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## Taking Children into Temporary Custody

0070-548.20 | Revision Date: 01/17/2017

### Overview

This policy guide provides guidelines for taking children into [Temporary Custody](#) and determining when a child can safely remain in the home prior to a detention hearing.

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### Version Summary

This policy guide was updated from the 12/23/14 version to include instructions when calling IDC after detaining the child of a nonminor dependent.

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## POLICY

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### Temporary Custody by DCFS

Temporary custody is the removal of a child at risk of abuse and neglect from the home of a parent or legal guardian. Temporary custody is subject to the warrant requirement of the US Constitution. This includes placing a child on [hospital hold](#).

To detain a child at risk of abuse or neglect, a CSW must have one of the following:

- Court Order
  - If the CSW does not have either consent or exigent circumstances, a CSW must obtain a [court order](#) to detain a child from the custody of his or her parent or guardian.
- Exigent Circumstances
  - A CSW may detain a child without a court order if the CSW has reasonable cause to believe that a child is described by [Welfare and Institutions Code \(WIC\) 300](#) (b) or (g) and is in immediate danger of suffering serious physical injury and there are no less intrusive means of protecting the child.
  - ie.: Child is at immediate risk of serious physical harm or sexual abuse, in need of immediate medical care for a serious medical condition or physical environment poses an immediate risk to child's health or safety.
- Consent
  - A parent/guardian consents to the removal of their child.

The [Child and Family Team \(CFT\)](#) process is still applicable and necessary even with the warrant requirement, but the delay in detaining impacts a finding of exigent circumstances. CFT Meetings should only be used prior to detention if the child can remain safely in the home in the interim. If during the CFT Meeting new circumstances and information arise, re-evaluate to determine whether exigent circumstances exist to detain.

When a CFT Meeting is scheduled to discuss whether the children can remain safely in the custody of one or both parents, the CSW must make contact with the [warrant desk](#) to determine whether to begin proceedings to request a removal order or other court order.

If a child has been taken into temporary custody and it is determined that the child should be released back to the custody of one or both parents before the Detention Hearing, ARA approval is required.

## Temporary Custody by Law Enforcement

Law enforcement has the authority to take children into temporary custody under WIC 300. When law enforcement detains or delivers (not detained) a child to DCFS, per WIC 306 and/or 309, a safety assessment must be conducted by the CSW to determine if the child should be taken into temporary custody. To take a child into temporary custody, a CSW must have one of the following:

- court order
- exigent circumstances
- consent

When law enforcement has taken a child into temporary custody and it is determined by DCFS that the child(ren) can return home permanently or pending a removal order, ARA approval and notification to law enforcement is required.

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## PROCEDURE

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### Taking a Child into Temporary Custody

#### CSW Responsibilities

1. Based upon the results of your investigation and Structured Decision Making (SDM) safety assessment, if the assessment indicates that the child can remain safely in the home, consult with the SCSW, and obtain his or her approval to have the child remain in the home with no further services or with the assistance of on-going services.
  - If there is no immediate risk of harm to the child, utilize the Team Decision Making process prior to removing the child.
    - i. Evaluate whether the family and community's strengths can be used to form action plans that will enable children to remain safely or immediately return home with appropriate services.
    - ii. Identify the risks to the child and the family's strengths.
  - If during the investigation, it is determined that the family can benefit from community based services, not limited to [Point of Engagement](#) services to prevent removal and allow the child to safely remain in the home, refer the family to the appropriate level of services.
  - When law enforcement has taken a child into temporary custody and it is determined by DCFS that the child(ren) can

return home safely, ARA approval and notification to law enforcement is required.

2. If one or more safety threats are present, and placement is the only protecting intervention possible, determine legal ground for detention. This requires at least one of the following:
  - Parental consent
  - Exigent circumstances
  - Court order for detention
  - If you don't have parental consent or exigent circumstances, contact your SCSW and start gathering information for a warrant.
  
3. If the child is being removed from the home:
  - Provide and review with the family the Full Disclosure Information When a Child is Taken in to Temporary Custody form. Parental consent
  - Ask the parents(s) if he or she would like to involve his or her faith-based practitioner or other community support person to find a suitable placement for the child.
  
4. Provide the parent or legal guardian (and the child 10 years or older) a copy of the DCFS 153, Dependency Court Information.
  - Document this action in the Detention Report.
  - Whenever possible, inform the parent/legal guardian by phone in their primary language that the DCFS 153, Dependency Court Information is available and can be picked up at the office or mailed to them.
  
5. After detention, initiate the ER Family Background 1 form.
  - If the child's parents are available, leave the Family Background Information 3, along with a self-addressed, stamped envelope, and ask the parent(s) to complete the form and use the return envelope to mail it back.
  - Also, make inquiries of any known adult relatives that may be able to care for the child (regardless of the relative's immigration status).
    - i. If found, notify the relatives of the situation.
  
6. If the parent or legal guardian was not home when the detention occurred, leave a DCFS 134 at their residence.
  - The DCFS 134 can be left under the door.

- The DCFS 134 should be translated and completed in the primary language of the family or legal guardian, whenever possible, by a bilingual CSW.
7. If the detention involves a drug exposed infant, request that the hospital fax a copy of the Newborn Risk Assessment and the child's birth record.
    - Attach both to the Request for Removal Order and the Detention Report.
  8. Request that the parent, legal guardian, relative, non-relative extended family member, or Indian custodian complete the [DCFS 5649](#) , Indian Ancestry Questionnaire.
  9. Complete the [ICWA-010\(A\)](#) for each child taken into temporary custody. If there is any indication that the child or his/her parents or relatives are or may be of American Indian Heritage, the CSW is required to make further inquiry regarding the possible Indian status of the child by asking the parent/legal guardian, the child (if appropriate) and if available, any relative, non-relative extended family member, or Indian custodian.
    - Indicate the name and relationship of the person providing the information and include this information in the Contact Notebook and in the Detention Report.
    - If a parent has claimed possible American Indian heritage, further investigate this possibility with any relative of that parent who might have more information regarding this issue, such as the full names and dates of birth of the American Indian Ancestor.
    - Request that the parent, legal guardian, relative, non-relative extended family member, or Indian custodian, complete the [DCFS 5649](#) , Indian Ancestry Questionnaire and assist them in completing the required information.
    - Indicate which parent or relative is affiliated with which tribe(s), if known, and notify all the tribes of which the child may be a member or eligible for membership, and the Secretary of the Interior's designated agent, the Sacramento Area Director, Bureau of Indian Affairs, that the child has been taken into temporary custody.
    - Make efforts to place the child with a relative or extended family member and, if not possible, to locate an Indian home for the child.

- i. Document justification for not placing the child(ren) with a relative or an Indian caregiver and include dates of the actions taken.

10. Ask the parent, legal guardian, relative or non-relative extended family member whether the child has any physical or medical condition that requires prescribed medication.

- If the child is taking any prescribed medications, (including psychotropic medications), note the name of the medication, dosage, and the name, address and telephone number of the doctor prescribing the medication.
  - i. Ask how long the child has been on the medication and whether the medication is successfully treating the child's targeted symptoms.
- If the child has been hospitalized, note the dates and the reason for the hospitalization. Take all of the child's medication and information about doctor's appointments with the child to his/her placement so there is no lapse in the child's medication.
  - i. Document your findings in the Contact Notebook and Health Notebook.
- Take only medication(s) contained in a container, issued by a pharmacy, and containing a label with the name of the medication, dosage, and the name and telephone number of the doctor and/or pharmacy.

11. Ask the parent to sign the DCFS 179, DCFS 179-MH, and DCFS 179-PHI forms.

- If the parent refuses to sign the DCFS 179 forms or if parents cannot be located, after giving notice to the parents, request in the Detention Report for the court to grant DCFS the ability to authorize medical, surgical, dental or other remedial care for the dependent child, by licensed practitioners as needed.
- Provide a copy of the DCFS 179-MH and the DCFS 179-PHI to the parent.

12. Within one hour after the detention, advise each child 10 years or older that he or she has the right to make at least two phone calls at the County's expense:

- One completed call to the parent, legal guardian or responsible relative.
- One completed call to an attorney.

- i. If a child does not have an attorney of record and wishes to speak to any attorney, an attorney will be appointed at the detention hearing.
13. Complete the SDM Safety Assessment within two business days of initial contact for all referrals and the SDM Risk Assessment prior to closing the referral or promoting the referral to a case.
14. Contact Intake and Detention Control at (323) 881-1303 within two business hours to notify them that the child has been taken into custody.
  - If a child is taken into custody late in the afternoon and Intake and Detention Control has not been called by 5:00 p.m., alert the Emergency Response Command Post (ERCP) immediately at (213) 639-4500. Intake and Detention Control must also be called by 10:00 a.m. of the next workday.
  - In situations where an ER CSW must detain a child after-hours and the case-carrying CSW or duty worker are unavailable to assist in the placement, the ER CSW shall contact Emergency Shelter Care (ESC) and the Accelerated Placement Team (APT). They will assist the CSW in locating a placement for the child and whenever possible assist in the placement and transportation of the child to the placement.
  - In cases where a child was detained from a nonminor dependent, inform IDC of this and provide the NMD's XK number.
  - Intake and Detention Control will inform the CSW of the date and time the Detention Report and any other supporting documents are due.
15. Initiate a placement search via the DCFS 280 and request a Placement Packet when a placement is secured.
  - At the time of the initial placement, inform the caregiver of the requirement to utilize Medical Hubs.
  - If the Juvenile Court has issued a non-disclosure order, advise the child and the caregiver of this court order not to divulge the child's whereabouts.
16. Within five hours after the child had been taken into custody, provide the parent/guardian with the telephone number where the child can be contacted.
  - The address of a licensed foster family home must be kept confidential until the dispositional hearing, at which time the court may authorize disclosure of the address.

17. Complete the [Detention Report](#) and scan to all [four IDC supervisors with the signature page, attachments, ICWA 010\(A\)](#) for each child and any supporting document by 5:00 p.m. on the due date given by IDC..

18. Determine if the child is eligible for a [Multidisciplinary Assessment Team \(MAT\)](#) referral.

- [If the child is eligible refer the family for a MAT assessment.](#)

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## **APPROVALS**

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### **SCSW**

- [Temporary Custody](#)

### **SCSW and ARA**

- [Returning a child home that law enforcement has turned over to DCFS](#)

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## **HELPFUL LINKS**

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### **Attachments**

[Timeframes for Submission of Detention Reports to IDC](#)

### **Forms**

#### **CWS/CMS**

[DCFS 179, Parental Consent and Authorization for Medical Care](#)

[DCFS 179-MH, Parental Consent for Child's Mental Health Assessment and for Child's Participation in Mental Health Treatment](#)

[DCFS 179-PHI, Authorization for Disclosure of Child's \*\*Protected Health Information \(PHI\)\*\*](#)

[DCFS 561\(a\), Medical Examination](#)

[DCFS 5210, Placement Address Disclosure](#)

[ICWA-010\(A\), Indian Child Inquiry Attachment \(Hearing Notebook and LA County specific templates\)](#)

[Investigative Narrative](#)

[Medical Hub Referral](#)

[Response to Mandated Reporter](#)

## LA Kids

[DCFS 153, Dependency Court Information](#)

[DCFS 153, Dependency Court Information \(Spanish\)](#)

[DCFS 179, Parental Consent and Authorization for Medical Care](#)

[DCFS 179-MH, Parental Consent for Child's Mental Health Assessment and for Child's Participation in Mental Health Treatment](#)

[DCFS 179-PHI, Authorization for Disclosure of Child's Protected Health Information \(PHI\)](#)

[DCFS 5649 !\[\]\(9c4f697052545ae4fab36076e03db94f\_img.jpg\), Indian Ancestry Questionnaire](#)

[ER Family Background 1](#)

[Family Background 3 \(Spanish\)](#)

[Full Disclosure Information When a Child is Taken into Temporary Custody brochure](#)

[ICWA-010\(A\), Indian Child Inquiry Attachment \(Hearing Notebook and LA County specific templates\)](#)

## Hard Copy

[DCFS 134, Notice of Detention](#)

## Referenced Policy Guides

[0070-548.00, Community Response Services, Alternative Response Services and Up-Front Assessments](#)

[0070-548.01, Child and Family Teams \(CFT\)](#)

[0070-570.10, Obtaining Warrants and/or Removal Orders](#)

[0100-510.61, Placement Responsibilities](#)

[0300-303.06, Hospital Holds](#)

[0300-303.15, Writing the Detention Report](#)

[0300-306.05, Noticing Process for Juvenile Court Proceedings](#)

[0300-508.30, Notification to the Court of Efforts to Locate Relatives](#)

[0600-500.00, Medical Hubs](#)

[0600-500.05, Multidisciplinary Assessment Team \(MAT\) Assessments and Meetings](#)

[1200-500.05, Adopting and Serving Children Under the Indian Child Welfare Act \(ICWA\)](#)

## Statutes

[Greene v. Camreta, \(9th Cir.\) 2009 U.S. App. LEXIS 26891](#)

[Welfare and Institutions Code \(WIC\) Section 224.2 \(a\) – States that if there's reason to know that an Indian child is involved, notice shall be sent to the minor's parents or legal guardian, Indian custodian, and the minor's tribe.](#)

**WIC Section 224.3 (c)** – States that if there's reason to know that an Indian child is involved, the social worker is required to make further inquiry regarding the possible Indian status of the child.

**WIC Section 300** – Describes types of child abuse in which a child may become a dependent child of the court.

**WIC Section 306** – States the conditions under which any social worker in a county welfare department, or an Indian tribe that has entered into an agreement pursuant to Section 10553.1 while acting within the scope of his or her regular duties under the direction of the juvenile court and pursuant to subdivision (b) of Section 272, may take a child into temporary custody.

**WIC Section 308(a)** – When a peace officer or social worker takes a minor into custody, he or she must immediately notify the minor's parent, guardian, or a responsible relative that the minor is in custody and that the child has been placed in a facility authorized by law to care for the child, and shall provide a telephone number at which the minor may be contacted. The confidentiality of the address of any licensed foster family home in which the child has been placed shall be maintained until the dispositional hearing, at which time the judge may authorize, upon a finding of good cause.

**WIC Section 309(a)** – States that upon delivery to the social worker of a child who has been taken into temporary custody, the social worker must immediately investigate the circumstances of the child and the facts surrounding the child's being taken into custody and attempt to maintain the child with the child's family through the provision of services. The social worker shall immediately release the child to the custody of the child's parent, guardian or responsible relative if appropriate

**WIC Section 361.3(a)** – States that in any case in which a child is removed from the physical custody of his or her parents, preferential consideration shall be given to a request by a relative of the child for placement of the child with the relative.

**California Department of Social Services (CDSS) Manual of Policies and Procedures (MPP) Division 31-130** – States the conditions under which the social worker must request law enforcement assistance.

**CDSS Manual of Policies and Procedures (MPP) Division 31-135 – States that when a social worker determines that the child cannot be safely maintained in his/her own home, the social worker must ensure that authority to remove the child exists prior to removal.**

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