



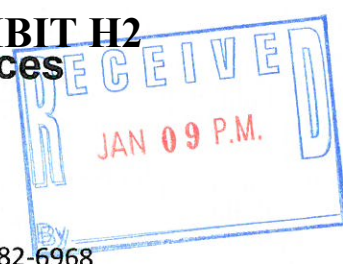
Arkansas Department of Human Services
Division of Children and Family Services

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Little Rock, Arkansas 72203-1437

Telephone (501) 682-8008 TDD (501) 682-1442 FAX (501) 682-6968



January 5, 2017

Varnaria Vickers-Smith, Legislative Analyst
Senate Interim Children and Youth Committee and the
House Aging, Children and Youth, Legislative and Military Affairs Committee
Arkansas Bureau of Legislative Research
One Capital Mall, 5th Floor, Room R-516
Little Rock, AR 72201

RE: Initial Filing - Regular Promulgation

Dear Ms. Vickers-Smith:

Please place the Division of Children & Family Services on the Children & Youth Committee agenda for review of the Rules as listed on the Questionnaire. The public comment period is from January 8, 2017 to February 7, 2017, with a proposed effective date of May 1, 2017.

Enclosed are copies of the Questionnaire, Summary of Changes, Financial Impact Statement and Rule.

If you have any questions or comments, please contact Christin Harper, Assistant Director, Division of Children and Family Services, P.O. Box 1437, (Slot S570), Little Rock, Arkansas 72203-1437; phone 682-8541; email christin.harper@dhs.arkansas.gov or fax 682-6968.

Sincerely,

A handwritten signature in black ink that reads "Mischa Martin".

Mischa Martin

Director, Division of Children and Family Services

BUREAU OF LEGISLATIVE RESEARCH

DEPARTMENT OF HUMAN SERVICES
Division of Children and Family Services
AMENDING ADMINISTRATIVE REGULATIONS

TITLE: New Rule
• **POLICY V-E: Child Involved in a Protective Services Case Who is Missing and related procedures**

PROPOSED EFFECTIVE DATE: May 1, 2017

STATUTORY AUTHORITY: A.C.A. 9-28-103

NECESSITY AND FUNCTION: New Rule
• **POLICY V-E: Child Involved in a Protective Services Case Who is Missing and related procedures**

- To update the Division's policy and procedure per federal Public Law 113-183, specifically to add the requirement for Division staff to notify the National Center for Missing and Exploited Children (NCMEC) when a child involved in a protective services case is missing from his/her parents' home and to provide information regarding the child so that NCMEC may aid the biological parents, Division, and law enforcement in locating the child as well as to report to local law enforcement any youth involved with DCFS who is identified as being a sex trafficking victim.

PAGES FILED:



Signature

Name: Mischa Martin Title: Director

Section: Division of Children and Family Services

Department of Human Services

PROMULGATION DATES: January 8, 2017 to February 7, 2017

CONTACT PERSON: Christin Harper
DHS-DCFS Policy Unit
Phone: (501) 682-8541
Fax: (501) 683-4854
Email: christin.harper@dhs.arkansas.gov

**QUESTIONNAIRE FOR FILING PROPOSED RULES AND REGULATIONS
WITH THE ARKANSAS LEGISLATIVE COUNCIL AND JOINT INTERIM COMMITTEE**

DEPARTMENT/AGENCY Department of Human Services
DIVISION Division of Children and Family Services
DIVISION DIRECTOR Mischa Martin
CONTACT PERSON Christin Harper, Assistant Director
ADDRESS P. O. Box 1437, Slot S570, Little Rock, AR 72203-1437
PHONE NO. (501)682-8541 FAX NO. (501) 683-4854 E-MAIL christin.harper@dhs.arkansas.gov
NAME OF PRESENTER AT COMMITTEE MEETING Christin Harper
PRESENTER E-MAIL christin.harper@dhs.arkansas.gov

INSTRUCTIONS

- A. Please make copies of this form for future use.
- B. Please answer each question **completely** using layman terms. You may use additional sheets, if necessary.
- C. If you have a method of indexing your rules, please give the proposed citation after "Short Title of this Rule" below.
- D. Submit two (2) copies of this questionnaire and financial impact statement attached to the front of two (2) copies of the proposed rule and required documents. Mail or deliver to:

Donna K. Davis
Administrative Rules Review Section
Arkansas Legislative Council
Bureau of Legislative Research
One Capitol Mall, 5th Floor
Little Rock, AR 72201

1. What is the short title of this rule? Policy Regarding Child Involved in a Protective Services Case Who is Missing
2. What is the subject of the proposed rule? To establish new policy and related procedures regarding Division protocols when a child involved in a protective services (in-home) case goes missing per federal Public Law 113-183.
3. Is this rule required to comply with a federal statute, rule, or regulation? Yes No
Federal Public Law 113-183, Section 104
If yes, please provide the federal rule, regulation, and/or statute citation. _____
4. Was this rule filed under the emergency provisions of the Administrative Procedure Act? Yes No
If yes, what is the effective date of the emergency rule? _____
- When does the emergency rule expire? _____

Will this emergency rule be promulgated under the permanent provisions of the Administrative Procedure Act?

Yes

No

5. Is this a new rule? Yes No

If yes, please provide a brief summary explaining the regulation. _____

Does this repeal an existing rule? Yes No

If yes, a copy of the repealed rule is to be included with your completed questionnaire. If it is being replaced with a new rule, please provide a summary of the rule giving an explanation of what the rule does.

Is this an amendment to an existing rule?

Yes

No

If yes, please attach a mark-up showing the changes in the existing rule and a summary of the substantive changes. **Note: The summary should explain what the amendment does, and the mark-up copy should be clearly labeled "mark-up."**

6. Cite the state law that grants the authority for this proposed rule? If codified, please give the Arkansas Code citation. A.C.A. § 9-28-103

7. What is the purpose of this proposed rule? Why is it necessary?

POLICY V-E: Child Involved in a Protective Services Case Who is Missing

• To establish new Division's policy and related procedures per federal Public Law 113-183, specifically to add the requirement for Division staff to notify the National Center for Missing and Exploited Children (NCMEC) when a child involved in a protective services case is missing from his/her home and to provide information regarding the child so that NCMEC may aid the biological parents, Division, and law enforcement in locating the child as well as to report to local law enforcement any youth involved with DCFS who is identified a sex trafficking victim.

8. Please provide the address where this rule is publicly accessible in electronic form via the Internet as required by Arkansas Code § 25-19-108(b).

AR Secretary of State Website

DHS/DCFS CHRIS public:

<https://ardhs.sharepointsite.net/CW/Notice%20of%20Rule%20Making/Forms/AllItems.aspx>

9. Will a public hearing be held on this proposed rule? Yes No

If yes, please complete the following:

Date: _____

Time: _____

Place: _____

10. When does the public comment period expire for permanent promulgation? (Must provide a date.)

January 8, 2017 to February 7, 2017.

11. What is the proposed effective date of this proposed rule? (Must provide a date.)

May 1, 2017

12. Do you expect this rule to be controversial? Yes No

If yes, please
explain.

13. Please give the names of persons, groups, or organizations that you expect to comment on these rules? Please provide their position (for or against) if known.

We do not know of any specific groups of persons who would comment.

FINANCIAL IMPACT STATEMENT

PLEASE ANSWER ALL QUESTIONS COMPLETELY

DEPARTMENT Department of Human Services
DIVISION Division of Children and Family Services
PERSON COMPLETING THIS STATEMENT Christin Harper
TELEPHONE NO. (501)682-8541 **FAX NO.** (501) 683-4854 **EMAIL:** christin.harper@dhs.arkansas.gov

To comply with Ark. Code Ann. § 25-15-204(e), please complete the following Financial Impact Statement and file two copies with the questionnaire and proposed rules.

SHORT TITLE OF THIS RULE Policy Regarding Child Involved in Protective Services Case Who is Missing

- 1. Does this proposed, amended, or repealed rule have a financial impact? Yes No
- 2. Is the rule based on the best reasonably obtainable scientific, technical, economic, or other evidence and information available concerning the need for, consequences of, and alternatives to the rule? Yes No
- 3. In consideration of the alternatives to this rule, was this rule determined by the agency to be the least costly rule considered? Yes No

If an agency is proposing a more costly rule, please state the following:

- (a) How the additional benefits of the more costly rule justify its additional cost;

- (b) The reason for adoption of the more costly rule;

- (c) Whether the more costly rule is based on the interests of public health, safety, or welfare, and if so, please explain; and;

- (d) Whether the reason is within the scope of the agency's statutory authority; and if so, please explain.

4. If the purpose of this rule is to implement a federal rule or regulation, please state the following:

(a) What is the cost to implement the federal rule or regulation?

<u>Current Fiscal Year</u>		<u>Next Fiscal Year</u>	
General Revenue	0	General Revenue	0
Federal Funds	<u>0</u>	Federal Funds	<u>0</u>
Cash Funds	<u>0</u>	Cash Funds	<u>0</u>

Special Revenue 0
Other (Identify) 0

Special Revenue 0
Other (Identify) 0

Total 0.00

Total 0.00

(b) What is the additional cost of the state rule?

Current Fiscal Year

Next Fiscal Year

General Revenue _____
Federal Funds _____
Cash Funds _____
Special Revenue _____
Other (Identify) _____
Total 0.00

General Revenue _____
Federal Funds _____
Cash Funds _____
Special Revenue _____
Other (Identify) _____
Total 0.00

5. What is the total estimated cost by fiscal year to any private individual, entity and business subject to the proposed, amended, or repealed rule? Identify the entity(ies) subject to the proposed rule and explain how they are affected.

Current Fiscal Year

\$ 0.00

Next Fiscal Year

\$ 0.00

6. What is the total estimated cost by fiscal year to state, county, and municipal government to implement this rule? Is this the cost of the program or grant? Please explain how the government is affected.

Current Fiscal Year

\$ 0.00

Next Fiscal Year

\$ 0.00

7. With respect to the agency's answers to Questions #5 and #6 above, is there a new or increased cost or obligation of at least one hundred thousand dollars (\$100,000) per year to a private individual, private entity, private business, state government, county government, municipal government, or to two (2) or more of those entities combined?

Yes No

If YES, the agency is required by Ark. Code Ann. § 25-15-204(e)(4) to file written findings at the time of filing the financial impact statement. The written findings shall be filed simultaneously with the financial impact statement and shall include, without limitation, the following:

- (1) a statement of the rule's basis and purpose;
- (2) the problem the agency seeks to address with the proposed rule, including a statement of whether a rule is required by statute;
- (3) a description of the factual evidence that:
 - (a) justifies the agency's need for the proposed rule; and

- (b) describes how the benefits of the rule meet the relevant statutory objectives and justify the rule's costs;
- (4) a list of less costly alternatives to the proposed rule and the reasons why the alternatives do not adequately address the problem to be solved by the proposed rule;
- (5) a list of alternatives to the proposed rule that were suggested as a result of public comment and the reasons why the alternatives do not adequately address the problem to be solved by the proposed rule;
- (6) a statement of whether existing rules have created or contributed to the problem the agency seeks to address with the proposed rule and, if existing rules have created or contributed to the problem, an explanation of why amendment or repeal of the rule creating or contributing to the problem is not a sufficient response; and
- (7) an agency plan for review of the rule no less than every ten (10) years to determine whether, based upon the evidence, there remains a need for the rule including, without limitation, whether:
 - (a) the rule is achieving the statutory objectives;
 - (b) the benefits of the rule continue to justify its costs; and
 - (c) the rule can be amended or repealed to reduce costs while continuing to achieve the statutory objectives.

DCFS SUMMARY OF CHANGES FOR JANUARY 2017

PROMULGATION

SUMMARY OF DCFS REGULAR PROMULGATION

The purpose of this regular promulgation is to establish a new Division policy regarding when a child involved in a protective services (in home) case is missing from his/her parents' home. This new rule will ensure the State is in compliance with federal Public Law 113-183 regarding the requirement to report any child under the supervision of the state child welfare agency to the National Center for Missing and Exploited Children as well as to report to local law enforcement any youth involved with DCFS who is identified as a sex trafficking victim.

POLICY V-E: CHILD INVOLVED IN PROTECTIVE SERVICES CASE WHO IS MISSING

05/2017

Occasionally there are instances when a child or youth involved in an open protective services case may runaway or otherwise go missing. In all instances of missing children who are part of an open protective services case, the Division of Children and Family Services (DCFS) will collaborate with the child's family, law enforcement, and the National Center for Missing and Exploited Children (NCMEC) in an effort to locate the child.

Child Who May Have Been Taken Without Authorization or the Family has Absconded with the Child(ren)

If the family and/or Division has reason to believe the child was taken from his/her parents/caretakers without authorization by another individual, then upon notification, the family's FSW caseworker and FSW caseworker's supervisor will ensure the following individuals are notified of the child's disappearance:

- A. Area Director
- B. Assistant Director of Community Services or designee

The Assistant Director of Community Services or designee will then notify the DCFS Director.

The FSW caseworker will also issue a Protective Services Alert if:

- A. The family has left the county of origin and moved with their child(ren) to another county or state; and,
- B. The new address is unknown; and,
- C. The child's health or physical well-being is deemed to be in immediate danger because the family is involved in an open protective services case involving an identified Arkansas Health and Safety Factor.

Child Who May Have Run Away

If the family and/or Division has reason to believe the child independently left his/her home of his/her own accord (i.e., run away), then upon notification, the family's FSW caseworker and FSW caseworker's supervisor will ensure the Area Director is also notified of the child's disappearance. The FSW caseworker will then follow the steps outlined below.

Procedure V-E1: When a Child is Reported Missing from a Family with an Open Protective Services Case

05/2017

The following applies to situations in which the child has been taken from his/her parents/caretakers without authorization and to situations in which the child has run away independently from the home.

After receiving notification of the child's disappearance from the child's family or by other means, the FSW caseworker will:

- A. Notify the child's attorney ad litem (if applicable) within two hours.
 - 1) This notification may occur via email, phone, or text.
- B. Determine within two hours whether the child's parents/caretakers have filed a missing person report with the local police department or sheriff's office.
 - 1) If the parents/caretakers have filed a missing person report, obtain the missing report number from the parents/caretakers.
 - 2) If the parents/caretakers have not yet filed a missing person report, encourage the parents to file the report with the local police department or sheriff's department as soon as possible and obtain the missing person report number from the parents/caretakers as soon as possible.
 - 3) If the parents/caretakers refuse to file a missing person report within one business day, contact the local police department or sheriff's department immediately to file a missing person report and provide the following information:

- a) Child's name;
 - b) A physical description of the child;
 - c) A picture of the child may be released to assist with identification provided that the child is not identified as being involved in an open protective services case.
 - d) Child's date of birth;
 - e) Circumstances of the missing child's disappearance, including the date the child went missing or was last seen and if the child indicated a destination (and, if so, what the destination is);
 - f) Any other factual, biographical, or historical information that may assist with locating the missing child;
 - g) A request for law enforcement to enter the information into the National Crime Information Center (NCIC) database of the Federal Bureau of Investigation.
 - i. If the local police department or sheriff's department will not allow DCFS to file a missing person report on behalf of the family, document the attempt to file the missing person report in CHRIS contacts.
- C. Once a police report has been filed, contact the National Center for Missing and Exploited Children (NCMEC) at 1-800-THE-LOST (1-800-843-5678) no later than 24 hours after receiving information on missing or abducted children or youth to provide the following information to NCMEC per the Memorandum of Understanding (MOU) between DCFS and NCMEC:
- 1) Child's name;
 - 2) Photo of the child, if available;
 - 3) Child's date of birth;
 - 4) Name and contact information of the FSW caseworker and FSW supervisor;
 - 5) Investigating Law Enforcement Agency Name, Contact Information, and Case Number (i.e., Missing Person Report number);
 - 6) Circumstances of the missing child's disappearance, including the date the child went missing or was last seen;
 - 7) Any other factual, biographical, or historical information that may assist with locating the missing Child.
- E. Upon NCMEC's request, release to NCMEC any additional requested information and/or records in its possession that are relevant to locating the missing child.
- F. Keep NCMEC informed with up-to-date information regarding the missing child.
- G. Update CHRIS contacts regarding the missing child and efforts to locate the missing child.
- H. If the child:
- 1) Is not found and there are other children in the home:
 - a) Continue to provide services to the family and other children as appropriate; and,
 - b) Continue to call previously contacted parties and inquire for information and furnish further information that becomes available through case closure.
 - c) If appropriate, extend the search to other counties and states.
 - 2) Is not found within 60 calendar days and is the only child in the home:
 - a) Update the FAST to determine if additional services (e.g., counseling may be appropriate for the parents/caretakers);
 - b) Close the case if the family does not need further services.

After notification of the child's disappearance by the family or by other means, the FSW supervisor will:

- A. Notify the Area Director and Assistant Director of Community Services or designee of the child's disappearance.
- B. Conference with the FSW as needed.

Procedure V-E2: When a Child Involved in a Protective Services Case Who has been Missing is Located

05/2017

When a child involved in an open protective service case who has been missing is located, the FSW caseworker will:

- A. Encourage the parents to have the child examined by his/her primary care physician, if possible, within 72 hours of locating the child or immediately in the case of a medical emergency.
- B. Notify immediately (but no later than 24 hours after the child has been located) all parties and individuals previously notified of the child's disappearance that the child has been located to include, but not limited to:
 - 1) FSW Supervisor
 - 2) Area Director
 - 3) Local OCC attorney
 - 4) Child's attorney ad litem, if applicable
 - 5) Law enforcement
 - 6) NCMEC
 - a) This notification may occur via email, phone, or text as appropriate.
- C. If the case:
 - 1) Was not closed during the child's absence from the home:
 - a) Conduct a visit with the child and the child's family within three business days after the child has been located to determine what immediate needs the child and/or family may have and what immediate steps may need to be taken to better support the child and his/her family.
 - b) Update CHRIS contacts to note the child has been located and when the FSW caseworker met with the child and his/her family.
 - c) Determine the primary factors that contributed to the child's running away or otherwise being absent from his/her home to include:
 - i. Updating the family's FAST assessment within 30 days of locating the child; and,
 - ii. Determining if the child is a sex trafficking victim or at risk of being a sex trafficking victim based on responses to the updated FAST and any other information gathered.
 - 1) If there is reason to believe the child is a victim of sex trafficking:
 - (a) Document accordingly in CHRIS and conference with the FSW supervisor to determine appropriate next steps for additional screening related to sex trafficking victims and/or referral to appropriate services.
 - (b) Report information on children or youth who have been identified as a sex trafficking victim to local law enforcement immediately, and in no case later than 24 hours after receiving the information.
 - (c) Document in CHRIS contacts when local law enforcement is notified of a child being identified as a sex trafficking victim.
 - 2) Was closed because the child was the only child involved in the case and absent from the home for more than 60 days and the family did not require further services:
 - a) Reopen the case if the child is still under 18 years of age.
 - b) Determine the primary factors that contributed to the child's running away or otherwise being absent from his/her home to include:
 - i. Updating the family's FAST assessment within 30 days of reopening the case; and,
 - ii. Determining if the child is a sex trafficking victim or at risk of being a sex trafficking victim based on responses to the updated FAST and any other information gathered.

- 1) If there is reason to believe the child is a victim of sex trafficking:
 - (a) Document accordingly in CHRIS and conference with the FSW supervisor to determine appropriate next steps for additional screening related to sex trafficking victims and/or referral to appropriate services.
 - (b) Report information on children or youth who have been identified as a sex trafficking victim to local law enforcement immediately, and in no case later than 24 hours after receiving the information.
 - (c) Document in CHRIS contacts when local law enforcement is notified of a child being identified as sex trafficking victim.

The FSW supervisor(s) will:

- A. Conference with the FSW(s) as needed.
- B. Notify the Assistant Director of Community Services or designee.