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School of Law
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Relative Placement

Information for the Relatives of Abused and Neglected Children

This information packet has been written for the relatives of children who are involved in the State's child protective services system. The packet was prepared by the Children's Law Office (CLO) of the University of South Carolina School of Law.

I. Introduction

Children who are abused or neglected must sometimes be removed from their parents' home. When out-of-home placement is needed, child protection laws favor placing these children with relatives. Many relatives who accept placement of an abused or neglected child are unfamiliar with the child protective services system. This information packet:

- provides an overview of the child protective services process,
- describes the types of relative placements child protection laws allow,
- discusses resources available to relatives who provide placement for abused and neglected children, and
- highlights some of the issues affecting parents and children who are involved with the child welfare system.

II. Overview of the Child Protective Services Process

Reporting and Investigating Child Abuse and Neglect

South Carolina law requires individuals who work in certain professions to report suspected child abuse and neglect. Some of the professionals who are required to report suspected child abuse and neglect include, but are not limited to, physicians, nurses, teachers, counselors, social workers, child care workers, law enforcement officers, and judges. When one of these professionals suspects that a child has been abused or neglected, and this information is learned in the workplace, the person must report the suspected abuse or neglect to the Department of Social Services (DSS) or to law enforcement in the county where the child lives.

In addition, although the law requires certain individuals to report child abuse and neglect, anyone who suspects that a child has been abused or neglected may report this information to DSS or to law enforcement. Once DSS receives a report that a child has been abused or neglected the agency decides whether to begin a child protective services investigation.

DSS begins a child protective services investigation within 24 hours of accepting a report of child abuse or neglect. DSS investigates only those cases in which the reporter suspects that a child has been abused or neglected by a parent, guardian, or other person responsible for the child's welfare. DSS does not investigate reports of a child being abused or neglected by individuals who are not the child's parent, guardian, or other person responsible for the child's welfare. Law enforcement officers investigate when a child is abused by someone other than the child's parent or guardian.

When DSS does become involved in a child protective services investigation, the agency must complete the investigation within 45 days (a 15 day extension is allowed under some circumstances). At the end of the investigation, DSS tells the parents whether the report of abuse or neglect is indicated or unfounded. An indicated report means that DSS has decided that the abuse or neglect is likely to have occurred. An unfounded report means that DSS has decided that it is unlikely that the child was abused or neglected or that DSS was unable to determine whether the child was abused or neglected.

Abuse and Neglect Cases

If DSS decides that a child has been abused or neglected, DSS prepares a treatment plan for the family. A treatment plan is a written document which explains to the child's parents what must be done to correct the causes of abuse or neglect and to reduce or eliminate the risk that the child will be harmed in the future. DSS arranges treatment services for the family to help correct the causes of abuse or neglect. Typically, when the risk that a child will be harmed in the future is low, DSS works with the family to correct the causes of abuse or neglect without involving the family court and while the child remains in the home with the parents. DSS closes the case when the agency believes the child is no longer at risk of harm.

In other more serious cases, DSS may take the child's parents to court to ask the family court to order the parents to cooperate with treatment services to correct the causes of abuse or neglect. The parents must cooperate with treatment services that the family court orders or they risk losing their rights as parents. Abuse and neglect cases that go to family court are of two varieties: intervention and removal.

Intervention Cases

An intervention case is one in which the family court finds that a child has been abused or neglected, but does not take the child out of the parents' home. DSS prepares a written treatment plan to help the parents correct the abuse or neglect and arranges treatment services for the family. The family court orders the parents to cooperate with the treatment plan. If the parents fail to cooperate with the court-ordered treatment plan, DSS may ask the family court to remove the child from the parents' home and the parents could even lose their parental rights permanently.

The family court may occasionally review intervention cases. When the parents have corrected the abuse or neglect which caused DSS and the court to become involved with the family, the court closes the case. An intervention case should close within 18 months.

Removal Cases

In a removal case, the family court decides whether a child has been abused or neglected, and if so, takes the child out of the parents' home. The child is then placed with DSS in foster care or the child may be placed in the care of a relative.

DSS prepares a plan of services for the family called a placement plan. The placement plan is a written document which describes to the parents what must be done to correct the abuse or neglect, to reduce or eliminate the risk of harm to the child, and to have the child returned to the parents. The court orders the parents to cooperate with the placement plan. Again, failure to cooperate with a court order can result in the parents losing their parental rights.

Permanency Planning

After the removal hearing, the family court must have a permanency planning hearing for a child who is in foster care, at least annually. Whenever DSS becomes involved with a family because of abuse or neglect, the agency's primary goal is to ensure that the child will be able to grow up living in a safe, stable, and permanent home. The purpose of the permanency planning hearing is for the family court to review the case and to decide the best way to secure a safe, permanent, and stable home for the child. The court will decide the following:

- whether the parents have satisfactorily completed treatment;
- whether the child should be returned to the parents;
- whether to order DSS to file a case to terminate parental rights so that the child may be adopted; or
- whether to grant custody or guardianship to a relative or nonrelative.

The court closes the case when the parents have satisfactorily cooperated with treatment so that the child can be returned home. Or, if the parents fail to cooperate with treatment, the family court may close the case when another permanent home is secured for the child, for example, if the child is placed in the custody of a relative or is adopted.

Termination of Parental Rights and Adoption

At the permanency planning hearing, if the family court orders DSS to file a case to terminate parental rights, DSS must file the case within 60 days. When there are reasons, DSS may also file a case to terminate parental rights without being ordered to do so by the family court. The family court will decide whether there is enough

evidence to support termination of parental rights and whether it is in the child's best interest to terminate parental rights.

The family court may terminate parental rights for a variety of reasons, including, but not limited to, a parent's failure to correct the causes of abuse or neglect that led to the child's removal from the home, a parent's failure to visit or support a child who is living outside the parent's home, abandonment, and failure to overcome addiction to drugs or alcohol. Any interested person, including a child's relative, may file an action to terminate parental rights. When a parent's rights are terminated, that parent is no longer legally the child's parent. The parent has no legal rights, responsibilities, or obligations to the child and the child is free for adoption.

A relative may seek to adopt a child whose parents' rights have been terminated by the family court. Both married and single individuals may adopt and one need not be wealthy to adopt. In addition, children of all ages may be adopted.

Individuals who want to adopt a child who is in DSS custody usually hire a lawyer to file the adoption case in family court and to represent them throughout the process. The family court decides whether adoption is in the child's best interest. If the court finds that adoption is in the child's best interest, the court grants the adoption and creates the parent-child relationship between the child and the adoptive parent.

Because adoption creates the parent-child relationship between the adoptive parent and the child, an adopted child is entitled to the adoptive parents' social security, health benefits, and any inheritance. Adoption is the most permanent living arrangement that a child who cannot return home to his parents can have.

III. Types of Placements

When a child must be placed outside the parents' home because of abuse or neglect, it may be possible for the child to be placed with a relative. Children who are involved in the child protection system may be placed with relatives for various reasons including: to prevent the child's placement in foster care, for placement in a relative's foster home, and for custody or guardianship. Each of these placement alternatives is discussed below.

Preventing Placement in Foster Care

During an investigation of abuse or neglect, DSS may suspect that a child has been harmed or is at risk of harm and needs placement outside the parents' home. To avoid having to place the child into foster care during the investigation, DSS may ask the child's parents to agree to a safety plan. In most abuse and neglect cases, DSS must make reasonable efforts to preserve and reunify families. The safety plan is just one way DSS tries to preserve and reunify families.

A safety plan is a written agreement which states the type of abuse or neglect DSS is investigating and what should be done to avoid placing the child in foster care during the child protective services investigation. A safety plan might state that DSS and the parents agree to place the child with a relative during the investigation. The relative may be required to agree to protect the child and perhaps to supervise visitation between the child and his parents during the investigation, or even to protect the child from any contact with the parents during the investigation. A safety plan must be signed by a DSS employee who is usually the caseworker investigating the report of abuse or neglect. The safety plan must also be signed by any adults who will be affected by the plan, including the child's parents and the relative who will accept placement.

The safety plan is not a court order, but everyone who signs it must cooperate with the plan. If the child's parents or the relatives who agree to care for the child fail to follow the safety plan, DSS may ask law enforcement or the family court to take the child into emergency protective custody.

South Carolina law allows law enforcement officers and family court judges to take a child into emergency protective custody anytime there is probable cause to believe the child's life, health, or physical safety is in imminent and substantial danger. Once a child is taken into emergency protective custody, the child is placed in the care of DSS. DSS places the child into a licensed foster home or children's shelter.

Being taken into emergency protective custody can be a very traumatizing experience for a child. Therefore, even after a child is taken into emergency protective custody, DSS must determine whether there is a way to reduce the emotional impact of the child being removed from his parents and other family members. Although the child may be temporarily placed in a foster home or shelter, in most cases, DSS will make reasonable efforts to avoid keeping the child in foster care.

Within the first 24 hours after the child is placed into emergency protective custody, DSS begins an investigation to determine whether the child can safely return to his parents or whether it is possible to place the child in the care of a relative. During this time, if possible, DSS must schedule a meeting with the child's parents, relatives, and other significant persons to discuss the reasons why the child was taken into emergency protective custody and to discuss the possibility of returning the child to the parents or placing the child with a relative.

Before agreeing to place a child in the home of a relative, the relative must allow DSS to conduct a background check of the relative and all adults living in the relative's home. DSS will check the Central Registry of Child Abuse and Neglect and other DSS records, county sex offender registries, and various criminal records. DSS will not agree to place a child with a relative if the background check suggests that the child might be abused or neglected if placed in the relative's home. Additionally, if the child was taken into emergency protective custody by a law

enforcement officer, the child cannot be placed with the relative unless the law enforcement officer agrees with the placement.

Ordinarily, within 72 hours of a child being placed into emergency protective custody, there will be a probable cause hearing in family court. However, if DSS has arranged to place the child in the care of a relative, there need not be a probable cause hearing. DSS may keep the child in its care for a period of time without a probable cause hearing to allow the relative to make travel and other arrangements for the child's placement in the relative's home.

If DSS is unable to identify a relative who will accept placement of the child within the first 24 hours after the child is taken into emergency protective custody, there will be a probable cause hearing in family court. The probable cause hearing is held so that the family court judge can decide whether it was reasonable for law enforcement to take the child into emergency protective custody and whether the child should remain in DSS custody, be returned to the parents, or be placed in another appropriate placement.

If the court decides the child should not be returned to his parents, the court may order that the child be placed with a relative as soon as possible. Again, before placing the child with a relative, DSS is required to check the background of the relative and all adults living in the relative's home. In addition to the background check, the court may require a full home study of the relative's home. A home study would involve DSS conducting background checks of the relative and all adults living in the relative's home, as well as investigating the safety of the relative's home for placement and investigating whether the relative is emotionally equipped to care for the child and financially capable of caring for the child. The court may also require the relative to be licensed as a foster parent before placement.

Foster Care Placement

An abused or neglected child who is in DSS' custody will be placed in a licensed foster home. Unless it is not in the child's best interest, whenever the family court takes a child out of the parents' home because the child has been abused or neglected, the family court must give preference to placing the child with a relative or other person who has a caring relationship with the child, instead of placing the child in a foster home with strangers. Foster care is intended to be a temporary living arrangement for a child who must be placed outside his parents' home. A relative who is willing to accept placement of a child may become licensed to provide foster care. The relative must first complete the foster parent licensing study required by DSS rules and regulations.

South Carolina law also establishes a kinship foster care program within the South Carolina Department of Social Services. When DSS decides that it is in the best interest of a child who must be removed from his parents to be placed with a relative for foster care, DSS must explain to the relative the process for becoming a licensed

foster parent. Also, if a relative is interested in providing placement for a child who is in foster care and the relative is not already a licensed foster parent, DSS must explain to the relative the procedures for becoming a licensed foster parent. DSS must assist the relative in the licensing process, and must inform the relative of payments and other services that are available to kinship foster parents.

Relatives who are related within the first, second, or third degree to the parent or stepparent of a child, through blood, marriage, or adoption may be eligible to become kinship foster parents. The relative must be at least 21 years old; however, if the relative's spouse or partner is at least 21 years old and the relative is between the ages of 18 and 21, DSS may waive this requirement.

To be licensed as a kinship foster parent, the relative must also be willing to undergo a complete foster parent licensing study as required by DSS rules and regulations. In addition, all adults living in the relative's home are subject to state and federal fingerprint review.

The foster parent licensing study requires the relative to complete an application to become a licensed foster parent. DSS makes a decision regarding the application within 120 days of receiving the application. Generally, the license to be a foster parent is valid for two years from the date that the license is issued.

The process of becoming a foster parent involves an assessment study performed by a DSS licensing caseworker. The assessment study helps the licensing caseworker examine the relative's ability to cooperate with all licensing requirements, establishes whether the relative thoroughly understands the purpose of foster care, and determines the relative's ability to provide quality foster care. All members of the household over the age of six will be interviewed and assessed individually, and the entire family will have at least one interview.

The licensing caseworker will investigate the family history, relationships, parenting experiences, and coping ability. The caseworker will also gather information concerning the family's educational background, work history, and quality of health. The home environment and community resources will be investigated and the caseworker will want to ensure that income is reasonably secure and will not be dependent upon foster care board payments. The assessment study includes an examination of child protective services records, the Sex Offender Registry, and SLED and FBI background checks.

The licensing caseworker, State Fire Marshal authorities, and health authorities will inspect the relative's home. After initial licensure, annual fire inspections are required and additional health inspections may be required as needed.

The relative and all household members must be willing to reveal whether they have had mental health treatment or treatment for drug or alcohol abuse. The licensing caseworker will talk to the appropriate therapist, counselor, or physician, and use the

information gathered to assess risk to the child. The licensing caseworker may also request that the relative or any household member undergo a psychological evaluation during the assessment process.

Relatives must provide DSS with at least three letters of reference. DSS may, in its discretion, request additional references.

After reviewing the licensure study, DSS will determine whether the child should be placed with the relative. After DSS issues a license to provide foster care, the relative and her household members will be studied for renewal every two years. DSS may revoke a license to provide foster care if the relative fails to maintain licensing standards or if the agency otherwise determines that it is harmful to the child to remain in relative placement.

Although, in general, relatives must cooperate with the same screening process to become licensed foster care parents as non-relatives, DSS may waive non-safety elements of the process if the agency believes it is appropriate. However, safety elements, such as child protective services history and state and federal criminal background checks, cannot be waived.

As stated previously, the purpose of foster care is to provide a temporary placement for a child who, due to abuse or neglect, must be placed outside the parents' home. It is the overriding goal of the entire child welfare system to make sure that every child who becomes a part of the system is given the chance to live in a safe, stable, permanent home. DSS must involve foster parents in plans to establish a permanent placement for the child. Foster parents are given notice of all child protection hearings. Foster parents are also expected to cooperate with the child's case plan. The plan describes the services that will be offered to the child to help the child overcome the effects of abuse or neglect. The child's case plan also sets forth the agency's plan for achieving a safe, stable, and permanent home for the child. Foster parents must be willing to support this goal and to help meet the child's needs for counseling or therapy, and even for court-ordered visitation between the child and the parents. If the permanent placement plan for a child is adoption, DSS must give the foster parent information about adoption, including financial benefits or other services that might be available.

Foster parents must be willing to cooperate with the requirement that a DSS caseworker have regular face-to-face contact with the child and the foster parent while the child is placed in the relative's home. The purpose of these home visits is to allow the caseworker to assess the child's needs and adjustment to living in the relative's home.

At least once per month, the child's caseworker must have a face-to-face interview with the child and with the foster parent, in person or by phone. At least once every two months, the caseworker must interview the foster parent in person during a visit to the foster home. The caseworker must have a face-to-face interview with other

adults living in the home at least once every three months. It is the foster parent's responsibility to notify the caseworker if an adult moves into the home, and the caseworker must have a face-to-face interview with this adult within one month of such notification.

Foster parents will be encouraged to attend all Foster Care Review Board meetings. The Foster Care Review Board is a state agency, administered by the Governor's Office, which reviews the cases of children who have been in foster care at least four consecutive months. If the foster parent cannot attend a meeting, the foster parent will be expected to submit a progress report to the Office of the Governor Division of Foster Care Review at least three days before the meeting.

Custody and Guardianship

If at any time during the child protection process DSS proves to the family court that returning a child to his parents is not in the child's best interest and that termination of parental rights and adoption are not in the best interest of the child, the family court may grant custody or guardianship to a suitable, fit, and willing relative. The family court may grant custody or guardianship to a relative, at a probable cause hearing, a removal (merits) hearing, a review hearing, or a permanency planning hearing. A relative may be granted custody or guardianship even if the child's case plan is to return home to the parents at some time in the future. Or, the family court may decide that it is not in the child's best interest to be returned to the parents and may grant custody or guardianship to a relative and close the case. If the case closes with the relative having custody or guardianship of a child, the relative may not return the child to his parents. The parents can only have custody returned to them by family court order.

Before recommending that a relative be granted custody or guardianship of a child, DSS must provide the family court with a home study of the relative's home. A home study is an in-depth investigation of the relative's (and all adult household members') background, including a review of the Central Registry of Child Abuse and Neglect, other DSS records, and a criminal records check. DSS will make sure that the relative's home is safe and appropriate, and will also make sure the relative can provide for the child's educational, medical, and social needs. The court may also order a trial period of placement or visitation before the relative is granted custody or guardianship.

A relative who is granted custody of a child is responsible for the care and control of the child. The relative has the right to make decisions about where the child will live and must provide the child with food, clothing, education, supervision, and emergency medical care. Generally, the child's biological parents will still have the right to make decisions that are of substantial legal significance to the child, for example, the right to consent to marriage, the right to consent to the child's enlistment in the armed services, and to consent to non-emergency medical care,

unless the court order granting custody to the relative gives these rights to the relative.

When the family court gives a relative guardianship of a child, the relative has the same rights and responsibilities she would have if the relative were granted custody. In addition, the relative may make decisions on the child's behalf that are of greater legal significance, for example, consenting to marriage and the child's enlistment in the armed services, emergency and non-emergency medical care, and representing the child in legal actions.

IV. Resources and Services Available to Caregivers

Resources and Services for Foster Parents

Relative foster parents are entitled to receive payment for the full foster care rate for the care of the child and any other benefits or services that might be available to non-relative foster parents. These benefits include a monthly board payment for the care of the child, a quarterly clothing allowance, and an allowance for non-routine school expenses. A child placed in a relative's foster home would also be eligible for Medicaid. If the child is physically, mentally, or emotionally disabled, he may be eligible for Supplemental Security Income (SSI). If child care is needed, DSS must pay for child care in accordance with established procedures for payment of child care for children in foster care. The child is also entitled to receive child support payments from the biological parents unless parental rights have been terminated by the family court.

DSS will also provide support for the placement through monthly home visits. During these visits, relative caretakers should update the caseworker about the child's status and development in the home. Relatives should also request assistance in obtaining services to meet the child's needs.

Resources and Services for Custodians, Guardians, and Other Long-Term Caregivers

After a relative has been granted custody or guardianship of a child, the family court may order DSS to provide services and supervision for up to 12 months following the placement. The services may include coordinating referrals for educational, medical, or mental health support for the child and monthly home visits by the DSS caseworker.

A child placed in a relative's custody or guardianship and a child who is adopted by a relative may be entitled to receive Medicaid and, in some instances, Supplemental Security Income (SSI) if the child is physically, mentally, or emotionally disabled. And further, relatives who have custody or guardianship of a child are entitled to receive child support payments from the biological parents, provided that the family court has not terminated parental rights.

Relatives who adopt a child with special needs may be eligible for certain adoption subsidies. State law defines a “special needs” child as:

- a white child ten years old or older;
- a black or mixed-race child six years or older;
- a physically, mentally, or emotionally handicapped child or a child at risk for physical, mental, or emotional handicaps;
- a member of a white sibling group of three or more children placed together, one of whom is at least six years of age, or a sibling group of four or more white children of any age placed together;
- a member of a black or mixed-race sibling group of two or more children placed together, one of whom is at least six years of age, or a sibling group of three or more black or mixed-race children of any age placed together; or
- a member of a sibling group of two or more children placed together, one of whom is a special needs child.

The special needs child may be eligible for a monthly adoption assistance maintenance payment and Medicaid, and relatives seeking to adopt a special needs child may receive payment or reimbursement up to \$1500 for certain expenses directly related to adopting the child. The relative may receive payment or reimbursement for reasonable adoption fees, court costs, attorney fees, and other fees directly related to the adoption of the special needs child.

Depending upon services that are available locally, DSS can provide services to support the adoptive placement for a special needs child, including child protective services, homemaker services, socialization and developmental services for children, and respite care.

A relative who adopts a special needs child who has medical or rehabilitative needs may be eligible for a medical subsidy. This medical subsidy is designated for children with specific emotional and physical problems. Funds are available to cover medical, dental, and mental health counseling expenses that are not covered by Medicaid or private insurance, and funds are available only when all other resources have been used. Further, only children who have been placed by DSS can be eligible for this subsidy.

Benefits continue until the special needs child is 18 years old and in some instances, if the child is a full-time student, still suffers from a disability, and the relative is still financially responsible for the child, may continue until the child's 21st birthday.

V. Issues Affecting Parents

Parents who abuse or neglect their children often have certain characteristics that make them more prone to harming their children. Some of those characteristics include:

- Poor impulse control
- Depression/anxiety
- Low tolerance or being prone to frustration
- Feelings of insecurity
- Lack of trust
- Childhood history of abuse
- High parental conflict, domestic violence
- Single parent with lack of support, high number of children in household
- Social isolation/lack of support
- Substance abuse
- Incorrect expectations about child development
- Poverty

A parent who has any of these characteristics may place a child at higher risk of being abused or neglected. A relative who seeks to have an abused or neglected child placed in their home should be aware that the child's parents may be dealing with these types of issues. These issues may affect how the parent deals with the child's placement in the relative's care and may even cause disruption in the child's placement. Treatment plans or placement plans that are implemented in the case will be designed to correct the problems the parent is experiencing and thereby reduce or eliminate the risk that the child will be harmed in the future.

VI. Issues Affecting Children

Likewise, children who have been abused or neglected often suffer a number of short-term and long-term effects. Some of the effects an abused or neglected child might suffer from include:

- Bruises and cuts
- Broken bones and hemorrhage
- Shaken baby syndrome-causing vomiting, concussion, respiratory distress, blindness, mental retardation, cerebral palsy, paralysis
- Hyperactivity
- Anxiety
- Sleep disturbances
- Post-traumatic stress disorder
- Attention deficit hyperactivity disorder

- Sexually transmitted diseases
- Depression
- Low academic achievement
- Delinquency
- Drug use

A relative who accepts an abused or neglected child into the relative's home for placement must be aware that the child may be suffering the effects of having previously lived in an abusive home environment. The child's case plan will be designed to treat the needs of the child. The relative must be willing to cooperate fully with the child's case plan, including cooperation with treatment referrals made by DSS. The relative must also be willing to request assistance in handling the child's treatment needs.

VI. Conclusion

Children who are abused or neglected are often in need of placement outside their parents' home. When out-of-home placement is needed, child protection laws support placing children with relatives and DSS must make reasonable efforts to place the child with relatives when appropriate.

These children often are traumatized by the events that caused them to be removed from their parents. However, research reveals that abused and neglected children who have access to good health care and social support from within their families, including relative caregivers, are better able to overcome the effects of abuse and neglect.

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