



**STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
DEPARTMENT OF CHILDREN, YOUTH AND FAMILIES**

MEMORANDUM

TO: All Staff

FROM: Trista Piccola *JP*
Director

DATE: July 12, 2017

SUBJECT: Legal Status Protocol: Dependency, Neglect, and Abuse Filings

DCYF is mandated to ensure the health and safety of all children who are the subject of a child abuse and/or neglect determination. In many instances, after assessing safety and risk, our services and interventions do not require us to remove children from the custody of their families. When I arrived in Rhode Island, I learned that the Department had long been petitioning and receiving custody of children who could remain safely at home. I also learned that we have the ability instead to file for legal supervision of a child, which allows children and families to access services while also providing an appropriate level of oversight by DCYF and Family Court. The purpose of this memo is to clarify our protocols around the legal status of the children we serve.

As a matter of State law (RIGL 40-11-7) DCYF has the authority to file a dependency, neglect and petition in any case in which DCYF has determined that there is a preponderance of the evidence to support a finding of child abuse or neglect. The Department may file either a straight petition or a petition to seek an ex parte order of removal.

1. **Straight petitions:** {RIGL 40-11-7 (b)} In the event after a CPS investigation the Department determines that a child is being abused or neglected and that the circumstances in the child's family do not require the immediate removal of the child from the family home, the Department may allow the child to remain in the family home with an appropriate safety plan and file a straight petition in the Family Court for purposes of seeking a court order for the provision of treatment for the family and child.

When a straight petition is filed, the Department will seek the following relief in the Family Court:

- Legal custody will remain with the parent
 - Seek an order for legal supervision of the child in the home
 - Seek an order to mandate the delivery of services to the parents and child
2. **Ex parte petitions:** {RIGL 40-11-7} The Department is authorized to file an **ex parte petition** seeking the immediate removal of a child from the home of the parent where there is evidence to demonstrate that a child's physical and/or emotional welfare is at immediate risk.
- Seek order for temporary custody at time of filing
 - Seek an order for commitment at time of adjudication on the DNA petition
3. **Court orders for temporary custody/commitment with placement discretion:**
- Applies for children placed out of the home
 - Not required for children placed at home
 - Any child placed in the home of the parent can only be removed via an authorized child protective hold and/or an order from the court. (Emergency motion to change placement)
 - Judicial findings of contrary to welfare
 - Best interest
 - Reasonable efforts

Please review the following attached policy, for further details:

- ✓ **DCYF Policy 1100.0000: Obtaining Custody of Child Through the Dependent/Neglected/Abused Petition**