

Series: Operating Procedures COA:  
CFOP: 175-39  
Procedure Name: Change of Custody  
Procedure Number: OP-1039  
Revision #/Date: (1) 07/31/08  
Effective Date: 11/29/04

Applicable to: All CBCB Staff and Contract Providers

**SUBJECT:** Change of Custody

**PURPOSE:** This operating procedure establishes the basic procedures to be followed by CBC of Brevard for all cases when seeking a change of legal custody or placement pursuant to section 39.41(2) (a) 9.a., Florida Statutes (F.S.).

**PROCEDURE:**

**Definitions**

Change of Custody: to change the temporary legal custody (such as a change from temporary legal custody with CBC of Brevard to the legal custody of a relative or vice versa) or physical custody (under protective services supervision) of the child at a post-disposition hearing without the necessity of another adjudicatory hearing.

Non-Relative Placement: the placement of a child in the home of an adult non-relative who has been granted temporary custody or care of a child by court order.

Relative: a grandparent, great-grandparent, sibling, first cousin, aunt, uncle, great-aunt, great-uncle, niece, or nephew, whether related by whole or half blood, by affinity (related by marriage), or by adoption. The term does not include a stepparent.

Relative Placement: either the emergency placement of a child with an adult relative in accordance with section 39.401(3), F.S., or temporary custody or placement with a relative with or without protective services supervision pursuant to a court order under section 39.41(2) (a) 9.a., F.S.

**1. Emergency Relative Placements**

- a. If the only grounds for relative placement are that the parent is out of the home for a short period of time, such as in the case of medical care which requires the parent to be hospitalized, the placement of the child with a relative is permitted as long as the parent has arranged for or approves of the relative placement. These situations will be handled the same as visits in voluntary cases and will not require a change of custody. The parent must ensure that the relative has a legally acceptable document, such as a notarized statement signed by the parent which, during the parent's temporary absence, allows the relative to obtain routine medical care for the child. At the parent's discretion, the statement may authorize the relative to consent to school and recreational activities for the child. If the court is involved in the case, then the court must be advised and approve of this temporary change in living arrangements.

- b. When emergency removal from a court-ordered placement is indicated due to new or further incidents of abuse, neglect or abandonment, a report must be made to the abuse hotline. Placement with a (or another) relative may be made with or without the agreement of the current custodian. The Child Legal Services (CLS) attorney should be contacted prior to or as soon as practicable after the placement in order to prepare for the shelter hearing which must be held within 24 hours of the child protective investigator approval of the emergency removal.
- c. If a child has been appointed a guardian ad litem (GAL), that GAL must be notified as soon as possible if the child is taken into emergency custody. If the GAL is available and chooses to participate, he or she will be involved in the decision to place the child with a relative, non-relative or in emergency shelter.
- d. The non-custodial parent must be considered as the placement of choice unless the child would be placed at risk of harm with that parent or unless there is another existing court order restricting or prohibiting placement with that parent. The provisions of the Uniform Child Custody Jurisdiction Act (UCCJA), sections 61.1302-1348, F.S., must be followed prior to recommending placement with the non-custodial parent. The non-custodial parent should be subject to the same checks as listed under paragraph f below.
- e. If the care manager determines that there is a relative willing to care for the child but the care manager has reason to believe that placement of the child with the relative prior to obtaining a court order will not provide adequate protection for the child, the care manager must place the child in emergency shelter care prior to the shelter hearing.
- f. Prior to requesting court approval of a relative placement at the shelter hearing, a background screening must be completed. If this background screening reveals any indication of criminal activity or abuse, neglect or abandonment by any of the adult household members or delinquent activity by any child age 8 or older in the home, the care manager must consult with the unit supervisor for guidance on whether or not the placement can be made. If the decision is made to seek court approval of the placement, the court must be informed of the results of the background screening. The background screening must include the following:
  - (1) FDLE record checks on all persons age 12 and up residing in the household. If FDLE is not accessible, this requirement will be met as soon as access and response can be accomplished.
  - (2) County and city law enforcement checks on all persons residing in the household.
  - (3) Delinquency background checks on all children age 8 or older residing in the household.
  - (4) Florida Safe Families Network (FSFN) background checks (both child and adult reports) on all persons residing in the household.

## **2. Temporary Relative Custody**

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

- b. Before a recommendation can be made to the court that a child be placed in the temporary custody of a relative, regardless of geographic location, that relative must be evaluated, including a physical inspection of the home to assure child safety. If the child was placed with the relative on an emergency basis, a background screening was required then, and a new screening is not required for any household members who were screened at that time. Screening is required on any new adult and over-8 child household members who have not otherwise been screened within the past 3 months.
- c. As is the case in an emergency placement, if a child has been appointed a GAL, that person must be involved in the decision to place the child with a relative. Once the child is placed, the care manager must continue to involve the GAL in hearings or other events related to the child's placement.
- d. When a child's placement is changed, any known agencies already involved with the child or the child's family and critical to the success of the case plan, to the child's safety, or to the family's welfare, must be notified. In addition, the care manager will notify the Assistance Payments section of the Economic Services program if the child is on a TANF grant so that action can be taken to stop payment for that child or arrange for payment to be made to a relative with whom the child has been placed.
- e. As described in OP-1024, Predisposition Study, the factors listed below must be assessed and documented in the predisposition study recommending temporary relative custody.
  - (1) The degree of relationship, if any, between the adult and the child.
  - (2) The attitude of the adult toward the child's parents. An adversarial relationship or extreme hostility toward a parent can create conflict and stress for the child and can seriously interfere with emotional growth.
  - (3) Previous knowledge about the relationship with the child. This should include the degree of emotional attachment between the adult's family and the child's family and the child's feelings concerning the placement.
  - (4) Capacity for parenting. This should include an assessment of parenting skills, stability of the marriage and quality of the marital relationship if the adult is married, mutuality of the decision to undertake the child's care, and the adequacy of the physical setting to include another family member.
  - (5) Description of all members of the adult's home and their attitude toward placement of the child in their home.
  - (6) Financial ability to assume care of the child, with or without assistance.
  - (7) Willingness to work with CBC of Brevard during the period of supervision. This should include an understanding of and reaction to applicable CBC of Brevard policies. Address the potential caregiver's attitude towards reunification.
  - (8) Supportive services which will be necessary to maintain the placement.
  - (9) Reunification plan. Is this placement considered to be the permanent one for the child or will the biological parents resume care in the future?

(10) Potential problem areas.

- f. Part of the evaluation of the relative's home must include a visit to that home by the care manager or, if the relative lives in another area, by another counselor or social worker in that area.
- g. Relatives who have indicated an interest in acquiring temporary custody of a child and whose homes will not be recommended as a placement for the child must be advised of this decision and the contact documented in the file. Such relatives may be appropriate to provide respite care or other types of support, and this possibility should be explored whenever possible.
- h. A court order for temporary custody to a relative should include the powers ordinarily given to a guardian of the person, such as authority to give consent for ordinary and extraordinary medical care, dental care, psychological or psychiatric care and treatment, and to make educational decisions for the child.
- i. If the relative becomes interested in being a foster home, the fact that the child is in the home should not be a barrier to foster care licensure, and licensure as a foster home may proceed without the removal of the child from the relative placement.
- j. A recommendation for protective supervision must be made initially in a relative placement which occurs as the result of a child protective investigation or court action initiated by protective supervision. Termination of supervision may later be requested if it is determined supervision is not necessary.

### **3. Non-Relative Placements**

Court-ordered placement of a child with an adult non-relative will be recommended when:

- a. The parent has arranged for or agreed to the placement and the placement seems to be in the best interest of the child; or,
- b. The child is 16 years of age or older, has found or agreed to a placement on his or her own, the parent does not object to the placement; and,
- c. All of the following criteria are met:
  - (1) CBC of Brevard has not solicited or recruited the placement.
  - (2) No financial support from CBC of Brevard is required.
  - (3) The non-relative does not wish to become a foster home (a court-ordered non-relative placement under Chapter 39 would supersede a section 409.175 requirement for licensure after 90 days). However, if the non-relative later becomes interested in being a foster home, the non-relative placement must not be considered a barrier to foster care licensure, and licensure as a foster home may proceed without the removal of the child from the non-relative placement. Once the non-relative (or relative for that matter) becomes licensed, legal custody should be changed to CBC of Brevard.
  - (4) A visit to the non-relative's home and a home study must be completed by the care manager.

- (5) A FSFN search (adult and child reports) and criminal records check of all household members age 12 and older currently living in the non-relative's home must be completed. Household members 8 through 26 must be screened for delinquency records. If this background screening reveals any indication of criminal activity or abuse, neglect or abandonment by any of the adult household members or delinquent activity by any child in the home, the care manager must consult with his or her supervisor for guidance in whether to recommend the placement. If the decision is made to recommend the placement, the court must be advised of the results of the screening.
- d. Non-relative placements shall not be used in lieu of emergency shelter care unless all necessary clearances have been obtained.
- e. A recommendation for protective supervision must be made initially in a non-relative placement which occurs as the result of a child protective investigation or court action initiated by protective supervision. Termination of supervision may later be requested if it is determined supervision is not necessary.

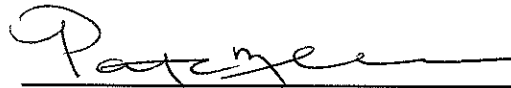
#### **4. Foster Care Recommendation**

Foster care placement is appropriate for children who, on an ongoing basis, cannot be assured adequate care and protection through the provision of in-home supportive services or through placement with a relative or non-relative. No child will be recommended to foster care by a care manager unless preventive services have been provided to the family and have failed to alleviate the problems necessitating out-of-home placement; or unless it has been clearly established that available preventive services to the family would not be sufficient to provide necessary protection to the child. As part of the foster care recommendation process, the care manager must confer with all of the child service providers to determine what services the child is currently receiving, what services will be needed and which staff are responsible for providing those services. The Service Planning Conference Checklist should be used to guide the discussion at this staffing. A legal status change from protective supervision to foster care requires a court order for change of custody to CBC of Brevard.

#### **5. Legal Procedures**

- a. When the care manager, upon review and concurrence of the CLS attorney, has determined that the particular circumstances of a case require court action, the attorney will file a motion for a change of custody or placement as well as for any conditions necessary to protect the safety of the child and promote the child's physical, mental and emotional development.
- b. The care manager must tell the parent or other custodian and the child, if of sufficient age and understanding, of the planned court action and why it is considered necessary. The care manager will explain the court process, including the parent's right to expect a summons, be present at all court hearings, hire an attorney at their own expense, and to bring witnesses to speak on their behalf. CLS attorneys should ensure that counselors are trained on disseminating this information.
- c. The CLS attorney will schedule the hearing and provide notice to the parties. The care manager or supervisor shall attend the hearing.

BY DIRECTION OF THE CHIEF EXECUTIVE  
OFFICER:



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DR. PATRICIA NELLIUS-GUTHRIE  
Chief Executive Officer  
CBC of Brevard, Inc.

APPROVAL DATE: 11/4/08