Slide 1

LEGAL I: LEGAL BASIS FOR CHILD PROTECTION

Slide 2

Module 1: Legal Basis for Child Welfare

Objectives:
- Describe primary legal references used in dependency cases.
- Describe main principles of federal laws that impact child protection.
- Identify legislature’s goals for dependent children.
- State statutory definitions of abandonment, abuse, neglect, & harm.
- Identify elements of abandonment, abuse, neglect (AAN) to decide if allegation scenario meets the definition of AAN.

Slide 3

The Legal Hierarchy

- Constitution
- Federal Statutes
- State Statutes
- Administrative Rules
- FL Rules of Juvenile Procedures
- Operating Procedures
### Slide 4

**Reading the Statutes**

- **Chapter Number/Title:** 39
- **Sections:** 39.001
- **Subsections:** 39.001(7)
- **Paragraphs:** 39.001(7)(c)
- **Subparagraphs:** 39.001(7)(c) 4.

### Slide 5

**Florida Administrative Codes**

- **65C-28:** Guidelines: how to carry out the Florida statutes that pertain to children living in out-of-home care
- **65C-29:** Guidelines: how to carry out statutory requirements for the Abuse Hotline and Protective Investigation functions
- **65C-30:** Describes services, interventions, geographic & case conduct expectations specific to the child protection system
- **65C-30:** Explains the scope of responsibilities attached to various positions at critical stages throughout the case

### Slide 6

**Reading the F.A.C.**

- **Chapter Number/Title:** 65C-30
- **Sections:** 65C-30.007
- **Subsections:** 65C-30.007(10)
- **Paragraphs:** 65C-30.007(10)(g)
- **Subparagraphs:** 65C-30.007(10)(g)3.
- **Sub, subparagraphs:** 65C-30.007(10)(g)3.a.
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Federal Laws

- Adoption and Safe Families Act: P.L. 105-89
- Multi Ethnic Placement Act:
  - P.L. 103-382
- Inter Ethnic Adoption Provision:
  - P.L. 104-188
- Interstate Compact on the Placement of Children:
  - P.L. 109-239
- Indian Child Welfare Act:
  - P.L. 95-608
- Immigrant Children:
  - P.L. 104-95
  - P.L. 104-208

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Adoption Assistance and Child Welfare Act of 1980

Case plan permanency goals must be reviewed, revised & updated every 6 months at a minimum.

Focus: “Foster Care Drift”:
Move children toward permanency goal as quickly as possible.

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Adoption and Safe Families Act

- Preserve & reunify families
- Timely placements
- Finalize permanent placement within 12 months
Adoption & Safe Families Act of 1997

**Not intended to:**
- Unnecessarily disrupt families
- Inappropriately intrude into family life
- Prescribe particular parenting method(s)

Allows for reasonable methods of parental discipline.

Module 2: Introduction to Evidence

**Objective:**
- Define evidence in child protection cases.
- Identify examples of the four types of evidence.
- Describe evidence collection and documentation.
- Explain the standard of proof required by the evidence in judicial dependency cases.

Gathering Evidence

- Make & document observations of home & household members.
- Evaluate interactions among family members.
- Assess if alleged victims & other children are in proper stages of development.
- Evaluate prior histories (abuse and criminal).
Gathering Evidence

- Conduct victim, caregiver & perpetrator interviews.
- Take photographs when necessary.
- Consider input from relevant collateral contacts.
- Decide if maltreatment is occurring.
- Involve other stakeholders as needed to complete thorough investigation & provide services.

Types of Evidence

- **Direct Evidence**
  - Eyewitness account of an event
- **Circumstantial Evidence**
  - Judge may deduce a certain fact from other proven facts
- **Demonstrative Evidence**
  - Things or objects
- **Expert Testimony**
  - Presented by someone with relevant, specialized knowledge/experience

Collecting Evidence

- Document all observable information accurately.
- Work effectively with law enforcement.
- Evidence connected to criminal investigation must be secured by law enforcement.
- If drugs or weapons are present - notify LE immediately (if LE is not already present).
- Never place personal safety at risk.
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**Photographs**

**39.304(1)(a)**

You may take (or arrange to have taken) photographs of any visible trauma on a child.

CPT must photograph any visible areas of trauma to a child during examination.

Copies of all photographs become part of the case file.

**Exception:** Photographs of sexual abuse trauma are only kept in the CPT file.

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**Slide 17**

**Photographs**

Law Enforcement is responsible for taking photographs when completing a criminal investigation, & then, only when appropriate.

Handle all photographs according to agency protocol.

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**Documentation**

Direct evidence

Note any inconsistencies or circumstances surrounding the maltreatment.

Out of court statements by a child under age 11 describing a child maltreatment act is admissible evidence as a hearsay exception.

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**Power Point Slides**

Core 104 - Legal 1: Legal Basis for Child Protection

Power Point Slides
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**Documentation**

- **Demonstrative Evidence**
  - Describe the object
  - Identify who will present the object in court
  - Record how the object was discovered and maintained

- **Circumstantial Evidence**
  - Document as you would direct evidence

- **Expert Witnesses**
  - Make sure they are available and provide identifying information to CJS

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**Medical Evidence**

- CPT will
  - Assess extent of the injury
  - Protect case from defense accusations that the injury occurred after the crime scene incident
  - Find corroborating evidence of acute or chronic trauma
  - Photograph any injuries

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**Sexual Abuse**

- **If occurred:**
  - **Within 72 hours of intake – take child to rape treatment center or hospital:**
    - Collect physical evidence
  - **Outside 72 hour timeframe, schedule appointment with CPT or rape treatment center:**
    - Determine presence of old injuries

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**Evidence Required at Shelter Hearing – 39.402(8)(e)-(f)**

- Copies of: available LE/medical/other professional reports; abuse hotline intakes (excluding reporter information), any current or previous case plan
- Information on any of the parents/caregivers' adjudication(s) of delinquency
- Past/current injunctions for domestic violence protection
- All child's residences during the prior 12 months

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**Standards of Proof**

- Probable Cause
- Preponderance of the Evidence
- Clear & Convincing Evidence

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**Summary**

- Evidence collected & documented at case onset is used during entire life of case.
- Provide all evidence to CLS.
- Judge uses full, formal “rules of evidence” at hearings (except shelter hearings).
Module 3: Exposure to Liability

Objectives
- Describe how you can avoid exposure to liability claims.
- Recognize the legal consequences for falsifying records.

Liability is...
- an obligation imposed by law
- responsibility for an act or failure to act
- the state of being legally obliged & responsible

Falsification:
Misrepresentation, falsification or omission of any fact (verbal or written) on such records as, but not limited to:
- Case notes
- Court documents/reports
- Other forms
- Time sheets
- Mileage reports
Module 4: Confidentiality and Case Records

Objectives
- Identify who has access to dependency case records.
- Identify records that may be shared with children.

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Releasing Information on Missing Children

Name & date of birth
Physical description (at a minimum): height, weight, hair color, eye color, gender, & any identifying physical characteristics
Photograph
In concurrence with law enforcement, any additional information likely to help locate the child or promote their safety/well-being

FSFN Access
Only for legitimate business purposes
Do not access FSFN for the following reasons:
- Persons/Cases in the news or about which you are curious
- Persons/Cases involving you or family members
- Persons/Cases of friends, neighbors, or acquaintances
- Any other Person/Case for which there is no legitimate business reason for you to access
Sharing Records with Children

- Must receive approval from attorney prior to release
  Exception: Adoption records
- s.63.162, F.S.: Governs access to adoption records
- Consider child's age and maturity level
- Know your agency/unit protocol
- Never simply hand over records to the child