



## 14.13 Non-Custodial Immediate Protection Agreements

**Application:** To All Department of Children's Services employees carrying and supervising non-custodial cases and the Office of the General Counsel

**Authority:** TCA 37-1-406, 37-5-105 (3), 37-5-106

**Standards: COA:** PA-CFS 5.01; PA-CFS 11.02

**Commissioner:**

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**Glossary:**

- ◆ Parent (For this Policy Only):
  - The parent is defined as: □ Mother of any child born out of wedlock □ Both parents of the child if legally married unless there is a custody order to the contrary
- ◆ Immediate Protection Agreement:
  - An IPA is a course of action that parents/ legal custodians voluntarily agree to follow to ensure the safety of the child. This agreement must be used when a parent/legal custodian has access to the child and is the least restricted alternative to entering DCS custody. IPA's are not to be used in lieu of a Family Permanency Plan. IPA's may include, but are not limited to, options such as:
    - a)** Having the child stay with relatives or friends (i.e., Non-Custodial Placements);
    - b)** Suspending visitation with one of the parties when both parties agree; or
    - c)** Having the alleged perpetrator leave the home.
- ◆ Non-Custodial Case:
  - A Non-Custodial Case refers to any case involving a child who is not in DCS custody. The physical care and custody of the child(ren) is with the parent/legal custodian.
- ◆ Visitation Supervisor:
  - A visitation supervisor is a person who is approved to supervise visits between a child, or children, and the parent/legal custodian who is participating in a voluntary immediate protection agreement. To become an approved visitation supervisor, form CS-1078, Visitation Supervisor Background Checks, must be completed, unless the visitation supervisor is a DCS employee, or works for a provider agency.
- ◆ Code X Name Check:
  - A criminal background check used by social service agencies authorized under an approved state statute to receive criminal record information for the emergency placement of children where the child's health and safety may be endangered.

**Policy Statement:**

The Tennessee Department of Children's Services uses a voluntary Immediate Protection Agreement (IPA) as an option to ensure the safety of a child(ren) when the parent/legal custodian lacks sufficient protective capacity to assure the child is safe from abuse or neglect.

**Purpose:**

To provide standard guidelines and procedures to address the immediate safety of a child(ren) during a Child Protection Services (CPS) and Family Support Services (FSS) case when using an IPA.

**Procedures:****A. Assessing Risk of Harm**

The CPS or FSS Case Manager assesses the risk of harm to the child prior to asking the parent/legal custodian to enter into an IPA, DCS form **CS-0701**. The Case Manager makes a determination by collectively analyzing the presenting evidence in the referral, areas of concern identified in the Department's safety assessments, and any risks identified. The Case Manager consults with his/her supervisor to discuss safety options. Those safety options may include an IPA. Intervention may be considered when one or more of these risk factors are present:

- 1. History of Abuse and Neglect Factors** - There is evidence of past maltreatment or continuous patterns of abuse and/or neglect that threaten the safety, health and/or development of any child.
- 2. Child Factors** - The child is vulnerable due to age, reduced visibility by others, health, intellectual or developmental level, problematic behaviors, or there is difficulty in the parent-child relationship.
- 3. Parent/Caretaker Factors** - The behavior(s) of the parent/caregiver present a threat of harm to the child and there is no evidence of sufficient family strength or protective factors to counter the behavior(s) or condition.
- 4. Environmental Factors** - There are significant problems in the home environment relating to child safety or isolation from family support systems (also refer to [\*Protocol for Safe Sleep Education and Delivery of Safe Sleep Furniture\*](#) for additional safety information, if applicable).
- 5. Service Provision Factors** - Parents have had the opportunity to participate in services to reduce risks, however, there are still concerns for the child(ren)'s safety.

**B. Implementing an IPA**

- 1.** If a Case Manager encounters a situation where intervention is needed in order to ensure the safety of the child, he/she must immediately discuss this matter with the CPS or FSS supervisor to determine if an IPA is warranted.
- 2.** The DCS Case Manager consults with a Master of Social Work (MSW) or an individual with an advanced clinical degree to discuss aspects of the transition as it relates to minimizing trauma as a result of removing the child from the home;
- 3.** If an IPA is authorized by the supervisor, the Case Manager and/or CPS or FSS supervisor consults with Regional General Counsel (RGC) /designee before the IPA is implemented. The implementation of an IPA must be documented in TFACTS as a case recording.

### C. Completing an IPA

If the requirements in Section A and B are met, and the parent/legal custodian voluntarily agrees to enter into an IPA, the Case Manager will:

1. Complete DCS form **CS-0701, Immediate Protection Agreement**, which must contain the following information:
  - ◆ The alleged perpetrator's name;
  - ◆ The safety concerns warranting the action/restriction of the parent/legal custodian;
  - ◆ Steps being taken, that are agreed to by the parent/ legal custodian and voluntary, non-custodial caregiver(s), if applicable, to ensure the safety of the child;
  - ◆ Clear requirements regarding visitation guidelines, if applicable, including the level of supervision required, frequency and duration, and identity of visitation supervisors, if needed;

Note: Any person supervising visitation can utilize **CS-0594, Visitation Observation Checklist**, to document the visit.

- ◆ The signature of the parent/legal custodian, any voluntary, non-custodial caregiver included in the agreement, Case Manager, CPS or FSS supervisor, and any other parties with significant responsibilities in the agreement; and
  - ◆ The date through which the plan is in effect or is revised.
2. Provide signed copies of the IPA to the parent/legal custodian and the voluntary, non-custodial caregiver;
  3. Upload into TFACTS the signed IPA in the child's official case record.

**Note:** If the alleged child victim is hospitalized, the IPA can be shared with the hospital staff for the purpose of safety, custody, placement, visitation, or treatment of the child (refer to [Protocol for Working with Hospitals](#)).

4. A Child and Family Team Meeting (CFTM) is held prior to the implementation of an IPA, if possible, or within three (3) business days following the IPA.
5. A **Family Permanency Plan** (FPP) is developed at the CFTM, if applicable, and is used, as applicable, for conveying strengths and needs with the child and family to ensure that safety, well-being, and permanency needs are addressed.
  - a) The parent/legal custodian participates in creating the FPP.
  - b) The voluntary, non-custodial caregiver(s) may participate in creating the FPP.
  - c) The Case Manager obtains the signature of the parent/legal custodian with legal custodial rights to the child on the FPP.
  - d) The Case Manager provides copies of the FPP to the parent/legal custodian and voluntary, non-custodial caregiver.
6. The Case Manager and supervisor/designee consult with the RGC within three (3) business days, but no later than ten (10) business days from implementation of the

IPA to determine whether the IPA will be dissolved or a petition will be filed. In the event that the Case Manager and RGC/designee have determined that a petition will be filed, the petition should be filed no later than ten (10) business days from implementation.

- a) The Case Manager follows local protocols for submitting a referral to the RGC.
- b) The referral includes a copy of the IPA and FPP, as applicable.
- c) The contents of the petition may incorporate components or the entire agreement found in the IPA and/or services in the FPP as well as contains additional services and/or restrictions up to and including removal into state custody.

**Note:** A court order supersedes the IPA. If the family does not follow the terms of the IPA, the family will be notified that the Child and Family Team will need to meet to determine next steps to ensure the safety of the children.

**Note:** When DCS staff learn that the terms of a court order are violated, the Case Manager and/or supervisor notifies the RGC/designee. The DCS Case Manager will inform the family that if the Immediate Protection Agreement is not adhered to an alternate plan will be developed.

#### **D. Non-Custodial Placement with Custodial, Legal or Putative Parents**

1. CPS and FSS Case Managers must explore the voluntary, non-custodial placement with another parent as a first option for an IPA intervention.
2. When the residential parent/legal custodian is completing an IPA with another parent, the Case Manager must identify the legal status of both parents to determine what steps must be completed to facilitate the implementation of the IPA.
  - a) Non-residential/Non-offending legal parents (Married or Court-Ordered Custody): In circumstances where parents have joint custody, Case Managers consider the non-residential/non-offending parent as if the child were placed in the parent's home at the initiation of the case. Placement with the non-residential/non-offending legal parent should be agreed to unless significant safety concerns exist that would necessitate a removal from that parent. When exploring placement with these parents, the Case Manager shall conduct the following tasks:
    - ◆ A home visit of the non-residential home;
    - ◆ Background checks to include:
      - TFACTS history search
      - Local law enforcement checks
      - Internet checks

- ◆ Interviews with all household members.
- b) Other non-residential/non-offending legal parents: When the non-residential or non-offending parent does not have a court order granting shared or joint custody of the child, Case Managers should consider agreeing to the parent as a voluntary placement if that parent can ensure the safety of the child and the parent meets DCS standards for placement. Examples of parents meeting this category include parents who have established parentage, but do not have court-ordered custody rights; parents who have only signed a Voluntary Acknowledgement of Paternity (VAP); and parents who only appear on a birth certificate. When exploring placement with these parents, the Case Manager shall conduct an expedited placement assessment to ensure safety for the child and assess the ability of the non-residential/nonoffending parent to provide care for the child. The assessment includes, but are not limited to, the following tasks:
  - ◆ Conduct a visit to the home to ensure that the environment is safe and has sufficient space for the child (also refer to [\*Protocol for Safe Sleep Education and Delivery of Safe Sleep Furniture\*](#) for additional safety information);
  - ◆ Conduct face-to-face interviews with the non-residential/non-offending parent and all other persons in the home to assess their ability and suitability to protect the child and adhere to the terms of the agreement;
  - ◆ Complete a DCS Records Check that includes a check of CPS records in TFACTS to determine if the non-residential/non-offending parent or other residents of the home have been identified as an alleged perpetrator who has been substantiated of child abuse and neglect;
  - ◆ Complete a criminal history check that includes local criminal record checks from local law enforcement records or county court records for all adult household members;
  - ◆ Complete the following forms:
    - ***CS-0701, Immediate Protection Agreement;***
    - ***CS-1005, Non-Custodial Expedited Placement Assessment Summary;***
    - ***CS-0559, Authorization for Release of Information and HIPAA Protected Health Information TO and FROM the Department of Children's Services and Notification of Release;***
    - ***CS-0660, Disclosure Statement: Options and Available Services for Relative Caregivers; and***
    - [\*Relative Caregiver Program Brochure\*](#)
    - When applicable, complete ***CS-4203, Water Hazard/Pool Safety Assessment Tool***. Any noted concerns, including a plan to address supervision and water safety and/or areas of non-compliance, are to be documented under Area of Concern on form ***CS-1005***. The plan is not to

exceed a two week period. Any extension to this timeframe to address the identified concern must be approved by the CPS Director/designee.

- Forms ***CS-0750, Background Criminal History Expedited/Emergency Purpose Code XIII Name Check and CS1221, Waiver Agreement and Statement for Criminal History Checks (VECHS)*** is not required on the parent and other adults in the home unless the other background checks raise a concern regarding the child's safety in the home. Examples of background check results that would require completion of this form include:
  - A criminal history with more than five (5) convictions;
  - Any charge or conviction of a crime against a child;
  - Any charge or conviction of domestic violence; and
  - A felony conviction within the past five (5) years.

**Note:** If a Code X check is conducted, form ***CS-0691, Fingerprint Card Information and CS-1221, Waiver Agreement and Statement for Criminal History Checks (VECHS)***, must also be completed. Note: Prior Fingerprint results may be used in place of a new Code X

- c) Alleged/putative parents: When a person has been named as a parent of a child, but there is no documentation that the person has been established as the child's legal parent, Case Managers should treat the person as a noncustodial relative or other individual and follow the provisions set forth in Section E of this policy.
3. If the Case Manager is uncertain which of the above three categories apply (a-c), the Case Manager and/or supervisor should consult with the RGC prior to implementation of the IPA.
  4. Potential voluntary placements and any other residents of the home who have been substantiated will not be agreed to unless a waiver is granted as outlined in the [\*\*\*Non-Custodial Waiver Tip Sheet\*\*\*](#) and documented on form ***CS-0921, Waiver of Criminal Convictions, Pre and In-Service Training Requirements, Non-Safety Issues, CPS Substantiations, and Education Requirement***.
  5. The requirements for custodial kinship placements are discussed with the potential voluntary placement, including the difference between custodial and non-custodial factors for placement approval and documented on form ***CS-4224, Exception to be Approved as a Kinship Foster Home***.

## **E. Non-Custodial Placement with Relatives or Other Individuals**

Relatives or other individuals may be considered as voluntary, non-custodial placement resources if those persons can ensure the safety of the child and if those potential

placements comply with DCS standards for placement. The procedures below apply to placement with relatives or other individuals:

1. Prior to facilitating a child's transition into the home of relatives and family friends, the Case Manager is required to conduct an expedited placement assessment to ensure safety for the child and assess the voluntary, non-custodial caregiver's ability to provide care for the child. The expedited placement assessment includes the completion of a(n):
  - a) Visit to the home to ensure that the environment is safe and has sufficient space for the child (also refer to [Protocol for Safe Sleep Education and Delivery of Safe Sleep Furniture](#) for additional safety information);
  - b) Face-to-face interviews with the potential voluntary, non-custodial caregiver and all other persons in the home to assess their ability and suitability to protect the child and adhere to the terms of the agreement;
  - c) A DCS Records Check that includes a check of CPS records in **TFACTS** to determine if the potential voluntary, non-custodial caregiver or other residents of that home is identified as an alleged perpetrator who has been substantiated of child abuse or neglect.
  - d) Criminal history checks that include local criminal records check from local law enforcement records or county court records for all adult household members.
  - e) In addition to DCS form **CS-0701, Immediate Protection Agreement**, complete the following forms:
    - ♦ **CS-1005, Non-Custodial Expedited Placement Assessment Summary;**
    - ♦ **CS-0559, Authorization for Release of Information and HIPAA Protected Health Information TO and FROM the Department of Children's Services and Notification of Release;**
    - ♦ **CS-0691, Fingerprint Card Information;**
    - ♦ **CS-1221, Waiver Agreement and Statement for Criminal History Checks (VECHS);** and

**Note:** If the non-custodial caregiver is a relative, the following forms are provided and explained:

- ♦ **CS-0660, Disclosure Statement: Options and Available Services for Relative Caregivers**
  - ♦ [Relative Caregiver Program Brochure](#)
- f) When applicable, if parent/child visitation is to be supervised by non-custodial caregivers, the family is to complete **CS-0594, Visitation Observation Checklist**.
  - g) When applicable, complete **CS-4203, Water Hazard/Pool Safety Assessment Tool**. Any noted concerns including a plan to address supervision and water safety, and/or areas of non-compliance are to be documented under **Area of Concern** on form **CS-1005**. The plan is not to exceed a two week period. Any



extension to this timeframe to address the identified concern must be approved by the CPS Director/designee.

2. Potential voluntary, non-custodial caregivers and any other resident of that home, who have been identified as an alleged perpetrator will not be approved unless a waiver is granted as outlined in the [Waiver Tip Sheet for Employment, Volunteering and Custodial Placements](#), and documented on form **CS-0921, Waiver of Criminal Convictions, Pre and In-Service Training Requirements, Non-Safety Issues, CPS Substantiations, and Education Requirements**.

## F. Petitioning for Legal Action

Prior to dissolution of the IPA, the Case Manager and supervisor should consult with the RGC/designee to determine whether legal action is necessary and available to ensure the safety and welfare of the child. Such action might include:

- ♦ Removing the child to foster care or a third party placement;
- ♦ Obtaining a no contact or other restraining order prohibiting specific behavior by the parent/legal custodian; or
- ♦ Continuing services to the family once the IPA is dissolved.

**Note:** Nothing in this policy is construed as requiring the Department to file a petition at any time.

## G. Dissolving an IPA

1. An IPA dissolves when:
  - ♦ A petition has not been filed within ten (10) business days of the initiation of the IPA;
  - ♦ A court order is obtained that supersedes the IPA;
  - ♦ A subsequent IPA supersedes the initial IPA.

**Note:** A subsequent IPA cannot be completed simply to extend the timeframe for filing a petition, but must be based upon new facts or circumstances that warrant completion of another IPA.

- ♦ The child enters custody; or
  - ♦ The voluntary, non-custodial caregiver can no longer provide care or safety for the child.
2. When an IPA is dissolved, the Case Manager documents the circumstances of the dissolution in case recordings. The Case Manager is also responsible for ensuring that all involved parties are aware that the IPA has been dissolved.

**Note:** Nothing in this policy is construed as prohibiting the Department from dismissing a petition at any time.

**Forms:**

[\*CS-0559, Authorization of Release of Information and HIPAA Protected Health Information TO and FROM the Department of Children's Services and Notification of Release\*](#)

[\*CS-0691, Fingerprint Card Information\*](#)

[\*CS-0660, Disclosure Statement: Options and Available Services for Relative or Kin Caregivers\*](#)

[\*CS-0701, Immediate Protection Agreement\*](#)

[\*CS-0921, Waiver of Criminal Convictions, Pre and In-Service Training Requirements, Non-Safety Issues, CPS Substantiations and Education Requirements\*](#)

[\*CS-1005, Non-Custodial Expedited Placement Assessment Summary\*](#)

[\*CS-1078, Visitation Supervisor Background Checks\*](#)

[\*CS-1221, Waiver Agreement and Statement for Criminal History Checks \(VECHS\)\*](#)

[\*CS-4203, Water Hazard/Pool Safety Assessment Tool\*](#)

[\*CS-4224, Exception to be Approved as a Kinship Foster Home\*](#)

*Family Permanency Plan – (in TFACTS)*

[\*CS-0594, Visitation Observation Checklist\*](#)

**Collateral Documents:**

[\*14.22, Child Protective Services Background Checks\*](#)

[\*16.59, Disclosure of Legal Options and Available Services for Kin or Relative Caregivers.\*](#)

[\*Relative Caregiver Program Brochure\*](#)

[\*Protocol for Working with Hospitals\*](#)

[\*Non-Custodial Waiver Tip Sheet\*](#)

[\*Waiver Tip Sheet for Employment, Volunteering and Custodial Placements\*](#)

*Protocol for Safe Sleep Education and Delivery of Safe Sleep Furniture*