

Commissioner Guidance Document Transmittal

**Date - August 27, 2014**

**Manual - Child and Family Services Manual, Chapter C, Child Protective Services (CPS)**

**Transmittal # - 265**

The purpose of this transmittal is to provide new and clarified guidance for the Child Protective Services (CPS) Chapter of the Child and Family Services Manual. Unless otherwise stated, the provisions included in this transmittal are effective upon release. This release of guidance incorporates several changes made to the *Code of Virginia* that became effective July 1, 2014. These changes include:

- Training requirements for conducting sexual abuse investigations and making dispositions;
- Notification to law enforcement and attorney for the Commonwealth required within two hours of receipt of certain reports;
- Notification form to law enforcement required within two business days of initial notification;
- Ability to extend investigations being conducted with law enforcement to 90 days;
- Requirement to have a Memorandum of Understanding with local school divisions regarding CPS investigations; and
- Dispositional hearings for emergency removals and preliminary protective orders must be held within 60 days of preliminary hearings.

This release also provides revised guidance regarding the definition of caretaker. The definition of caretaker has been reviewed by the Court of Appeals of Virginia in Moore v. Brown 2014 Va. App. LEXIS 181. As a result of the court's ruling, critical changes have been made to the guidance surrounding establishing the validity criteria of caretaker.

This release also provides new guidance regarding identifying and documenting near fatalities of children. This is a federal requirement of the Child Abuse and Prevention Treatment Act (CAPTA).

Due to adding and deleting sections and subsections within sections 4 and 5, the automatic numbering has changed. This guidance now contains page numbers for easier reference. Each section is numbered separately.

This transmittal and manual are available on SPARK at:  
<http://spark.dss.virginia.gov/divisions/dfs/cps/manual.cgi> and the public website:  
<http://www.dss.virginia.gov/family/cps/index2.cgi>

Significant changes to the manual are as follows:

<b>Section 1 Introduction to Child Protective Services</b>	
<b>Subsection</b>	<b>Significant Changes</b>
1.5.3.1	Amended requirements regarding direct supervision of new workers who investigate and make dispositions in sexual abuse investigations to

	comply with change in §63.2-1505D of the <i>Code of Virginia</i> .
1.10.3	Added additional Indian tribes recognized by Virginia to Appendix B.
<b>Section 2 Definitions</b>	
<b>Subsection</b>	<b>Significant Changes</b>
Entire Section	No Changes
<b>Section 3 Complaints and Reports</b>	
<b>Subsection</b>	<b>Significant Changes</b>
3.3.3.1	Added persons employed as family services specialist within §63.2-1509 Code of Virginia citation.
3.5.2.2	<p>The definition and examples of caretakers has been amended in response to a decision of the Court of Appeals of Virginia in Moore V. Brown 2014 Va. App. LEXIS 181.</p> <p>The definition clarifies that there are three general categories of caretakers.</p> <p>Deleted general category and examples of persons living in the home with the child.</p>
3.5.2.2.1	Added new subcategory title of " <i>Caretaker considerations</i> " and added guidance requiring the LDSS to gather and document evidence to demonstrate the subject of the CPS report is a caretaker.
3.5.2.2.2	Added new subcategory title of " <i>Caretakers less than 18 years of age</i> " and clarified the guidance regarding when a minor has been left in a caretaker role inappropriately.
3.6.1	<p>Amended guidance to incorporate change made to §63.2-1503 of the <i>Code of Virginia</i> which requires immediate notification within two hours of receipt of a report to the local law enforcement and the local attorney for the Commonwealth.</p> <p>Added requirement to document this notification in OASIS on the referral acceptance screen and recommend an additional I and I contact to document the date and time.</p>
3.6.2	Added new requirement in response to change made to §63.2-1503 of the <i>Code of Virginia</i> which requires the LDSS to document notification to local law enforcement within two days using a new form "Notification to Law Enforcement" (032-02-0805-00-eng).
3.6.3	Relocated former section 3.6.5, Memoranda of Understanding with law enforcement and Commonwealth's Attorney.
3.7	Added new section specifically for the reporting of child fatalities and near fatalities.
3.7.1	Relocated former section 3.6.2, Report the death of a child and changed title to " <i>Report a child fatality</i> ". Added requirement to document these notifications of a child fatality in OASIS.
3.7.2	Added new section and guidance regarding " <i>near fatality</i> " of a child which includes definition of <i>near fatality</i> and <i>life threatening condition</i> from Virginia Administrative Code.

3.7.2.1	Added examples of <i>near fatalities</i> by abuse or neglect type.
3.7.2.2	Added requirement to document near fatality in OASIS and contact the CPS regional consultant. Added requirement to change the documentation in OASIS to child fatality if child dies during course of investigation.
3.8 (and all subsections)	Formerly section 3.7
3.9 (and all subsections)	Formerly section 3.8
Appendix A	Deleted Appendix A, Issues to consider when identifying a caretaker, and replaced with Appendix B, Children Home Alone.
Appendix B	Formerly Appendix C, Distinguishing between Accidental and Non-accidental Injury.
Appendix C	Added new appendix, form, Notification to Law Enforcement from CPS.
<b>Section 4 Family Assessment and Investigation</b>	
<b>Subsection</b>	<b>Significant Changes</b>
Entire section	Due to changes in §63.2-1505 of the <i>Code of Virginia</i> regarding timeframes to complete an investigation, all references to 45-60 days have either been deleted or amended.
4.3.5 and subsections	Removed section 4.3.5, timeframes to complete family assessment or investigation, and incorporated into new sub-sections with the family assessment (4.4) and investigation (4.5) sections.
4.4.1	Relocated section 4.3.5 regarding timeframes to complete a family assessment.
4.4.1.2	Added guidance directing reader to Appendix K for a sample letter of notification for extending a family assessment.
4.4.2	Deleted guidance for notifying the Interstate Compact on the Placement of Children (ICPC) in a family assessment as these should be placed in the investigation track.
4.4.18	Deleted guidance to notify ICPC at the conclusion of a family assessment.
4.4.19	Revised location to SPARK for the Memorandum of Agreement for Part C referrals.
4.5.2	Added new subsection regarding timeframe to complete an investigation, formerly 4.3.5.
4.5.2.1	Added new section number for 15 day extension, formerly 4.3.5.1.
4.5.2.2	Added new guidance in response to change made in §63.2-1505 of the <i>Code of Virginia</i> regarding the ability for an LDSS to extend the timeframe to complete an investigation to <b>90 days</b> if jointly investigated with law enforcement.
4.5.2.3	Relocated guidance regarding notification of an extension of an investigation, formerly included in 4.3.5.1 and added guidance directing reader to Appendix K for a sample letter of notification for extending an investigation.
4.5.2.4	Relocated guidance for suspending certain investigations, formerly 4.3.5.2.
4.5.2.5	Relocated guidance regarding notification when suspending certain

	investigations, formerly included in 4.3.5.2.
4.5.27.1	Added guidance directing reader to Appendix L for a sample letter of notification for unfounded investigations.
4.5.28	Relocated guidance regarding re-opening an unfounded investigation, formerly 4.5.35.
4.5.36.1	Added guidance directing reader to Appendix L for a sample letter of notification for the alleged abuser in founded investigations.
4.5.36.7	Added guidance directing reader to Appendix L for a sample letters of notification to the non-custodial parent in founded investigations.
4.5.36.8	Added guidance directing reader to Appendix L for a sample letters of notification to the complainant in founded investigations.
4.5.36.10	Revised location to SPARK for the Memorandum of Agreement for Part C referrals.
Appendix K	Added new appendix with sample letters of notification for extensions of the 45 day timeframe to complete an investigation or family assessment.
Appendix L	Added new appendix with sample letters of notification for investigations (unfounded and founded).
<b>Section 5 Out of Family Investigations</b>	
<b>Subsection</b>	<b>Significant Changes</b>
5.4.8	Added new subsection regarding timeframes to complete an out of family investigation and the three exceptions.
5.4.8.1	Added new section for 15 day extension to make a disposition in an out of family investigation.
5.4.8.2	Added new guidance in response to change made in §63.2-1505 of the <i>Code of Virginia</i> regarding the ability for an LDSS to extend the timeframe to complete an investigation to 90 days if jointly investigated with law enforcement.
5.4.8.3	Added guidance regarding notification to the alleged abuser/neglector of an extension of an investigation and added guidance directing reader to Appendix K of section 4 for a sample letters of notification for extending an investigation.
5.4.8.4	Added guidance for suspending certain investigations (fatalities and sexual abuse).
5.4.8.5	Added guidance regarding notification when suspending certain investigations.
5.7.2	Amended guidance for consultation with CPS Regional Consultant to include the 90 day timeframe for investigations conducted jointly with law enforcement.
5.10.2	Deleted section 5.10.2, Local protocols for CPS investigations involving public school employees and incorporated into 5.11.
5.11	Added new section that incorporates changes to §63.2-1511 of the <i>Code of Virginia</i> requiring interagency agreements with local departments and local school divisions.  Added LDSS will report annually to the Board of Social Services on the

	status of these agreements and thereafter only if the agreement is substantially changed.
5.12	Formerly 5.11, Services to abuser/neglector in an out-of-family investigation.
<b>Section 6 Services</b>	
<b>Subsection</b>	<b>Significant Changes</b>
6.3.5	Clarified guidance regarding documentation of Reasonable Candidacy for Foster Care and updated the form number.  Added guidance to indicate an e-learning course is available in the Knowledge Center for determining Reasonable Candidacy for Foster Care, CWSE1006. (see <u>Broadcast 8552</u> )  Deleted reference to Appendix B.
Appendix A 6.8.2.1	Clarified that only efforts of LDSS employees are documented on Random Moment Sampling Observation form.
6.8.2.3	Clarified that the LDSS documents reasonable candidacy.
6.8.3.3	Added notes to clarify that a Juvenile Court proceeding is not transcribed.
6.8.4.1 6.8.4.2.2 6.8.4.2.3	Clarified correct Program and Activity code to be used on Random Moment Sampling Observation form.
Appendix B	Deleted Appendix B, Reasonable Candidacy for Foster Care Documentation Form as it is located online.
<b>Section 7 Appeals</b>	
<b>Subsection</b>	<b>Significant Changes</b>
Entire section	No changes
<b>Section 8 Judicial Proceedings</b>	
<b>Subsection</b>	<b>Significant Changes</b>
8.3.8.6	Effective July 1, 2014 §16.1-252 of the <i>Code of Virginia</i> was amended to require a dispositional hearing for a removal order hearing to be heard within <b>60</b> days of the initial preliminary removal order hearing. (see <u>Broadcast 8549</u> )
8.4.8	Effective July 1, 2014, §16.1-253 of the <i>Code of Virginia</i> was amended to require a dispositional hearing for a protective order hearing to be heard within <b>60</b> days of the preliminary protective order hearing.
<b>Section 9 Confidentiality</b>	
<b>Subsection</b>	<b>Significant Changes</b>
Entire section	No changes
<b>Section 10 Substance Exposed Infants</b>	
<b>Subsection</b>	<b>Significant Changes</b>
Entire section	No changes
<b>Section 11 Child Deaths</b>	
<b>Subsection</b>	<b>Significant Changes</b>

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Entire section	No changes
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032-20-0014-03-eng