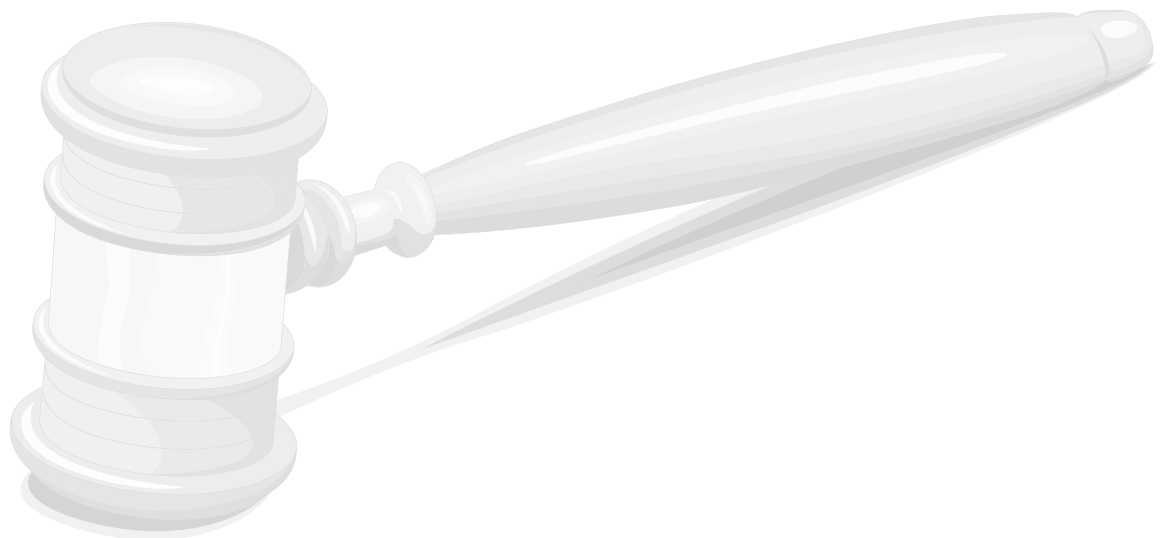
ASFA , 42 U.S.C. Sec. 671, requires, with some exceptions, that the state make reasonable efforts before a child is removed from the home and, once removed, must make reasonable efforts to reunite the child with the parents prior to filing a petition to terminate parental rights. Additionally, reasonable efforts must be made to find a permanent placement for the child. The Court must make findings that reasonable efforts were made prior to terminating parental rights. Reasonable efforts are not required when the parent has subjected the

child to a severe act or recurrent acts of physical, emotional or sexual abuse, including acts of incest, has been found guilty of serious felony assault of the child or another child of the parent, has murdered a sibling of the child or aided or abetted in such murder, or had their parental rights to a sibling involuntarily terminated.

In order to receive federal foster care and adoption subsidies, states are required to adhere to a timetable laid out in ASFA, and pass laws incorporating ASFA's requirements. There is some flexibility in the timelines if there are extenuating circumstances. Here are some of the deadlines set by the law (See Chart 2).

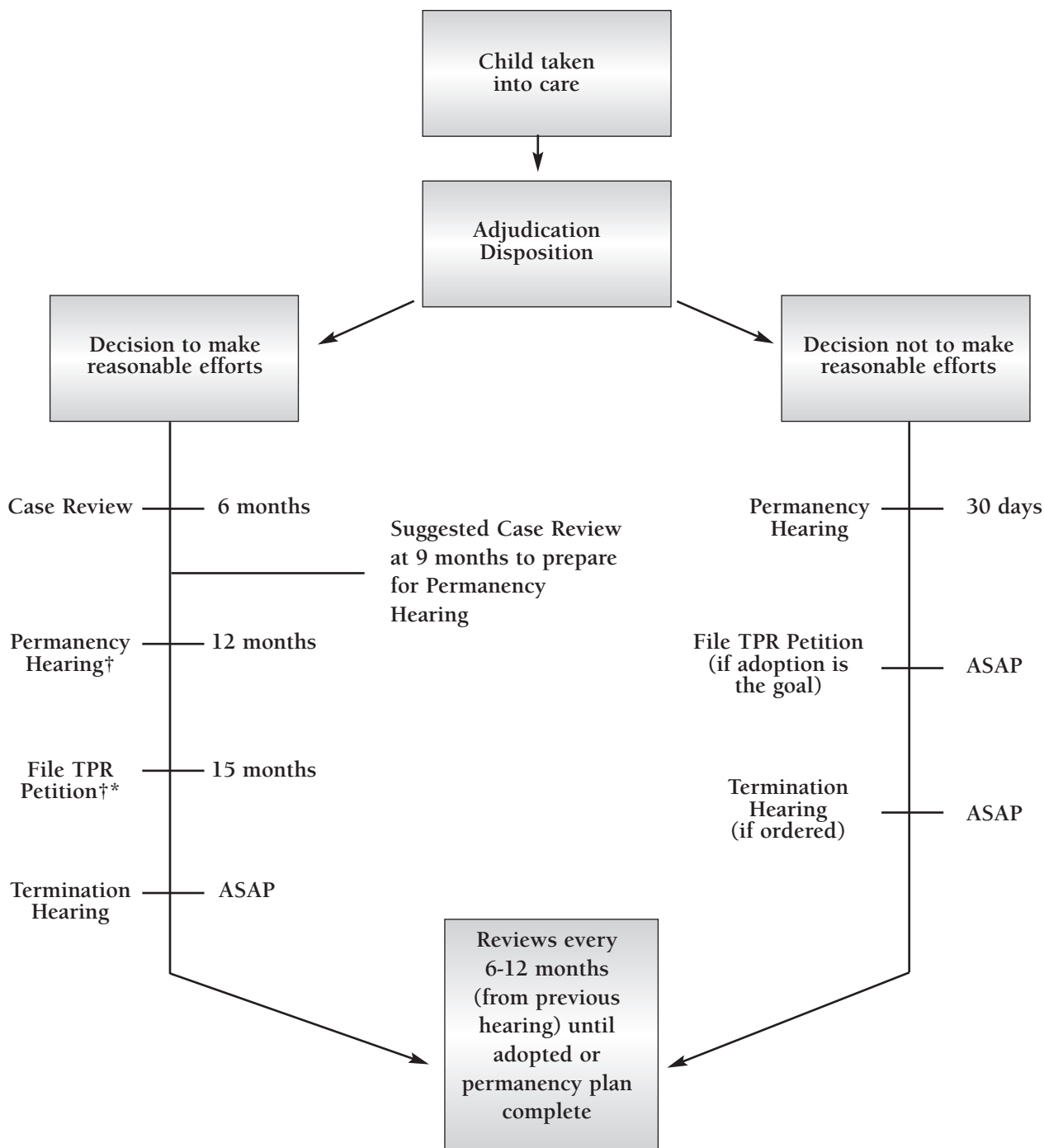
Did You Know?

- For children in foster care, the state must start TPR proceedings after the child has been in foster care for 15 out of 22 consecutive months
- The court must hold a review hearing 90 days after the parents (or others) have been found responsible for the abuse/neglect
- The court must hold a permanency hearing 12 months after the parents have been found responsible for the abuse/neglect
- In addition, ASFA requires that the court attempt to notify both parents of the proceeding.



Timeline for ASFA Compliance

CHART 2



† To calculate the timing of either the permanency hearing or the 15 of 22 months, use the earlier date of either adjudication OR sixty days after the child is removed from the home.

* Unless child is being cared for by a relative or compelling reason not to TPR exists.

Laver, M. (1998). "Advice for Agency Attorneys: Implementing ASFA: A Challenge for Agency Attorneys," *Child Law Practice: Helping Lawyers Help Kids.* Washington, D.C. American Bar Association Center on Children and the Law.

ASFA Timeline for Court Hearings

CHART 3

TYPE OF ACTION	LAW	MUST OCCUR...
PROTECTIVE CUSTODY HEARING	Missouri Statute §211.032	Within 3 days of the child being taken into custody, excluding Saturdays, Sundays, and holidays.
ADJUDICATION HEARING	Missouri Statute §211.032.4 Missouri Court Rule 119.01 and 119.02.8	No later than 60 days after the child has been taken into custody. As soon as practicable after the petition is filed, if the juvenile is in protective custody, at the earliest possible date. Hearing may be continued for more than 30 days only with the consent of attorney for juvenile, for submission of social study if juvenile is in protective custody.
DISPOSITIONAL HEARING	Missouri Statute §211.032.4 Missouri Court Rule 119.02.9 & .10	No later than 90 days after the child has been taken into custody. May occur on the same day as the adjudication hearing or shortly thereafter.
PERMANENCY HEARING	Missouri Statute §§211.183 & 210.720	Within 12 months of the child's initial placement if reasonable efforts are required OR within 30 days after it is determined that reasonable efforts are not required.
REVIEW HEARINGS	Missouri Statute §211.032.4	Every 90 to 120 days for the first year the child is in the custody of the division. After the first year, as necessary, but no less than once every 6 months.
PETITION FOR TERMINATION OF PARENTAL RIGHTS		May be filed at any time during the life of a case; however, if reasonable efforts are required, the petition will not be successful until sufficient time has passed for DSS to make reasonable efforts.
SOCIAL STUDY	Missouri Statute §211.455	A social study and investigation must be ordered by the court within 30 days after the TPR petition has been filed.
TPR DISPOSITION HEARING	Missouri Statute §211.459	The court must hold a hearing on the TPR petition within 30 days after the social study is ordered.

Missouri Best Practices Timeline in Child Abuse & Neglect Cases

CHART 4

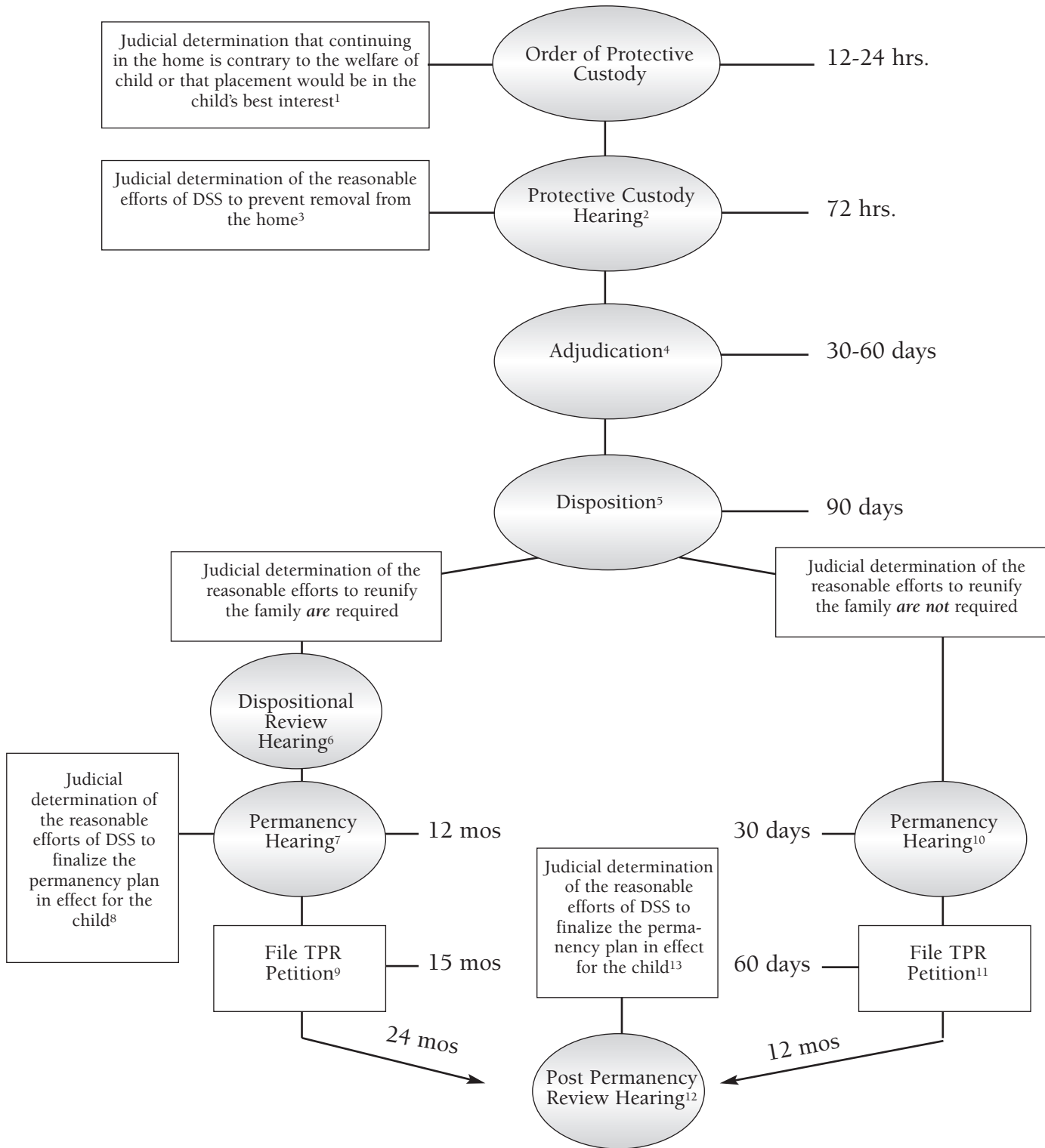


CHART 4 KEY

1. Must be in the first court order removing the child from the home.
2. Must be held within 3 business days of request.
3. Must be made no later than 60 days from the date the child is removed from the home.
4. Held within 60 days of the child's removal from the home.
5. May be held immediately following adjudication, but if not, hold within 90 days of the child's removal from the home.
6. May be held as often as necessary to determine the appropriate permanency plan for the child.
7. Must be held within 12 months of the child's initial placement.
8. Must be made within 12 months of the date the child entered foster care and at least annually thereafter.
9. Mandatory filing unless an exception exists.
10. Must be held within 30 days of determination that reasonable efforts to reunify the family are not required.
11. Mandatory filing if the child is an abandoned infant or if reasonable efforts to reunify the family are not required.
12. May be held as often as necessary but must be held at least within 12 month intervals of the child's initial placement.
13. In the absence of reunification, the child's permanency plan must be either (1) termination of parental rights and adoption, (2) guardianship, (3) placement with a fit and willing relative, or (4) a planned, permanent living arrangement.



Missouri Law & ASFA

As required by ASFA, Missouri has adopted many of the guidelines contained in the federal law. (See Chart 3 for Missouri ASFA Timelines for Court Hearings and Chart 4 for Missouri Best Practices Timeline in Child Abuse & Neglect Cases). Chart 5 delineates the Missouri Law Regarding Protective Custody. Chart 6 delineates the Missouri Law Regarding Reasonable Efforts and the Court's oversight of those requirements. The Children's Division is required to make reasonable efforts to prevent removal of the child and, once removal has occurred, to reunite the family. The Court, in turn, must make specific findings that these reasonable efforts were made as delineated in section 211.183.5 RSMo.

Hearings in Neglect & Abuse Cases *Protective Custody*

There is a clear preference for keeping children in their homes if their homes are safe places. If a child's home is not a safe place when the child comes into contact with the Children's Division, and it is believed that the child is in imminent danger, the Court will generally take protective custody of the child and remove the child from the home. The Court may order that the parents abide by certain conditions during the pendency of protective custody. The Court must hold a protective custody hearing within 3 days of taking protective custody, excluding Saturdays, Sundays and holidays. The Court must review the protective custody order every 30 days until a disposition order is entered after the Court adjudicates whether the child has been abused or neglected. Mo. Sup. Ct. Rule 111.14(d). The issue at these reviews is whether the child should remain in protective custody. This initial hearing must occur within three business days of the request. At the protective custody hearing, the court will review whether the removal of the child from the home was necessary and whether the Children's Division made reasonable efforts to prevent the removal and reunite the family. Section 211.183, RSMo. requires that the Court find that reasonable efforts be made to prevent removal except in an emergency. (See *In the Interest of D.H.W.*, 77 S.W.3d 664 Mo.App. E.D. 2002, where

the Appeals Court found that trial court must make findings that are specific with regard to reasonable efforts.)

In its order, the Court must explicitly state why the removal of the child is necessary. The order must also outline what services were offered to the family and what efforts were made to provide those services. The Court will need to look at whether the services offered matched the needs of the family. The order must state why those efforts and services could not prevent the removal of the child. The Court must state whether the efforts were reasonable. The Court will also examine if the child is in the least restrictive placement. The child must be placed with a relative unless the Court has determined that relative placement is contrary to the best interests of the child (§210.565.1-5 RSMo). The Court may authorize the removal even if reasonable efforts were not made if it was an emergency or if the Court feels that those efforts would not have been ultimately successful. If the Court finds that reasonable efforts are not required because the case falls within an exception to the reasonable efforts requirements, a permanency hearing must be conducted within 30 days of this determination.

If requested, children must be promptly returned to the custody of a non-offending parent if the parents have lived together for at least six months prior to the incident, or are maintaining separate households, and the non-offending parent doesn't have a history of abuse and neglect or orders of protection taken against them. The non-offending parent must agree to cooperate with the Court in limiting contact with the other parent. There is a rebuttable presumption when the parents maintain separate domiciles, or the non-offending parent cooperates with order limiting contact, that the non-offending parent has not committed neglect and abuse, and there must be a finding that actual harm or endangerment will ensue to the child if the child is placed with the non-offending parent in order for the Court not to return the child to him/her (§211.037 RSMo). Children cannot be reunited with a parent or placed in a home when the parent or person residing in the home has been convicted of certain felony offenses related to child abuse in chapter 566 or 568 of the Missouri statutes (§210.117 and §211.038 RSMo).

Missouri Law Regarding Protective Custody

CHART 5

The Law	Who Does It Affect?	What Does It Require?
Missouri Statute §210.125	Law enforcement officials or physicians	<ol style="list-style-type: none"> 1. If the law enforcement official or physician has a reasonable suspicion that a child is in danger, they may request that the Juvenile Officer take the child into custody. 2. If the law enforcement official or physician has reason to believe that the child is in imminent danger, they may take the child into temporary protective custody without consent of the child's parents or guardians. "Temporary protective custody" means that the child will be placed in emergency foster care or a medical facility, not in a detention facility, for no longer than 24 hours. The law enforcement official or physician must then promptly notify the Juvenile Officer and DSS, who notify the parents or legal guardians of the child. The law enforcement official or physician must also then file a statement with the Juvenile Officer regarding the circumstances of the child. 3. The Juvenile Officer will then either institute abuse/neglect proceedings or return the child to his or her parents or guardians. 4. A DSS worker is not authorized to physically remove a child from its parents' custody under the provisions of this statute.
Missouri Statute §211.031	Parents or people who are legally responsible for the care of a child	<p>The Family Court can take jurisdiction over any cases where a child is in need of care because</p> <ol style="list-style-type: none"> 1. The parents or people legally responsible for the care of the child neglect the child, or refuse to provide support, education required by law, or necessary medical care. 2. The child is without proper care, custody or support. 3. The child is living in a dwelling that has been declared a public nuisance.
Missouri Statute §211.032	Parents	When a child is taken into custody, the Court must notify the parents of their right to a hearing. Any party to the case (the DJO, the GAL, the parents, etc.) may request a protective custody hearing, which must be held within 3 days, excluding weekends and holidays.
Missouri Statute §211.031	Jurisdiction of the juvenile court	<p>The Family Court has jurisdiction over cases that involve:</p> <ol style="list-style-type: none"> 1. A child under the age of seventeen who has been abused or neglected. 2. A child under the age of seventeen who commits status offenses (like violating curfew, running away, or missing school). 3. A child who is delinquent (i.e. commits a crime). 4. Adoption. 5. The commitment of a child under the age of seventeen to the guardianship of DSS.
Missouri Statute §211.031	Venue	The juvenile court located in the county where the child in question resides has jurisdiction over the case.

Missouri Law Regarding Reasonable Efforts

CHART 6

Does the court have to decide if CD has engaged in reasonable efforts when the child is removed from the home, and once removed, to reunite the family?	Yes Missouri Statute §211.183.1 & .5	<ol style="list-style-type: none"> 1. The court's order has to specifically state if CD engaged in reasonable efforts and what those efforts were. 2. The court must review if there were reasonable efforts made to prevent the child's removal, except in an emergency, AND to make it possible to return the child home.
What are "reasonable efforts"?	Missouri Statute §211.183.2	Reasonable efforts means the exercise of reasonable diligence and care by CD to utilize all available services related to meeting the needs of the juvenile and the family.
Can termination occur even if CD ceases to make reasonable efforts?	Missouri Statute §211.183.3	Yes, if the court determines that continued reasonable efforts would not change the circumstances to permit the child to remain at home.
Is CD always required to engage in reasonable efforts?	Missouri Statute §211.183.7	<p>No, in the following circumstances:</p> <ol style="list-style-type: none"> 1. The parent has subjected the child to severe or recurrent physical, emotional, or sexual abuse, 2. The parent has committed or aided in the commission of the murder or voluntary manslaughter of the child, 3. The parent's right to another child has been involuntarily terminated.

Adjudication Hearing

No later than sixty days after the Court has taken protective custody, the Court should hold an adjudication hearing. This fact-finding hearing serves the purpose of determining whether the child has been abused or neglected. The parents or guardian of the child and their attorneys, the DJO and his/her attorney, the GAL and the Children's Division caseworker should attend this hearing. The child must attend this hearing unless the Court waives attendance.



Missouri Law Regarding Reasonable Efforts, con't.

Dispositional Hearing

A dispositional hearing must be held within 90 days of a child being taken into custody. Thus, the same people who were at the adjudication should be at the dispositional hearing. At this time, the Court determines, among other things, who will be awarded legal and physical custody of the child. The Court also decides if the Children's Division must continue their efforts to reunify the family. If the plan for the family is reunification, the court will examine whether that plan will require modified reasonable efforts. The Children's Division caseworker and the DJO will be expected to make a recommendation to the Court at this hearing. The caseworker will need to include in this recommendation a case plan detailing what services they foresee the family will need. Others may submit evidence to the court in support or opposition to this recommendation. Again, the court will examine what reasonable efforts the Children's Division has made and what efforts they can continue to make, in addition to the attitudes and actions of the parents. After the Court makes its order, the Children's Division caseworker develops a service plan to implement the order if custody is removed from the parents.

Review Hearings

If the court determines that further reasonable efforts are necessary to reunify the family, then review hearings will be scheduled periodically. Missouri law provides that the reviews will occur every 90-120 days during the first year and every six months thereafter. All of the same parties that attended the dispositional hearing should attend these hearings. The Children's Division prepares a written report for each of these hearings. At the same time as the Children's Division worker is working toward

reunification, the Court might also ask the worker to start planning for an alternative placement, which is known as concurrent planning. The Court may ask the worker to prepare a plan for Termination of Parental Rights (TPR) or a guardianship with a relative. It is important that the Children's Division continue their reasonable efforts while they develop this alternative, as this request does not reflect the Court's final decision. At the review hearing, the Court will continue to review reasonable efforts as well as the parent's compliance with the Service Plan.

Permanency Hearing

The permanency hearing should be held no later than 12 months after the child is placed in the custody of the Children's Division. See § 210.720 RSMo. At this hearing, the Court will determine the plan for permanency for the child. That is, the Court will decide if TPR and adoption proceedings should begin, if the child will be placed in a guardianship or with a fit relative, or if the family will be reunited. The Children's Division and DJO will, again, be asked to submit a recommendation. The Court is required to consider certain factors in determining the permanency plan and must make written findings of fact and conclusions of law in any order pertaining to the placement of the child (§210.720.3 RSMo). After the permanency plan is decided, another set of periodic review hearings is conducted until the permanency plan is carried out.

Termination of Parental Rights

Termination of Parental Rights

The attorney for the DJO may file a petition seeking termination of parental rights whenever he/she deems that it is in the best interests of the child and adequate grounds exist to support the termination petition. The termination action is governed by sections 211.442-211.487 RSMo. The statute provides for a petition to be filed, and for termination to occur, on a number of basis. (See Chart 7). When the petition is filed, an investigation is conducted to determine if termination is in the best interests of the child. Service on any man who may be the father of the child is required in accordance with Sections 211.453 and 453.060 RSMo. The Court will then conduct a hearing and determine whether termination should occur. If the Court so decides, it must make factual findings in its order of termination that it has jurisdiction, that grounds exist for the termination, and that the termination is in the best interests of the child. There are factors the Court must consider in making these factual findings. There must be clear, cogent and convincing evidence that grounds exist for termination. If the conditions specified for termination are found to exist as to only one parent, the rights of only that parent may be terminated and the rights of the other parent shall not be affected (§211.477.2 RSMo). After the Court enters an order to terminate, it will place the child with the Children's Division, a private child-placing agency, a foster parent, relative or other person

who has participated in the proceeding or any other person or agency the court deems suitable. Adoption proceedings by the foster parent or relative may follow. If the Court finds that grounds do not exist for the termination, or if the child is fourteen or more years of age and objects to the termination, the court can dismiss the petition and return the child to the parent. If the Court finds that grounds do exist for the termination, but the termination is not in the best interests of the child, the Court may dismiss the petition and return custody to the parent or retain jurisdiction and make a custodial order. (Section 211.477.4 RSMo).

The Court, in accordance with Section 211.183 RSMo, must also make specific findings that reasonable efforts were made prior to termination occurring, or that reasonable efforts were not required to be made. If the parents did not comply with the Service Plan, the basis for termination cannot simply be non-cooperation with the service plan. A showing must be made that the service plan related to the conditions that endangered the child and that the parent refused to cooperate (See *In the Interests of D.C.S., D.E.S. Jr., M.J.S. and Z.N.S.*, 99 S.W.3d 534 [Mo.App.W.D. 2003]). An example of this might be that the non-abusing mother refused to separate from her abusive partner.



Termination of Parental Rights, con't.

CHART 7

QUESTION	STATUTE	ANSWER
Can a parent voluntarily have his/her parental rights terminated?	Missouri Statute §211.444	<ol style="list-style-type: none"> 1. A parent may voluntarily have his/her parental rights terminated. 2. The court must find that this termination is in the best interests of the child. 3. The written consent form must be signed in the presence of a notary public OR two adults who make their names and addresses known to the court. 4. A parent may not consent to the termination of her rights until the child is at least 48 hours old.
Who can petition for a TPR?	Missouri Statute §211.447.1	<ol style="list-style-type: none"> 1. The juvenile officer is responsible for filing the petition. 2. Any person may give the juvenile officer information on reasons why a TPR should be filed. 3. If there is enough information to justify a petition and the juvenile officer has not filed one, the juvenile court may order him to do so.
When is the juvenile officer required to file a TPR?	Missouri Statute §211.447.2	<ol style="list-style-type: none"> 1. The child has been in foster care for 15 out of the most recent 22 months. 2. The child is an abandoned infant. The court considers an infant abandoned if: <ol style="list-style-type: none"> a. The child is under one year when the petition is filed, b. The parent left the child in circumstances where the child's identity was unknown and not easily discovered, c. The parent has not supported the child without good cause and not made any effort to communicate with the child. 3. The parent has murdered or committed voluntary manslaughter against a sibling of the child, aided or abetted in the murder of a sibling, or committed felony assault on the child or a sibling.
Does the juvenile officer always have to file a TPR in these circumstances?	Missouri Statute §211.447.3	<p>No, it is not required in the following circumstances:</p> <ol style="list-style-type: none"> 1. The child is being cared for by a relative, 2. There is a compelling reason that filing a TPR would not be in the best interest of the child 3. The family of the child has not received services in accordance with reasonable efforts.

Termination of Parental Rights, con't.

QUESTION	STATUTE	ANSWER
When can the juvenile officer choose to file a TPR?	Missouri Statute §211.447.4	<ol style="list-style-type: none"> 1. The child has been abandoned for a period in excess of 6 months. The child is considered abandoned when: <ol style="list-style-type: none"> a. The child is over one year of age, b. The parent has left the child under circumstances where their identity could not be ascertained c. The parent has left the child without support and not communicated with the child without a good reason, 2. The child has been abused or neglected. The court must consider and make findings about whether: <ol style="list-style-type: none"> a. The parent has a mental condition which is untreatable that renders the parent incapable of caring for the child, b. The parent has a chemical dependency problem that can not be treated so as to enable the parent to care for the child, c. The parent has committed severe or recurrent acts of physical, emotional, or sexual abuse against the child or sibling or someone else has and the parent knew or should have known about it, d. The parent has consistently and repeatedly failed to provide the child with food, shelter, clothing, or education. 3. The child has been under the court's jurisdiction for one year and the circumstances that brought her to the court have not changed and there is little chance that the situation will be remedied. The Court must consider and make findings about whether: <ol style="list-style-type: none"> a. The extent to which the parents have complied with the social service plan, b. DSS aided the parents in complying, c. The parent has a mental condition which is untreatable that renders the parent incapable of caring for the child, d. The parent has chemical dependency that cannot be treated so as to enable the parent to care for the child. 4. The parent has been found guilty of murder or felony assault against the child or a sibling. 5. The child was conceived as a result of forcible rape and the father has been convicted or pled guilty to the crime. This only allows the father's rights to be terminated. 6. The parent has engaged in a continuing pattern of abuse. A parent is considered unfit in this section if she has had her rights to another child involuntarily terminated within the last three years.
When terminating a parent's rights, what factors should the court consider in making the determination that termination is in the best interests of the child?	Missouri Statute §211.447.6	<ol style="list-style-type: none"> 1. The emotional ties between the parent and child, 2. The extent to which the parent has regularly visited or otherwise contacted the child, 3. To the extent that the parent is financially able, the parent's contribution to the care and maintenance of the child, 4. If additional services can assist the family, 5. The parent's disinterest or lack of communication with the child, 6. The parent's conviction of a felony that will result in extended incarceration, 7. The deliberate acts of the parent that placed her child at risk of being harmed.

Termination of Parental Rights, con't.

Appeal

The right to an appeal is available to a child or parent from any judgment issued by the court, including termination of parental rights. In TPR cases, the appeals frequently focus on

whether the Children's Division exercised reasonable efforts or whether sufficient grounds exist for the termination.

Roles, Responsibilities & Rights

There are many people involved in all of these hearings and even more who may not be directly involved. Everyone may have an opinion on the case. It is important to know who is responsible for what and who represents whom. The court is compelled to adhere to the "best interest of the child" standard, which means that in child protection cases, it will give deference to whatever plan or placement is in the best interests of the child. Parties are also entitled to certain rights as the neglect and abuse case proceeds.

The Role of a Children's Division Caseworker

A Children's Division caseworker's role in a child abuse/neglect case is to develop a plan that will meet the needs of the family in furthering reunification, and eventually, permanency. Once that plan has been developed, the worker must make reasonable efforts to provide those services to the family or ensure that the services are realistically accessible to the family. The worker acts as a monitor and facilitator with regard to the parent's efforts to retain or regain legal and physical custody of her child and also coordinates foster care and visitation, if necessary. At each hearing, the caseworker reports to the Court on what services have been offered and how the parent has or has not participated in these services. The Deputy Juvenile Officer (DJO) relies on the Children's Division caseworker to timely report on the status of placement, visitation or other custody arrangements based on parental progress. Once the worker's recommendation is relayed to the DJO in writing, such modifications can be ordered immediately with the consent of the parties. Informing

the DJO that a change in placement is in order should not be delayed until the date of the next scheduled court hearing.

The Role of the Deputy Juvenile Officer (DJO)

The DJO is at the forefront of the proceedings. It is the DJO who, through his or her attorney, petitions the Court to become involved in the child's life. The DJO will assist in developing a plan for the family that implements the court order and work with the Children's Division caseworker to develop a service plan by which the family can comply with the court order. The DJO will also submit recommendations to the Court at all of the hearings.

The Role of a Guardian Ad Litem (GAL)

The role of the guardian ad litem is to represent the best interests of the child. The child is a party to the abuse/neglect case, and the GAL represents his or her interest in court. The GAL is an attorney, but sometimes the GAL may work with a Court Appointed Special Advocate (CASA) who is generally not an attorney. When the child comes under the jurisdiction of the Court, the judge will assign a GAL to investigate the case by meeting with the parties, reviewing relevant records, talking to relevant persons and making a recommendation to the court about disposition of the case.

The relevant statutory duties of the GAL for a neglect and abuse case are contained in section 210.160 RSMo. The statute stipulates that the GAL shall be provided with all reports relevant to the case and have access to all relevant records and information. GALs may be awarded

Roles, Responsibilities & Rights, con't.

a reasonable fee for their services to be paid by the parents or through public funds, but the parents should not be charged that fee if there is no finding of neglect or abuse. The statute also authorizes the appointment of Court Appointed Special Advocates to assist the GAL.

The relevant statutory duties of the GAL for a Termination of Parental Rights (TPR) case are contained in section 211.462 RSMo. The statute states, in relevant part, “The guardian ad litem shall, during all stages of the proceedings:

1. “Be the legal representative of the child, and may examine, cross-examine, subpoena witnesses and offer testimony. The guardian ad litem may also initiate an appeal of any disposition that he determines to be adverse to the best interest of the child;
2. Be an advocate for the child during the dispositional hearing and aid in securing a permanent placement plan for the child. To ascertain the child's wishes, feelings, attachments, and attitudes, he shall conduct all necessary interviews with persons, other than the parent, having contact with or knowledge of the child and, if appropriate, with the child;”

If the GAL is not fulfilling his or her duties, a party may request that they be disqualified by filing a Motion to Disqualify with the Court. The judge will decide if disqualification should occur.

The Right to an Attorney

According to Missouri law, parents have a right to counsel in all juvenile proceedings. See Section 211.211 RSMo. Counsel must be appointed if the parent or guardian is indigent, but the parent or guardian must request this appointment. The DJO will have the parent or guardian fill out a financial form by which the court will determine if the parent or guardian is indigent and should be appointed counsel. The Children’s Division can also request that counsel be appointed. The mother and the father can be represented by different attorneys, even if they are living in the same household. Missouri case law has upheld a parent’s right to counsel at the TPR stage.



Roles, Responsibilities & Rights, con't.

The Right to a Hearing

As of July, 2005, hearings and other proceedings will be open to the public, except when a child is testifying. However, any person can be excluded by the Court to protect the child (§211.319 RSMo). Parents have a right to request a hearing at different stages of their case. The Court, in some instances, is required to notify parents of their rights in writing. The DJO, the GAL, the child's custodian, or the child may also request a hearing at different stages. Other people, such as foster parents or grandparents, can intervene, with the court's permission, in the case (§211.177 RSMo). However, it is important to note that, according to Missouri law, attendance at the hearing is up to the Court's discretion. Only those people who have a direct interest in the case will be allowed into the courtroom for the hearing (MO Sup. Ct. Rule 117.02).

A Parent's Civil Rights

Title VI of the Civil Rights Act of 1964, 42 U.S.C. Sec. 2000d, prohibits discrimination on the basis of race, national origin, or sex in the provision of services. This law applies to those who receive federal funds for the services they provide. This section of the Act has been interpreted to require that people who do not speak English as their first language, or Limited English Proficient (LEP) people, have the right to be offered services in a language that is understandable to them. That means an LEP person must have an interpreter furnished to them during court proceedings and at various other meetings; services, such as counseling, must be offered to them in a language they understand; and important documents must be translated into a language that they understand. The U.S. Department of Justice (DOJ) has issued a Guidance that more fully explains the court's obligation in complying with Title VI. This guidance can be found at: www.usdoj.gov/crt/cor/lep/HHS2002LEPrepub.pdf

What's this?

When someone *intervenes*, it means that the court recognizes that he/she has a direct interest in the outcome of the case and makes him/her a party to the action

Advocacy

Families that are dealing with issues of child abuse or neglect are frequently also dealing with domestic violence. Research studies have shown that there is a 40%-60% co-occurrence of domestic violence and child maltreatment. (Edleson, J.L. (1999). The domestic violence may be an important factor in why the child abuse occurred and also an important consideration in how the case should be resolved. A domestic violence advocate's involvement in the case may be crucial in terms of providing guidance and support for the adult victim, educating the mother's lawyer, the GAL, the DJO, and the caseworker about domestic violence and what the adult and child victim may need, making sure that reasonable efforts incorporate services needed by the adult victim and child, and ensuring confidentiality. The adult victim may not be to the point where she feels safe enough to self-identify to the Children's Division. The input of an advocate at the intake interview might be crucial to identification of domestic violence and the development of the Children's Division worker's service plan and recommendations. It might also be important for an advocate to be present at the hearings and proceedings, but this can only occur at court hearings with all parties consent to her presence.

One underlying premise when domestic violence and child maltreatment co-occur is that the safety of the child is connected to the safety of the non-abusing parent. Systems should be oriented to keeping non-abusing parents and children together and providing for their safety. Another premise is that the perpetrator should be held accountable. Advocates can try to assure that these two premises are incorporated at every step in the neglect and abuse proceeding. However, there are other areas in which adult victims are particularly vulnerable and an advocate's intervention can be especially useful.

Victim Safety

An advocate can assist with assuring victim safety in a number of ways. While the DJO and the Children's Division caseworker should screen for domestic violence, they may not always do so, and even if they do, the woman may not identify as a victim because she fears losing her children due to the domestic violence. If the advocate is already working with the woman when she comes into the system, the advocate can offer to accompany her to the intake interview. The advocate may not want to actually sit in during the interview because of fears that the advocate may lose the confidential relationship with the victim. However, being present and assuring that screening and safety planning occur are vital to the woman's safety.

Meetings and hearings may be a time that a victim will be most vulnerable because the perpetrator is often invited to these proceedings. An advocate, at the victim's request, can see if she can accompany the victim to these meetings and court proceedings. In addition, it might be possible to have the perpetrator excluded from meetings, such as family group conferences, if he poses a danger to the victim.



Advocacy, con't.

Confidentiality

The Family Court and the Children's Division should be aware of the risk to a battered woman when confidentiality is breached, and might even have protocols that personnel are mandated to follow to assure confidentiality. Advocates should not assume that these protocols are being followed and should assist personnel from these systems in assuring the maintenance of confidentiality. The major problem with confidentiality in a court setting is that, in order to assure that a litigant's due process rights are not violated, all parties must be given copies of all documents that will be used in his case, including pleadings, reports and written recommendations. All parties must also be given notice of any hearings. In order to assure that information about the battered woman that could endanger her is not disclosed to the perpetrator, all documents and notices should be reviewed. The victim's current address, phone number, or other information by which the perpetrator could find her should be deleted. Information that she may have disclosed about him abusing her should also not be shared with him, and if information is required to be shared, efforts should be made to try to find a secondary source that can be cited for that information so the battered woman can be protected (e.g. police records of assaults). In addition, endangering disclosures should not be requested or made while the battered woman or another witness is testifying during a hearing or talking at a meeting where the perpetrator is present. An advocate might not be allowed to be present at a court hearing, so she will have to alert the mother's attorney to the dangers of disclosure of sensitive information, such as the mother's current address. The attorney could then be responsible for reviewing documents and notices prior to them being given to the perpetrator to assure that disclosures are not made. The attorney can also intervene during a court hearing when a witness is being asked to make disclosures that are dangerous to the mother.

Importance of Understanding Dynamics of Domestic Violence by Court Personnel

Another potential problem faced by battered women in abuse/neglect cases may be a lack of knowledge among court personnel about domestic violence. Judges, lawyers, GALs, and DJOs may not have an awareness of the nature and dynamics of domestic violence. Without this awareness, it will be difficult for a battered woman to get a response from the system that comports with finding safety for her and her child and holding the batterer accountable. An advocate can educate the victim's lawyer, the GAL, and the DJO about the dynamics by providing written material to them and talking with them. She can also try to see that a part of reasonable efforts might be ensuring that all those who offer services to the victim as well as court personnel understand the basics of domestic violence. The advocate can suggest that the caseworker give all those providing services to the victim a copy of Missouri Coalition Against Domestic Violence (MCADV) publication, "The Nature and Dynamics of Domestic Violence." The advocate can educate court personnel about what services in the community are available to victims and which of those services would be useful to the non-abusing mother as she tries to find safety. The advocate can also assist the mother's lawyer in finding an expert witness who can be called to testify in the case to help educate the court about these dynamics.

Reasonable Efforts and Flexibility of ASFA Timetables

Both ASFA and Missouri law require that the Children's Division make reasonable efforts to prevent removal of the child, and once removed, to reunite the child with the parent. TPR cannot occur without these reasonable efforts being made and the court approving these efforts, unless the Court relieves the Division of the obligation to make such efforts. An advocate can conduct a needs assessment with the woman and construct a plan that meets her needs and incorporates her goals. Safety for her and her child and self-sufficiency should be primary goals. This plan can serve as the basis for the Service Plan that the Children's Division caseworker constructs in order to make reasonable efforts. It is important for the plan to be developed with the input and direction of the battered woman to assure her safety. In addition, it is important for the woman, her advocate, and her attorney to review the plan to assure that there are appropriate and accessible referrals and that the referrals are not conflicting or dangerous. If there is a problem with the service plan, the woman can request that the plan be changed. If the worker does not revise the plan as requested, the woman's attorney can file an objection to the plan in Court and, hopefully, have it altered to accommodate the woman's needs. This is an instance where the ASFA timelines can be flexible. Despite the fact that a termination petition must be filed if the child has been in foster care for 15 of the past 22, the Missouri statute provides that the attorney for the Juvenile Officer need not file a petition if the family of the child has not been given services as provided for in section 211.183, RSMo. If the mother has not been provided the services she needs, or has not had sufficient time to realize the benefit from services that have been provided, the advocate can suggest that the Children's Division provide reasonable efforts longer to allow her to gain the skills and resources to be able to stabilize her life.

If the batterer is a party to the proceedings, a separate service plan should be constructed for him. It should hold him accountable and provide him with resources through which he might be able to alter his belief system and conduct. An advocate can assist the caseworker in constructing an appropriate plan. This plan might include attendance at a batterer intervention program, supervised visitation, and provisions to stay away from the non-abusing mother and child except during supervised visitation. If the plan contains a provision for attendance at a batterer intervention program, the advocate can suggest that attendance be monitored by way of compliance hearings.

Right to Counsel

A battered woman who is faced with the possibility of termination of parental rights has a right to be represented by an attorney, and if she is indigent, to have an attorney appointed for her. This attorney will probably only represent her at hearings unless she requests that they represent her in other proceedings related to the abuse and neglect action. An advocate can explain to the woman the need to have an attorney present at review hearings, family group conferences and other meetings. She can also explain the importance of having the attorney review the service plan to assure that it incorporates the battered woman's and the child's needs. Unfortunately, sometimes when a battered woman is not separated from the perpetrator and she is indigent, the court may appoint the same attorney to represent both her and the perpetrator. Because she and the perpetrator will probably have different interests and agendas, having the same attorney can be harmful to her case in a number of ways, and might also be dangerous. She is entitled to her own attorney and an advocate can inform her of this and perhaps help her obtain one.

Advocacy, con't.

Right to Hearings

The parents of a child over whom the court has taken protective custody have a right to request a hearing to challenge this action. The hearing must be held within three working days of the request. An advocate can assist a woman in making this request and also requesting that the mother be appointed an attorney if she is indigent. At this hearing, the Children's Division will have to show that reasonable efforts were made prior to removing the child from the parents unless an emergency situation required immediate removal.

If the Court finds the parent responsible for the neglect and abuse at the adjudication hearing, the Court is required to hold review hearings every six months. At these hearings, the mother's attorney can request, and the court can order, that the Service Plan be changed if the battered woman needs something additional and the Children's Division caseworker has not been responsive to requests to make the changes. If these hearings are not being held, and the woman thinks it would be to her advantage to have them, the woman can ask her attorney to request one. If an attorney does not currently represent her, the woman, with the advocate's assistance, can request a hearing and also request that an attorney be appointed to represent her at the hearing.

Compliance with Title VI

Compliance by the Court with the Title VI requirements as they relate to the Limited English Proficiency (LEP) persons is governed, to a large extent, by the Guidance issued on this subject by the Department of Justice (DOJ). The Guidance requires, among other things, that services be provided to LEP persons in a language that they understand. This may include translation of important documents, interpreter services at court hearings and meetings, and the services that are incorporated in her service plan offered in a language she understands. If services are not provided in this manner, the court may not be able to terminate parental rights. (See *In the Matter of Richard W.*, 265 A.D.2d 685 [N.Y.App. 1999]). An advocate may want to review the Guidance to see if the court is complying. If the court is not, an advocate can speak with the mother's attorney about the non-compliance and the lawyer can either request compliance or, perhaps, report the non-compliance to the DOJ.



Advocacy, con't.

Guardians ad Litem (GAL)

GALs are appointed to represent the best interests of children in neglect and abuse cases. The GALs are often attorneys in private practice. The GALs may not be able to spend as much time investigating a case as the case might warrant. Advocates can assist a GAL in the investigation of a case by educating him or her about domestic violence and obtaining documentation of the domestic violence. Should a GAL not fulfill his or her obligations, the mother's attorney can file a motion to disqualify him or her. The judge will decide if the GAL should be disqualified.

Holding Batterer Accountable

If the battering partner is not the parent of the child, the court may or may not be able to get jurisdiction over him through the neglect and abuse action because the statute provides that only persons legally responsible for the child can be made parties. A Child Order of Protection may be the only way to achieve judicial intervention against the batterer. The DJO, the GAL or CASA may do this, but should obtain the consent of the mother before doing so. If court personnel do not know how to obtain a Child Order of Protection, and do not know the advantages of doing so, an advocate

can assist them. If court personnel do not obtain a Child Order, the non-abusing mother may want to do so. The advocate can assist her. If advocates need information about Child Orders of Protection, they can call the Missouri Coalition Against Domestic Violence for technical assistance.

If the batterer has harmed the child, it is important that this fact come into play in custody or visitation decisions. In addition, there is a good deal of research on how batterers' personalities and belief systems adversely affect their ability to parent. (See *The Batterer as Parent* by Bancroft and Silverman.) The advocate can help to educate the victim's attorney, the DJO, the Children's Division caseworker, and the GAL about the possible harm to the child from unsupervised visits. If the batterer's actions merit criminal charges, the advocate can encourage prosecution. If the batterer is on probation or parole, a charge of child abuse can cause it to be revoked. An advocate can assist with revocation by contacting the batterer's probation or parole officer. The advocate can also educate the DJO and Children's Division caseworker about batterer intervention programs and persuade them to ask the Court to require the batterer to attend.

REFERENCES FOR CHILDREN'S DIVISION CASES WITH COURT INVOLVEMENT

Bancroft, L & Silverman, Jay G. (2002). *The Batterer as Parent: assessing the Impact of Domestic Violence on Family Dynamics*. Thousand Oaks, CA: Sage Publications.

Edleson, J. L. (1999). "The overlap between child maltreatment and woman battering". *Violence Against Women*, 5(2), 134-154.

According to the most recent census, nearly 14% of the American population lives at or under the poverty line (Census Bureau, 2000). The Missouri Department of Social Services' Income Maintenance program offers assistance to low-income families. To meet the various health care, nutritional, and income needs of low-income families and individuals, Income Maintenance offers a variety of programs. This section explains,

- what programs Income Maintenance offers,
- what requirements each program has, and
- how advocates can assist women who have experienced domestic violence in this system.

The programs of Income Maintenance are numerous and often confusing to service providers and women alike. Advocates should make every effort to understand these programs and know how to help the women they serve get the answers they need.



What Is Income Maintenance?

Income Maintenance is one program of the Family Support Division, along with Child Support Enforcement and Rehabilitation Services for the Blind. Income Maintenance is a set of programs designed to provide families with income or with subsidies (also known as “in-kind” assistance) to ensure medical, physical and emotional well-being of the family members. This set of programs includes Temporary Assistance, General Relief, Food

Stamps, MC+, Low Income Home Energy Assistance Program, and Child Care. Many income maintenance programs are based on the family’s income relative to the federal poverty line. The following chart provides information on the federal poverty line (annual income) by household size (US Department of Health and Human Services, 2003). The income limits change annually.

Size of Family Unit	48 Contiguous States and D.C.	Alaska	Hawaii
1	\$ 9,570	\$11,950	\$11,010
2	12,830	16,030	14,760
3	16,090	20,110	18,510
4	19,350	24,190	22,260
5	22,610	28,270	26,010
6	25,870	32,350	29,760
7	29,130	36,430	33,510
8	32,390	40,510	37,260
For each additional person, add	3,260	4,080	3,750

SOURCE: Federal Register, Vol. 70, No. 33, February 18, 2005, pp. 8373-8375.

Income Maintenance Programs

Below are brief descriptions of the programs offered by Income Maintenance. Some of these programs will be discussed in depth later in the chapter.

Temporary Assistance to Needy Families (TANF): Known in Missouri as Temporary Assistance (or TA), TANF provides financial assistance to children whose families have insufficient income to meet their basic needs. This can include children who are “deprived of support” because of unemployment in the family or because of the absence, death or physical or mental incapacity of a parent. The amount of assistance provided under TA is based on need and the number of persons in the family. The TA program also includes a case management service to provide assistance with education, skill training, and employment.

General Relief: General relief provides Medicaid to “unemployable persons who are medically certified as unable to work due to physical or mental incapacity or are caring for an incapacitated relative.” This program only serves individuals who are not eligible for cash assistance under any other program.

Food Stamps: This program provides low-income households with assistance for food expenses. To be eligible, families must not have resources in excess of \$2000 (or \$3000, for elderly families) and gross family income must be less than 130% of the federal poverty line (unless the applicant is elderly or disabled, in which case income must be below 165% of the poverty line). Food stamp benefits are provided via Electronic Benefit Transfer (EBT). Benefits cannot be used to buy alcohol, tobacco, hot foods, or foods prepared for immediate consumption.

MC+: This program provides healthcare coverage to eligible children, some parents, and pregnant women. The goals of this program are to promote good health, to prevent illness and pre-

mature death, to correct or limit disability, to treat illness, and to provide rehabilitation to persons with disabilities. Services include health screenings, medical exams, immunizations, and other medically necessary treatments. Recipients may receive benefits through a fee for service plan or through a managed care plan depending on the region of the state in which the participant lives. There are different categories of MC+. MC+ provides healthcare coverage for children whose family gross income is under 300% of the federal poverty line. Parents may be eligible, but the income allowed for adults is much lower than that of children (77% of the poverty line). Depending on the size of the family and the household income, there may be no cost, there may be a co-pay, or there may be a premium with a co-pay. If there is an absent parent, the custodial parent must agree to cooperate with the Division of Child Support Enforcement to pursue medical support. (Exemptions may be granted in certain cases involving domestic violence or other “good cause” reasons. See the section on the Family Violence Option).

MC+ for Pregnant Women and Newborns: This Medicaid program provides healthcare coverage for pregnant women whose family income does not exceed 185% of the federal poverty level. Once eligible, the women continue to receive coverage throughout the 60 days following delivery even if their family income changes. Children who are born to a woman who is receiving MC+ or Medicaid on the day of their birth are eligible for MC+ coverage throughout the first year of their life as long as they are under the care and control of their mother and maintain Missouri residence.

Low Income Home Energy Assistance Program: Also known as LIHEAP, this program provides financial assistance for home heating for some low-income households. As of November 2003, LIHEAP will be administered by the

Income Maintenance Program, con't.

Community Action Agency in each area. For example, STEP, Inc. is the Community Action Agency for St. Louis County residents, except county residents in zip code 63133 who would receive assistance from the Human Development Corporation (HDC). (Personal communication, Sharon Minoff, FSD, September 2003). Generally the period to apply for funding is between November and March.

Child Care: State assistance with child care payments are available to children of Temporary Assistance recipients, children who are abused and/or neglected, and children of low-income families who are working or are enrolled in qualified education or job training programs, and grandparents participating in the Grandparents as Foster Parents (GAFP) program. Under this program, families may be responsible for a co-payment or a sliding scale fee for childcare services.

Temporary Assistance

Temporary Assistance is typically what people think about when they hear the word “welfare.” Below, the background of the program, application procedures, eligibility requirements, and program requirements are explained. It is important to note that cash assistance is limited to 60 months throughout an individual’s lifetime (beginning with assistance received from July 1, 1997). The 60 months do not have to be consecutive to count. Months when a participant receives a reduced cash grant still count toward the lifetime limit, as do months when the participant is exempt from work activities.

The History of Temporary Assistance

In 1911, Missouri enacted the nation’s first Mother’s Aid Law. This program helped lay the groundwork for the Aid to Families with Dependent Children (AFDC) program. AFDC, which began under the Social Security Act of 1935, was designed to “keep families together” instead of removing children from their homes because of poverty. AFDC entitled eligible families to life-long financial assistance and Medicaid coverage.

In 1996, Congress passed the Personal Responsibility and Work Opportunity Act (PRWORA) (Public Law 104-193), which

ended AFDC and created Temporary Assistance to Needy Families (TANF). Under TANF, now known in Missouri as simply Temporary Assistance, federal money for financial assistance to families in need is given to the states in a block grant, which requires states to create their own welfare programs. States can determine eligibility and requirements but must follow federal guidelines when using the federal TANF funds. For example, the federal legislation set a lifetime limit of 60 months (5 years) for families receiving federal money and includes strict work and child support enforcement cooperation requirements.

After the passage of PRWORA, the U. S. Department of Health and Human Services accepted Missouri’s plan for welfare reform and began distribution of Missouri’s \$214 million block grant. (For more information, visit www.dss.mo.gov). The block grant amount is based on the prior year’s caseload information. The federal legislation that created TANF also included the Family Violence Option, which allows states to exempt victims of domestic violence from some work requirements and from some aspects of child support enforcement. Missouri was among the states that adopted the Family Violence Option.

Missouri's Eligibility Requirements

Eligibility Requirements for Temporary Assistance

In order for a family to qualify for Temporary Assistance in Missouri, the child/children must meet the following requirements:

- under 18 or 19 and attending high school (or its equivalent) and expected to graduate,
- in need of assistance because there is insufficient income to meet basic needs,
- deprived of support because of the death, physical or mental incapacity or continued absence of a parent, or because of a parent's unemployment, and
- living with one or both parents or a close relative who makes the application for assistance.
- not own resources valued at more than \$1,000 at the time of application, excluding the home and one car (recipients may own resources, excluding the home and one car, valued up to \$5,000 when the self-sufficiency pact is signed),
- assign his or her rights for child support to DSS and further cooperate in identifying, locating and collecting support from any parent who is absent from the home because of divorce, desertion or abandonment²,
- use the money for the benefit of the children,

In addition, the child's parent must:

- Not have been convicted after August 22, 1996, in a Federal or State court of a felony or any crime related to illegal possession, use or distribution of a controlled substance (child(ren) will still be eligible for cash grant),
- attempt to support or help support the children by accepting employment when offered,
- apply for social security numbers for all members of the assistance group.
- not be a fleeing felon and not be in violation of a condition of probation or parole imposed under a Federal or State law (child(ren) will still be eligible for cash grant),



²If disclosing the non-custodial or absent parent could potentially put the children or other parent at risk for harm, it is not essential to "cooperate with child support enforcement." This is called "good cause" and is a part of the Family Violence Option (See Child Support Enforcement section for further information.)

Eligibility Issues for Immigrants

Before the implementation of PRWORA, immigrants who legally resided in the United States and met the requirements of state programs were eligible for benefits through income maintenance programs. PRWORA placed severe restrictions on the amount of assistance available to immigrants using federal monies (Fremstad, 2003, Holcomb et al., 2003). A majority of immigrants who entered the United States on or after August 22, 1996 are now ineligible for federally funded Temporary Assistance benefits and services during their first five years in the United States; this is frequently referred to as the “five-year bar.” Qualified immigrants are exempt from the five-year bar.

Despite the ban on using federal funds for legally residing immigrants for Temporary Assistance, states can choose to use state money to fund such programs. Missouri uses state-only funding to provide Temporary Assistance benefits to post-enactment legal immigrants who meet the other state eligibility requirements (Holcomb et al., 2003). However, if the state determines that it does not have adequate funding, cash assistance is not granted to legal permanent residents. Therefore, programs funded with state monies are subject to the state’s fiscal health and are not as stable as federally funded programs. As of January 2004, Missouri’s immigrant cash assistance program is NOT accessible to legal immigrants due to lack of funding, however, in the future this funding may be restored. No immigrants who reside in the U.S. illegally are eligible for Temporary Assistance funds.

Who is a Qualified Immigrant?

- Battered women who are self-petitioning under Violence Against Women Act (VAWA) and have received a letter indicating they have prima facie³
- Refugees
- Asylees
- Cuban/Haitian entrants
- Amerasians
- Persons granted withholding of deportation
- Certain victims of trafficking
- Active duty members/veterans and their spouses

³Sufficient evidence to produce a particular proposition or fact.

Applying for Benefits

When applying for benefits, applicants must bring the following information for every member of the household (Family Support Division Handbook):

Identification: Social Security cards, photo ID, driver's license, and/or birth certificates.

Proof of all money, savings or cash: bank statements, savings account book, government bonds, other stocks or bonds, mortgages, certificates of deposit, credit union account book or statement, current checking account bank statement and cash.

Insurance, including insurance for children carried by another person. This also includes burial insurance contracts, funeral home deposits and pre-paid burial documents.

Those who own, have owned or are purchasing property must bring mortgage payment record, tax receipts, contracts for sale or purchase, and buyer's or seller's closing statements.

Proof of all income, earned or unearned: last pay stubs; statement from employer including home employment such as babysitting, ironing, house cleaning or other odd jobs; income tax report or documents for self-employed farmers; social security award letter; documentation of veteran's benefits or SSI benefits; railroad retirement documentation; armed forces allotments; contributions from persons; statement verifying amount of education or training grant, loan or scholarship; worker's compensation; unemployment compensation; award letter from pension; child support or alimony documentation; income received as rent for a room, room and board or rental unit (from members of the household or from other people); proof of any other income or money received.

Proof of expenses: insurance on house; rent receipts (including name, address and phone number of landlord); water and sewage bills; mortgage payment book or statement, babysitting expenses or child care; medical expenses; utility bills; real estate tax; and trash removal bills.

Proof of age and relationship of children: birth certificates; life or health insurance policies; hospital certificates; baptismal records; family Bible; adoption papers; burial insurance contracts; guardianship papers from the court—if the child was born in Missouri, workers can generally access this information from a database.

Information about non-custodial/absent parents: address, place of employment, divorce decree, name and address of relatives, death certificate, social security number, marriage certificate.

Collateral: name, address, and telephone number of unrelated person who will answer questions about their income, property, resources and household.

Any other information requested by the caseworker.

Note: If some of the above documents are not available, an applicant may begin the application process and ask the caseworker for more time in securing all the necessary documents (DSS handout).

Domestic Violence Screening

When applying for benefits, women will be asked to comply with Child Support Enforcement efforts. Women who have experienced domestic violence and are afraid that complying with Child Support Enforcement will endanger themselves or their children can apply for “good cause” for non-compliance. (See Child Support Enforcement Section regarding screening and assessment, p. 78). Understanding the aspects of domestic violence screening is key to advocating for women who have experienced domestic violence and who are trying to safely access TANF and other benefits. Please thoroughly review the screening segment in the Child Support Enforcement Section.

Receiving Benefits

Cash grants (benefits) are distributed by the state to participants through direct deposit into a participant’s bank account or through Electronic Benefit Transfer (EBT). When benefits are approved and participants do not have a bank account or do not wish to receive funds directly deposited in their bank account, participants are issued an Electronic Benefit Transfer card (EBT). The benefits are electronically transferred to the account and can be accessed using Automatic Teller Machines (ATMs) and Point of Sale (POS-for example, the grocery store check-out register) locations with the proper Personal Identification Number (PIN). Participants receive a receipt after each use of the EBT.

The receipt indicates the amount of money in the account. When participants access their benefits from an ATM, the first withdrawal is free, but any subsequent withdrawals include a transaction fee of \$.85 (this does not include the surcharge that may be added from the individual ATM). Likewise, receiving money from a POS includes a transaction fee of \$.85. This transaction fee is not charged for food stamp purchases, balance inquiries, purchases with cash benefits, and cash back when making a purchase.

If the participant has a savings account at a bank, this account can be used to receive Temporary Assistance money directly deposited into the savings account and the participant will not receive an EBT card (unless a card is issued for food stamps). If the participant does not currently have an account, but requests direct deposit, the participant has forty-five days to open an account. During that time benefits will be paid by paper check. Using the direct deposit account eliminates the \$.85 transaction fee.



Missouri's Work Requirements

Temporary Assistance recipients are required to be involved in work activities within 24 months of receiving benefits, unless they qualify for a good cause exemption:

1. Single-parent families with children six years or older must participate in work activities for a minimum of 30 hours per week,
2. Single-parents with children under the age of six must participate in work activities for 20 hours per week.
3. Two-parent families must participate in work activities for a minimum of 55 hours per week (DSS manual).

At the time of application, all Temporary Assistance recipients complete a Family Information Record (form IM-309) which functions as a screening tool to determine the applicant's level of job readiness. Acceptable work activities are based on the level of job readiness.

Level I

These are individuals who declare themselves job ready and identify no barriers to work participation. They are referred for an immediate job search. Level I participants begin their Self-Sufficiency Pact within four weeks of the job search. The Family Self-Sufficiency Pact (form IM-300) is used to establish a plan between the participant and the caseworker that will lead to employment and self-sufficiency for the family. Level I individuals may participate in job preparation classes. The job search and job readiness services are coordinated through the Division of Workforce Development or other partnering agencies. Those who are unsuccessful in their job search at Level I may be referred to Level II or Level III.

Level II

These individuals have identified barriers that prevent immediate employment. This may include teen parents, two parent households, employed individuals who remain eligible for cash assistance and individuals who did not find employment at Level I. Level II includes case management services for overcoming barriers to employment. Participants must have monthly contact with a case manager.

Level III

Level III participants have multiple barriers to employment that require intensive case management services. This also includes individuals unable to complete their Level I or II Self-Sufficiency Pacts. Monthly contact with their case manager is required. Referrals may be made to services outside of DSS, including referrals for vocational rehabilitation or substance abuse treatment.

Acceptable work activities for Level II and Level III households include:

- GED testing
- Vocational Education & Training
- Job Readiness Activities
- Job Search
- On-the-Job Training
- Community Work Experience (CWEP) (public service experiences developed by DSS)
- Alternative Work Experience (AWEP) (non-public service; developed by participant)
- Unsubsidized Employment
- Education Related to Employment, including high school equivalency, ESL, junior high and high school
- Refugee/Resettlement Agency
- Wage Supplementation

Missouri's Work Requirements, con't.

Two parent households must participate in the Up-Front Job Search program. If childcare is needed, one parent can participate in a child care search as part of the job search agreement. **Teen parents** (under 18) must participate in a work activity and receive DSS case management. Those teen parents who have not received a high school diploma or GED must participate in a high school program or adult basic education as a work requirement. **Employed individuals** who are still income eligible for cash assistance (individuals whose income does not rise above benefit amount) will receive case management to address the family's continued needs and barriers. Each participant is required to create a plan focusing on ways to make their family financially independent. This plan, created in tandem with their case manager, is called a **Self-Sufficiency Pact**. Case management is most frequently provided by Division of Workforce Development (DWD), but may be provided by DSS or another contracted provider.

Some families may receive temporary exclusion from work activities (DSS manual). Each month of exclusion continues to count toward the sixty-month lifetime limit. Families who may receive temporary exclusion include:

- **Single parent** with a child under six years of age unable to obtain needed child care – granted only when there is no appropriate, suitable, affordable childcare within a reasonable distance;
- **Individuals** with a temporary physical or mental disability – must be verified by a physician, psychiatrist, psychologist, licensed clinical social worker and/or hospital reports;
- **Pregnant women** who are in the third trimester of pregnancy or whose physician has determined that the mother or baby is at risk because of medical complications; and

- **Victims** of domestic violence who need time to overcome the immediate family crisis – first exclusion is 90 days and maximum exclusion is six months (with the possibility of renewal). This temporary exclusion is part of Missouri's Family Violence Option. (See the Child Support Enforcement section).

Some families may also be exempt from work activities but may participate in work activities voluntarily. Families eligible for exemption include:

- **Caretaker or payee** who is 60 years of age or older.*
- **Permanently disabled adults** who are eligible for Old Age Survivor's and Disability Insurance (OADSI), Supplemental Security Income (SSI), or employer-sponsored disability insurance while an application for any of the aforementioned is pending unless or until an unfavorable determination is made.* An individual who is needed in the home to care for a physically or mentally disabled individual.*
- **Caretaker** or payee who is a teen parent head of household under the age of 18 participating in an educational activity.*
- **A single custodial parent** caring for a child who is under 12 months old.

*Any individual receiving TA that claims these exemptions will be funded under a Separate State Program and will not be subject to the 60-month limit.

60-month Time Limit

As a participant nears the 60 month limit for receiving TA, the case manager will set up a Family Support Team Meeting with the participant, a Children's Division worker, and community partner(s) agreed to by the participant. This meeting is convened to assure that the Self-Sufficiency Pact is consistent with the family's goals at the end of their lifetime-limit, and to provide the case manager with recommendations and suggestions to assist the family. The

Missouri's Work Requirements, con't.

participant has a right to bring a domestic violence advocate to this meeting. Based upon the family's situation and an evaluation of possible hardship extensions, the Family Support Division may grant an extension to the participant. The extension period gives the participant time to overcome or adapt to their current situation and possibly provide additional assistance by participating community partners.

Self-Sufficiency Pacts

The Family Self-Sufficiency Pact (form IM-300) is used to establish a plan between the participant and the caseworker that will lead to employment and self-sufficiency for the family. The Self-Sufficiency Pact (SSP) includes work activities, timelines and supportive services. It is intended to be a flexible tool that can be modified at any time at the request of the participant, case manager, or service provider. Families that fail to comply with the Self-Sufficiency Pact (SSP) can lose up to 25% of their Temporary Assistance benefits, as well as a portion of their Food Stamps (DSS manual). Failure to comply may include:

- Failure to actively engage in employment-related activities,
- Failure or refusal to respond to two call-in notices,
- Established pattern of failure to attend classes or participate in other work-related activities,
- Failure to appear for a job referral or job interview when the job is consistent with the SSP,
- Voluntarily leaving an on-the-job training assignment before expiration of the contract,
- Refusal to accept employment or voluntary termination of employment.

In certain situations, families failing to participate may be found to have good cause for not participating. These situations may include:

- When gross income after employment is less than the cash assistance received under TANF,
- Required court appearance or incarceration,
- Family crisis or sudden change of immediate family circumstances that made participation unreasonable,
- Breakdown in transportation arrangements with no alternate transportation available,
- Breakdown in childcare arrangements with no suitable alternate available,
- Lack of social or supportive services necessary for participation,
- Other reasons such as inclement weather or personal illness,
- Wage does not meet federal or state minimum wage, or is substantially less than the wage normally paid for similar work in that labor market,
- Daily and weekly hours of work exceed those customary to the occupation,
- The employment requires a commute in excess of two hours roundtrip, including time necessary to transport family members to school or childcare (when walking is the only available transportation, good cause can be granted if the distance is more than four miles round trip),
- The participant is referred to direct job placement and there are three or fewer employers participating in the direct placement program
- The participant has no transportation to and from the job,
- The position offered is vacant because of a strike, lockout or other bona fide labor dispute,
- The individual is required to work for an employer contrary to the conditions of his/her existing membership in the union governing that occupation,

Missouri's Work Requirements, con't.

- The work site is in violation of applicable federal, state, or local health and safety standards,
- The work adversely affects the individual's physical or mental health (which must be substantiated by medical statements),
- The individual is not physically able to engage in such employment.

Conciliation

Conciliation is a period of up to 10 calendar days during which the case manager tries to resolve barriers to work participation (DSS manual). Conciliation is designed to use resources to remove social, economic, physiological, and psychological barriers to participation. If the barriers are resolved and the individual is willing to participate in work activities, the conciliation is considered a success. During the conciliation process, the participant may receive an exemption or temporary exclusion from work activities. If the participant meets the criteria for an exemption or temporary exclusion from work activities, a sanction for non-participation should not be issued (for example, the participant has recently experienced domestic violence that makes it unsafe for her to attend job training classes). Participants should also have the opportunity to meet with their caseworker's supervisor if good cause for non-participation is not granted.

Participants should receive a face-to-face meeting with a case manager before any sanctions are imposed (DSS manual). This meeting can take place in the office, during a home visit or at another site. Participants can request that a third party attend the meeting. The meeting is used to discuss lifetime limits for Temporary Assistance, the woman's barriers to participation and to ensure that the woman understands what will happen next and why. According to DSS policy, only when all efforts to overcome barriers to participation are exhausted should sanctioning begin (DSS manual).

Sanctions

The sanctioning process begins when conciliation efforts are exhausted and the participant was not found to have good cause for refusing to participate in work activities (DSS manual). The participant should receive an Adverse Action Notice (form IM-80) that details the proposed sanction and the reasons for the action. The participant may contest the sanction at a fair hearing. If the participant does not comply after receiving the IM-80, the sanction has still occurred (DSS manual). Sanctions result in a 25% reduction in cash benefits.

A sanction for non-compliance follows the individual, even when that individual moves into another household. An individual's first sanction remains in effect until the individual complies with the program requirements. Later sanctions are in effect for three months or until the individual complies (whichever is longer). There are some exemptions to the three-month timeline for participants who demonstrate a willingness to resolve the situation (DSS manual).

Before a sanction can be lifted, the participant must participate satisfactorily in agreed-upon work activities for two consecutive weeks. In addition, the SSP must be renegotiated. When the sanction is lifted, the 25% cash benefit is restored, beginning on the date that the participant agreed to comply with the program requirements. If sanctions are imposed, the woman has the right to an administrative hearing and an appeal.

Missouri's Work Requirements, con't.

Transportation Related Expenses (TRE)

TRE program is only available for participants who receive TA, have signed a Self-Sufficiency Pact, and are in an approved work activity. Participants may receive \$5 per day for transportation costs to and from their activity site. TRE also may be used for meetings with case managers. Participants who walk or carpool to their activity site are also eligible for TRE. TRE payments may be issued for up to 90 days after employment if the family was receiving Temporary Assistance and have signed a Self-Sufficiency Pact prior to beginning employment. TRE begins on the first day of the next month after the application is made (DSS manual).

Work Related Expenses (WRE)

Like TRE, Work Related Expenses program is only available for participants who receive TA, have signed a Self-Sufficiency Pact, and are in an approved work activity. Participants may

receive payments for costs necessary to participation in activities, interviewing for employment, and accepting or maintaining employment. The maximum WRE payment is \$350 during a twelve-month period. An applicant may make a request up to 12 months after becoming employed, as long as the applicant is currently receiving Medical Assistance for Families or Transitional Medicaid and was receiving TANF and case management services prior to employment. The expense must be necessary and all other resources must have been exhausted before WRE will be granted. Acceptable expenses might include uniforms, clothing, shoes, tools, supplies, medical and dental expenses not covered by Medicaid, child care registration fees, applications for a GED and automobile repairs. A case manager or Division of Workforce Development worker can approve all WRE requests under \$100. Supervisory approval is needed for larger expenses.

General Relief

General Relief is a state-funded program designed to provide medical assistance to “needy” and medically unemployable adults who are not eligible for other assistance programs. Formerly, a small monthly stipend was provided with General Relief, but this stipend has not been legislatively allocated since August, 2003. To be eligible for General Relief, an individual:

- Must live in Missouri and intend to remain
- Must be a US citizen or eligible legal immigrant
- Must be in need of assistance because of insufficient income to meet basic needs
- Must be unable to work because of a physical or mental incapacity
- Cannot have cash or securities in excess of \$999.99 if single or \$2,000 if married and living together or not married and living together
- Cannot be a resident of a public institution, unless it is a medical institution
- Must be willing to accept available medical care, vocational training or services to enable him or her to return to full or part-time employment.

Food Stamps

The History of Food Stamps

In 1963, the City of St. Louis became one of the seven original sites for the nation's Food Stamp Program, which is designed to fight hunger and increase nutrition. The original legislation governing the Food Stamp Program was sponsored by St. Louis Congresswoman Lenore Sullivan (*ROWEL Peer Advocacy Handbook*). Congress passed the Food Stamp Act of 1977 (P.L. 95-113) creating Food Stamps as a federal program. The Food Security Act of 1985 (P.L. 97-253), the Hunger Prevention Act of 1988, and the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (P.L. 104-193) made considerable federal changes regarding food stamp benefits.

Today, participants receive their benefits through an Electronic Benefit Transfer (EBT) card, which is provided through DSS. Unlike Temporary Assistance benefits which can be received into the participant's bank account, all food stamp program participants must use an EBT card to access benefits. The EBT card ensures that participants receive their benefits at the same time every month. It is accepted at grocery stores and retail stores throughout the country that have been approved by the USDA Food and Nutrition Service. These stores display the Quest® sign (www.dss.mo.gov).

Qualified Food

Food stamps can be used for food and food products designed for human consumption.

This includes

- Food and food products used to prepare for human consumption and purchased at USDA approved grocery and retail stores
- Seeds and plants for growing food in a garden
- Delivered meals for the elderly and disabled
- Food served in battered women shelters
- Food served in drug and alcohol treatment centers
- Food served in qualified soup kitchens

Food stamps cannot be used for:

- Hot foods or foods prepared for immediate consumption (with the above exceptions)
- Alcohol
- Tobacco
- Paper products
- Pet food

Food Stamps, con't.

Eligibility

Eligible households receive a coupon allotment determined by taking 30 percent of the household's net income (after deductions) and subtracting that amount from the Thrifty Food Plan Allotment (see below) for that household size. Most households have to spend cash in addition to coupons to purchase an adequate diet. The total value of the allotment is adjusted annually, in October, to reflect changes in food prices as published by the Bureau of Labor Statistics.

STANDARD DEDUCTIONS FY2005

Household Size			
1-3	4	5	6+
\$134	\$134	\$153	\$175

To be eligible, a participant must be a resident of the county in which they apply. Proof of residency can include rent or mortgage receipts, an apartment lease, utility bills, a driver's license, or statement of reference from a shelter or advocate. A fixed residence is not required, and homeless persons and migrants living in campsites can meet the residency requirement. When participants move to a new county, the food stamp case is transferred as an active case to the new county of residence. No individual may participate as a member of more than one household or in more than one project area in any month.

There are some barriers to eligibility.

- Those who have been convicted of a felony,
- of breaking probation or parole, or
- of trafficking food stamps are ineligible for the program.

In addition, the applicant must not have resources in excess of \$2,000, or \$3,000 if the applicant is elderly.

Resources include cash and un-excluded property. The following are **NOT** included as resources (*ROWEL Peer Advocacy Handbook* and personal communication with DSS staff):

- The home providing shelter to the household,
- The cash surrender value of life insurance,
- The family vehicle,
- The personal effects of household members,
- The cash remaining from the current month's income.

If the household does not include disabled or elderly members, the gross income must be equal or below 130% of the federal poverty line. For these households, the net income must be at or below 100% of the poverty line. For households that include elderly or disabled members, gross income must be below 165% of the poverty line (www.dss.mo.gov).

Eligibility Based on Temporary Assistance

A household is considered categorically eligible for food stamps when all members of the household have been approved for Temporary Assistance, Supplemental Security Income, Child Care Assistance, Work Related Expenses (WRE), Travel Related Expenses (TRE), Supplemental Aid to the Blind, or Supplemental Payments. Categorical eligibility means that the household automatically qualifies for Food Stamps because of their participation in other income maintenance programs. Because of this, the household's resources, social security numbers, residency and immigration information do not have to be verified for the food stamp program.

Food Stamps, con't.

When not everyone in the household is categorically eligible, individuals who receive the benefits listed above can be considered categorically eligible as individuals. Their resources will not be considered when determining eligibility for the rest of the household. A person receiving General Relief is NOT a categorically eligible individual (*ROWEL Peer Advocacy Handbook*). Because the resource guidelines are different for TA and other benefits than they are for Food Stamps, categorical eligibility allows some families who would otherwise not qualify for the Food Stamp program to receive Food Stamps based on categorical eligibility (*ROWEL Peer Advocacy Handbook*).

If accepted to the program, participants aged 16 to 60 are required to register for work unless they have received an exemption. Registration with the Missouri Employment and Training Program (METP) allows mandatory work registrants to meet this requirement. METP includes adult basic education, job search services, job search training, and direct job placement (*ROWEL Peer Advocacy Handbook*).

Receiving Food Stamps Quickly

An initial applicant may qualify for expedited service if:

- The applicant is a destitute migrant worker with cash/savings less than \$100,
- The household gross monthly income is less than \$150 or liquid resources are less than \$100, and
- The combined shelter expenses of the household (rent or mortgage plus utilities) are greater than the total combined monthly income and resources.

The only immediate verification required for expedited service is the identity of the head of household. The family has 30 days to provide verification of the other items. Households that qualify for expedited services must receive their benefits within 7 days of the application.

Verification

For households that do not have categorical eligibility, the following information about the applicant and/or household must be verified:

- Gross income
- Immigration status
- Social security number(s)
- Medical expenses
- Residency
- Disability
- Identity
- Child support payments
- Number of hours worked
- Employment status

Documentary verification consists of anything written or printed that confirms the household's circumstances. Examples of documentary verification include wage stubs, rent receipts, utility bills, bank statements, letters, Child Support Enforcement records, invoices and medical bills. Although documentary evidence is the primary source of verification, acceptable verification is not limited to a single document and may be obtained through the household members or other sources.

Immigrants and Food Stamps

In 1996, Federal welfare reform law eliminated food stamp eligibility for most non-citizens as of August 22, 1996. However, the 2002 Farm Bill restores food stamp eligibility to three categories of legal immigrants who were made ineligible for benefits under the 1996 welfare law:

- Legal immigrant children,
- Disabled immigrants who entered the U.S. after August 22, 1996, and
- Other legal immigrants who have lived in the U.S. for at least five years.

As a result, most legal immigrants who were in the United States prior to August 22, 1996 will now be eligible for federal food stamp benefits. Many of those who entered after August 22, 1996 will also be eligible, subject to certain restrictions.

Food Stamps, con't.

An immigrant must be a qualified immigrant as well as in one of the eligible immigrant categories to be eligible for the Food Stamp Program. The qualified immigrant categories are:

- Legal permanent resident of the United States under the Immigration and Nationality Act (INA), including Amerasian
- Refugee admitted under section 207 of the INA
- Granted asylum under section 208 of the INA
- Paroled under section 212(d)(5) of the INA in effect prior to April 1, 1997
- Granted conditional entry under 203(a)(7) in effect prior to 4/1/80
- Cuban/Haitian entrant as defined in 501(e) of the Refugee Education Assistance Act of 1980
- Immigrant, parent, or child of an immigrant who has been battered or subjected to extreme cruelty in the U.S. by a spouse, parent, or by a member of the spouse or parent's family residing in the same Eligibility Unit (EU) as the immigrant at the time of the abuse. There must be a substantial connection between the battery or extreme cruelty and the need for food stamp benefits and the individual must not reside in the same household as the abuser.

After the immigrant is determined to be a qualified immigrant, she must be eligible to receive food stamps benefits by meeting a qualifying condition such as: disability, date entered the United States, length in the United States, or work history in the United States. Under each eligible immigrant category are the additional conditions that group must meet in order to receive food stamp benefits:

- Immigrants who have resided in the U.S. with a qualified status for five years
- Disabled
- Refugees, Amerasians, Asylees
- Cuban/Haitian Entrants and Deportees
- Immigrants with a military connection
- Immigrants with 40 Qualifying Quarters under the Social Security Act (see box)
- Immigrants eligible under the Trafficking Victims Protection Act of 2000.

Qualified immigrants meeting a qualifying condition must meet all other Food Stamp Program eligibility factors.

What's this?

A qualifying quarter measures how much an individual earns in a year.

It is possible to earn up to four quarters of credit per year, but it is not necessary to actually work during the four calendar quarters. Qualifying quarters are adjusted each year for inflation. In 1997, the amount of a qualifying quarter was \$670.00.

Food Stamps, con't.

Using Food Stamps for Women in Shelter

If shelter residents were receiving food stamps in the household that subjected them to abuse, they may apply for food stamps as a separate household after they enter a domestic violence shelter program. Shelter residents applying as separate households are eligible solely on the basis of income and expenses for which they are responsible. Income maintenance caseworkers cannot count the income, resources or expenses of the former household when determining eligibility. Workers are required to consider room payments to the shelter as shelter expenses. If a resident's resources are jointly owned by a person in the former household and the resident's access to those resources are dependent on the agreement of the person still residing in the former household, caseworkers cannot count those resources when determining eligibility. Shelters for battered women and children include public or private non-profit residential facilities serving battered women and their children. If such a facility serves other individuals, a portion of the facility must be set aside on a long-term basis to serve only battered women and children to be considered in this category.

To be eligible, residents of shelters must still meet the following eligibility requirements:

- Citizenship
- Residency
- Household determination
- Resource, income and expense guidelines
- Work registration

Some women and children residing in a domestic violence shelter may be entitled to expedited services. Residents of domestic violence shelters may use their food stamp benefits to purchase meals prepared especially for them at a shelter. The shelter is authorized to redeem these benefits as a wholesaler. If the shelter is not authorized to use the benefits on behalf of the household, an employee of the shelter must be appointed as an authorized representative of the household.



Low Income Home Energy Assistance Program

The Low-Income Home Energy Assistance Program (LIHEAP) provides federal money through a block grant to help low-income households pay for winter heating. Homeowners and renters are eligible for the program based on household income, household size, housing type, fuel prices, weather conditions and energy consumption. As of 2003, LIHEAP is administered through the Community Action Agency of St. Louis County, Inc., formerly STEP

Those who qualify:

- are responsible for paying home heating costs
- are U.S. citizens, or immigrants legally admitted for permanent residence
- do not have available resources in excess of \$3,000
- meet specific income guidelines that vary according to household size.

Under this program, payment for the energy assistance goes directly to the energy provider. In Missouri, this program is available November through March. Applicants must provide the following information:

- Documentation of Social Security numbers for all persons living in the home
- The most recent fuel bill from the supplier of the main heating source (Kerosene is not considered to be a legitimate home heating source)
- Proof of all income sources for all persons living in the home. If an applicant is self-employed, the application must include a copy of her most recent federal tax return form
- Proof of age, if 65 or older
- Proof of the amount(s) of any cash and securities owned by any member of the household.

For more information, call 1-800-392-1261 or the Community Action Agency in the area.



Medicaid

(Medicaid section based on information from www.insure.com, www.cms.hhs.gov)

History

Medicaid started in 1965 as a cooperative venture jointly funded by the federal government and state governments to assist states in providing medical assistance to “eligible needy persons.” The program was approved as Title XIX of the federal Social Security Act. Under Title XIX, it is an entitlement program that pays for medical assistance for certain individuals and families with low incomes and resources.

Governing Guidelines

Within broad national guidelines established by Federal statutes, regulations, and policies, each State (1) establishes its own eligibility standards, (2) determines the type, amount, duration, and scope of services, (3) sets the rate of payment for services, and (4) administers its own program. Medicaid policies for eligibility, services, and payment are complex and vary considerably, even among states of similar size or geographic proximity. As a result, a person who is eligible for Medicaid in one state may not be eligible in another state, and the services provided by one state may differ considerably in amount, length, or scope from services provided in a similarly sized or neighboring state. In addition, state legislatures may change Medicaid eligibility and/or services during the year.

Eligibility

Medicaid does not provide medical assistance for all low-income persons. Under the provisions of the Federal statute, Medicaid does not provide health care services even for very low-income persons unless they are in one of the groups designated below. Low income is only one test for Medicaid eligibility for those within these groups and their resources are also tested against threshold levels (as determined by each state within federal guidelines). The following groups are defined as “categorically needy” eligibility groups under the Medicaid program and are eligible for federal matching funds:

- Individuals who meet the requirements for the Aid to Families with Dependent Children (AFDC) program that were in effect in their state on July 16, 1996, or – at state option – more liberal criteria
- Children under age 6 whose family income is at or below 133 percent of the Federal poverty level (FPL)
- Pregnant women whose family income is below 185 percent of the FPL
- Supplemental Security Income (SSI) recipients in most states (some states use more restrictive Medicaid eligibility requirements that pre-date SSI)
- Recipients of adoption or foster care assistance under Title IV of the Social Security Act
- Special protected groups (typically individuals who lose their cash assistance due to earnings from work or from increased Social Security benefits, but who may keep Medicaid for a period of time)
- All children born after September 30, 1983 who are under age 19, in families with incomes at or below the FPL
- Certain Medicare beneficiaries (described later)

Medicaid, con't.

States also have the option of providing Medicaid coverage for other “categorically related” groups. These optional groups share characteristics of the mandatory groups (that is, they fall within defined categories), but the eligibility criteria are somewhat more liberally defined. The broadest optional groups for which states will receive federal matching funds for coverage under the Medicaid program include the following:

- Infants up to age 1 and pregnant women not covered under the mandatory rules whose family income is no more than 185 percent of the FPL (the percentage amount is set by each state)
 - Institutionalized individuals eligible under a “special income level” (the amount is set by each state – up to 300 percent of the SSI federal benefit rate)
 - Individuals who would be eligible if institutionalized, but who are receiving care under home and community-based services waivers
 - Certain aged, blind, or disabled adults who have incomes above those requiring mandatory coverage, but below the FPL
 - Recipients of state supplementary income payments
 - Certain working-and-disabled persons with family income less than 250 percent of the FPL who would qualify for SSI if they did not work
- TB-infected persons who would be financially eligible for Medicaid at the SSI income level if they were within a Medicaid-covered category (however, coverage is limited to TB-related ambulatory services and TB drugs)
 - “Optional targeted low-income children” included within the State Children’s Health Insurance Program (SCHIP) established by the Balanced Budget Act (BBA) of 1997 (Public Law 105-33)
 - “Medically needy” persons (described below)

The medically needy (MN) option allows states to extend Medicaid eligibility to additional persons. These persons would be eligible for Medicaid under one of the mandatory or optional groups, except that their income and/or resources are above the eligibility level set by their state. Persons may qualify immediately or may “spend down” by incurring medical expenses that reduce their income to or below their state’s medically needy income level.

You should know....

For questions about Medicaid, contact the Missouri Medicaid Office at 1-800-392-2161.

Medicaid, con't.

The Personal Responsibility and Work Opportunity Reconciliation Act of 1996 made changes regarding eligibility for SSI coverage that impacted the Medicaid program. For example, legal resident immigrants and other qualified immigrants who entered the United States on or after August 22, 1996 are ineligible for Medicaid for five years. Medicaid coverage for most immigrants entering before that date and coverage for those eligible after the five-year ban are covered if they meet the other criteria; emergency services, however, are mandatory for both of these immigrant coverage groups. For immigrants who lose SSI benefits because of the new restrictions regarding SSI coverage, Medicaid can continue only if these persons can be covered for Medicaid under some other eligibility status (again with the exception of emergency services, which are mandatory). Public Law 104-193 also affected a number of disabled children, who lost SSI as a result of the restrictive changes; however, their eligibility for Medicaid was reinstated.

Title XXI of the Social Security Act, known as the State Children's Health Insurance Program (SCHIP), is a relatively new program. In addition to allowing States to craft or expand an existing State insurance program, SCHIP provides more Federal funds for States to expand Medicaid eligibility to include a greater number of children.

The Ticket to Work and Work Incentives Improvement Act of 1999 (Public Law 106-170) provides or continues Medicaid coverage to certain disabled beneficiaries who work in spite of their disability. Those with higher incomes may pay a sliding scale premium based on income.



Missouri's Health Insurance Program for Children and Families

MC+ is the Medicaid program for children, some parents, pregnant women and certain refugees. Eligibility is based on household income and family size. Children may be eligible in households whose income is under 300% of the federal poverty level. For parents, the allowable household income is much less. There are different categories of MC+, based on household income, size of household and age of child. Depending on the category, there may be no cost for care, there may be a co-pay, or there may be a co-pay and a premium.

Children who were born in the United States may be eligible regardless of their parent's immigration status if they meet income criteria. Most children who became legal residents before August 22, 1996, are eligible for MC+ if they meet income criteria. However, if they became legal residents on or after August 22, 1996, there may be a five-year waiting period before they can be eligible.

Applying for MC+

Applicants for MC+ can receive an application,

- on-line at www.dss.mo.gov/mcplus/
- by calling 1-888-275-5908 to request an application, or
- at their local Family Support Division Office, hospital, health department, mental health facility and school.

Applicants will need

- Social Security numbers (both adults and children)
- Verification of income (check stub, federal income tax form, etc.),
- Immigration status of those applying for MC+ for Kids to process an application.

Applications are processed in 30-days and applicants are notified about their qualification status by mail. When working with women who have children in need of health insurance but unsure about qualifying, **encourage women to apply.**

MC+ Medical Coverage Benefits

Children covered by MC+ have access to all medical services including: medical and hospital care, sports physicals, physical, occupational and speech therapy, dental, home and community-based services such as nursing and personal care, medical equipment and supplies, pharmacy, vision care, lab and x-ray, and mental health services such as outpatient counseling and inpatient psychiatric treatment. (www.dss.mo.gov).

Child Care

The Child Care program provides reimbursement to parents or direct payments to eligible child care providers (www.dss.mo.gov). Assistance is available for children under 13 or children 13 and older with a special need whose parent/guardian:

- works
- attends school
- is in job training
- is disabled
- is being evaluated for training or employment, or
- has a child with special needs

Women who are in school and applying for childcare assistance must prove satisfactory performance. The type of education the woman is pursuing determines time limits for childcare assistance. This includes four years of assistance for high school and one year of assistance for Adult Basic Education (which can be extended if necessary).

DSS may cover full or partial costs based on the reason the care is needed, the family's gross monthly income (minus health insurance pre-

miums) and family size. There is a maximum rate that can be paid per day of care, which is referred to as the "state rate." If the daycare provider charges more than the state rate, the family is responsible for paying the difference, which is known as a co-payment. Families may also be responsible for a sliding scale fee, based on their income. Child care providers usually receive direct payment from DSS. If the provider will not accept DSS payment, the family may submit signed receipts and be reimbursed for the cost of the child care services (DSS Child Care Assistance Program brochure).

Eligible daycare providers include:

- Licensed providers
- Providers who are granted a license-exempt status by the Department of Health
- Providers registered with DSS who care for four or less unrelated children (a background screening must be completed before becoming eligible to be registered and receive payment)

For assistance with locating a childcare provider, call the Missouri Child Care Resource and Referral Network at **1-800-200-9017**.



The Role of the Advocate in Income Maintenance

Assisting women with the Family Support Division is a rewarding yet challenging piece of an advocate's role. Listed below are some suggestions for the advocacy process:

Explain eligibility to participants – be certain that participants understand the requirements for each program and the documents necessary to bring to an appointment. If women do not have the necessary documentation, strategize the safest way to accumulate the information needed. If the documents cannot be retrieved safely, it may be necessary to assist the participant in finding other ways to meet the requirements (contact the worker, write a letter, etc.)

Discuss Family Support Division issues – remind participants that Family Support Division workers' carry extremely heavy case-loads. DSS caseworkers are part of a bureaucracy that responds to "let me talk with your supervisor" if participants are not getting what they need and are entitled to from their own worker. Remind participants that they may have to be very persistent with their worker to keep the process moving. Advise women of the benefits of documenting their business with the Family Support Division including who they spoke with, what information was relayed, the date, and all of their attempts to speak with a representative.

Explain the Self-Sufficiency Pact (SSP) to the woman – Participants have many rights surrounding the creation of their Self-Sufficiency Pact that could seriously impact their future. Inform women that:

- They have a right to co-author their SSP with their Family Support worker or case manager with the Division of Workforce Development (DWD). It may be helpful to think about what they would like included in the SSP before meeting with their Family Support Division worker. This process may include a discussion of future goals and dreams with the advocate and the woman.

- The SSP has a duration of two years but can be renewed or renegotiated anytime.
- The woman can request an extension for completing the SSP.
- A case worker cannot force anyone to sign an SSP with which they don't agree – the SSP is supposed to be "**mutually agreed upon.**"
- If a woman disagrees with the SSP at any time, she can request to see a supervisor or request a hearing.
- An SSP may need to be revised due to domestic violence or entering a shelter program – the woman has a right to request these revisions.

Discuss issues of work and education – Family Support Division workers in the "work first" environment may direct women to pursue job opportunities despite their wishes to return to school. Women DO NOT need to do this – there is no written policy about who gets to go to school and who doesn't.

Describe the Family Violence Option (FVO) – Discuss and explain the Family Violence Option including screening, assessment, and confidentiality requirements of the Children's Support Division. Explain the Good Cause exemption for child support enforcement (for more information, see the Child Support Enforcement Section of this manual). Describe the work activities allowed under the FVO.

Discuss the pros – Potential assistance from the worker around safety planning and referrals, ability to access good cause exemption.

Discuss the cons – The difficulty of telling "her story" to one additional person; possibility of insensitivity on the part of the worker; confidentiality and safety issues if the worker does not follow protocols of using the "red folder" or screening without her partner present while discussing domestic violence with a DSS worker. Remind the woman that she can ask for these things if her DSS worker does not offer them. If the worker does not respond, the woman

The Role of the Advocate in Income Maintenance, con't.

should ask for a supervisor. Remind women that the initial good cause exemption for work requirements is only 6 months long but can be extended, if needed. If workers refuse to grant this exemption, the woman can request a hearing, and if the hearing results in a denial, she can request an appeal. An advocate is permitted to attend hearings with women who request she attend.

Review Time-Limit Requirements – Describe the issues related to the 60-month time limit for TA. Every month the woman receives TA counts against the time limit, even if she is still with her partner or is only receiving a small percentage of the full cash benefit (for example, she is working but still qualifies for \$20.00 of cash assistance). The advocate may want to discuss the pros and cons of staying on TA if the woman is only receiving a small cash benefit. For example, a “pro” may include that the extra money is helping her stay safe or pay rent or other bills etc. A “con” may be that the extra money is very minimal and may prevent her from accessing TANF in the future if she reaches her 60-month lifetime limit. Remind the woman that receiving in-kind services such as Medicaid, Daycare Assistance, Food Stamps, etc. does not count against the time limit. If a woman reaches her 60-month limit and continues to need assistance, discuss the option of trying to obtain an extension.

Explain the sanction process – Remind the woman that not all of the benefit will be affected by the sanction (the cash assistance can only be reduced by 25% if a sanction occurs). However, a sanction can affect a woman’s ability to later receive an exemption from the 5-year limit.

- Remind the woman that there must be a face-to-face meeting scheduled with the caseworker before she can be sanctioned.
- Explain to the woman that she can request a hearing if she is going to be sanctioned. At this hearing, she can advocate for herself by completing the following steps (ROWEL HANDBOOK):

Gather important information.

Write “problem statements.” For example, “My TANF check is smaller than it used to be. My caseworker says I’m sanctioned but I don’t understand why.”

Keep a copy of any letters or papers.

Write down who she talked with and their names and the date of interaction.

Request a hearing or an appeal - an appeal can be requested up to 90 days after the closing/changing of case - the reason for the appeal can be “I disagree with the decision.”

Ask someone to represent you at the hearing. They are called the “authorized representative.” Legal services attorneys can assist in some cases. Contact legal services. In addition, an advocate can be present at these hearings.

Request your case record in writing.

The Role of the Advocate in Income Maintenance, con't.

Refer women to the *MC+ Consumer Advocacy Project* at (314) 534-1263 or 1-800-444-0514. This program provides ombudsman services and can help provide advocacy for participants (MC+ Consumer Advocacy Project Brochure, 2003).

MC+ Advocacy – If participants:

- Are denied MC+ coverage and they believe they should qualify
- Want to make a MC+ complaint
- Need information on MC+ rights and responsibilities
- Need help choosing a plan
- Need help finding a doctor; or
- Need help with anything related to MC+

Conclusion

The Family Support Division is a complex system that includes many eligibility requirements, program rules, and extensive policies. Because this system plays an integral role in the safety of battered women, domestic violence advocates have a responsibility to understand the Family Support Division in order to advocate for, educate, and empower women who have experienced domestic violence. This requires constant vigilance and attention to rule and policy changes as well as relationship building with workers and supervisors within the division. With excellent advocacy, battered women can get the services they deserve and to which they are entitled.



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The Family Support Division-Child Support Enforcement (FSD-CSE) of the Department of Social Services assists custodial parents with locating non-custodial parents, establishing paternity (if necessary), establishing and modifying child support orders, and enforcing child support obligations. This section explains the policies and procedures of the FSD-CSE and how the rights of the women can be affected.

Because the FSD-CSE system is not widely understood, it is important that the advocate is able to communicate to the women what rights they have with respect to child support and how they receive assistance in obtaining child support. Throughout this chapter the custodial parent will be referred to as the mother of the child, as statistics indicate this is very often the case. However, any procedure or policy mentioned is applicable to male custodial parents as well.

This chapter will help the advocate understand:

- The federal and state laws that affect child support
- The policies and procedures utilized by the FSD-CSE, particularly the ones dealing with domestic violence
- The role of the advocate in the FSD-CSE system



Federal & State Child Support Laws

Federal Law

The Child Support Enforcement Program was created in 1975 as Title IV-D of the Social Security Act. The program is a partnership between federal, state and local governments, formed to achieve the goals of ensuring that children have the financial support of both parents, fostering responsible behavior toward children and reducing welfare costs (*OCSE Handbook Child Support Enforcement*). In 1996, the Personal Responsibility and Work Opportunities Reconciliation Act (PRWORA) (PL 104-193; 110 Stat. 2105) reformed the Child Support Enforcement Program.

Child Support Enforcement Program Changes

- Two provisions (changes to the IV-D good cause policy and the new Family Violence Option) that allow states, under certain circumstances, to exempt victims of domestic violence from requirements for cooperating with enforcement.
- Increased penalties for custodial parents who, without good cause, do not cooperate with enforcement, including a reduction of at least 25% in cash assistance.
- Increased penalties for non-custodial parents who fail to pay support, like expanding wage withholding, requiring notification of new work information, seizing assets, and revoking driving, professional, recreational and occupational licenses.
- National "new hire" reporting system, intended to speed withholding of child support from wages as well as allow tracking of obligated parents across state lines.
- Changes to make it easier for unmarried parents to establish paternity.
- Uniform rules, procedures and forms for interstate child support laws.
- Computerized, statewide collection and disbursement points.
(*Making Child Support Enforcement Safe*).

Federal & State Child Support Laws, con't

Legislators realized that enforcing child support could create serious complications for families who have experienced domestic violence. Thus, PRWORA created the **Family Violence Option (FVO)** in Title IV-A of the Social Security Act. Each state has the option to adopt the FVO, which allows the state to identify victims of domestic violence, refer victims to community services and waive the requirements that victims cooperate with the child support enforcement process and with other aspects of TANF (*Making Child Support Enforcement Safe*, Chapter 1). PRWORA also amended the provisions on *good cause waivers* found in Title IV-D of the Social Security Act (*Making Child Support Enforcement Safe*, Chapter 1).

A good cause waiver is issued when a custodial parent fails to cooperate with FSD-CSE in collecting child support, and FSD-CSE determines that the parent has a good reason for that failure to comply. The amendments allow states to determine how to define good cause, set standards of evidence for good cause, and decide whether public assistance or child support agencies will determine whether good cause exists (*Making Child Support Enforcement Safe*, Chapter 1). Under PRWORA, states can keep these two exemptions separate or combine them into one process.

State Policy and Procedure

The Family Support Division-Child Support Enforcement has five main functions.

- 1) Locate non-custodial parent's current residence or employment address.
- 2) Help establish paternity.
- 3) Establish or modify child support orders.
- 4) Enforce the legal child support order issued by a court, including a medical support order.
- 5) Collect and distribute child support payments.

The FSD-CSE assists parents or those with custody of children to establish and collect child support. It is important to note that recipients of welfare and non-recipients go through different procedures with the FSD-CSE. A woman does not need to be a welfare recipient in order to receive support services from the FSD-CSE. However, people who receive Temporary Assistance or Medicaid are automatically referred to Child Support Enforcement (Office of Child Support Enforcement - OCSE *Handbook on Child Support Enforcement*). In addition, an unmarried father can receive assistance through the Division to establish paternity and a non-custodial parent can request CSE services, which will allow that parent to establish a record of payments made (OCSE *Handbook on Child Support Enforcement*). Child support paid for a child receiving TANF will go to the Family Support Division to reimburse the agency for payment made for the child.

In 1997, Missouri's FSD-CSE received a federal grant to create a demonstration project that would allow for the development and testing of the state's Family Violence Option (FVO) provisions. The project, piloted in Jackson County, included a refinement of FSD-CSE's procedures related to victims of domestic violence, the creation of domestic violence screening and assessment tools, training for county caseworkers on the new procedures and the dynamics of domestic violence, and the development of methods for protecting client confidentiality within automated information systems (*Making Child Support Enforcement Safe*, Appendix A). Those policies implemented in the Jackson County project have been implemented statewide. It is important that advocates ensure that the policies described below are still in effect in their area.

Federal & State Child Support Laws, con't

Policies and Procedures Regarding Domestic Violence

In Missouri, Child Support Enforcement and Income Maintenance caseworkers now have access to standard protocols to screen for domestic violence and complete an in-depth needs assessment. These protocols were developed in conjunction with the Missouri Coalition Against Domestic Violence. Income maintenance caseworkers should screen TANF recipients, while child support caseworkers should screen Medicaid and non-TANF applicants. FSD-CSE caseworkers also provide assistance to TANF applicants who disclose abuse during their FSD-CSE screening but did not disclose abuse during their TANF screening. State

child support and income maintenance trainers joined trainers from the Missouri Coalition Against Domestic Violence (MCADV) to create a cross-agency, two-day training for the state's legal, child support and income maintenance caseworkers. The training was designed to:

- Help staff understand the new procedures for assisting domestic violence victims
- Explain the dynamics of domestic violence
- Build relationships between staff from different agencies (*Making Child Support Enforcement Safe*, Appendix A).



Procedure for Applying

Paternity

In all child support cases, the agency must discern who the father of the child is and ensure that paternity has been established.

Paternity is legally established in one of two ways:

- through a **court or administrative order** (such as a divorce or paternity decree), or
- through an **affidavit filed by the parents** with the Bureau of Vital Records of the State Department of Health and Senior Services.

If an applicant receives TANF or Medicaid, a referral form will be filled out and sent to FSD-CSE. Regardless of whether paternity has been established previously, the applicant will be asked to submit a copy of the applicable documentation, such as:

- Petition for Dissolution of Marriage,
- An affidavit to have father's name added to Birth Certificate, or
- Any court documentation that establishes paternity.

The applicant and the child's father will then complete Form VS-465, the Affidavit Acknowledging Paternity unless there is a divorce decree or some other court order establishing paternity. This form must be notarized or witnessed by two people and will allow the father's name to be added to the child's birth certificate. If the father is non-compliant or has not been identified, the FSD-CSE worker will fill out a Child Support Enforcement Investigation (CSEI) form. If the alleged father denies that he is the father, the FSD-CSE may issue an administrative order requiring genetic testing.

The Family Court may also order the alleged father to complete blood and DNA tests. The applicant may also be asked to supply certified copies of all of the following documents that apply to her situation:

- Petition for Dissolution of Marriage,
- Marriage certificate,
- Affidavit to have father's name added to Birth Certificate,
- Paternity adjudication, or
- Current modifications or court proceedings.

Timeframe

The time it will take to begin receiving child support payments varies.

Up to 20 days for the case-opening process. If a custodial parent already has a court order for paternity and support and knows where the noncustodial parent is employed, FSD-CSE will issue an income withholding order.

6-8 weeks to receive the first child support payment, in the situation stated above.

4-8 months if an order of paternity must be obtained through the FSD-CSE's administrative process.

8-12 months if an interstate referral is necessary to obtain a court order.

An additional 2-6 months if genetic testing is necessary to determine paternity.

Procedure for Applying, con't.

Domestic Violence Screening

Advocates should know that whether an applicant receives welfare or not, a domestic violence assessment should be performed, according to the division's policies. However, not all applicants are automatically screened for domestic violence. Many times, the applicant must actively indicate to the caseworker that she has domestic violence concerns before a screening will be conducted.

Non-TANF FSD-CSE application packets include Form CSE-11, which asks questions like, "Are you afraid of your current or past spouse or significant other?" and "Are you afraid that person will hurt you or your children if you receive services from the FSD-CSE?" An applicant may then indicate whether she would like to receive more information about the program and how to safely contact her. The **Domestic Violence Screening (IM-2DVS)** may be completed by Income Maintenance for TANF applicants. FSD-CSE completes the Domestic Violence Screening if the non-TANF applicant indicates that domestic violence is present. When a non-TANF applicant discloses through IM-2DVS or through self-disclosure, that she is a victim of domestic violence, FSD-CSE completes the **Domestic Violence Assessment (IM-2DVA)**.

The Domestic Violence Assessment gathers the following information:

- Identifying information about the abusive partner
- Risk assessment
- Option to suppress applicant's address
- Opportunity to apply for good cause exemption from work participation and cooperation with FSD-CSE
- Availability of evidence to support good cause application

After domestic violence has been identified, FSD-CSE has established two methods for helping to protect victims of domestic violence if a good cause waiver is not sought or granted.

Option 1

Victims can request the use of an alternative address other than their home address. The applicant's alternate address will appear on any forms sent to the non-custodial parent. The applicant's actual residential address will continue to be used by FSD-CSE for the mailing of support checks and forms sent only to the applicant.

Option 2

The **Family Violence Indicator (FVI)**, which is part of the state's automated information system. The FVI is an indicator that alerts any worker coming into contact with the case that domestic violence is present and that certain confidentiality and other restrictions apply. An applicant's file will be flagged automatically if the FSD-CSE knows of an existing order of protection or knows that the applicant's file has been flagged by another state. Because the FVI is not automatically set in other situations, an applicant has a right to ask that her case be flagged. When the FVI is flagged for a case, the computer system sets restrictions on the disclosure of the parent and child's location. These restrictions remain in place as long as the circumstances regarding family violence continue to exist. To help determine whether the FVI is appropriate, income maintenance and child support enforcement applicants are asked to fill out form CSE-11 or IM-2DVS and 2DVA.

Procedure for Applying, con't.

Good Cause Exemption

We have mentioned the good cause exemption a few times, and it's important that the woman understands what it is and how it affects her. FSD-CSE expects cooperation from every applicant in order to be able to best assist her. Cooperation means providing all the necessary information and documentation. Providing that information and participating in activities, however, might not be safe or otherwise prudent for

the applicant. Hence, the good cause exemption was created. An applicant is not required to cooperate in establishing paternity or pursuing child support if she has a good reason. If the waiver is granted, she will most likely not receive child support. FSD-CSE caseworkers have the discretion to decide what constitutes a good reason, but are given the following guidelines:

Good Cause Exemption Guidelines

Cause for Exemption	Types of Evidence
Physical or emotional harm to the child or applicant/recipient	<p>Court, medical, criminal, child protective services, social services, psychological, or law enforcement records which indicate that the non-custodial parent/alleged father might inflict physical or emotional harm on the child or applicant/recipient.</p> <p>Medical records regarding the emotional health history and present emotional health of the child or applicant/recipient, or written diagnosis or prognosis from a mental health professional indicating the emotional health of the child of claimant; either of which indicates that emotional harm to the child or to the claimant would result from cooperating.</p>
Conceived as a result of forcible rape or incest	<p>Birth certificates, medical or law enforcement records which indicate the child was conceived as a result of forcible rape or incest.</p>
Adoption proceedings pending	<p>Court documents or other records to indicate legal adoption procedures are pending.</p>
In counseling regarding relinquishing child for adoption	<p>Written statement from public or licensed private social agency which states the applicant/recipient is being assisted by the agency to resolve the issue of whether to keep the child or relinquish him/her for adoption.</p>
Victims of domestic violence	<p>Court, medical, criminal, social services or law enforcement records which document the instances of domestic violence.</p>

Procedure for Applying, con't.

If an applicant's screening indicates that Child Support Enforcement requirements would threaten her safety, the caseworker will then explain the good cause exemption and ask the applicant if she is interested in applying. The caseworker will then ask the applicant if she can provide any of the following documentation of the domestic violence:

- Medical records
- Police records
- Orders of protection
- Psychological/mental health records
- Letter from a witness, relative or friend
- Letter from a domestic violence program or shelter

Although caseworkers are required to try to obtain this documentation, the documentation is NOT required for a good cause exemption to be granted. All documents should be provided within 20 days. If none of the above documents are available, the applicant and one other individual may make a sworn statement attesting to the facts of the domestic violence situation. When an income maintenance caseworker grants a good cause exemption, the child support enforcement office receives a copy of the screening and assessment, as well as a memo outlining the reasons for granting the exemption. If that client has an open Child Support Enforcement case, it will then be closed (*Making Child Support Enforcement Safe*, Appendix A). Good cause exemptions are not applicable to non-TANF applicants. (*Making Child Support Enforcement Safe*, Appendix A)

Procedures for Welfare Recipient Application

When a TANF applicant fills out the required Income Maintenance paperwork, a caseworker will interview her. If the applicant indicates that she is or has experienced domestic violence, the caseworker will complete the domestic violence assessment and enter such information into the system. She can alert her caseworker about her

domestic violence issues if she is not asked. If she is approved for TANF, a domestic violence code that alerts all workers that come into contact with her file will be applied to her case and should follow through her interactions with FSD-CSE. If she does not want to pursue child support enforcement and good cause is established for her (meaning that she is granted an exemption from some of the TANF and FSD-CSE requirements due to the domestic violence), her child support case will be opened and closed immediately. She will not receive child support. If good cause is not established, the applicant's information will be forwarded to the FSD-CSE. If she chooses not to apply for the good cause waiver, she can still ask that her file be flagged with the domestic violence code and that adequate precautions be taken to protect her.

Procedures for Non-Recipient Application

Non-TANF child support applicants begin their involvement with the FSD-CSE by filling out CSE-300, which is the application for non-TANF services. If a support order needs to be established, the applicant will also complete a CSE-500, which is a client financial information form. Included in the packet of forms is a domestic violence assessment. If domestic violence is indicated on the assessment, the Family Violence Indicator will be marked for the case, much like with TANF applicants.

If an applicant indicates that she is a victim of domestic violence, the caseworker then conducts a needs assessment to collect information related to her level of concern for her own and her children's safety and her ability to safely cooperate with efforts to establish paternity and enforce child support orders (*Making Child Support Enforcement Safe*, Appendix A). Caseworkers can then make referrals to community-based domestic violence services, including local shelters, and provide educational materials on domestic violence.

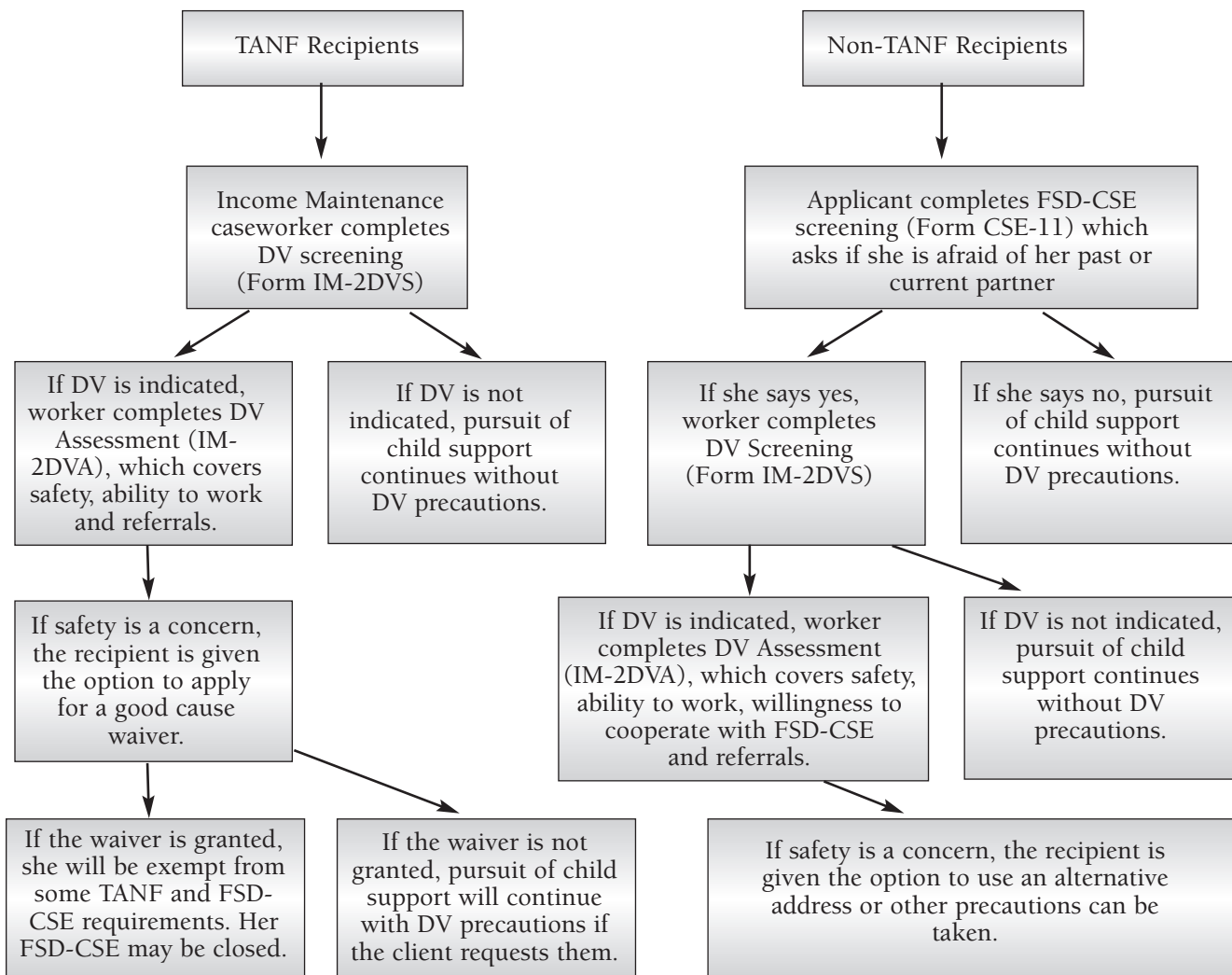
Rights of Applicants

Within the FSD-CSE system, the applicant is considered to have certain rights if she has experienced domestic violence. It is important that she understand that she has these rights, in order to be able to assert them.

- Right to Good Cause (if evidence is available)
- Right to continue with FSD-CSE process with precautions in place
- Right to suppress address and telephone number from all forms the non-custodial parent receives
- Right to provide alternate address for use by FSD and courts (It is recommended that the victim either use an address the abuser already knows about - such as family or friends - or a private P.O. Box to protect the victim's current location)



Process for Applicants Experiencing Domestic Violence



Rights of the Applicant

- Right to suppress victim's social security number from forms non-custodial parents normally receive
- Right to attend meetings on separate days from non-custodial parent (such as scheduling different days for genetic tests to determine paternity)
- Right to Family Violence Indicator in file
- Right to domestic violence flag in Federal Parent Locator system
- Right to disclose violence at any stage in TANF application process or while case is open, even if violence does not begin until application process is over
- Right to modify proceedings at any stage

The Role of the Advocate in Child Support Enforcement

Applying for assistance in receiving child support from an abusive former partner can place the woman in a potentially dangerous position. There are several considerations for advocates to keep in mind when working with victims of domestic violence who are involved with FSD-CSE. There are advantages for utilizing the FSD-CSE system, but there are also serious disadvantages.

Advantages/Disadvantages of Utilizing the FSD-CSE System

Advantages	Disadvantages
<p>While a battered woman may be concerned that enforcing child support will put her and her children in danger, it is important to understand that enforcement can occur in a safe manner. If she chooses not to apply for a good cause waiver, she can make her situation known to her caseworker and adequate precautions can be taken. For example, she can provide an address of a family member or friend that the abuser already knows and keep her new address confidential. She can also use a post office box for an address. (See Appendix D for “How to Open a P.O. Box). If it is possible and safe for her, she may communicate her safety plan to her CSE worker.</p>	<p>First, FSD-CSE and other child support enforcement agencies are focused on establishing paternity, which could potentially force contact between a victim of domestic violence and her abuser. Women in this situation face a conflict between their need for financial support from the child support payments and their needs for safety from abuse. If a victim chooses to request an exemption from FSD-CSE requirements, she may restrict her ability to become self-sufficient and sever her dependence on her abuser. (<i>Making Child Support Enforcement Safe</i>). It's important for an advocate to discuss safety planning with women with whom they are working around these issues.</p>

Another point to consider is that the abusing parent or former partner may be the parent of all, some, or none of the children for whom child support is being sought. By increasing financial independence from a former partner, an abusive partner may react negatively and become more threatening and controlling. There may be more than one former partner who is abusive or who pays child support. This can be another source of conflict and increase the risk to the woman. If the non-custodial parent is not in Missouri, it is important to determine beforehand how likely it is that she will receive child support. This should be weighed against the possible risk of alerting a distant abuser to her whereabouts. (*Making Child Support Enforcement Safe*.)

In addition to these considerations, it is important to be aware of the risk factors abused women face when they become involved with FSD-CSE. According to *Making Child Support Enforcement Safe* (published by the federal Office of Child Support Enforcement), these risk factors include the following:

- Possibility of alerting the abuser to her location
- Bringing victim and abuser in close proximity during courtroom proceedings
- Possible anger from abuser when automatic procedures are implemented, including wage withholding and license suspension
- Collection of child support could elicit abusive response from child's father or abusive partner who feels threatened by any financial independence

The Role of the Advocate in Child Support Enforcement, con't.

When working with a victim of domestic violence who is considering pursuing child support or has automatically been referred to FSD-CSE, an advocate should have a thorough discussion with her about safety planning and her rights. Below are some other areas that should be discussed:

- FSD-CSE procedures and the considerations listed above
- The pros and cons of pursuing child support
- The Good Cause Exemption and Family Violence Option
- The victim's rights within the system
- A safety plan if child support is sought
- A safety plan if child support is not sought
- The steps to ensuring a Good Cause Exemption
- Steps to safely continue working with FSD-CSE, including the suppression of address
- Handouts of the FSD-CSE caseworker's duties in terms of domestic violence
- Contact information for the caseworker's supervisor

The FSD-CSE system can be complex. It is not important that the advocate know all the answers to every question the woman may ask. Rather, it is important that the advocate knows where to find those answers. One important resource is *The Handbook on Child Support Enforcement*, which is published by the federal government. Excerpts from the book can be found online at www.acf.dhhs.gov/programs/cse/fct/cshdbk.htm or see Appendix C for a complete list of questions that are answered by the handbook. The book answers frequently asked questions, like who can get help from FSD-CSE, what happens when the non-custodial parent is incarcerated, what documents the woman needs to bring when she applies, and a

variety of other questions. If the advocate is unable to find the answer to a question in this book, don't hesitate to contact the woman's caseworker or her supervisor and ask.

It is important for an advocate to be aware of practices in the nearest DSS and FSD-CSE offices. Though the workers are all governed by one set of laws, procedures and resources vary from area to area. It would be useful to find answers to the following questions:

- Does the DSS location have a domestic violence specialist?
- Have caseworkers at that location received training on the Family Violence Option?
- Have caseworkers at that location received training on domestic violence?
- Do the caseworkers flag domestic violence cases in their automated information systems?
- Do they keep home addresses confidential?
- Is the victim's written statement of abuse allowable as evidence?
- Do the caseworkers have access to the Missouri Coalition Against Domestic Violence's Directory of Domestic Violence Service Providers to utilize for referrals?
- Does FSD-CSE, in practice, enforce across state lines?

The most useful tool a battered woman has to protect herself is information. The advocate can assist her in wading through the mountain of information she must give and receive by understanding the system that she is entering.

The advocate can help her feel empowered to assert her rights to confidentiality, discretion, and services if the advocate knows what questions to ask and where to get the answers.

References for Child Support Enforcement

Office of Child Support Enforcement. (September 1997). *Handbook on Child Support Enforcement*. Retrieved May 6, 2003, from <http://www.acf.dhhs.gov/programs/cse/fct/cshdbk.htm>

Office of Child Support Enforcement. (n.d.). *Making Child Support Enforcement Safe*. Retrieved April 28, 2003, from <http://www.acf.dhhs.gov/programs/cse/pubs/reports/mpr8548300/ch01.htm>

Appendix A

Reasonable Efforts in Co-occurring Cases of Domestic Violence & Child Maltreatment

- Written by Nina Balsam

I Background

- A. The Adoption and Safe Families Act (42 U.S.C. §671(a)15) requires that states, in order to be eligible for foster care and adoption assistance, have a plan that provides that reasonable efforts shall be made to preserve and reunify the family
- B. The three points at which reasonable efforts are required are: prior to the placement of a child in foster care to prevent or eliminate the need for removing the child from the child's home; to make it possible for a child to safely return to the child's home; and if continuation of reasonable efforts of the type described previously is determined to be inconsistent with the permanency plan for the child, reasonable efforts shall be made to place the child in a timely manner in accordance with the permanency plan and to complete whatever steps are necessary to finalize the permanent placement of the child.
- C. Reasonable efforts are not required in certain circumstances involving egregious conduct by the parent

II Missouri Law

- A. Missouri has incorporated these requirements to make reasonable efforts in its law at §§211.183 RSMo and 211.447 RSMo.
- B. §211.183 RSMo provides:
 1. In juvenile court proceedings regarding the removal of a child from his or her home, the court's order shall include a determination of whether the division of family services has made reasonable efforts to prevent or eliminate the need for removal of the child and, after removal, to make it possible for the child to return home. If the first contact with the family occurred during an emergency in which the child could not safely remain at home even with reasonable in-home services, the division shall

be deemed to have made reasonable efforts to prevent or eliminate the need for removal.

2. "Reasonable efforts" means the exercise of reasonable diligence and care by the division to utilize all available services related to meeting the needs of the juvenile and the family. In determining reasonable efforts to be made and in making such reasonable efforts, the child's present and ongoing health and safety shall be the paramount consideration.
3. In support of its determination of whether reasonable efforts have been made, the court shall enter findings, including a brief description of what preventive or reunification efforts were made and why further efforts could or could not have prevented or shortened the separation of the family. The division shall have the burden of demonstrating reasonable efforts.
4. Before a child may be removed from the parent, guardian, or custodian of the child by order of a juvenile court, excluding commitments to the division of youth services, the court shall in its orders:
 - a. State whether removal of the child is necessary to protect the child and the reasons therefore
 - b. Describe the services available to the family before removal of the child, including in-home services
 - c. Describe the efforts made to provide those services relevant to the needs of the family before the removal of the child;
 - d. State why efforts made to provide family services described did not prevent removal of the child
 - e. State whether efforts made to prevent removal of the child were reasonable, based upon the needs of the family and child.

Appendix A, con't.

III Reasonable Efforts in General

- A. Not defined in state or federal law, but HHS regulations require state plans to include a description of the services offered and provided to prevent removal of children from their homes and to reunify the family. They provide an illustrative list of the types of pre-placement preventive and reunification services that may be offered. This list includes: 24 hour emergency caretaker and homemaker services, day care, crisis counseling, emergency shelter, access to available emergency financial assistance, respite care, home-based family services, self-help groups, services to unmarried parents, provision of or arrangement for mental health, drug and alcohol abuse counseling, vocational counseling or vocational rehabilitation and post adoption services. Case law has also helped define reasonable efforts.
- B. Mark Hardin from the ABA's Center on Children and the Family, suggests that courts should determine that DFS has made reasonable efforts by determining whether services to the family are accessible, available and appropriate. Courts should consider:
 - 1. Dangers to the child and the family and problems precipitating those dangers
 - 2. Whether the agency has selected services specifically relevant to the family's problems and needs and whether they have a good chance of successfully resolving the problems requiring placement of the child
 - 3. Whether caseworkers have diligently arranged those services (did they oversee each service provider, ensure parents and children have access to service, periodically visit children and parents in person)
 - 4. Whether appropriate services have been made available to the family on a timely basis
 - 5. The results of the interventions provided
- C. Making Reasonable Efforts: A Permanent Home for Every Child suggests that the agency make guidelines for reasonable efforts at each stage in the process
 - 1. Make good faith efforts to prevent removal. Before the child is removed, the worker should ask, whether there is any assistance, in the form of cash payments, services in lieu of cash, or social support services, that would likely allow the child to remain safely at home. If so, the agency should either provide the assistance or meet a substantial burden of justifying why it cannot do so. The worker should assess the family situation to determine the likelihood of protecting the child effectively in the home. The worker should identify the specific problems that place the child at imminent risk of serious harm; determine whether any available services might effectively address the family's problems and offer them.
 - 2. Make good faith efforts to reunify the family by doing the same things suggested above and add developing an appropriate case plan and establishing an appropriate visitation schedule and other measures to ensure visits are facilitated and actually occur.
 - 3. Make good faith efforts to achieve permanency for children.
 - 4. Categories of services to be provided are "family preservation" services (intensive in-home services), generic "family-based" or "family-centered" services (in-home services), cash payments, non-cash services to meet basic needs (food and clothing, housing, respite care, child care, evaluation and treatment for substance abuse/chemical addiction, counseling/psychotherapy, parenting training, life skills training/household management, non-cash services to address specific problems, "facilitative" services (transportation/visitation), and permanency services.

Appendix A, con't.

5. Each agency should structure its service delivery system to enhance the likelihood that preventive services will be provided to those who need and can benefit from them, families will be maintained and children who can safely return home will be reunified with their families. The agency should encourage parental autonomy, but be willing to provide services that may make the parent somewhat dependent on the agency temporarily to allow the family to stay together. Workers should be available by phone and in person 24 hours a day, contact between worker and families should not be limited to business hours on the weekdays, most contacts should occur in the family home in a setting comfortable for the family at times of day when they would be most helpful, services should be provided immediately and most intensively during family crises, or to prevent removal or reunify the family.
6. The parent, as well as the child if they are old enough, should be involved in developing the case plan.
7. Agency staff should receive training about agency policy and protocol regarding reasonable efforts, as well as the availability of specific services in the community, including eligibility criteria, payment requirements, and referral procedures.
8. Written guidelines should be developed on reasonable efforts, covering each stage of interaction with the family.
 - a. Criteria for determining when to remove a child without provision of preventive services should include: whether there is sufficient parental concern or desire to maintain the child at home; if it is an older child, do they want to stay in the home and work out the areas of difficulty; can adequate range of "assistance" be garnered to sustain the family and child.

Questions that should be asked are:

- what is the harm that removal is designed to prevent; can less intrusive measures than placement prevent that harm; which services have been considered and rejected; and which services have been offered and rejected
- b. Procedures to determine what services would allow a child to remain in, or return to, his or her family
- c. Procedures to document services offered to the family and the family's response
- d. Criteria for determining an appropriate visitation schedule
- e. Procedures for involving parents and children of appropriate ages in the development of case plans
- f. Procedures for implementing concurrent planning if appropriate
- g. Criteria for terminating efforts to reunify a family

IV Reasonable Efforts When Domestic Violence is Present Incorporating Fundamental Assumptions of the Greenbook

- A. Assessing for safety for non-abusing parent and child, with focus on keeping child safe with non-abusing parent and holding perpetrator accountable
- B. Constructing a safety plan with non-abusing parent for her and child (or with child if child is old enough) where non-abusing parent's voice is central to the construction
- C. Assessing goals with non-abusing parent for her and child (or with child if child is old enough) to maintain safety
- D. Assessing for needed services with non-abusing parent for her and child (or with child if child is old enough) and abuser in light of goals
- E. Identifying services that are available and accessible to non-abusing parent, child and abuser to reach those goals
- F. Identifying barriers to obtaining needed services and how they can be overcome

Appendix A, con't.

- G. Constructing separate service plans with non-abusing parent for her, child and perpetrator, with the goal of keeping non-abusing parent and child together safely and holding perpetrator accountable
- H. Monitoring the service plan to assure continued availability and accessibility of services as well as efficacy of services
- I. Modifying service plan as needed
- J. Assuring the non-abusing parent knows her legal rights and has access to counsel separate from perpetrator
- K. Assuring those with decision-making authority in the child protection system and the courts understand the dynamics of domestic violence

V Reasonable Efforts When Domestic Violence is Present

(Ganley and Schechter Curriculum, 1996)

- A. Services should be provided by those who have an understanding of the dynamics of domestic violence and should be culturally competent and/or culture-specific
- B. Services for non-abusing parent and child may include:
 - 1. Individual/group counseling through battered women's program or otherwise for her and child (without the perpetrator present)
 - 2. Mental health services
 - 3. Legal, housing, welfare, employment and economic advocacy
 - 4. Shelter and transitional living services
 - 5. Visitation center services
 - 6. Parent group support
 - 7. Crisis nursery/Day care
 - 8. Substance abuse treatment
 - 9. Transportation services
 - 10. Filing for Child OP against perpetrator
 - 11. Emergency funds
 - 12. Translator/Interpreter services when appropriate
- C. Service Plan tasks for non-abusing parent might include
 - 1. Participate in safety planning for herself and child
 - 2. Participate in counseling
 - 3. Participate in goal planning
 - 4. If perpetrator cannot be removed from home, obtain stable housing elsewhere
 - 5. Obtain OP against perpetrator if appropriate
 - 6. Obtain financial orders against perpetrator if appropriate
 - 7. Increase economic education and economic self-sufficiency
 - 8. Increase awareness of impact of domestic violence on children
- D. Services for batterer might include
 - 1. Appropriate batterer intervention program (program that challenges assumptions about gender roles, appropriateness of use of power and control dynamics)
 - 2. Visitation center
 - 3. Substance abuse
 - 4. Mental health services
 - 5. Parenting classes
 - 6. Probation and parole
 - 7. Translator/Interpreter services when appropriate
- E. Service Plan tasks for perpetrator might include
 - 1. Perpetrator will cease verbal, emotional, sexual, or physical abuse toward partner or child
 - 2. Perpetrator will cease power and control tactics against partner or child
 - 3. Perpetrator will not involve children in attempts to control partner (e.g. monitoring partner's behavior)
 - 4. Perpetrator will complete batterer intervention program focused on changing values around treatment of women and children
 - 5. Perpetrator will attend parenting program that increases awareness of impact of domestic violence on children
 - 6. Perpetrator will support parenting of adult victim and not interfere with her parenting
 - 7. Perpetrator will follow all condition of court orders and probation
 - 8. Perpetrator will provide financial support for adult victim and child when appropriate

Appendix B

CONTACT INFORMATION

Low-Income Home Energy Assistance Program

1-800-392-1261

MC+ Application

888-275-5908

MC+ Consumer Advocacy Project

(314) 534-1263 or 1-800-444-0514.

This program provides ombudsman services and can help provide advocacy for MC+ participants.

Missouri Child Care Resource and Referral Network

800-200-9017

For assistance with locating a childcare provider.

Missouri Division of Social Services – St. Louis County

St. Louis County Children's Division

9900 Page Avenue

St. Louis, MO 63132

Phone: (314) 426-8402

Fax: (314) 426-6035

North Service Center

4040 Seven Hills Drive

Florissant, MO 63033

Phone: (314) 877-3050

Fax: (314) 877-3042

South Service Center

7545 South Lindbergh, Suite 110

St. Louis, MO 63125

Phone: (314) 416-2700

Fax: (314) 416-2933

Jennings Service Center

8501 Lucas and Hunt Road

Jennings, MO 63136

Phone: (314) 877-2550

Fax: (314) 877-2551

Child Support Enforcement Contact Information

Cases with last names beginning A-K:

9900 Page Avenue

St. Louis, MO 63132

ATTN: Stephanie Arnold

Phone: 314-877-2741

Fax: 314-877-2738

Cases with last names beginning L-Z:

4040 Seven Hills Drive, Suite 141

Florissant, MO 63033

ATTN: Jim Wydrzynski

Phone: 314-877-3050

Fax: 314-877-3070 or 3071

Missouri Medicaid Office

800-392-2161.

Temporary Benefits

800-997-7777

To receive a PIN number, change a PIN number or to receive a 60-day transaction record.

Parental Stress Helpline

800 367-2543.

The Helpline is available 24 hours a day, 7 days a week.

Appendix C

Questions Answered by the *Handbook on Child Support Enforcement*

Introduction

- Who can get help?
- Where do I apply for help in obtaining child support?
- Is there an application fee?
- Are there any other costs?
- My state recovers costs from the custodial parent. How will I know how much will be deducted from my support checks?
- Will I receive the entire amount of support paid?
- Will there be an extra cost if the enforcement agency is dealing with an enforcement agency in another state?
- Will the enforcement agency keep track of my child support payments to make sure they keep coming?
- My spouse wants me to pay child support directly to her. Can I insist on paying through the CSE office?
- The non-custodial parent lives across the state and I cannot take off work to travel there for a support hearing. How can I get enforcement of child support?
- Do I have to provide information about the father if I apply for cash assistance?
- Do I have to provide information about the father when I apply for cash assistance if I am afraid that he may hurt me or my children?
- The non-custodial parent left 10 years ago. Can the CSE office still take my case?
- If the CSE office can't find the non-custodial parent, does that mean I can't get cash assistance?
- What does the child support enforcement agency need to know?
- What documents do I need to bring to the enforcement agency?
- I'm the non-custodial parent. I pay child support, but my ex-spouse will not let me see the children. Can CSE help?

Finding the Noncustodial Parent

- What information does the CSE office need to find the non-custodial parent?
- What if I don't have the non-custodial parent's social security number?
- What if the non-custodial parent cannot be found locally?
- What resources does the Federal Parent Locator Service have?
- Can my lawyer or I ask FPLS to find the address for the other parent?
- Can state and federal location efforts be made at the same time?
- Can enforcement agencies use the federal income tax return to find out where the noncustodial parent lives and what he earns?
- What will happen when the caseworker has the current address of the noncustodial parent?
- The father of my child is in the military, but I don't know where he is stationed. Can the enforcement agency find him?

Appendix C, con't.

Establishing Fatherhood

- What are the benefits of establishing paternity?
- What will the enforcement caseworker need to know to try to establish paternity?
- What if he denies he is the father, or says he's not sure?
- If genetic tests are necessary, who pays for them?
- What happens if I am not sure who the father is?
- My boyfriend is on a military base abroad and I am about to have his baby. How can I establish paternity and get an order for support?
- The father of my child said I would never get a paternity judgment on him because he'd just leave the state. What happens in this case?
- My boyfriend and I are still in high school, and our baby is 6 months old. Why should legal paternity be established if the father has no money to support the child?
- My baby's father lives out of state. Can I still have paternity established?
- What happens after paternity is established?
- I don't want my child's father in our lives. As long as I don't receive public assistance, why does establishing paternity matter?
- My child's father wants to declare paternity. Is there an easy way for him to do so?

Establishing the Support Order

- How does the caseworker find out about the other parent's income or assets?
- Can the other parent and I make an agreement about child support and present it to the court?
- Are the earnings of both parents considered in setting support awards?
- If we have joint custody, how would the court decide the amount of child support for each of us?
- My husband's income is enough to support the children and me without a drop in our standard of living after the divorce. Do courts consider this?
- Is there a way to find out if my ex-spouse got a raise at work?
- Is there a limit to the amount of money that can be taken from my paycheck for child support?
- My ex-husband has remarried and has another family to support. How will this affect the support that my children are due?
- My children's father is divorcing again and will have another child support order. If he lives in another state, will that order be enforced before mine?
- I don't get insurance on my job, but my ex-spouse does? Can he be forced to put the children on his insurance?
- The father of my children is in jail. Can I get child support?
- My wages have decreased. Can I get the support order changed?

Enforcing the Support Order

- The non-custodial parent refuses to pay support, but owns a great deal of property in the county. Can a lien be issued on the property?
- Is it possible to collect the support payments from personal property?
- I am working with a private attorney. Can she request wage withholding for my child support payments?
- Can I have the wage withholding applied to my existing child support order?
- Why can't my attorney work on my child support problem while I am receiving services from the child support program?

Appendix C, con't.

Enforcing the Support Order, con't..

- The non-custodial parent moves frequently with his job. Can wage withholding work in this situation?
- The non-custodial parent's employer refuses to deduct the payments from his paychecks. What can I do?
- The non-custodial parent works infrequently and gets paid in cash. If wage withholding won't work, what will?
- The non-custodial parent owns his own business. How can the CSE office find out how much he earns and how can they collect money?
- The non-custodial parent owns a nice home. Why won't the CSE office put a lien on it?
- The non-custodial parent is in the military. How do I go about having payments deducted from a paycheck? Can I get medical coverage for my child?
- Can a military retirement check be garnished for back child support?
- The non-custodial parent was recently transferred and stopped making payments. What do I have to do to get them started again?
- Can past-due child support be taken from the state income tax refund?
- How does the non-paying parent find out that his state tax refund will be taken?
- Can federal income tax refunds be offset in the same way?
- Does the IRS have another method it can use to help us get the support owed?
- Can child support payments be deducted from unemployment compensation?
- Can the CSE office help me get back support payments from the time before I became involved with the agency?
- The non-custodial parent is in the process of buying a very expensive car, but he still owes back child support. Can the credit agency be told this?
- The non-custodial parent does not get paid regularly. Is there any way to establish regular payments?
- Does the non-custodial parent have to pay support if he declares bankruptcy?
- Does the non-custodial parent still have to pay support if he buys gifts for my child?
- Will the federal government step in to enforce a difficult child support case?
- The CSE office is not enforcing my case. Can I take it to federal court?
- My children are over 18, but the non-custodial parent still owes back support. Will the CSE office collect that amount for me?
- Can my children be provided for if my ex-spouse dies?

Appendix C, con't.

Working with Other States and Countries

- The non-custodial parent lives in another state and the petition was sent there. It's three months later and nothing has happened. What's wrong?
- A Uniform Reciprocal Enforcement of Support Act petition was filed. The father denied it and the case was dismissed. What went wrong?
- If the paternity order is established in another state, will the support order also be entered in that state?
- Why does it take so long to get an answer from another state?
- As soon as the children's other parent is notified about enforcement, he moves. How will I ever be able to collect my support?
- Isn't there a federal law that makes it illegal to not pay child support if the child lives in another state?
- Will location and enforcement services cost more if my agency is dealing with another state?
- I don't have a support order. Can I have one established by petitioning the court where my ex-spouse lives?
- The father of my child has left the country. How can I get my court order for child support enforced?
- If the country that the father lives in does not have an agreement to enforce child support, what else can I do?

Child Support Enforcement for Native American Children

- My ex-spouse is a Native American who lives and works on a reservation. Can the CSE program help get child support for my children?
- If the CSE office can't help get support from my ex-spouse who lives on a reservation, what else can I do?
- I live on a reservation. The other parent is not Native American, does not live on the reservation, and does not fall under the jurisdiction of the Tribal Court? How do I get help for support enforcement?

Appendix D

OPENING A POST OFFICE BOX

1. Reasons to open a PO Box
 - Use it instead of a permanent address. If you move around a lot and need to establish one place to pick up your mail, a PO Box is helpful.
 - Keep your personal or business mail private. Receive important mail that is for your eyes only. Keep your personal or business mail private. Only you have the key. If you are trying to gain independence by opening bank accounts, only you will have that information.
 - Easily transferred from one Post Office to another. If you move, you can transfer your PO Box location by filling out a form for free.
2. Make sure to open a PO Box with the public Post Office. Do not open a private mailbox as they will be required to ask for an address and it will be easier for someone to locate your residence if they should try.
3. Locate your nearest Post Office by looking in a phone book or on the internet at <http://usps.com/receive/businesssolutions/poboxrentals.htm> - click on PO Box locator.
4. Make sure you choose a location that is safe for you.
5. Price for PO Box.
 - If you are eligible, you can apply for a free PO Box. Please talk to the Post Office.
 - PO Boxes range in price from \$10-\$40 depending on the size, for 6 months. This means you will pay between \$1.50-\$6/month