

 <p>Department of Children & Family Services <i>Building a Stronger Louisiana</i></p>	Division/Section	Child Welfare
	Chapter No./Name	4 – Child Protective Services (CPS)
	Part No./Name	8 – Services Provided by Child Protective Services Workers
	Section No./Name	Services Provided by Child Protective Services Workers
	Document No./Name	4-805 Emergency Removal of Children
	Effective Date	September 1, 2025

I. STATEMENT OF POLICY

The Department of Children and Family Services(DCFS) in compliance with state, federal and/or internal regulations is mandated to apply a strict criteria for removal of children to assure their safety when an in home safety plan or an instanter court order safety plan cannot be implemented.

II. PROCEDURES

A. BASIS FOR REMOVAL

Out of Home Safety plans include Instanter Order Provisional Custody to Suitable Relative or Suitable Individual or Instanter Order Provisional Custody to DCFS (Foster Care). DCFS typically should not request that provisional custody be given to a relative or individual unless a home study has been conducted. At the minimum, a CPS clearance in the Clearance module in ACESS, a criminal background check, and Form 417 should be completed prior to requesting temporary custody to a relative or individual.

It is extremely important that removal of a child from his home be viewed as the alternative of last resort for protection from abuse/neglect, not the first choice. Children should only be removed from their own homes when a child is deemed unsafe and the child's safety cannot be managed with an in home or court ordered safety plan.

Refer to Policy [4-516](#), Safety Assessment and Policy [4-521](#), Types of Safety Plans.

B. EMERGENCY REMOVAL PROVISIONAL CUSTODY TO DCFS OF ADOLESCENTS (AGES 13 AND UP)

If at all possible, there should be no emergency removals of adolescents with provisional custody to DCFS unless there is a substantiated Level I allegation with parental/caretaker denial of the abuse/neglect, or the adolescent suffers a handicap which renders him especially vulnerable to the alleged abuse/neglect. If a removal must occur, a pre-removal staffing is to be held and the Regional Placement Specialist shall be invited to attend. The Regional Placement Specialist will make every effort to attend when available. It is important to explore and-document whether or not the caretaker exhausted all possible efforts in obtaining assistance with maintaining the child at home.

For children thirteen (13) years and older, whom the parent considers uncontrollable and wants to "abandon", the following shall be explained to the parent by the Child Protective Services Worker(CPS) prior to removal:

1. The agency does not remove children only because the parent(s) is experiencing problems with his/her adolescent.

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2. The parent(s) will have to participate in family counseling, a parent support program, or other similar program designed to address identified issues before DCFS could consider removing the child.

The CPS is expected to attempt to help the parents see their action from the ejected child's point of view, and explain that removing the child usually results in further damage to the parent/child relationship. The child usually is angry and hurt that the parent(s) would "throw them away" rather than seek help.

3. The parent(s) will be responsible for obtaining a psychological evaluation, physical examination, school records and other indicated evaluations on the child to determine placement. If, after all the evaluative material is received, the child is determined to be abused and/or neglected and safety is assessed as being unsafe, a Safety Plan shall be created. If a plan cannot be created, legal action should be considered including change of custody to a relative.
4. The placements available to DCFS (foster family homes, group homes, etc.) when no relative is available to provide care for the child are designed to provide safe, nurturing environments for children who have been removed from their families by the courts due to abuse/neglect; these are not correctional settings and cannot control seriously aberrant or delinquent behavior. Many times children are placed in foster homes that offer the same supervision and care that is provided by the parent.
5. Usually courts will not give DCFS custody of a child if there is a relative who is willing and able to provide care for the child (as per Children's Code Article 622), unless the court rules that placement with a relative is not in the best interests of the child. If the court permits DCFS to accept custody of their child(ren), the parents will be required to attend detention, adjudicatory, dispositional and review hearings in family or district court. Other actions include:
 - a. Charges of criminal neglect of family (LA. R.S. 14:74) may be filed by the District Attorney.
 - b. The parent(s) will be assessed and/or court ordered to help defray the financial costs incurred by DCFS for the child's care.
 - c. The parent(s) will be expected to visit the child according to the terms of a visitation contract.
6. As part of the overall assessment of the family's situation, the CPS shall explore with the parent(s) if he/she is capable of parenting any remaining children in their home.

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When there is no substantiated abuse/neglect and the ungovernable and/or delinquent behavior of the youth is offered as the reason for requesting placement, the worker may refer the parents/guardians to law enforcement. The worker shall not, however, recommend to law enforcement, the district attorney, or to the court that a petition be filed or amended alleging delinquency, or that the youth be adjudicated a delinquent child in order for the Office of Juvenile Justice to assume custody.

For cases in which the child's ungovernable, truant and/or substance abusing behavior rather than abuse and/or neglect is the reason that the parent is requesting placement, it may be appropriate to refer the family to the court as a Families in Need of Services (FINS) case. The worker and supervisor should discuss such a referral and, when it appears appropriate, make a referral to FINS through the local office FINS liaison staff or directly to the court intake officer as per their local office FINS procedure.

When the CPS is unable to engage the parent/legal custodian in the process of planning for an adolescent whom the parent/legal custodian refuses to allow to return home, there is no family member or other resource able to provide a home on a temporary basis, and a referral to FINS is not appropriate or not accepted, the worker in consultation with the supervisor is expected to secure the safety of the child. It may be necessary in such cases to request custody in order to protect the child.

C. THE REMOVAL CONFERENCE

No child shall be removed from his own home or foster home, either on an emergency basis or by change of custody order, without worker/supervisor consultation. Every effort must be made to have a face-to-face removal conference with all required persons in attendance (refer 4-805 E.) before the child is removed. When appropriate, the removal conference should include caregivers and youth whenever possible. If it is not feasible for the CPS Worker to return to the office in an emergency situation, then a telephone conference must be held between the worker and the supervisor.

In an after-hours emergency, the CPS worker and his supervisor may make the decision whether to request the court to order removal. The Child Welfare Manager may be contacted for guidance on the decision to remove. The threats of danger, child vulnerabilities, caretakers diminished protective capacities, and feasibility of an in home or court ordered safety plan shall be used to evaluate the necessity for removal. In addition, if there is a suitable individual that is available or willing to be granted provisional custody of the child or if the agency has not had time to conduct an assessment of the home on the individual including a child protection clearance and criminal background check due to emergent circumstances shall be discussed. However, if it is determined that a removal to DCFS needs to take place, the exploration of relatives, fictive kin, and other individuals that have a connection to the family should be considered as placement resources. A conference must be held prior to the continued custody hearing with all required persons in attendance. Consideration shall be given to the feasibility of a request to return custody or vacate the hold order if continuation in custody is not

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necessary for the protection of the child. In no case shall this conference be held more than five (5) working days after the removal.

1. Purposes of the Pre or Post Removal Conference

- a. To determine if emergency or non-emergency removal of the child is necessary, i.e., does the situation/family functioning make the child unsafe where their Safety cannot be managed with an in home safety plan or court ordered safety plan.
- b. To determine what alternatives are available to prevent removal or continued custody.
- c. To determine if provisional custody can be granted to a suitable relative or suitable individual, or what resources are available for placement if provisional custody to DCFS is necessary.

2. Persons Required to Participate in the Pre or Post Removal Conference

- a. Child Protective Services Worker
- b. Child Protective Services Supervisor
- c. Family Services Supervisor or his designee (if the case is already active in Family Services or if requesting provisional custody to a suitable relative or individual and referring to FS)
- d. Family Services Worker (if the case is already active with Family Services)
- e. Foster Care Worker and Foster Care Supervisor or his designee (if requesting provisional custody to DCFS)
- f. Regional Placement Specialist (RPS) for children 13 years and older

If the Family Service or Foster Care Supervisors are unavailable, a worker from the respective units must be designated to attend.

It is imperative that representatives from all affected service units be in attendance. It is preferable that both the CPS and Supervisor be in attendance, but if either one is unavailable, the other represents the CPS unit.

Optional participants include BGC), Attorney’s, family members, and DCFS CW Youth Consultant. Make as much effort as possible to include parents, family, and youth.

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3. Participation of the Child Welfare Manager in the Removal Conference.

Whenever possible, the Child Welfare Manager responsible for the CPS program shall participate in the pre/post removal staffing. However, if the Child Welfare Manager is not in attendance, written documentation of the removal staffing CW [Form 6](#), which clearly identifies the preventive services considered and the reasons for the case decision shall be submitted to the Child Welfare Manager within three (3) working days. A copy of this written documentation (CW Form 6 and any attachments) shall be attached to the ACESS record using Psi-Fusion and On-Base.

4. Focus of Removal Conference

Information to be reviewed and discussed during the removal conference should include, as a minimum, the following questions some of which are addressed on the CW Form 6:

- a. What are the investigative findings?
- b. What has been the prior agency history with this family?
 - (1) What preventive services have been offered? With what success?
 - (2) Has the child been in foster care before? When? Why? For how long?
- c. What are the identified Threats of Danger? What factors affect each child's vulnerability?
- d. A review of the areas of assessment.
- e. The Caretakers Diminished and/or Enhanced Protective Capacities shall be discussed.
- f. A review of the risk assessment and a discussion of the overall level of risk?
- g. Was there a safety plan developed for this family? If so, have the circumstances changed since the safety plan was developed?
- h. How is the abuse/neglect more detrimental to the child than removing him/her from his family?
- i. If removal is indicated, the following questions should be discussed:

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- (1) What is the age, name, birth date, school, medical condition, and behavior of each child? Is there additional information available about the child? Child Specific Page on CW [Form 6](#)?

What relatives, fictive kin, or other individuals that have a connection to the family have been contacted, and what is the assessment of their capacity and willingness to parent this child and accept provisional custody? Has a home study been completed including a CPS clearance in the Clearance module in ACESS, a criminal background check, and completion of the [Form 417](#)?

- (2) Is there a noncustodial parent who can care for the child? If so, what is their relationship with the child? The consideration of placement with a noncustodial parent needs to include the determination if there is an existing civil court order which denies that parent custody or restricts contact and the reason for such a court order.

If another parent is not available or there is no suitable individual that is available or willing to be granted provisional custody of the child, or the agency has not had time to conduct an assessment on the home on the individual including a child protection clearance and criminal background check due to emergent circumstances, will placement with another relative or individual be possible? Is the relative or individual willing and able to protect the child from the parent, if necessary? If so, who can provide care for each child? What is the DCFS recommendation regarding available relatives for placement for each child?

Is the child a member or eligible for membership in a federally recognized Native American tribe? If so the Indian Child Welfare Act is applicable when considering a placement for the child. Refer to Chapter 6, Appendix A.

- (3) What placements are available for each child for whom a relative placement is either not available or not recommended by DCFS? When there are siblings needing placement is it possible for them to be placed together or will siblings have to be separated?
- (4) Will the available placements meet the child's needs? Has the emergency removal checklist been completed? Are they in close proximity and provide the least restrictive environment? Does the child have any special needs to be considered for placement? If a relative placement is available what is the relationship between the

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parent and the relative and will that relationship enhance efforts at reunification of the child with the parent? If a relative is not available or not in the child's best interests, what foster homes can meet the child's needs?

- (5) If the child is removed, what is the plan or anticipated time before the child can be returned? What changes must be made before return can be considered?
- (6) Do the circumstances of the abuse/neglect possibly meet the criteria for consideration of an immediate involuntary termination of parental rights? Refer to Section [4-730](#), Immediate Involuntary Termination of Parental Rights.

D. INSTANTER ORDERS REQUESTING CUSTODY

1. Basis for Decision to Request an Instanter Custody Order

If the child is determined to be unsafe, and the department is unable to engage the family in an in home or court ordered Safety Plan, then the Child Protective Services worker, with supervisory concurrence, is responsible for taking action, on an emergency basis, to attempt to secure the protection of the child. The protection, in the case where removal is necessary, is secured by requesting the issuance of an instanter custody order from the court with juvenile jurisdiction. The instanter custody order, if issued, takes the child into the temporary custody of a suitable relative or individual or the Department of Children and Family Services and, therefore, permits the worker to remove the child from his home and parent/caretaker, and allows the department to place the child in a safe environment.

If the court denies the oral instanter custody order, the worker shall consult with BGC concerning an appeal of the court decision. If the appeal is not pursued or granted, the CPS worker shall request an instanter safety plan order. The worker, with supervisory concurrence, shall communicate the conditions under which the child could be safety maintained in the home to the court. The Supervisor and Worker shall discuss and document these conditions prior to contacting the court. If the court approves the instanter safety plan order, the worker shall follow policy regarding submitting written instanter safety plan orders to the Court.

2. Request for a Custody Instanter Custody Order

The request for the issuance of an instanter custody order shall be formalized by the filing of an affidavit with the court. The Louisiana Children's Code defines the affidavit as a verified complaint. The Children's Code in Article 619 states that the department may file a verified complaint "alleging facts showing that there are reasonable grounds

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to believe that the child is in need of care and that emergency removal is necessary to secure the child's protection".

In preparing the request for the instant custody order, the worker shall also include the information that the court needs to make the judicial determination of whether reasonable efforts were made by the department to prevent the removal of the child from his home. The determination that reasonable efforts were made by the department is required by P.L. 96-272 and Article 619 of the Children’s Code in order for the child to be eligible for Title IV-E, if he becomes a foster child. This article requires that the court determination include whether the department has requested a temporary restraining or protective order and that the child's health and safety be the paramount concern with the determination.

In addition, there must be a judicial determination that for the child to continue to reside in the home would be contrary to the welfare of the child as per P. L. 105-89. This determination must be made at the first court ruling that sanctions the removal of a child from the home (even temporarily) as a condition for IV-E eligibility.

Once the determinations regarding reasonable efforts and remaining in the home as contrary to the welfare of the child have been made, the court may then issue the instant order.

If it is not possible to file the affidavit/verified complaint and obtain a written order from the judge due to the immediacy of the need for removal, Child Protective Services worker shall request the issuance of an oral instant custody order from the judge as provided in Article 620 of the Children's Code. In such a case, the worker shall be prepared to state the reasonable grounds for the belief that the child is abused, neglected or in need of care and the need for immediate removal. This may be done orally, in person or telephonically. If the oral instant custody order is issued, a written affidavit/verified complaint shall be filed within twenty-four (24) hours of the child being removed.

If the court denies the request for an oral custody instant order, the worker shall submit a written verified complaint to the court within 24 hours of the denial of the oral instant custody order. According to the Louisiana Children’s Code, Article 619, the court shall issue a written order denying the request for the oral custody instant order.

A single request for an instant custody order may include all the siblings in a family having the same legal custodian, if the allegations for all the children are similar. Individual child specific instant custody orders are requested, if the children are unrelated or the allegations are not similar.

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3. Removal of Child from School

Once an instanter order has been granted by the court, any DCFS staff removing a minor child from a school shall provide the following information before being allowed to remove a child per ACT 324:

- a. First and last name of child
- b. Address of child
- c. Date of birth of the child

DCFS staff shall provide the above information about the minor child to the school administrator. The minor child will not be released by the school administrator unless DCFS provides the information.

4. Notification to the Parent/Caretaker

The Children's Code in Article 620 (D) requires that the department notify the parent of the nature of the allegations and the time and place of the continued custody hearing whenever a child is taken into the custody of the Department or provisional custody granted to a suitable relative or individual with an instanter order. In addition, Article 619 (E) requires that the department provide written notification to the parent or caretaker of the date, time and location of the continued custody hearing. These required notifications are done using the CW [Form 48](#), Notice to Parent(s)/Legal Custodian of Children Placed in State or Other Individual's Custody by Instanter Order. The form provides the parent(s) a written notification of the instanter custody order; the placement with DCFS or suitable relative or individual; the allegations on which the instanter custody order was given; notice of the continued custody hearing; and, the date, time and place of the hearing, if that has been scheduled. This is a department notification which occurs at the time of the initial removal. This formal notification does not replace the need for the worker to discuss with the parent the reasons for the removal and all the facts included in the verified complaint in terms that the parent can understand as well as the importance of their attendance at the hearing. In addition, the worker is expected to discuss with the parents that they have the right to have an attorney represent them at the court hearing. If they cannot afford an attorney, they should be advised of the local procedure for obtaining an attorney.

The CPS worker shall complete the CW Form 48 and review the completed form with the parent(s) at the time the parent(s) is notified of the instanter custody order and the placement of the child with the Department or suitable relative or individual. This will usually occur at the time the order is obtained and the child is placed as the result of an instanter custody order. If the worker has filed a verified complaint and obtained a

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written instanter custody order at the time of the placement, the parent shall be given a copy of the order along with the CW Form 48.

If a parent was unavailable at the time of the placement, the worker shall be responsible to make a diligent effort to locate the parent. When the parent is located, he shall be given a copy of the court order and the CW Form 48. A diligent effort includes at least two (2) attempts to contact the parent at the last known address, if there is no indication he has moved from that address. Additionally, the worker is expected to attempt to contact him by telephone; through an employer, neighbors, or relatives; and, at any other places known to be frequented by the parent. These efforts are documented on the affidavit submitted to the court, in the ACCESS case record on the Case Activity Log, on the CW Form 6, and communicated to the Family Services or Foster Care worker/supervisor during the staffing.

If the continued custody hearing is scheduled after the parent has been notified of the instanter custody order, the worker is responsible for notifying the parent of the date, time and location of the hearing. This notification may be by telephone, in-person, or by mail (registered mail, return receipt requested). The notification must also be in writing as required by the Children's Code. A new CW Form 48 is used for this written notification. The notification is documented in the case record on the Case Activity Log or as an interview.

If the parent refuses to sign the form, this shall be noted at the bottom of the CW Form 48. In addition, the worker is expected to make an ACCESS Case Activity Log entry or interview entry, which also documents either of the following which are applicable to the situation: the parent refuses to listen to the worker; or, the parent has the information about the instanter and hearing but will not sign the form.

If the parents are not living together or the caretaker is not the parent, the worker shall be responsible for making a diligent effort to contact the absent parent or parents and to notify him/them of the placement of the child, the allegations, and the continued custody hearing. The CW Form 48 shall be used to notify him/them as well. If the absent parent is not accessible to the worker due to the distance of the location, the worker may contact the parent by telephone to advise him of the placement and of the hearing. The CW Form 48 and a copy of the order shall be mailed by registered mail, with a return receipt requested, as soon as possible.

In some cases, (i.e. abandonment) the worker will not be able to locate either parent. In those cases, the worker shall document in the affidavit submitted to the court and the ACCESS record his efforts to locate the parents.

If the continued custody hearing is re-scheduled, the worker is responsible for notifying the parent/caretaker in writing of the date, time and place of the hearing. A written notice is required each time the continued custody hearing is re-scheduled.

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5. Notification to District Attorney

The district attorney shall be notified as soon as possible of all instanter safety plan and custody orders. In addition, the district attorney shall be notified when the department has made a decision to pursue a reunification efforts determination and/or an immediate involuntary termination of parental rights. Refer to Section 4-730, Immediate Involuntary Termination of Parental Rights. Bureau of General Counsel may be obtained when necessary. The Affidavit in Support of Instanter Order for Removal shall not identify the reporter.

The CPS worker should forward the prepared Affidavit in Support of Instanter Order for Removal to the supervisor for review and approval. Once the Affidavit in Support of Instanter Order for Removal has been approved it shall be signed by the CPS worker, notarized, and properly filed with the court.

In addition to the above, the CPS worker is expected to follow any specific procedures established by the District Attorney's office and/or the local court with juvenile jurisdiction, relative to the preparation and filing of an Affidavit in Support of Instanter Order for Removal and the issuance of an Instanter Order of Removal.

If additional information is learned after the issuance of the oral Instanter Order, a written Addendum in Support of the Instanter Order can be prepared and filed with the court.

1. Sending Copies of the Affidavit and Order

The Children's Code Article 623 requires that copies of the Affidavit in Support of Instanter Order for Removal, Addendums in Support of the Instanter Order (if applicable), and the written Instanter Order of Removal be sent to the local district attorney's office, child representation program designated for the jurisdiction by the Louisiana Supreme Court to provide counsel to the child, and the local public defender office. Copies must also be forwarded to the Family Services or Foster Care worker.

Copies shall be emailed or faxed to the appropriate offices prior to the Continued Custody or Safety Plan Hearing.

2. Attaching Instanter Affidavit Cover Sheet and Forwarding to the Appropriate Child Representation Program

Within one business day of an oral Instanter Order for Removal or within one business day of issuance of a written Instanter Order for Removal (if oral order was not issued), the CPS worker shall send the completed Instanter Affidavit Cover Sheet along with a copy of the Affidavit to the children's representation program designated for the jurisdiction by the Louisiana Supreme Court to provide counsel to the child. On the cover sheet, select the representation program (Mental Health Advocacy Service (MHAS), Southeast Louisiana Legal Services (SLLS), or Acadiana Legal Services Corporation (ALSC)) listed. Then, from the drop-

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down menu, select the parish of jurisdiction and send it to the contact information provided next to that parish. Once selected, the cover sheet will automatically display the email and/or fax number for submission. There is no need to know the specific attorney’s name as the representation program will ensure it reaches the appointed attorney.

For legal purposes, a separate Instanter Affidavit Cover Sheet must be completed for each child, even if they are siblings placed in the same care setting. It is crucial to select the appropriate options in each section, provide the requested information, and provide either an e-signature or written signature and date. Even if the child’s care setting is temporary, please include their current care setting information on the cover sheet.

Regarding citizenship and income, it is sufficient to answer these questions based upon the knowledge and information DCFS has been able to obtain at that time.

Income includes: Wages and salaries before deductions; Business Income: Income from self-employment after business deductions or farm expenses; Social Security, SSI and Veterans’ benefits: Regular payments from governmental programs for low income persons or person with disabilities; Unemployment or Worker’s Compensation; Pension and insurance payments; Spousal Support or Child support actually received ;TANF; Strike benefits from union funds; Training Stipends; Military family allotments; Income from dividends, interests, rents, royalties from estates and trusts; Any other regular or recurring sources of financial support that are currently and actually available to the applicant. **Income does not include:** Non- case benefits such as Food stamps or Medicaid; Tax refunds; Money from sale of real property; Money withdrawn from a bank; Gifts; Compensation and/or one time insurance payments for injuries sustained; Disaster awards from FEMA, SBA, etc...; Up to \$2,000.00 per year of funds received by individual Native Americans that is derived from Indian trust income or other distributions exempt by law.

Assets include: Cash, mutual funds, certificates of deposit, etc. **Assets do not include:** primary family home; vehicles used for transportation; income producing assets; FEMA, disaster related assistance or insurance proceeds to extent exempt from seizure and income; other assets exempt from seizure under law; *DV victim* assets held by the alleged perpetrator; assets jointly held by the victim with the alleged perpetrator, assets jointly held by a member of the victim's "household" with the alleged perpetrator.

All of the information requested in the cover sheet and the signature of the DCFS representative are required for the child representation program to proceed legally and represent the child and for funding purposes. This is critical for ensuring legal due process for every child as well.

The Instanter Affidavit Cover Sheet and Affidavit shall be sent to the representation program within one business day of a verbal Instanter Order for Removal or within one business day of issuance of a written Instanter Order for Removal (if verbal order was not issued), but no later than before the Continued Custody Hearing or Continued Safety Plan Hearing.

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ACCESS

A copy of the of the Affidavit in Support of Instanter Order for Removal and any subsequent Addendum and the written Instanter Order of Removal should be attached to the CPS Investigation record in ACCESS.

Tracking of Court Involvement in the ACCESS Record and in TIPS

The worker who obtained the Affidavit in Support of Instanter Order for Removal custody to DCFS is responsible for completion of the removal page in ACCESS, and using the “update to TIPS” button on the investigation home page in ACCESS so that the court involvement will be generated to TIPS. The court activity will continue to be reported and updated in the removal page in ACCESS. The worker who is responsible for submitting the child abuse/neglect investigative summary to the District Attorney will be responsible for reporting and updating the information in the removal page in the ACCESS record and using the “update to TIPS” button on the investigation home page in ACCESS.

F. CONTINUED CUSTODY HEARING

1. Requirement for Hearing

Article 624 of the Louisiana Children's Code requires that a continued custody hearing be held within three (3) days of a child's being taken into custody as the result of an instanter custody order.

In order for the change of custody ordered by the instanter custody order to be continued pending the completion of the investigation, the state is required to prove the existence of grounds to believe that the child is in need of care, as defined in the Louisiana Children's Code and that continued custody is necessary for his safety and protection. The standard of evidence for the case presented by the state at the hearing is reasonable cause. Article 606 of the Louisiana Children's Code states the following grounds for a child in need of care:

- a. The child is the victim of abuse perpetrated, aided, or tolerated by the parent or caretaker, by a person who maintains an interpersonal dating or engagement relationship with the parent or caretaker, or by a person living in the same residence with the parent or caretaker as a spouse whether married or not, and his welfare is seriously endangered if he is left within the custody or control of that parent or caretaker.
- b. The child is a victim of neglect.

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- c. The child is without necessary food, clothing, shelter, medical care, or supervision because of the disappearance or prolonged absence of his parent or when, for any other reason, the child is placed at substantial risk of imminent harm because of the continuing absence of the parent.
- d. As a result of a criminal prosecution, the parent has been convicted of a crime against the child who is the subject of this proceeding, or against another child of the parent, and the parent is now unable to retain custody or control or the child's welfare is otherwise endangered if left within the parent's custody or control.
- e. The conduct of the parent, either as principal or accessory, constitutes a crime against the child or against any other child of that parent.

2. Preparation for Continued Custody Hearing

The Child Protective Services worker is responsible to cooperate with the district attorney's office in providing the information needed by that office to carry out its responsibility to represent the interest of the state, which interest is the protection of the child, at the hearing.

The Child Protective Services worker is expected to be prepared to testify at the hearing to the following:

The information on the affidavit/verified complaint. Including but not limited to: The safety threat that the child is vulnerable to that the caretaker protective capacities cannot manage.

- The evidence and documentation (such as medical report) to support the department's decision both to remove the child and to request the continuance of custody with the suitable relative or individual or DCFS.
- Information regarding any investigative activities which have occurred since the child was taken into custody.
- The department's efforts to prevent placement.
- Whether the family has previously been the subject of a report of child abuse and/or neglect for which the final finding for the investigation was substantiated or recipients of Foster Care Services.
- Whether the parent(s)/caretaker(s) were notified that the child(ren) was removed and the date, time and location of the hearing if they are not

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present at the hearing. Verification of the written notification of the instant custody order and notification of the hearing or attempts made to notify the parents must be documented and the worker prepared to testify regarding the notification or attempts to notify.

- Diligent efforts to locate absent or alleged parents

In addition, the Child Protective Services worker will need to be prepared to testify at the hearing to the following when they are applicable:

- The options to placement offered the parent(s)/caretaker(s);
- Whether criminal charges relative to the child abuse and/or neglect have been filed and on whom;
- Information regarding the child(ren)'s placement;
- Any specific recommendation regarding visitation between the parent(s) and child(ren);
- The department's plans to request a hearing for a reunification efforts determination as per Louisiana Children's Code Article 672.1; and,
- The department's plans to pursue an immediate involuntary termination of parental rights.

3. Testimony of the Worker

In most continued custody hearings, only the Child Protective Services worker is needed to testify because hearsay is permitted. In some hearings, however, it may be necessary to have a key witness such as a physician, psychologist or law enforcement personnel present to testify. The decision to use witnesses in addition to the worker would depend upon such factors as the history of that particular court, the evidence in the case and the severity of the abuse and/or neglect. The decision as to who will present testimony at the hearing rests with the district attorney. The Child Protective Services worker is responsible for informing the district attorney of all evidence on the case and the identity of persons with information about the evidence.

If the department recommendation is that there be no or unusually restricted visitation between the parent and the child, the judge must concur with the plan. Cases that have been identified for a motion for a judicial determination that efforts to reunify the parents and child are not required and/or an immediate involuntary termination of parental rights are ordinarily cases in which the department will be recommending no or very limited

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visitation with the child and one or both parents. The worker is expected to be prepared to testify to the facts which are the basis for the department decision for these cases.

4. Requests from a Child and/or Parent's Attorney

The court may appoint an attorney to represent the sole interest of the child. In these situations, it is permissible for information regarding the investigation to be shared verbally with the child's attorney upon a request from the attorney. In addition, the case record may be reviewed by the attorney as per the confidentiality policy in Section [1-525 B. 1](#) of the Program Policy Manual. The name and all identifying information regarding the reporter of the abuse/neglect shall be removed and shall not be shared under any circumstances.

If an attorney for the child's parent/caretaker requests information regarding the investigation and/or the department position, the worker will advise his supervisor of the request. Refer to Section 1-525 B. 2. for the policy regarding confidentiality and the parent's attorney.

Requests for information should be discussed with the regional attorney and cleared as needed prior to the sharing of information.

G. VACATING AN INSTANTER ORDER

Prior to the continued custody hearing, if the investigation worker recommends, and the supervisor concurs, that the department recommend the instanter custody order be vacated as the child is no longer in immediate danger of risk of harm, this recommendation shall be made to the judge and district attorney's office. For example, a three-year-old child gets out of her home in the middle of the night while the parents are sleeping and is found by law enforcement. At that time, the parents are unknown and unable to be located and provisional custody is granted to DCFS; however, a few hours later the parents are located and there are no safety concerns so the order is vacated. If the instanter custody order was obtained by law enforcement, a recommendation to vacate the order shall be discussed with law enforcement prior to the department request to vacate the order.

The worker is then expected to be prepared to testify at the continued custody hearing as to the reason(s) for the department recommendation. This shall be confirmed in writing as a report to the district attorney within fifteen (15) days.

If at any point after obtaining an instanter custody order (however prior to the continued custody hearing), the department determines the order should be vacated, the district attorney and the judge who issued the order shall be contacted immediately in order to prevent prolonged placement of a child. When the department recommends the order be vacated and the judge is contacted by telephone, the worker is expected to confirm the contact with the judge in writing. The confirmation letter or order vacating custody should include information

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regarding the names of the children and parents, the date of the instanter custody order, the date the department requested the order be vacated, and the reason for the recommendation. Law enforcement shall also be contacted, if they obtained the instanter custody order.

H. RESPONSIBILITY AFTER THE CONTINUED CUSTODY HEARING

1. Notifications and Documentation in the ACESS record

a. Notifications

The Child Protective Services worker is responsible to inform the Family Services or Foster Care staff involved with the family of the outcome of the hearing and to forward copies of the court order to them. In addition, the worker is responsible for complying with local office procedures regarding the central control system for court orders. If the court orders cannot be reasonably complied with, the supervisor shall immediately consult with the BGC attorney.

If the child is not continued in the custody of the DCFS, the Foster Care worker shall be notified and the child shall be returned home immediately. The return home is arranged and carried out by the Foster Care worker. If the child is not continued in the custody of a suitable relative or individual, the suitable relative or individual shall be notified and immediately arrange for the return of the child to the home.

b. Documentation in ACESS

If provisional custody was granted to DCFS, the Child Protective Services worker is responsible for documenting the outcome of the court hearing using the removal page in ACESS and the “update to TIPS” button on the Investigation Home Page so that the information regarding the court process and the decision is input into the ACESS system and generated in TIPS. There is no documentation needed on the removal page in ACESS when provisional custody is granted to a suitable relative or individual.

2. Completion of the Investigation

Regardless of the decision at the continued custody hearing, the Child Protective Services worker is responsible for completing all the investigation activities and making the required case determinations. A decision by a judge to return a child to his home does not unsubstiate a report of child abuse and/or neglect if the department investigation results in a finding of substantiated.

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3. Report to the District Attorney

If the child is continued in the department’s custody or the custody of a suitable relative or individual, the worker shall submit a complete written report of the investigation to the district attorney within fifteen (15) calendar days of the continued custody hearing. Refer to Section 4-715 B., Report to the District Attorney, of this policy regarding the fifteen (15) day report.

4. Referral for Services When Child Returned to the Family

For cases in which the child is not continued in the custody of DCFS or suitable relative or individual and the court has not ordered services for the family, the worker and supervisor will meet to discuss the safety threats to the child and the need for services to the family. When there are active safety threats that the child is vulnerable to that the caretaker protective capacities cannot manage, the family shall be offered Family Services and/or referred to other service providers. In addition, a safety plan must be developed. If the court orders a court ordered safety plan when custody is returned to the family, a referral to Family Services is required. In addition, a Child in Need of Care (CINC) petition may be filed even though the child has been returned to his home.

I. FOSTER CAREGIVER PROGRESS FORM

If provisional custody to DCFS is granted, prior to each court hearing (continued custody, answer, adjudication, and dispositional hearings) the CPS worker shall obtain the completed [Foster Caregiver Progress Form](#) from the Foster Care worker and submit the form to the court at the court hearing. If the foster caregiver does not complete the form prior to the hearing, the CPS worker shall notify the court at the hearing. Refer to FC Policy [6-835](#) for other notification requirements to foster caregivers.

III. FORMS AND INSTRUCTIONS

CW [Form 6 / Instructions](#) Referral Form
 Family Connections [Form / Instructions](#)
[Foster Caregiver Progress Form](#)
[Instantan Affidavit Cover Sheet for Children’s Attorney Form](#)

IV. REFERENCES

Louisiana Revised Statute 14:74
 Louisiana Children’s Code Article 622