Child Welfare Pre-Service Training

Legal I: Legal Basis for Child Protection

Trainer Guide

July 2012
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Icon Key

- Clock: Time estimate
- Star: Participant Guide pages inserted in Trainer Guide
- Books: Additional Readings / Resources
- Flip Chart: [FSFN] FSFN Training Region
- Notes: Discussion
- Activity
- PowerPoint Presentation/PPT
- Thumb Up: Handout

Trainer Tips
- Materials
- Webpage
- Video
To the Trainer

Core Course Description

Legal I is an introduction to the basic legal principles surrounding child protection in the state of Florida. The course must be delivered before learners go into the field to shadow.

Legal I provides a basic understanding of abuse, abandonment, and neglect and emphasizes the responsibility to protect the confidentiality of clients.

Course Time

Legal I is designed to be taught in 6 hours or one training day. A training day consists of 6 hours of instruction, a one hour lunch break, and two fifteen minute breaks.

Pre-requisite Skills and Case Flow

All courses are sequenced to accommodate pre-requisite skills and case flow; therefore, the courses must be scheduled using the corresponding numbers 100-117.

Following the post test, learners move into Phase II of the certification process. During Phase II, there are additional required courses and activities. This includes FSFN courses, classroom courses and field activities. Please reference In-Service course numbers 126-128.

Course Goals

The goals of Legal I are to provide new workers with basic information about:

- federal and state laws related to child protection and maltreatment
- evidence in dependency cases
- standards of proof
- reducing exposure to liability
- protecting the confidentiality of clients

Knowledge Base Competencies

The following Case Management (CM) Knowledge Base Competencies (organized by domain) are addressed in Legal I - Legal Basis for Child Protection:

Professional and Legal Responsibilities, Documentation Requirements:

- K3. Chapter 39, Florida Statutes definitions for various
forms of child maltreatment, including: abused child, neglected child and dependent child. The Fostering Connections Act.

- K4. The philosophy, purpose, requirements, and application of federal and state child welfare policy and legislation, including the Adoption and Safe Families Act (ASFA), the Indian Child Welfare Act (ICWA), the Multi-ethnic Placement Act (MEPA), the Interstate Compact for the Placement of Children (ICPC), the Florida Statutes, the Florida Administrative Code, and all related laws.
- K8. The importance of adhering to the provisions of federal and state statutes in child welfare casework.
- K9. Purpose and timeframes for dependency court hearings and petitions. (K23)Legal protections afforded to families and children by juvenile court intervention, and the potential detrimental consequences if legal procedures are not followed.
- K10. Legal requirements and case manager's role for the removal and placement of children.
- K11. A child’s statutory right to participate in case planning and attend court proceedings.
- K12. The role and responsibilities of participants in legal proceedings, including Children's Legal Services, Children’s lawyer, Defense attorney, Judge, Guardian Ad Litem.
- K13. Caseworker's responsibilities in locating and contacting absent biological parents and putative fathers for court actions.
- K14. Penalties and resulting agency and caseworker liability for submitting falsified documents, case notes and case plans to the court.
- K15. Organizational risk management issues.
- K21. Definitions and fundamental concepts of culture and diversity.

**Assessment:**

- K32. Definitions of abuse, neglect and abandonment with maltreatment as specified in Florida Statute, and administrative code.
- K34. Knowledge of family dynamics and family systems.
Safety Management, Service Planning and Delivery:

- K42. Applicable federal, state, and school-based regulations, and relevant procedures of school systems: Structure of the school system and roles of specific school personnel; Provision of special educational programs for developmentally delayed and physically disabled students; School system protocol and confidentiality issues regarding interacting with children, parents, teachers and other school-related personnel; Education rights of children; privacy rights of parents regarding school issues; Provisions of the Americans with Disabilities Act (including Individual Educational Plans) and Individuals with Disabilities Educational Act (including 409 plans) that impact children in school; McKinney Act provisions that impact homeless children in schools.

- K47. Purpose and operations of a variety of work teams, and understands the worker’s role in participating in these teams.

The following Protective Investigations (PI) Knowledge Base Competencies (organized by domain) are addressed in Legal I - Legal Basis for Child Protection:

Child Protection Foundations:

- K5. Knowledge of Chapter 39 definitions of abuse, neglect, abandonment and harm.
- K11. Knowledge of general child welfare policy and legislation including the Adoption and Safe Families Act (ASFA), the Child Abuse Prevention and Treatment Act (CAPTA), the Indian Child Welfare Act (ICWA), the Fostering Connections Act, the Multi-ethnic Placement Act (MEPA), the Interstate Compact for the Placement of Children (ICPC), and Florida Administrative Code.
• K12. Knowledge of culture, diversity and cultural competence.

**Engagement:**
• K28. Knowledge of how one’s personal value system, cultural background, and beliefs may influence actions and decisions in child welfare practice.

**Interviewing:**
• K34. Knowledge of what types of behavioral observations and relational interactions should be observed and documented to inform the decision-making process.

**Initial Assessment and Problem Identification:**
• K38. Knowledge of family dynamics and family systems.

**Safety Management:**
• K43. Knowledge of reasonable efforts to prevent removal.

**Planning and Teaming:**
• K47. Knowledge of which individuals/parties protected information can be shared.
• K49. Knowledge of the role and responsibilities of legal counsel, judge, and Guardian Ad Litem in court proceedings.
• K51. Knowledge of timeframes to submit work for supervisory review.

**Course Objectives**

**Module 1: Legal Basis for Child Welfare**
• Describe the primary legal references used in dependency cases in Florida.
• Describe the main principles of federal laws that impact child protection.
• Identify the Legislature’s goals for dependent children.
• State Florida’s statutory definitions of abandonment, abuse, neglect (AAN), and harm.
• Identify the elements of abandonment, abuse and neglect to decide if an allegation scenario meets the definition of AAN.

**Module 2: Introduction to Evidence**
• 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 child protection legal cases.

Module 3: Exposure to Liability
• Describe how you can avoid exposure to liability claims.
• Recognize the legal consequences for falsifying records.

Module 4: Confidentiality
• Identify who has access to dependency case records.
• Identify records that may be shared with children.
Training Materials

Module 1: Legal Basis for Child Welfare
- PG1 Legal References for Child Protection
- PG2 Florida Statutes
- PG3 Using the Statutes
- PG4 Using the Florida Administrative Codes
- PG5-8 Introduction to Federal Laws Impacting Child Protection
- PG9-10 Rights and Expectations for Children and Youth in Shelter or Foster Care
- PG11-14 Definitions and Elements of Abandonment, Abuse, Neglect and Harm
- PG15 Identifying the Elements

Module 2: Introduction to Evidence
- PG1 Fact Finding Scenarios
- PG2-4 Evidence Needed to Prove Maltreatment
- PG5 Evidence and Standards of Proof

Module 3: Exposure to Liability
- PG1 Falsification of Records

Module 4: Confidentiality and Case Records
- PG1-6 Confidentiality Requirements
- PG7-8 Social Media Policy
- PG9-10 Access to Child Protection Case Records
- PG11 Sharing Records with Children

Visual Aids

PowerPoint Slides
- PPT1 Legal I: Legal Basis for Child Protection
- PPT2 Module 1 Objectives
- PPT3 The Legal Hierarchy
- PPT4 Reading the Statutes
- PPT5 Florida Administrative Codes
- PPT6 Reading the Florida Administrative Codes
- PPT7 Federal Laws
- PPT8 Adoption Assistance and Child Welfare Act of 1980
- PPT9 ASFA
- PPT10 Adoption and Safe Families Act of 1997
♦ PPT11 Module 2 Objectives
♦ PPT12-13 Gathering Evidence
♦ PPT14 Types of Evidence
♦ PPT15 Collecting Evidence
♦ PPT16-17 Photographs
♦ PPT18-19 Documentation
♦ PPT20 Medical Evidence
♦ PPT21 Sexual Abuse
♦ PPT22 Evidence Required at Shelter Hearing
♦ PPT23 Standards of Proof
♦ PPT24 Summary
♦ PPT25 Module 3 Objectives
♦ PPT26 Liability
♦ PPT27 Falsification
♦ PPT28 Module 4 Objectives
♦ PPT29 Releasing Information on Missing Children
♦ PPT30 FSFN Access
♦ PPT31 Sharing Records with Children

Video
♦ ASFA (10 minutes)
Review: Child Welfare Standards/Values and Practice (Optional)

As a review is incorporated at the end of the CWSVP course, these review questions are optional. If you want to further evaluate the learner’s knowledge of the specific information that was presented in the on-line course and reinforce the Family-Centered Practice Model when working with families, use the following questions.

- What are the guiding principles of The Florida’s Child Welfare System that provides for prevention and intervention with families?
  - 39.001(b)(1-4)
  - The health and safety of the children are of paramount concern.
  - Engage families in constructive, supportive, and non-adversarial relationship.
  - Intrude as little as possible into the life of the family, be focused on clearly defined objectives, and take the most parsimonious path to remedy a family’s problems.
  - The prevention and intervention must be based upon outcome evaluation results that demonstrate success in protecting children and supporting families.

How can you avoid ethical dilemmas while at work?

- Understand and follow relevant laws, policies, and ethical codes of profession.
- Be aware of your own personal values that impact on professional judgments.

Process personal values and the PI/Case Manager role in child protection by asking:

- How can your values impact your work?
- How can they affect your perceptions and decisions?
- How can they influence critical case decisions you make?

What is the name of the code of ethics that you are accountable for adhering to in your role as a PI/Case Manager?


What are some of your professional responsibilities according to the code of ethics?

- Commitment to clients
- Confidentiality
- Accurate, timely and relevant documentation of records
- Never be dishonest, fraudulent or deceptive—act honestly and responsibly
• Assure that private conduct cannot interfere with your job (impairment)
• Do not misrepresent yourself-only claim professional credentials you possess.
• Report unethical conduct of colleagues.
• View families as partners in the change process
• Maintain clear boundaries - do not get involved in business or sexual relationships with clients
• Advocate for those who lack the capacity to make decisions
• Always use respectful language - avoid derogatory language
• Avoid conflict of interests
• Do not exploit clients – no accepting gifts, money, loans etc…

What is cultural competence and how does it relate to Florida’s family-centered practice model?

• Cultural competence is effective service provision to people of all cultures, races, ethnic backgrounds and religions
• In family-centered practice staff strive to be understanding of differing cultures while recognizing, valuing, affirming, and respecting the worth of individuals, and protecting and preserving their dignity.

What are the four steps for achieving cultural competence?

• Personal awareness
• Cultural awareness and sensitivity of other cultures
• Knowledge of other cultures
• Skill development and application
Module 1: Legal Basis for Child Welfare

Module 1 Objectives

- Display PPT 1, Legal I: Legal Basis for Child Protection and PPT2, Module 1 Objectives and present an overview of the module by summarizing each of the objectives.

Background Knowledge/Experience

Prior to beginning instruction for this module, relate the module goal to the learners’ job, emphasizing the importance and “need to know.”

Goal: To provide basic information about federal and state laws related to child protection and maltreatment.

- How do laws impact our daily lives?
- Why do you need to know the laws that are the legal basis for your job?

Topic ~ Legal References Used in Dependency Cases

Materials

- PG1 Legal References for Child Protection
- PG2 Florida Statutes
- PG3 Using the Florida Statutes
- PG4 Using the Florida Administrative Codes (F.A.C)
- PPT3 The Legal Hierarchy
- PPT4 Reading the Statutes
- PPT5 Florida Administrative Codes
- PPT6 Reading the F.A.C.

Establishing the “Need to Know”

Conduct a background probe to introduce legal references. It is not necessary to provide all of the answers to these questions. Inform the class that they will discuss the legal references and participate in
activities to become familiar with how to locate them.

? How do the Constitution and Federal laws influence our state laws?

? Can anyone explain the differences between statutes, rule, and operating procedure?

Legal Hierarchy

Activity Goal: Learners will place the legal hierarchy in the correct order to understand the impact and importance of each level.

- Write the components of the legal hierarchy on a flip chart in the incorrect order.
- Ask class to write the correct order on a blank piece of paper.
- Display PPT3, The Legal Hierarchy.

The legal hierarchy begins with the Constitution which affirms certain inalienable rights of the people. It takes precedence and contradictory laws cannot be written.

- State laws (Florida Statutes) cannot contradict federal laws.
- F.A.C. Florida Administrative Codes (Rules) must be consistent with State laws.
- Agency operating procedures must be consistent with Florida Administrative Codes (F.A.C.), also known as Rules.

Dependency Cases

- When a dependency case reaches the Florida courts, there are many laws, rules, and procedures that govern it.
- The components that you just put in order in the last activity, govern dependency cases.
- Summarize key points on PG1, Legal References for Child Protection.

(PG page inserted on the following page TG4)

- Write the following on flipchart as examples:
• Florida Statute – Chapter 39, Proceedings Related to Children
• F.A.C – Florida Administrative Code (aka Rule), Chapter 65, Department of Children and Family Services
• Florida Rules of Juvenile Procedure
• Department and Agency Specific Operating Procedures

**Florida Statute**

- What is your primary legal reference source?
  - Florida Statute Chapter 39 or Chapter 39, F.S.
- Refer learners to **PG2, Florida Statutes** and briefly summarize key points under “Chapter 39.” *(PG page inserted on the following page TG5)*
- Refer class to Chapter 39, Florida Statutes, and explain the organization
  - Part I-Part XIII
  - Florida Rules of Juvenile Procedure

**Finding Chapter 39 Cites**

- Familiarity with Florida statutes is central to your job tasks.
- It is not necessary to memorize the information contained in Chapter 39; however, you must be able to locate specific cites/information when a question arises, thus you must have the ability to quickly reference the law.
- Tell learners to recall from Orientation that the Quality of Practice Standards Tool references the statutes and codes relevant to all job tasks within the case flow process, from the initial response to permanency/adoption.
Module 1: Legal Basis for Child Protection

Legal References for Child Protection

United States Constitution
- forms the outline for our governmental system
- upholds the rights of families to "due process of law" in dependency cases

Federal Statutes
- focuses on what states are required to do (as opposed to what parents, children, and you must do)
- failure to follow federal law often results in loss of federal funding
- quoted by attorneys and relied on by judges when making decisions regarding reasonable efforts, placements, judicial reviews and permanency

Administrative Codes
- also known as "Rules," which is short for "Rules of Practice and Procedure"
- provides clarification where there are questions in applying state or federal law
- fills in the details necessary to turn a principle into daily reality

The Florida Rules of Juvenile Procedure
- govern court procedures for dependency cases
- provide content requirements for petitions
- explain the purposes and requirements for court hearings
- supply practical information missing from the laws by explaining how the laws are to be put into daily court practice
- guide attorneys to follow court procedures
- these rules are not laws in the strictest sense, the court will not accept any document or practice not in accordance with the rules
- everything prepared for court must be done in conjunction with the rules for juvenile procedure

Operating Procedures
- further clarify the Administrative Codes (Rules)
- provide details for day-to-day job activities
- are agency specific
Florida Statutes

Chapter 39
- Florida Statute, Chapter 39 is the foundational law and primary legal reference for dependency cases in Florida.
- Follows the chronological development of a case from reporting, to investigations, to removal, and on through to permanency.
- Provides most of the legal guidance necessary for drafting court documents and preparing for court hearings.
- Reflects the philosophy of federal laws as expressed in:
  - PL 105-89, The Adoption and Safe Families Act of 1997 (ASFA)
- Many state laws are developed to meet the requirements the federal government has tied to the department's funding sources.
- More than 50% of DCF’s budget comes from federal funding sources. Lack of compliance with federal requirements results in loss of federal funding.

Finding Chapter 39 Cites
- Familiarity with Florida statutes is central to your job tasks.
- It is important to develop the ability to quickly reference the law.
- The Quality of Practice Standards Model references the statutes on each page of daily job tasks.
- The following are examples of how to read the statutes:
  - Chapter Number and Title: 39
  - Sections: 39.001
  - Subsections: 39.001 (7)
  - Paragraphs: 39.001 (7) (c)
  - Subparagraphs: 39.001 (7) (c) 4
  - Sub, subparagraphs: 39.001 (7) (c) 4. a
Reading the Statutes

**Activity Goal:** The class will learn how to read Chapter 39 to assist them in learning how to navigate the law to find specific information.

- Display PPT4, *Reading the Statutes*.

- Select individuals to read aloud to correctly verbalize the statutes on PPT4 beginning with chapter 39, and continuing sequentially until reading the last example on the PPT.

- Refer class to the same examples on PG2, *Florida Statutes* (PG page inserted on the following page TG7).

- Provide several citations for learners to practice looking up statute.

- Ask for volunteers to read each citation on the flipchart prior to locating them; OR, for practice locating in Chapter 39.
Florida Statutes

Chapter 39

- Florida Statute, Chapter 39 is the foundational law and primary legal reference for dependency cases in Florida.
- Follows the chronological development of a case from reporting, to investigations, to removal, and on through to permanency.
- Provides most of the legal guidance necessary for drafting court documents and preparing for court hearings.
- Reflects the philosophy of federal laws as expressed in:
  - PL 105-89, The Adoption and Safe Families Act of 1997 (ASFA)
- Many state laws are developed to meet the requirements the federal government has tied to the department's funding sources.
- More than 50% of DCF's budget comes from federal funding sources. Lack of compliance with federal requirements results in loss of federal funding.

Finding Chapter 39 Cites

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  - Subsections: 39.001 (7)
  - Paragraphs: 39.001 (7) (c)
  - Subparagraphs: 39.001 (7) (c) 4
  - Sub, subparagraphs: 39.001 (7) (c) 4. a
Using the Statutes

**Activity Goal:** Learners will navigate the statutes to find specific topics and answer questions related to the topics.

- Refer groups to **PG3, Using the Florida Statutes.** *(PG page inserted on the following page TG9)*
- Review the directions and allow groups to complete the activity.
- Facilitate discussion as groups present answers to the class, using the Answer Key on the next page.
Using the Florida Statutes

Chapter 39
- Chapter 39 is the foundational law and primary legal reference for dependency cases in Florida.

Directions:
- Refer to Chapter 39 to locate the cite addressing each issue below.
- Record the chapter number, section, subsection, etc., of the appropriate statute.
- Briefly read each cite and answer the questions.

<table>
<thead>
<tr>
<th>Citation</th>
<th>Chapter</th>
<th>Section</th>
<th>Subsection</th>
<th>Paragraph</th>
<th>Subparagraph</th>
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<tr>
<td>Abuse (definition)</td>
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<td>Does corporal punishment constitute abuse?</td>
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<td>Neglect (definition)</td>
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<td>Does financial instability constitute neglect?</td>
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<td>Abandonment (definition)</td>
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<td>If parents are incarcerated, have they abandoned their children?</td>
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<td>Reporting child abuse:</td>
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<td>Reporters who must provide their names to hotline.</td>
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<td>Is an elementary school librarian required to provide his/her name when reporting child abuse?</td>
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<td>Timeframe for an arraignment hearing.</td>
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<td>When must an arraignment hearing be held?</td>
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<td>Harm (definition)</td>
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<td>What are some of the factors that must be considered in evaluating the physical, mental, or emotional injury to a child and deciding if harm to a child has occurred?</td>
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<td>Grounds for Termination of Parental Rights (focus on egregious abuse)</td>
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<td>Does egregious abuse apply to only the child victim?</td>
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</table>
Florida Administrative Codes

What are the Administrative Codes?
- Also known as “Rules”
- Explain how to apply state and federal law

Fill in the details that are necessary to turn a principle into a daily reality.

Display PPT5, Florida Administrative Codes and review the following information:

Refer class to their copy of the Florida Administrative Codes and briefly review the organization.

Finding Administrative Codes Cites
- Familiarity with Florida Administrative Codes is important as it provides specific job requirements that are required on a day to day basis.
- It is important to develop the ability to quickly reference the “rules” for clarification on job related tasks and responsibilities to assure compliance and best practice.
- Tell learners to recall from Orientation that QPS references the codes relevant to all job tasks within the case flow process, from the initial response to permanency/adoption.
Reading the Codes

Explain that reading the codes is similar to reading the statutes.

- Display PPT6, Reading the F.A.C.

Ask class to utilize PPT6 to locate the specific cite that is referenced and discuss the information.

Using the Codes

Activity Goal: Learners will navigate the administrative codes to find specific topics and answer questions related to the topics.

- Refer class to PG4, Using the Florida Administrative Codes. Review the directions and allow class to complete the activity. (PG page inserted on the following page TG12)
- Facilitate discussion as groups’ present answers to the class; use Answer Key on TG13.
### Using the Florida Administrative Codes (F.A.C.)

<table>
<thead>
<tr>
<th>Citation</th>
<th>Chapter</th>
<th>Section</th>
<th>Subsection</th>
<th>Paragraph</th>
<th>Subparagraph</th>
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<tbody>
<tr>
<td>Additional Investigation Intake (Report) (Definition)</td>
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<tr>
<td>What type of information is added to an intake (report) to make it an additional?</td>
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<td>Critical Junctures (Definition)</td>
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<tr>
<td>What are some examples of critical junctures?</td>
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<td>Diligent Search - Involving an American Indian or Alaskan Native child</td>
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<td>What must be documented in the case file when a diligent search involves and American Indian or Alaskan Native child?</td>
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<td>Home Studies for Relative and Non-Relative Placements (Requirements for summary content)</td>
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<tr>
<td>What information/categories must be included in the summary of the results of the home study?</td>
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</table>
### Using the Administrative Codes - Answer Key

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<tr>
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<td>001</td>
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<td>(Report) (Definition)</td>
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<td>65C-30</td>
<td>001(2)</td>
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<td>intake to make it an additional?</td>
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<td>New allegations of maltreatment; new</td>
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<td>incident of the same maltreatment;</td>
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<td>additional victims/alleged perpetrators;</td>
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<td>new information alleging the immediate</td>
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<td>safety/well-being of the child is</td>
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<td>investigation response time.</td>
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<td>Critical Junctures (Definition)</td>
<td>65C-30</td>
<td>001</td>
<td>(41)</td>
<td>N/A</td>
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<td>65C-30</td>
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<td>What are some examples of critical</td>
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<td>junctures? Prior to court hearings,</td>
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<td>at the birth or death of a sibling or</td>
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<td>the addition of a new family member;</td>
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<td>before changing the case plan to include</td>
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<td>unsupervised visits; at case transfer;</td>
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<td>at receipt of a new CPI referral or</td>
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<td>report of domestic violence in the</td>
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<td>home; before the case is closed.</td>
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<td>Diligent Search - Involving an American</td>
<td>65C-30</td>
<td>003</td>
<td>(6)</td>
<td>(b)</td>
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<td>Indian or Alaskan Native child</td>
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<td>What must be documented in the case</td>
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<td>file when a diligent search involves</td>
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<td>an American Indian or Alaskan Native</td>
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<td>child? Documentation of written</td>
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<td>correspondence with the child’s tribe</td>
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<td>and to the Secretary of the Interior</td>
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<td>though the Eastern Regional Office of</td>
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<td>the Bureaus of Indian Affairs</td>
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<tr>
<td>Home Studies for Relative/Non-Relative</td>
<td>65C-28</td>
<td>012</td>
<td>(2)</td>
<td>(b)</td>
<td>1.-8.</td>
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<td>Placement</td>
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<td>What information/categories must be</td>
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<td>included in the summary of the results</td>
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<td>of the home study? Proposed Caregivers:</td>
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<td>understand and are able to meet the</td>
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<td>child’s need for protection, care and</td>
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<td>permanency; were provided rights and</td>
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<td>responsibilities in the dependency</td>
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<td>process; history free of child abuse</td>
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<td>and criminal record; financial ability</td>
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<td>to care for the child; counseled on</td>
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<td>available community support; placement</td>
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<td>recommendation</td>
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</tbody>
</table>
**Topic ~ Introduction to Federal Laws that Impact Child Protection**

**Materials**
- PG5-8  Introduction to Federal Laws Impacting Child Protection
- PPT7  Federal Laws
- PPT8  Adoption Assistance and Child Welfare Act of 1980
- PPT9  ASFA
- PPT10  Adoption and Safe Families Act of 1997
- Video  The Adoption & Safe Families Act of 1997: Fast Track To Permanency
- Quality of Practice Standards for PI and CM

**Establishing the “Need to Know”**

*Conduct a background probe to introduce the impact of Federal laws.*

- Can you think of any Federal law that affects your daily life?
- Can you name any of the Federal laws that affect child protection work?
- Display PPT7, Federal Laws

<table>
<thead>
<tr>
<th>Federal Laws</th>
</tr>
</thead>
<tbody>
<tr>
<td>Adoption and Safe Families Act</td>
</tr>
<tr>
<td>Multi-Ethnic Placement Act</td>
</tr>
<tr>
<td>Interstate Adoption Provision</td>
</tr>
<tr>
<td>Interstate Compact on the Placement of Children</td>
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<tr>
<td>Indian Child Welfare Act</td>
</tr>
<tr>
<td>Immigrant Children</td>
</tr>
<tr>
<td>PL 104-306</td>
</tr>
</tbody>
</table>

- Refer class to PG5-8, Introduction to Federal Laws Impacting Child Protection (PG pages inserted on the following pages TG15-18), and direct them to review the information contained in this PG during the discussion.

*Advise the learners that detailed information regarding these and other federal laws is discussed in Removal and Placement.*
Introduction to Federal Laws Impacting Child Protection

The Adoption Assistance and Child Welfare Act of 1980

- Public Law 96-272; modified by Public Law 105-89 (ASFA)
- Sets national minimum standards for key activities within states’ child welfare (licensed out-of-home care) systems.
- Designed to address “foster care drift,” or situations when children are trapped in the system and move from foster home to foster home with no hope of having a permanent family.
- Applies to all children in out-of-home placements who have not achieved permanency; including a relative/non-relative placement.
- Designed to move children toward a permanency goal as quickly as possible while protecting their best interests.
- Requires that case plans develop permanency goals and are reviewed every six months to ensure goals are revised and updated.

The Adoption and Safe Families Act of 1997 (ASFA)

- In 1997, Public Law 105-89, the Adoption and Safe Families Act, was enacted by the federal government and amended P.L. 96-272.
- Declares that the child’s health and safety must be the paramount concern.
- Although safety is the top concern, ASFA still requires that states:
  - preserve and reunify families (when accomplishable without jeopardizing child safety)
  - place the child in a timely manner
  - finalize permanent placement within 12 months
- When child safety cannot be ensured and the child may not return to the parents’ care, and reasonable efforts have been made consistent with the case plan, the state must petition for the termination of the parental rights of each parent to achieve permanency for the child in a timely manner unless:
  - The child is being cared for by a fit and willing relative.
  - The child is placed in care of an individual under legal guardianship.
  - Compelling reasons have been documented as to how reunification, adoption, placement with a relative, guardianship are not appropriate for the child but another planned permanent living arrangement has been identified and is in the child’s best interest.
  - The state has not provided the services necessary for the safe return of the child.
The federal government provides technical assistance to communities to reach targets for adoptions or alternative permanent placements for children in licensed out-of-home care. ASFA preserves reasonable parenting by stating: “nothing in this act is intended to disrupt the family unnecessarily or to intrude inappropriately into family life, to prohibit the use of reasonable methods of parental discipline, or prescribe a particular method of parenting.”

**Seven Outcomes:** (S-safety, P-permanency, W-well-being) for the child must be documented & are audited by the Federal government for quality:

- **Outcome S1:** Children are first and foremost, protected from abuse and neglect.
- **Outcome S2:** Children are safely maintained in their homes whenever possible and appropriate.
- **Outcome P1:** Children have permanency and stability in their living situations.
- **Outcome P2:** The continuity of family relationships and connections is preserved for children.
- **Outcome WB1:** Families have enhanced capacity to provide for their children’s needs.
- **Outcome WB2:** Children receive appropriate services to meet their educational needs.
- **Outcome WB3:** Children receive adequate services to meet their physical and mental health needs.

**Quality of Practice Standards:** (CPI and CM)
- Relates the federal outcomes, and state guidelines to specific job tasks of each child protection role.

**Multi Ethnic Placement Act/Inter Ethnic Placement Provision**
- Prohibits the delay or denial of any adoption or placement in foster care due to the race, color, or national origin of the child or of the foster or adoptive parents.
- Requires states to provide for diligent recruitment of potential foster and adoptive families who reflect the ethnic and racial diversity of children for whom homes are needed.

**Interstate Compact on the Placement of Children (ICPC)**
- Establishes procedures for all states when placing children across state lines.
- Sending state retains court jurisdiction during placement to ensure that the child can return, if necessary, and are financially responsible for the child if parents, relatives, or other financial assistance are not available in the receiving state.
• Placement of a dependent child under court jurisdiction from one state into another state without the approval of the receiving state Compact Administrator is an illegal child placement and a violation that may be subject to penalties of the Compact.

The Indian Child Welfare Act (ICWA)
• Protects Native American heritage under federal law.
• If a Native American child is the subject of a dependency case, the tribal court may have control over the case or be permitted to intervene in the circuit court case.
• Requires you to always determine if a child is of American Indian descent recognized by the federal government under ICWA.
• The % of Indian blood necessary to qualify varies by tribe; the chief of the tribe determines eligibility.
• DCF and its providers have no authority on an Indian reservation unless there is a signed agreement to the contrary.
• DCF does have the authority to respond in situations if the Indian child does not live on a reservation; however, immediate contact must be made with the tribal liaison.
• Upon receipt of an intake, no matter where the child lives, you must locate and follow any agreement existing between the Indian tribe and Agency.
• While emergency removal is allowed off the reservation, the child’s Indian parents, custodians, and the tribe must be notified.
• In order for the Court to shelter the child, expert testimony regarding Indian issues must be heard. Findings of “clear and convincing” is the legal standard. (Legal standard is higher than for other removals.)

Immigrant Children - Special Immigrant Juvenile Status
• Immigrant children and families who do not have the legal authority to reside in the U.S. are affected by two federal laws passed by Congress in 1996.
• These laws make drastic changes to the eligibility of immigrant families and children to a host of federal benefits.
• Immigration Reform: Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (PL 104-208)
• Special Immigrant Juvenile Status (SIJS) is a federal law that assists certain undocumented children in obtaining legal permanent residency.
• Persons under the jurisdiction of a juvenile court who are eligible for another planned permanent living arrangement due to drug abuse, or maltreatment may qualify for SIJS and based on that, apply for adjustment of status to a Lawful Permanent Resident.
- Typically SIJS is granted to children in dependency court who are placed in foster care.
- Children under the jurisdiction of the juvenile delinquency court may also be eligible for SIJS.
- Special Immigrant Juvenile Status (SIJS) is a way for a dependent child to become a permanent resident of the United States (i.e., get a "green card").
- If the juvenile applies for this status and is successful, he or she may
  - remain in the U.S.,
  - work legally,
  - qualify for in-state tuition at college, and
  - in five years apply for U.S. citizenship.

If the application is denied, the child might be deported.
Adoption Assistance and Child Welfare Act

How does the Adoption Assistance and Child Welfare Act of 1980 address permanency?


Whenever the safety of the child can be assured, what does ASFA require?

- Display PPT9, ASFA.

How does the Adoption and Safe Families Act preserve reasonable parenting?
• Display PPT10, Adoption and Safe Families Act of 1997.

• Refer learners to the 7 Federal outcomes on PG6 (PG page inserted on the following page TG21), and emphasize that skills taught during pre-service training correspond to these outcomes in addition to the standards in the Quality of Practice Standards Tools for each program.

• The Federal government ties funding for child protection to compliance with these outcomes.

• The Federal CFSR, Child and Family Services Review, is the document used by federal monitors to audit case files for compliance.

• Florida has adapted the federal outcomes into the Child Quality of Practice Standards to improve practice and outcomes for children and families who have been reported for child maltreatment.

• This QPS Model was introduced in the overviews, during Orientation and is referenced through the training.
• The federal government provides technical assistance to communities to reach targets for adoptions or alternative permanent placements for children in licensed out-of-home care.

• ASFA preserves reasonable parenting by stating: “nothing in this act is intended to disrupt the family unnecessarily or to intrude inappropriately into family life, to prohibit the use of reasonable methods of parental discipline, or prescribe a particular method of parenting.”

**Seven Outcomes:** (S-safety, P-permanency, WB-well-being) for the child must be documented & are audited by the Federal government for quality:

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Outcome P1: Children have permanency and stability in their living situations.

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Outcome WB1: Families have enhanced capacity to provide for their children's needs.

Outcome WB2: Children receive appropriate services to meet their educational needs.

Outcome WB3: Children receive adequate services to meet their physical and mental health needs.

**Quality of Practice Standards:** (CPI and CM)

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**Multi Ethnic Placement Act/Inter Ethnic Placement Provision**

• Prohibits the delay or denial of any adoption or placement in foster care due to the race, color, or national origin of the child or of the foster or adoptive parents.

• Requires states to provide for diligent recruitment of potential foster and adoptive families who reflect the ethnic and racial diversity of children for whom homes are needed.

**Interstate Compact on the Placement of Children (ICPC)**

• Establishes procedures for all states when placing children across state lines.

• Sending state retains court jurisdiction during placement to ensure that the child can return, if necessary, and are financially responsible for the child if parents, relatives, or other financial assistance are not available in the receiving state.
Dependency Legal References

- Introduce the ASFA video with the following points:
  - The Adoption and Safe Families Act of 1997 fundamentally changed the way we work in child protection.
  - It is critical that the meaning, philosophy, and directives in the legislation are understood.
  - Show the ASFA video (10 minutes) and ask the following questions:

  - What are some challenges the state faces in implementing ASFA?
  - Resources

  - What can you do to ensure permanency for children?
  - Follow the law, administrative codes
  - Advocate
  - Manage cases by being aware of timeframes, etc.
  - Plan rather than react

Multi Ethnic Placement Act/Inter Ethnic Adoption Provision


  - Amended by the Inter Ethnic Adoption Provision (IEP)
  - Prohibits the delay or denial of adoption or placement in foster care due to race, color, or national origin.
  - Requires states to provide recruitment of foster/adoptive parents who reflect the ethnic and racial diversity of the child.

Interstate Compact on the Placement of Children

- Refer class to PG5-8, Introduction to Federal Laws Impacting Child Protection, (PG pages inserted on the following pages in TG24-27), “Interstate Compact on the Placement of Children” to review while discussing:

  - What is the intent of ICPC?
  - Procedures for all states to follow when placing children across state lines.
Indian Child Welfare Act (ICWA)

- Refer class to PG5-8, Introduction to Federal Laws Impacting Child Protection, “The Indian Child Welfare Act,” to review while discussing the following questions:

? Under what circumstances must you decide if a child is of Native American descent?
  - You must always determine if the child is of American Indian descent. This is not a one-time event and continues through the life of the case.

? How might the agency have authority on an Indian reservation?
  - If the agency has established and signed an agreement with the individual tribe.

? Upon receipt of an intake alleging maltreatment of an Indian child who must be contacted and why?
  - Agency administration for any information on any agreement which may exist within the district between the Indian tribe and the Agency.

? If emergency removal occurs off the reservation, explain what must occur.
  - The child’s Indian parents, custodians, and the tribe must be notified.

Advertise learners that more information on ICWA and placement requirements is presented during Removal and Placement.

Immigrant Children (SIJS)

- Refer class to PG5-8, Introduction to Federal Laws Impacting Child Protection, “Special Immigrant Juvenile Status,” to review while discussing the following questions:

? What do you think happens if you take custody of a child who is not a legal citizen of the United States?
  - You must always determine citizenship and follow the steps outlined in the Special Immigrant Juvenile Status. This action continues through the life of the case.

Advertise learners that more information on SIJS is presented during Removal and Placement.
Introduction to Federal Laws Impacting Child Protection

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• Upon receipt of an intake, no matter where the child lives, you must locate and follow any agreement existing between the Indian tribe and Agency.
• While emergency removal is allowed off the reservation, the child’s Indian parents, custodians, and the tribe must be notified.
• In order for the Court to shelter the child, expert testimony regarding Indian issues must be heard. Findings of “clear and convincing” is the legal standard. (Legal standard is higher than for other removals.)

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• Special Immigrant Juvenile Status (SIJS) is a federal law that assists certain undocumented children in obtaining legal permanent residency.
• Persons under the jurisdiction of a juvenile court who are eligible for another planned permanent living arrangement due to drug abuse, or maltreatment may qualify for SIJS and based on that, apply for adjustment of status to a Lawful Permanent Resident.
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- Special Immigrant Juvenile States (SIJS) is a way for a dependent child to become a permanent resident of the United States (i.e., get a "green card").
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  - remain in the U.S.,
  - work legally,
  - qualify for in-state tuition at college, and
  - in five years apply for U.S. citizenship.

If the application is denied, the child might be deported.
Topic ~ Goals for Dependent Children

Materials

♦ s. 39.4085, F.S. Goals for Dependent Children

? Why do you think it is important for the Florida Legislature to have goals for children who are adjudicated dependent?

• s. 39.4085, F.S. establishes goals for children in shelter or foster care.
• It seeks to ensure the child’s safety, well-being, and permanency.
• Refer to s. 39.4085, F.S.
• DCF has placed these goals into the “Rights and Expectations for Children and Youth in Shelter or Foster Care” Brochure.
• Review the Brochure, PG9-10 and discuss agency protocol for the use of the brochure. (PG pages inserted on the following pages TG29-30).
<table>
<thead>
<tr>
<th>Your Rights in Shelter or Foster Care</th>
<th>Rights and Expectations for Children and Youth in Shelter or Foster Care</th>
</tr>
</thead>
<tbody>
<tr>
<td>Why We Wrote This Document</td>
<td>Provided by the Department of Children and Youth and its Community Partners</td>
</tr>
<tr>
<td>Your health and safety are very</td>
<td>To understand what you are signing and why you are being asked to sign it.</td>
</tr>
<tr>
<td>important to the state of Florida.</td>
<td>To make a grievance to the Department if any of your rights are violated.</td>
</tr>
<tr>
<td>You can help make sure that you</td>
<td>To make a grievance to your community-based care provider, and.</td>
</tr>
<tr>
<td>are safe and healthy by speaking</td>
<td>To have a lawyer or other person assist you in making a grievance or complaint.</td>
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<tr>
<td>up for yourself. In order to help</td>
<td>To be heard in court.</td>
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<tr>
<td>you do this, we wrote this</td>
<td>To attend court hearings involving your case, and.</td>
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<tr>
<td>document so you can know what</td>
<td>To tell the judge what is happening to you and what you want.</td>
</tr>
<tr>
<td>your rights are and what</td>
<td>To have representation in court.</td>
</tr>
<tr>
<td>you can expect from the Department</td>
<td>To have a guardian ad litem tell the judge what you want, in addition to what your guardian ad litem thinks is best for you.</td>
</tr>
<tr>
<td>of Children and Families.</td>
<td>To obtain an attorney of your choice, or ask the judge to have one appointed to you, and.</td>
</tr>
<tr>
<td>Where Do Your Rights Come From?</td>
<td>To have the immediate and unlimited ability to meet with your guardian ad litem and attorney.</td>
</tr>
<tr>
<td>There are many sources for the</td>
<td>To medical care.</td>
</tr>
<tr>
<td>rights of children and youth in</td>
<td>To be taken to doctors and dentists, including eye doctors, for medical evaluation and treatment.</td>
</tr>
<tr>
<td>the shelter and foster families.</td>
<td>To education.</td>
</tr>
<tr>
<td>Some rights come from the United</td>
<td>To attend school, and to obtain special educational services if you need them.</td>
</tr>
<tr>
<td>States Constitution, others from</td>
<td>To permanency.</td>
</tr>
<tr>
<td>the Florida Constitution, Florida</td>
<td>To have all efforts in court made without delay because time is of the essence (very important).</td>
</tr>
<tr>
<td>statutes (law) and federal statutes</td>
<td>To same rights as everyone else.</td>
</tr>
<tr>
<td>also state the state as it is</td>
<td>To enjoy the same rights established in the Constitution of the United States and Florida as every other person in the state. That means you have the right to individual dignity, liberty, privacy, pursuit of happiness, and the protection of your civil and legal rights.</td>
</tr>
<tr>
<td>My Commitment to you</td>
<td></td>
</tr>
</tbody>
</table>
Module 1: Legal Basis for Child Welfare

Chapter 4: Family and Child Protection

What You Can Expect From the Department of Children & Families
For Your Caregivers:

SAFETY

A Professional Investigation: The adult who investigates whether you are at risk of harm will have the professional training to make the best decision possible for your protection.

The Assistance of a Services Worker
You Can Expect:

- To have regular contact with your services worker by phone and in person.
- To meet with your services worker at a minimum of every 30 days.
- To see your services worker in private, if you want.
- To meet with your services worker to meet with your foster parent in person at least every 30 days, and
- To meet with your services worker to see the place you live at least every 30 days.

The Department Will Keep Important Records
You Can Expect:

- That your Department records are complete, accurate, and kept up to date.
- That you, your guardian, and your attorney can review and receive a copy of your record in a timely manner.
- Your photographs, fingerprints taken and kept in your file, and
- Your birth certificate and health insurance information will be kept in your file and provided to you when you need it.

Safety Plan
You Can Expect:

- To have a plan to go to court and talk to the judge or other person making decisions about you, and
- To attend hearings or meetings where decisions about you are being made, unless the judge decides it would not be best for you to do so.

Services
You Can Expect:

- To have a plan to go to court and talk to the judge or other person making decisions about you, and
- To attend hearings or meetings where decisions about you are being made, unless the judge decides it would not be best for you to do so.

Other Children & Youth
You Can Expect to be in a family home with no more than one other foster child, unless

Case Plan That Meets Your Needs
You Can Expect:

- To participate in writing your case plan,
- To make sure your case plan addresses your needs and the needs of your family,
- To have the plan and all its services explained to you as you understand.

Department of Children & Families
You Can Expect:

- To have a plan that respects your race and culture,
- To have the opportunity to get your opinion about anything in the plan you do not like, and
- To have the responses to your opinions clearly explained to you.

Counseling
You Can Expect:

- To have trained professionals give you the help and services you need for any problems you may be having, and
- To have the opportunity for counseling to help you better understand your thoughts and feelings about past experiences and what is currently happening in your life.

Government Benefits
You Can Expect:

- That the Department will apply for all state and federal benefit programs that you are eligible for, and
- That any decisions about government benefits include Medicaid, Supplemental Security Income, disability benefits, medical, and other programs for children and youth who are in foster care, or who are emotionally, behaviorally, or physically disabled.

Trained Staff
You Can Expect:

- That the people who provide services to you are properly trained in order to meet your needs.

Living Situation

Brothers & Sisters (Sibling Care)
You Can Expect:

- To be placed in the same home with your birth brothers and sisters,
- To be placed in a home that is the same, that is safe, and
- To be placed where the judge says you cannot

Nurturing Care
You Can Expect:

- To be in a family home with no more than one other foster child, unless

You Can Expect:

- To have a family home that is the most family-like setting appropriate for your needs.
- To be placed in a group home if it is the most family-like setting appropriate for your needs.

People Who Know You
You Can Expect:

- To have your foster family in the home which the parents know and understand your personal history, needs, and problems.

Permanent Care
You Can Expect:

- To live in a home where the parents know and understand your personal history, needs, and problems.
- To have all the services you need to help you live in a permanent home and the support you need for safety.

You Can Expect:

- To have all the services you need to help you live in a permanent home and the support you need for safety.

You Can Expect:

- To be placed in a family home that is the most family-like setting appropriate for you.
- To have your foster family in the home which the parents know and understand your personal history, needs, and problems.

Permanency
You Can Expect:

- To have had one visit each month with your parents or legal caregivers, unless the judge says you cannot visit them.
- To have had the opportunity to get your opinion about anything in the plan you do not like, and
- To have the responses to your opinions clearly explained to you.

Reunification Cases
You Can Expect:

- To make sure that your plan and services will enable you to be reunited with your family or legal caregivers as soon as it is safe to do so, and
- That you will have the opportunity to get your opinion about anything in the plan you do not like, and
- To be placed in a family home, and that you should not be long away from your family.

Permanent Home
You Can Expect:

- To have all the services you need to help you live in a permanent home and the support you need for safety.
- To have all the services you need to help you live in a permanent home and the support you need for safety.

Income, Disability Benefits, and Other Programs
You Can Expect:

- To have all the services you need to help you live in a permanent home and the support you need for safety.
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Topic ~ Statutory Definitions

Materials

♦ PG11-14 Definitions and Elements of Abandonment, Abuse, Neglect and Harm

Definitions of Abuse, Abandonment, Neglect and Harm

Conduct a background probe to introduce legal references. It is not necessary to provide all of the answers to these questions. Inform the class that they will discuss the definitions and participate in activities to become familiar with them.

How do you think the law defines abandonment, abuse, neglect and harm of a child? Why is it important to have a definition of these maltreatments?

- Statutory definitions are divided into elements.
- Each element of the definition must be present for the hotline to accept an intake, the allegations to be verified, and for CLS to petition the court for dependency.

The definition of harm is included in the PG (PG11-14); however, it is not broken into elements as General Counsel has advised that this is done on a “case by case basis.”

There is a scenario provided for harm that must be reviewed for discussion as to how harm may be interpreted.

It is important that learners understand that harm is a maltreatment that exists in Florida Statute and must be considered in all cases.

- Refer to PG11-14, Definitions and Elements of Abandonment, Abuse, Neglect and Harm, and review the elements of the definitions through group presentations. *(PG pages inserted on the following pages TG32-35)*
- Ask groups to select one of the definitions and record on flipchart the elements. Ensure that all 4 definitions are selected.
- Facilitate presentations and offer examples.
Definitions/Elements of Abandonment, Abuse, Neglect and Harm

Each element of the statutory definition of “abuse,” “abandonment” and “neglect” must be addressed for legal purposes.

- Each element of the definition must be proven to substantiate the allegation.
- While the definition of harm is not broken into "specific elements," the definition of harm must be applied

Elements of Abandonment, F.S. 39.01(1)

"Abandoned" or "Abandonment" means a situation in which:

- the parent/legal custodian of a child, or in the absence of a parent/legal custodian, the caregiver, while being able:
  - has made no significant contribution to the child’s care and maintenance or
  - has failed to establish or maintain a substantial and positive relationship with the child, or both.
  - "establish or maintain a substantial and positive relationship" includes, but is not limited to, frequent and regular contact with the child through frequent and regular visitation or communication to or with the child, and the exercise of parental rights and responsibilities.
  - Marginal efforts and incidental or token visits or communications are not sufficient to establish or maintain a substantial and positive relationship with a child.
  - Does not include a surrendered newborn infant; a "child in need of services" or a "family in need of services".
  - Incarceration, repeated incarceration, or extended incarceration of a parent, legal custodian, or caregiver responsible for a child’s welfare may support a finding of abandonment.

Elements of Abuse, F.S.39.01(2)

"Abuse" means any:

- willful act or threatened act that results in any:
  - physical, mental, or sexual injury or harm that
  - causes or is likely to cause the child’s physical, mental, or emotional health
  - to be significantly impaired. Abuse of a child includes:
  - acts or omissions.
  - Corporal discipline of a child by a parent/legal custodian for disciplinary purposes does not in itself constitute abuse when it does not result in harm to the child.
Elements of Neglect, F.S. 39.01(44)

"Neglect" occurs when

- a child is deprived of or is allowed to be deprived of:
- necessary food, clothing, shelter, or medical treatment
  or
- permitted to live in an environment when such deprivation or environment causes the child's physical, mental, or emotional health to be:
- significantly impaired or in danger of being significantly impaired. The foregoing circumstances are not considered neglect if caused primarily by:
  - financial inability unless services for relief have been offered to and rejected by such person.
- a parent/legal custodian legitimately practicing religious beliefs with a recognized church or religious organization who does not provide specific medical treatment for a child may not, for that reason alone, be considered a negligent parent/legal custodian; this does not preclude a court from ordering the following services when the health of the child requires:
  - Medical services from a licensed physician, dentist, optometrist, podiatric physician, or other qualified health-care provider, or
  - Treatment by a duly accredited practitioner who relies solely on spiritual means for healing in accordance with the tenets and practices of a well-recognized church or religious organization.

- Neglect of a child includes acts or omissions.

Definition of Harm, F.S. 39.01(32)

"Harm" to a child's health or welfare can occur when any person:

- Inflicts or allows to be inflicted upon the child physical, mental, or emotional injury.

In assessing if harm occurred, you must consider the following factors in evaluating any physical, mental, or emotional injury to a child:

- child's age
- child's prior history of injuries
- location of the injury on the child
- multiplicity of the injury and
- type of trauma inflicted.

Such injury includes, but is not limited to willful acts that produce the following specific injuries:

- Sprains, dislocations, or cartilage damage
- Bone or skull fractures
- Brain or spinal cord damage
- Intracranial hemorrhage or injury to other internal organs
- Asphyxiation, suffocation, or drowning
- Injury resulting from the use of a deadly weapon
- Burns or scalding
- Cuts, lacerations, punctures, or bites
- Permanent or temporary disfigurement
- Permanent or temporary loss or impairment of a body part or function.

The term "willful" refers to the intent to perform an action, not to the intent to achieve a result or to cause an injury.

**Definition of Harm (Continued)**

- PURPOSELY giving a child poison, alcohol, drugs, or other substances that substantially affect the child's behavior, motor coordination, or judgment or that results in sickness or internal injury. The term "drugs" means prescription drugs not prescribed for the child or not administered as prescribed, and controlled substances.
- Leaving a child without adult supervision or arrangements appropriate for the child's age, mental or physical condition, so the child is unable to care for the child's own needs or another's basic needs or is unable to exercise good judgment in responding to any kind of physical or emotional crisis.
- Inappropriate or excessively harsh disciplinary likely to result in physical, mental or emotional injury. The injuries significance must be evaluated using the following factors: child's age; prior history of injuries; location of the injury; multiplicity of the injury; type of trauma inflicted. Corporal discipline may be considered excessive or abusive if it results in any of the following or other similar injuries:
  - Sprains, dislocations, or cartilage damage.
  - Bone or skull fractures.
  - Brain or spinal cord damage.
  - Intracranial hemorrhage or injury to other internal organs.
  - Asphyxiation, suffocation, or drowning.
  - Injury resulting from the use of a deadly weapon.
  - Burns or scalding.
  - Cuts, lacerations, punctures, or bites.
  - Permanent or temporary disfigurement.
  - Permanent or temporary loss or impairment of a body part or function.
  - Significant bruises or welts.
  - Commits, or allows to be committed, sexual battery or lewd or lascivious acts against the child.
  - Allows, encourages, or forces the sexual exploitation of a child, including allowing, encouraging, or forcing a child to:
    - Solicit for or engage in prostitution; or
    - Engage in a sexual performance
    - Exploits a child, or allows a child to be exploited.
Topic ~ Elements of Abandonment, Abuse and Neglect

Materials

♦ PG11-14 Definitions and Elements of Abandonment, Abuse, Neglect and Harm
♦ PG15 Identifying the Elements

Identifying the Elements

Activity Goal: Learners will identify the elements of abandonment, abuse, and neglect in order to understand the legal definitions.

• Refer groups to PG11-14, Definitions and Elements of Abandonment,
Abuse, Neglect and Harm for use during the activity, PG15, Identifying the Elements. (PG pages inserted on the following pages TG37-41)

Please note that the scenario for Harm has different directions.

They will not be breaking the scenario into elements, but rather providing details as to what information provided in the scenario qualifies as harm.

This activity may create debate, so be prepared.

• Explain directions and direct groups to complete the activity.
• Facilitate group presentation of answers (Answer Key below) and provide corrective feedback.
Definitions/Elements of Abandonment, Abuse, Neglect and Harm

Each element of the statutory definition of “abuse,” “abandonment” and “neglect” must be addressed for legal purposes.

- Each element of the definition must be proven to substantiate the allegation.
- While the definition of harm is not broken into “specific elements,” the definition of harm must be applied.

Elements of Abandonment, F.S. 39.01(1)

“Abandoned” or “Abandonment” means a situation in which:

- the parent/legal custodian of a child, or in the absence of a parent/legal custodian, the caregiver, while being able:
  - has made no significant contribution to the child’s care and maintenance or
  - has failed to establish or maintain a substantial and positive relationship with the child, or both.
  - “establish or maintain a substantial and positive relationship” includes, but is not limited to, frequent and regular contact with the child through frequent and regular visitation or communication to or with the child, and the exercise of parental rights and responsibilities.
  - Marginal efforts and incidental or token visits or communications are not sufficient to establish or maintain a substantial and positive relationship with a child.
  - Does not include a surrendered newborn infant; a “child in need of services” or a “family in need of services”.
  - Incarceration, repeated incarceration, or extended incarceration of a parent, legal custodian, or caregiver responsible for a child’s welfare may support a finding of abandonment.

Elements of Abuse, F.S.39.01(2)

“Abuse” means any:

- willful act or threatened act that results in any:
  - physical, mental, or sexual injury or harm that
  - causes or is likely to cause the child’s physical, mental, or emotional health
  - to be significantly impaired. Abuse of a child includes:
    - acts or omissions.
    - Corporal discipline of a child by a parent/legal custodian for disciplinary purposes does not in itself constitute abuse when it does not result in harm to the child.
Elements of Neglect, F.S. 39.01(44)

"Neglect" occurs when

- a child is deprived of or is allowed to be deprived of:
  - necessary food, clothing, shelter, or medical treatment
  or
  - permitted to live in an environment when such deprivation or environment causes the child's physical, mental, or emotional health to be:
  - significantly impaired or in danger of being significantly impaired. The foregoing circumstances are not considered neglect if caused primarily by:
    - financial inability unless services for relief have been offered to and rejected by such person.
    - a parent/legal custodian legitimately practicing religious beliefs with a recognized church or religious organization who does not provide specific medical treatment for a child may not, for that reason alone, be considered a negligent parent/legal custodian; this does not preclude a court from ordering the following services when the health of the child requires:
      - Medical services from a licensed physician, dentist, optometrist, podiatric physician, or other qualified health-care provider, or
      - Treatment by a duly accredited practitioner who relies solely on spiritual means for healing in accordance with the tenets and practices of a well-recognized church or religious organization.
  - Neglect of a child includes acts or omissions.

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- Inflicts or allows to be inflicted upon the child physical, mental, or emotional injury.

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- child's age
- child's prior history of injuries
- location of the injury on the child
- multiplicity of the injury and
- type of trauma inflicted.

Such injury includes, but is not limited to wilful acts that produce the following specific injuries:

- Sprains, dislocations, or cartilage damage
- Bone or skull fractures
- Brain or spinal cord damage
- Intracranial hemorrhage or injury to other internal organs
- Asphyxiation, suffocation, or drowning
- Injury resulting from the use of a deadly weapon
- Burns or scalding
- Cuts, lacerations, punctures, or bites
• Permanent or temporary disfigurement
• Permanent or temporary loss or impairment of a body part or function.

The term "willful" refers to the intent to perform an action, not to the intent to achieve a result or to cause an injury.

Definition of Harm (Continued)

• Purposely giving a child poison, alcohol, drugs, or other substances that substantially affect the child's behavior, motor coordination, or judgment or that results in sickness or internal injury. The term "drugs" means prescription drugs not prescribed for the child or not administered as prescribed, and controlled substances.

• Leaving a child without adult supervision or arrangements appropriate for the child's age, mental or physical condition, so the child is unable to care for the child's own needs or another's basic needs or is unable to exercise good judgment in responding to any kind of physical or emotional crisis.

• Inappropriate or excessively harsh disciplinary likely to result in physical, mental or emotional injury. The injuries significance must be evaluated using the following factors: child's age; prior history of injuries; location of the injury; multiplicity of the injury; type of trauma inflicted. Corporal discipline may be considered excessive or abusive if it results in any of the following or other similar injuries:
  • Sprains, dislocations, or cartilage damage.
  • Bone or skull fractures.
  • Brain or spinal cord damage.
  • Intracranial hemorrhage or injury to other internal organs.
  • Asphyxiation, suffocation, or drowning.
  • Injury resulting from the use of a deadly weapon.
  • Burns or scalding.
  • Cuts, lacerations, punctures, or bites.
  • Permanent or temporary disfigurement.
  • Permanent or temporary loss or impairment of a body part or function.
  • Significant bruises or welts.
• Commits, or allows to be committed, sexual battery or lewd or lascivious acts against the child.
• Allows, encourages, or forces the sexual exploitation of a child, including allowing, encouraging, or forcing a child to:
  • Solicit for or engage in prostitution; or
  • Engage in a sexual performance
  • Exploits a child, or allows a child to be exploited.
Definition of Harm (Continued)

- Abandons the child. Meaning a situation in which the parent/legal custodian/caregiver while able, has make no significant contribution to the child’s care and maintenance or fails to establish or maintain a substantial and positive relationship with the child, or both. Establish or maintain a substantial and positive relationship: includes, but is not limited to, frequent and regular contact with the child through frequent and regular visitation or communication to or with the child, and the exercise of parental rights and responsibilities. Marginal efforts and incidental or token visits or communications are not sufficient to establish or maintain a substantial and positive relationship with a child. Does not include a surrendered newborn infant. A child in need of services as defined in chapter 984, or a family in need of services as defined in chapter 984. The incarceration, repeated incarceration, or extended incarceration of a parent, legal custodian, or caregiver responsible for a child’s welfare may support a finding of abandonment.

- Neglects the child. Means the parent/other person responsible fails to supply the child with adequate food, clothing, shelter, or health care, although financially able to do so or although offered financial or other means to do so. However, a parent/legal custodian who, by reason of the legitimate practice of religious beliefs, does not provide specified medical treatment for a child may not be considered abusive or neglectful for that reason alone, but such an exception does not:
  - Eliminate the requirement that such a case be reported to the department;
  - Prevent the department from investigating such a case; or
  - Preclude a court from ordering, the provision of medical services by a physician, or treatment by a duly accredited practitioner who relies solely on spiritual means for healing in accordance with the tenets and practices of a well-recognized church or religious organization.

- Exposes a child to a controlled substance or alcohol. Exposure to a controlled substance or alcohol is established by:
  - A test, administered at birth, indicating that the child’s blood, urine, or meconium contained any amount of alcohol/controlled substance/metabolites of such substances, the presence of which was not the result of medical treatment administered to the mother or the newborn infant; or
  - Evidence of extensive, abusive, and chronic use of a controlled substance or alcohol by a parent when the child is demonstrably adversely affected by such usage.
  - The term "controlled substance" means prescription drugs not prescribed for the parent or not administered as prescribed and controlled substances.
  - Uses mechanical devices, unreasonable restraints, or extended periods of isolation to control a child.
  - Engages in violent behavior that demonstrates a wanton disregard for the presence of a child and could reasonably result in serious injury to the child.
  - Negligently fails to protect a child in his or her care from inflicted physical, mental, or sexual injury caused by the acts of another.
  - Has allowed a child's sibling to die as a result of abuse, abandonment, or neglect.
  - Makes the child unavailable for the purpose of impeding or avoiding a protective investigation unless the court determines that the parent, legal custodian, or caregiver was fleeing from a situation involving domestic violence.
Identifying the Elements

- Read the following narratives and identify examples of statutory elements.

Scenario #4 applies to the definition of harm. Provide specific information from the scenario that supports the definition of harm.

Scenarios

Abuse: A grandmother alleges that her granddaughter has a lump, bruise, and several cuts on her face. The child sustained the injury when her father threw a vase at mom and hit his daughter instead. The caller claims that the son-in-law has beaten her daughter repeatedly; however, her daughter refuses to leave her husband and remove her 8-year-old child from the home.

Abandonment: A neighbor’s call alleges that the two children (ages 12 and 14) living next door are without parents. The caller alleges that the father has a girlfriend who lives across town and the father has moved in with her. The father claims that his girls are responsible and are fine with his occasional visits home. The father claims to give the girls $50 each, monthly.

Neglect: An apartment manager alleges that a 5-year-old is playing on the seventh-floor fire-escape landing while his “mother is sleeping.” This is the third time the caller has seen the boy playing on the fire escape and claims to have talked to the mother several times. Once, the caller had to free the boy’s head from the bars of the fire escape. The caller claims that the mother feels the boy is old enough to behave properly and safely.

Harm: An intake alleges that a child’s toxicology report reveals that a two and a half year old has Ambien (a prescription sleep aid for adults) in her system. She was brought to the hospital after the preschool called 911 and the mother due to the child’s lethargic behavior. The child was unable to keep her head up during activity time at the pre-school. The mother admitted to giving the child one of her pills the previous night as the child was running around the house tirelessly at 10pm and the mother, who is 27 years old, was tired and wanted the child to go to sleep. She did not think that giving the child one of the pills would be a problem.
Identifying the Elements
(Answer Key)

• Abuse: A grandmother calls in an intake…
  ▪ Element (1) - threw vase which hit child
  ▪ Element (2) - lump, bruise, cuts to face
  ▪ Element (3) - physical damage to child’s face

• Abandonment: A neighbor calls in an intake…
  ▪ Element (1) - father
  ▪ Element (2) - no apparent reason for inability to provide support
  ▪ Element (3) - $50/month not reasonable provision
  ▪ Element (4) - occasional visits is not a substantial and positive relationship
  ▪ Element (5) - not apparent that father is exercising parental rights and responsibilities
  ▪ Element (6) - makes marginal efforts at best; incidental or token visits or communications
  ▪ Element (7) - not sufficient to establish or maintain a substantial and positive relationship
  ▪ Element (8) - is not applicable.

• Neglect: An apartment manager calls in an intake…
  ▪ Element (1) - mother
  ▪ Element (2) - deprives child of adequate supervision
  ▪ Element (4) - permits child on fire escape environment
  ▪ Element (5&6) - head stuck in bars, potential for extreme physical damage
  ▪ Element (7) - sleeping mother does not denote economic instability
  ▪ Element (3) and (8) are not applicable

• Harm: An intake is received that a child’s toxicology…
  ▪ An act on the part of the mother
  ▪ Child had temporary loss of body function
  ▪ Mother purposely gave child “drugs” (prescription drugs that were not prescribed for the child or administered as prescribed)
  ▪ Guide discussion in conjunction with the definition provided
Review ~ Module 1: Legal Basis for Child Welfare

- Display PPT2, Module 1 Objectives.

- Remind learners of the discussion that occurred at the beginning of the module and then ask learners the following questions to review Module 1.

- What are the primary legal references used in dependency cases?
  - Chapter 39
  - Florida Administrative Codes
  - 65C-28 - relates to children residing in out-of-home care
  - 65C-29 - direction for Hotline counselors and investigative functions
  - 65C-30 - description of services, interventions and case conduct requirements

- List the federal laws that impact child protection and identify how they impact daily practice.
  - Adoption Assistance and Child Welfare Act - requires case plans to develop permanency goals; reviews every 6 months; addresses “foster care drift”
  - ASFA - Preserve and unify families; place the child in a timely manner; finalize permanent placement within 12 months
  - MEPA/IEP - Prohibits the delay or denial of adoption or placement in foster care due to race, color, or national origin; requires states to provide recruitment of foster/adoptive parents who reflect the ethnic and racial diversity of the child.
  - ICPC - Establishes procedures for all states to follow when placing children across state lines.
  - ICWA - Protects Native American Heritage; tribe must be involved in all aspects of dependency case; notification requirements, placement requirements; and higher TPR standards
  - SIJS - assists certain undocumented children in obtaining legal permanent residency.
Module 2: Introduction to Evidence

Module 2 Objectives

- Display PPT11, Module 2 Objectives and present an overview of the module by summarizing each objective

Background Knowledge/Experience

Prior to beginning instruction for this module, relate the module goal to the learners’ job, emphasizing the importance and “need to know.”

Goal: To provide basic information about evidence in dependency cases and how to document the evidence that is gathered.

- What kind of evidence do you think you will use in dependency cases?
- Do you think that the burden of proof is the same for dependency cases as criminal cases?

Topic ~ Definition of Evidence

PowerPoint Slides

- PPT12-13 Gathering Evidence

- You need to understand how to identify and document the evidence that is vital to construct solid court cases.
- Evidence is anything that helps prove/disprove maltreatment occurred.

Gathering Evidence

- The assessment process includes evidence gathering responsibilities to support a basis of fact for a dependency petition. The following are some examples:
- Display PPT12-13, Gathering Evidence.

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.

- The key to good evidence is good assessment and documentation practice.
- Every case has the potential for court action and must be treated as if it may end up in court.

**Topic ~ Four Types of Evidence**

**Materials**
- PG1 Fact Finding Scenarios
- PPT14 Types of Evidence

- Display and Review PPT14, Types of Evidence.

**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
**Activity Goal:** Learners will assess what type of evidence they would gather using case scenarios.

- Refer learners to **PG1, Fact Finding Scenarios**. Direct them to read the scenarios and provide a list of the different types of evidence they would obtain in each case. *(PG page inserted on the following page TG4)*

A list of possible answers is included below. Please note that this list is not comprehensive and you can add to the lists as appropriate.
Module 2: Introduction to Evidence

Fact Finding Scenarios

Directions:

Read each scenario and provide a list of the different types of evidence (direct, demonstrative, circumstantial and expert) that you would obtain. Refer to PG20 for definitions of the four categories of evidence.

Xavier
Xavier has bruises on his thigh and buttock area. According to him and his mother the bruises are a result of the mother hitting him with an extension cord. The mother states that she cannot control his behavior unless she hits him. She advises you that she has had the child to every counselor in the area.

Marvin
The mother’s paramour, Marvin, has a very violent history. Allegedly he beats the mother regularly and the children are usually in the home when the beatings occur. Both children attend Harborview elementary school.

Lisa
Lisa’s father, Arthur, molested her when she was a child. He was arrested as a result of the abuse and was recently released from prison. Lisa is now 20 and has allowed her father to move into her residence with her and her two female children. Lisa told the children’s day care teacher that she believes that her father has learned his lesson and that she can keep her children safe.
Scenario 1: Xavier

Xavier has bruises on his thigh and buttock area. According to him and his mother, the bruises are a result of the mother hitting him with an extension cord. The mother states that she cannot control his behavior unless she hits him. She advises you that she has taken the child to every therapist in the area.

- Statements of victim and mother - direct
- CPT physical - expert
- CPT report and photos - demonstrative
- Extension cord used - demonstrative
- School collateral - circumstantial
- Statements of neighbors/relatives - circumstantial
- Pediatrician reports - demonstrative
- Statements of previous counseling providers - circumstantial (possibly expert, depending on their area of expertise)
- Reports from previous counseling providers - demonstrative
- Criminal background checks - demonstrative

Scenario 2: Marvin

The mother’s paramour, Marvin, has a very violent history. Allegedly he beats the mother regularly and the children are usually in the home when the beatings occur. Both children attend Harborview Elementary School.

- Statements of children, mother and paramour - direct
- Statements of neighbors/relatives - circumstantial
- Criminal background checks - demonstrative
- History of LE calls to residence - demonstrative
- Past/present injunctions - demonstrative
- School contacts - circumstantial
- Hospital/doctor reports regarding mother’s injuries - demonstrative

Scenario 3: Lisa

Lisa’s father, Arthur, molested her when she was a child. He was arrested as a result of the abuse and was recently released from prison. Lisa is now 20 and has allowed her father to move into her residence with her and her two female children. Lisa told the children’s day care teacher that she believes that her father has learned his lesson and that she can keep her children safe.

- Statements of mother, A/P and children - direct
- Day care collateral - circumstantial
- Criminal background checks - demonstrative
- LE calls to residence - demonstrative
- Parole records/reports - demonstrative
• Statements of parole officer - circumstantial
• Pediatrician reports - demonstrative
• Records from therapist involved with Arthur and/or mother - demonstrative
• Statements from therapist involved with Arthur and/or mother - expert/circumstantial
• Priors - demonstrative
• Medical reports on children - demonstrative

**Topic ~ Evidence Collection and Documentation**

**Materials**
- ♦ PPT15 Collecting Evidence
- ♦ PPT16-17 Photographs
- ♦ PPT18-19 Documentation
- ♦ PPT20 Medical Evidence
- ♦ PPT21 Sexual Abuse

*You must be aware of the agency protocol for the collection and storage of evidence. The information below must be adapted to meet the specific agency protocols.*

**Establishing the “Need to Know”**

*Conduct a background probe to introduce the collection and storage of evidence.*

? Who do you think is responsible for collecting and storing evidence in child abuse cases?

**Collecting Evidence**

• There are no provisions in law, rule, or operating procedure allowing you to confiscate any physical evidence during an investigation.
• You must know your region/circuit policy for physical evidence and photographs.
• Refer to 65C-29.003(3)(g)1.: If in the process of assessing the physical condition of the household, there is a need to remove physical evidence from the home, other than a child taken into protective custody, you must request local law enforcement to initiate a criminal investigation.
• Display PPT15, Collecting Evidence and discuss. Additional information provided in the bullets that follow must be incorporated during the discussion.
• Document the names, addresses and telephone numbers of everyone connected with the case.

• For all events, an accurate, running chronology, free of value judgments must be maintained. A factually documented case file contains evidence.

• Evidence must be collected in a manner that does not conflict with the requirements of law enforcement and must be completed by LE.

Photographs

• Display PPT16, Photographs and discuss. Ask learners to locate this cite and review during the discussion.

• Display PPT17, Photographs and discuss. Additional information is provided in the bullets that follow and must be incorporated during the discussion.
The following is an example of how photographs may be handled. You must be aware of the specific region/circuit protocol and review that protocol in place of the following:

- Two sets of the photographs must be made - one for the file and one for LE
- On the back of the photographs, document the following:
  - Who took the photograph
  - Child abuse intake number
  - Date pictures were taken
  - Time pictures were taken
  - Location where the pictures were taken
  - Investigator’s initials

Physical Evidence - Law Enforcement always takes the lead in collecting evidence

Can you provide examples of evidence of physical abuse that LE may want to collect?

- Belts
- Cords
- Paddles
- Lighters
- Hot plates

What are some examples of evidence of neglect?

- Medicine or poisons
- Drugs
- Weapons found within the reach of unsupervised children
- Lighters
- Hot plates
- There is non-criminal evidence that may be used in preparing/proving dependency issues:
  - Journals
  - Drawings
  - Letters
  - School and medical records
  - Prior LE and abuse records
  - Obtain any prior intakes.
  - Collect video/audio tapes that corroborate or negate the allegations.
  - Secure 911 tape as evidence since it is an exception to the hearsay rule and is admissible.
Documentation

- Display PPT18-19, Documentation and discuss. Additional information is provided in the bullets that follow and must be incorporated during the discussion.

- Document sworn written statements from the victim, suspect, witnesses and reports.

- All identifying information for expert witnesses must be provided to CLS to be included in the witness list.

- Once evidence has been categorized, it becomes apparent which evidence is strong and which is weak.

- Sometimes a little more work will fill out the picture; sometimes it indicates that the needed evidence has been gathered.

Medical Evidence

- Contact CPT when possible as all children suspected of being abused must be given a medical examination by a medical professional qualified to conduct forensic examinations.
Display PPT20, Medical Evidence and discuss.

**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

Display PPT21, Sexual Abuse.

**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

**Child Interviews**

- Interviews with the victim child are extremely important in assuring collection of evidence.
- It is important to find out when the last incident occurred as well as where; whether in the home or another location.
- It is important to ascertain if any fluids were involved as this would allow for LE to collect bed sheets, clothing, couch cushions, etc.
- Also, many children will write down the events of the abuse in a diary or journal, as they do not feel comfortable discussing the abuse.
You must be familiar with the region/circuit protocol for joint investigations with LE. It must be noted that LE takes the lead in the investigation.

Evidence Needed To Prove Maltreatment

Materials

- PG2-4  Evidence Needed to Prove Maltreatment
- PPT22  Evidence Required at Shelter Hearing

- Refer learners to PG2-4, Evidence Needed to Prove Maltreatment and review the specific examples provided under each type of case. *(PG pages inserted on the following pages TG12-14)*

- This list is not comprehensive and you should add to this list based on experience.

- In addition to evidence needed to prove maltreatment, there are additional evidentiary requirements associated with the Shelter Hearing.

- Display PPT22, Evidence Required at Shelter Hearing and discuss.

- Due to the limited timeframe, you must bring as much of the evidence required in 39.402(8)(e)-(f) as you are able to gather within the timeframe available.
Evidence Needed to Prove Maltreatments

Domestic Violence Cases
- Interview the parents (individually) regarding:
  - what specifically happened and severity of the incident.
  - whether DV was an isolated incident or if there is a history of prior instances.
- Assess if:
  - substance abuse was involved in the incident.
  - children are aware of the DV; witnessed the DV; were involved in the DV incident.
- Interview neighbors, relatives and children about the DV incident and other instances that may have occurred.
- Obtain copies of:
  - petitions or orders on any injunctions (from current incident as well as past incidents).
  - all law enforcement reports relating to DV, violent conduct or substance abuse.
- Obtain photos of any injuries sustained by the victim as well as the aftermath of the incident.
- Obtain 911 tape.

Substance Abuse Cases
- Interview parents (individually) regarding:
  - substance abuse history and any past treatment that they may have received.
  - what type of substance was/is used.
  - the frequency of usage to assess if the substance abuse is chronic or severe.
- Assess if the child was adversely affected by the parental substance abuse.
- Assess if the parents’ substance abuse resulted in their inability to provide an adequate level of care to the child.
- Interview neighbors, relatives and children about the parents’ substance abuse.
  - Have they ever witnessed substance abuse or indicators of substance abuse?
  - Has the parent admitted substance abuse to any of the witnesses?
- Obtain:
  - drug test for individuals and if positive, confront the parent regarding the results.
  - copies of any/all law enforcement reports that indicate drug or alcohol usage.
  - any records from previous drug treatment programs.
- Photograph any evidence in the home that may be indicative of substance abuse.
- Assess if parental substance abuse resulted in neglect regarding the child’s care:
  - children being left unsupervised
  - spending all finances on purchase of drugs
  - lack of appropriate clothing, food, etc.
Physical Abuse Cases

- Obtain:
  - clear, accurate photos of any injury.
  - CPT medical examination and opinion/recommendations regarding the injury.
  - forensic interview with the child.
  - medical reports from child's pediatrician, etc.
  - copies of all law enforcement reports that indicate violence or substance abuse.
  - a mental health evaluation to determine whether the abuse resulted in any mental injury to the child.

- Interview:
  - the child about the circumstances surrounding the incident as well as any previous incidents.
  - the alleged perpetrator about the circumstances surrounding the incident.
  - the non-offending parent about the circumstances surrounding the incident and their ability/willingness to protect the child.

- Assess the severity and frequency of the abuse.

- If perpetrator is unknown:
  - Obtain estimation regarding date of injury
  - Assess who was responsible for the child at the time the injury was sustained.

- All interviews with the child, alleged perpetrator, non-offending parent should be conducted with Law Enforcement taking the lead.

Sexual Abuse Cases

- Interview the:
  - child about the sexual abuse.
  - alleged perpetrator about the sexual abuse.
  - non-offending parent about the abuse and their willingness/ability to protect the child.

- Obtain:
  - medical exam with opinion whether there are physical findings consistent with sexual abuse.
  - forensic interview of the alleged victim.
  - video tape of victim's interview.
  - opinion from mental health professional to determine whether child should testify in court.
  - reports from law enforcement regarding the sexual abuse criminal investigation.

- Refer child to therapist or psychologist.

- All interviews with the child, alleged perpetrator, non-offending parent should be conducted with Law Enforcement taking the lead.
Neglect – Hazardous Conditions Cases
- Obtain:
  - digital photographs of the residence.
  - all law enforcement reports regarding the family.
- Interview:
  - the parents about the conditions of the home while going through the home.
  - neighbors, relatives, landlord and children about the condition of the home.
- Contact Code Enforcement or Environmental Health to examine the home and provide a report.
- Assess if the hazardous conditions are a pattern or one time occurrence.

Neglect due to Mental Illness Cases
- Obtain:
  - the parents’ mental health history, diagnoses as well as information regarding any/all treatment attempts.
  - a release of information from the parent to obtain all mental health records and obtain all records.
- Refer parent for psychological and possibly psychiatric evaluation, if there are no recent evaluations in the mental health records.

Medical Neglect/Failure to Thrive Cases
- Obtain:
  - all of the child’s medical records including immunizations.
  - CPT medical examination and/or consult regarding whether the condition resulted from medical or nutritional neglect.

Prospective Abuse and Neglect Cases (Threatened Harm)
- Obtain:
  - prior intakes/investigations showing history of abuse or neglect of child.
  - expert testimony to render opinion that child may be at risk of abuse or neglect based on prior and current circumstances.
Topic ~ Standard of Proof
Establishing the “Need to Know”

Conduct a background probe to introduce the dependency standards of proof.

? Do you think that the standard of proof for dependency cases is “beyond a reasonable doubt”? Why or why not?

Materials

♦ PG5 Evidence and Standard of Proof
♦ PPT23 Standards of Proof
♦ PPT24 Summary

• Display and review PPT23, Standards of Proof:

• Refer learners to PG5, Evidence and Standard of Proof and review the following information. (PG page inserted on the following page TG16)

? How much evidence is required for each standard of proof?

• Probable Cause: the judge has enough evidence to create the probability in his mind that significant impairment to the child’s safety may occur if the child is left in the home. (Shelter hearing)

• Preponderance of the Evidence: there is more evidence for than against the point being argued. For instance, there is more evidence to show that the maltreatment occurred than that it did not. (All other dependency hearings)

• Clear and Convincing: must answer almost all of the questions in the judge’s mind if a termination decision is correct. If the evidence at the adjudicatory hearing was not overwhelming, more evidence must be presented at the TPR trial.
Evidence and Standard of Proof

Types of Evidence
Reliable evidence is divided into four categories.

Direct evidence
- an eyewitness account of an event.
- the actual statements of witnesses.

Demonstrative evidence
- includes the "things" or "objects" which help prove a case.

Circumstantial evidence
- evidence that may allow a judge to deduce a certain fact from other facts that have been proven.
- a step away from the eyewitness account and is less persuasive in court.
- Example: A neighbor heard a child scream but did not witness the abuse.

Expert testimony
- given by people who have specialized knowledge or experience that relates directly to a problem in a case.

Standard of Proof

Probable Cause
- The judge has enough evidence to create the probability in his mind that significant impairment to the child's safety may occur if the child is left in the home.
- Applies to shelter hearing.

Preponderance of the Evidence
- There is more evidence for than against the point being argued.
- Example: At the adjudicatory hearing there is more evidence to show that the neglect, abuse, or abandonment occurred than that it did not.
- Applies to all other dependency hearings.

Clear and Convincing
- The evidence must answer almost all of the questions in the judge's mind about whether or not a termination decision is warranted.
- If the evidence at the adjudicatory hearing is not overwhelming, more evidence will have to be presented at the termination of parental rights trial.
- Applies to TPR proceedings.
• Display PPT24, Summary.

**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).

**Review ~ Module 2: Introduction to Evidence**

• Display PPT11, Module 2 Objectives.

• Ask learners the following questions to review Module 2:

  ? What are the four types of evidence? Provide examples of each.
  - Direct - eyewitness account of an event
  - Circumstantial - evidence that may allow a judge to deduce a fact from other facts that have been proven
  - Demonstrative - things or objects
  - Expert testimony - presentation by someone with relevant, specialized knowledge or experience

  ? What are some examples of the evidence that is required at the shelter hearing?
  - Copies of available LE, medical or other professional reports
  - Copies of abuse hotline intakes (excluding reporter information)
  - Copies of any current or previous case plans
  - Information on any delinquency adjudication of the parents
  - Past or current injunction
  - All of the child’s places of residence during the prior 12 months.

  ? What are three standards of proof in dependency hearings? At which hearings are they applicable and what do they mean?
  - Probable Cause - judge has enough evidence to create the probability in his mind that significant impairment to the child’s safety may occur if the
child is left in the home - Shelter Hearing

- Preponderance of the Evidence - more evidence for than against the point being argued – Adjudicatory Hearing
- Clear and Convincing - answers almost all of the question in the judge’s mind about if a termination of parental rights decision is correct

? What is the intent of the Legislature’s goals for dependent children? How are they provided to the children on your caseload?

- Family preservation
- Referral and receipt of necessary services
- To be part of a case plan that addresses their individual needs
- Receive meaningful case management; regular contact with Case Manager
- Regular family visitation
- Free and appropriate education
- To be heard by the court, agency and others
- Prompt access to all available state and federal programs
- “Rights and Expectations for Children and Youth in Shelter or Foster Care” Bulletin

? Where do you locate the definitions of abandonment, abuse, neglect and harm? Provide synopsis of each definition.

- Chapter 39
- Abuse - willful or threatened act; harm; significant impairment; includes acts or omissions
- Abandonment - while able makes no provision; fails to establish or maintain a substantial and positive relationship with the child; frequent and regular contact; frequent and regular visitation; exercise of parental rights and responsibilities; marginal efforts, token visits are not sufficient
- Neglect - deprived of; necessary food, clothing, shelter; permitted to live in an environment when such deprivations or environment causes significant impairment of health; must address financial inability; religious practices; includes acts or omissions
- Harm - willful acts that produce specific injuries; abandons the child; neglects the child; exposes child to a controlled substance or alcohol; makes the child unavailable for a protective investigation

? Why is it important to understand the elements of the definitions of abuse, neglect and abandonment?

- Affects the acceptance of intakes; maltreatment findings; preparation of dependency petitions
- Discuss other reasons provided by the class.
Module 3: Exposure to Liability

Module 3 Objectives

- Display PPT25, Module 3 Objectives and present an overview of the module by summarizing each of the objectives.

Background Knowledge/Experience

Prior to beginning instruction for this module, relate the module goal to the learners’ job, emphasizing the importance and “need to know.”

Goal: To provide basic information about how to reduce your exposure to liability.

What kinds of actions during your work day do you think might expose you to liability claims?

Topic ~ Liability

PowerPoint Slides

- PPT26 Liability

Legal Protections from Liability Claims

- Display PPT26, Definition of Liability.
Where do you find the acts for which you are legally obligated/responsible?
- Chapter 39
- Florida Administrative Codes
- Agency operating procedures

How can you avoid liability?
- By completing job tasks within the scope of the law, administrative codes and agency policies and procedures

During what situations might you be held liable?
- Acting in bad faith
- Acting with malice
- Acting with a wanton disregard for the safety and well-being of the child

List some specific tasks that you think are required to avoid liability.
- Visiting children as required: (Federal law mandates monthly face to face contact; F.A.C. requires face to face contacts every 30 days)
- Completing tools, forms, paperwork
- Accurate documentation
- Not releasing confidential information
- Telling the truth

What do you think is the appropriate action if you cannot make all of your visits with your children and families during a month?
- Advise your supervisor immediately and document the reasons why.

Advise the class of the specific actions required by your agency when any required visits are not completed.
Topic ~ Falsifying Records

Materials
- PG1  Falsification of Records
- PPT27  Falsification

What is the definition of falsification?
- Document some of the key points of the definition on a flipchart.
- Present PPT27, Falsification and discuss.

What are some examples of falsification?
- Recording a home visit that did not occur
- Withholding information from the court as it conflicts with your recommendation
- Intentionally writing a statement that can be misinterpreted
- Recording an event that did not occur
- Making up names and information
- Putting in the wrong time of contact to assure compliance
- Deleting information from a case file

What are some reasons why a PI/CM might falsify records?
- Time restraints
- Concerned about losing their job
- Irresponsible
- Lack of good judgment
- Unethical behavior

What are the consequences of falsification?
- You can be charged criminally per s. 839.13(2)
- Review PG1, Falsification of Records with learners. (PG page inserted on the following page TG4)
Module 3: Exposure to Liability

Falsification of Records

Florida Statute 839.13(2)

- Per s.839.13 (2), F.S., "If any public officer, employee or agent of or contractor with a public agency, or any person, steals, embezzles, alters, corruptly withdraws, falsifies or avoids any record, process, charter, gift, grant, conveyance, or contract, or any paper filed in any judicial proceeding in any court of this state, or knowingly and wilfully takes off, discharges or conceals any issue, forfeited recognizance, or other forfeiture, or other paper above mentioned, or forges, defaces, or falsifies any document or instrument recorded, or filed in any court, or any registry, acknowledgment, or certificate, or fraudulently alters, defaces, or falsifies any minutes, documents, books, or any proceedings of or belonging to any public office within this state; or if any person causes or procures any of the offenses aforesaid to be committed, or be in anywise concerned therein, the person so offending is guilty of a misdemeanor of the first degree..."

 Altering, Destroying, Defacing, Overwriting, Removing, Discarding Records

- Per s.839.13 (2) (a), F.S., "Any person who knowingly falsifies by altering, destroying, defacing, overwriting, removing, or discarding an official record relating to an individual in the care and custody of a state agency, which act has the potential to detrimentally affect the health, safety, or welfare of that individual, commits a felony of the third degree...."

- Per s.839.13 (2) (b), F.S., "Any person who commits a violation of paragraph (a) which contributes to great bodily harm to or the death of an individual in the care and custody of a state agency commits a felony of the second degree, ... The term "care and custody" includes, but is not limited to, a child abuse investigation, Judicial In-Home Services, foster care and related services, or a protective investigation or Judicial In-Home Services of a vulnerable adult."

- Per s.839.13 (2) (c), F.S., "Any person who knowingly falsifies by altering, destroying, defacing, overwriting, removing, or discarding records of DCF or its contract provider with the intent to conceal a fact material to a child abuse protective investigation, Judicial In-Home Services, foster care and related services, a protective investigation or Judicial In-Home Services of a vulnerable adult, commits a felony of the third degree...."

 Disposing/Archiving or Correcting/Updating Records

- Per s.839.13 (2) (d), F.S., "This section does not prohibit the disposing or archiving of records as otherwise provided by law and does not prohibit any person from correcting or updating records."
Review ~ Module 3: Exposure to Liability

- Display PPT25, Module 3 Objectives.

- Ask learners the following questions to review Module 3.

  - What is liability?
    - An obligation imposed by law
    - Legal responsibility for an act or failure to act
    - State of being legally obliged and responsible

  - How do you avoid liability?
    - Complete required job tasks within the scope of the law, codes and policy and procedures

  - What are some examples of falsification?
    - Recording a home visit that did not occur
    - Failing to provide the court with all information as it conflicts with your recommendation
    - Intentionally writing a statement that can be misrepresented
    - Recording an event that did not occur
    - Deleting information from a case file
    - Putting in the wrong time of contact to assure compliance
    - Deleting information from a case file

  - What are the possible consequences of falsification?
    - Loss of job
    - Criminal charges
Module 4 Objectives

- Display PPT28, Module 4 Objectives and present an overview of the module by summarizing each of the objectives.

Background Knowledge/Experience

Prior to beginning instruction for this module, relate the goal for this module to the learners' job, emphasizing the importance and “need to know.”

Goal: To provide basic information about how to protect the confidentiality of clients.

- What kinds of information/records do you think is confidential?
- Why is the issue of confidentiality important in child protection work?

Day to Day Confidentiality

Ask the following question and record answers on flipchart.

- What are some of the ways you might compromise the confidentiality of client information?
  - Leaving case records in your car
  - Leaving case records on your desk when you are out of the office
  - Talking with friends about families with whom you are working
  - Talking in the hallway at work about families with whom you are working
  - Using a phone at a public location to talk with a client
  - Leaving messages around that have family names on them
  - Taking unauthorized people with you in the field to family homes
  - Not checking with the Children’s Legal Services and/or supervisor prior to responding to requests to release information
Can you identify what is contained in a child’s record?

- **F.S. 39.00145(1)**; Children’s records must contain at a minimum:
  - Child’s case plan
  - Full name and street address of all shelters, foster parents, group homes, treatment centers or locations where the child has been placed.

*Allow the class to add additional items that are contained in the child’s record. Advise learners that they will be learning about specific record requirements as they continue through the pre-service training.*

**Topic ~ Access to Case Records**

**Materials**
- ♦ PG1-6 Confidentiality Requirements
- ♦ PG7-8 Social Media Policy
- ♦ PG9-10 Access to Child Protection Case Records
- ♦ PG11 Sharing Records with Children
- ♦ S. 775.082 and s. 775.083, F.S.
- ♦ PPT29 Releasing Information on Missing Children
- ♦ PPT30 FSFN Access

**Establishing the “Need to Know”**

*Conduct a background probe to introduce this topic. It is not necessary to provide all of the answers to the questions. Inform the class that they will discuss confidentiality and access to case records during discussions for this topic.*

- Who should have access to child and family case records?
- Why are there restrictions to access case records?

**Confidentiality of Case Records**

- Refer groups to **PG1-6, Confidentiality Requirements, PG pages inserted on the following pages TG3-8** and assign learners/groups one of the following topics: Reporter Information; Access to Records and Reports; HIV/AIDS Records, Missing Children and Criminal Records.
- Instruct learners/groups to record key points on flipchart for their presentations.
- Facilitate learner/group presentations by providing either missing information or corrective feedback when necessary.
- Summarize the statutory requirements for confidentiality of the following:
Module 4: Confidentiality and Case Records
Confidentiality Requirements
F.S. 39.00145 and 39.202
- Information in case records generated as a result of child abuse investigations is confidential and may be released only under specific circumstances outlined in the referenced Florida Statutes.
- Read and become familiar with F.S. 39.202(1)-(8), F.S. 39.00145 and consult with the agency attorneys prior to responding to requests for information.

Reporter’s Name and the Intake
- The name and any identifying information about the person reporting maltreatment is strictly confidential and must not be released (without the written consent of the person reporting) to any person other than:
  - employees of the department/agency responsible for child protective services
  - the abuse hotline
  - the appropriate state attorney
  - Child Protection Team
  - Law Enforcement.
- Under law the following are not agents and are, therefore, not authorized to have reporter information:
  - Services staff employed by an independent contractor/CBC
  - Reporter name and all identifying information must be blacked out (redacted) before allowing access by persons authorized by law to examine copies of records.
  - The redaction process must be coordinated and approved by agency legal counsel.
  - Final investigations can be printed without reporter information but must still be reviewed to ensure any/all information identifying the reporter is deleted.

Case Records
- F.S. 39.00145(1): Children records must contain at a minimum:
  - Child’s case plan
  - Full name and street address of all shelters, foster parents, group homes, treatment centers or locations where child has been placed.
- Any information in the case record that pertains to the adoption of a child or a child’s sibling must not be released without first consulting with the agency legal counsel.
- Access to adoption records is governed by the provisions of section 63.162, F.S., and usually requires a court order.
- F.S. 39.0132(3) allows access to reports, records and other information that has been filed in the official court record by the child, parents and their attorney, GAL, law enforcement agencies, and the agency and its designees. See also F.S. 39.0132(4)(a)-(b).
All records and reports of the child protection team (CPT) are confidential and must not be disclosed, except, upon request, to the state attorney, law enforcement, the department, and necessary professionals in furtherance of the treatment or additional evaluative needs of the child, or by order of the court.

Access to Records and Reports

- 39.202(2) F.S. outlines the persons or entities having access to records and intakes of child maltreatment excluding the name of the reporter. Several of these persons/entities are listed below. F.S. 39.202(2) must be consulted for the comprehensive list.

- Employees, authorized agents or contract providers of DCF, The Department of Health, the Agency for Persons with Disabilities, or county agencies responsible for carrying out
  - child or adult protective investigations
  - ongoing child or adult protective services
  - Healthy Start services
  - licensure or approval of foster/adoptive homes, or child care facilities, facilities licensed under chapter 393, or family day care homes or informal child care providers who receive subsidized child care funding, or other homes used to provide for the care and welfare of children
  - services for victims of domestic violence
  - employees or agents of the Department of Juvenile Justice who are responsible for the provision of services to children
  - early intervention and prevention services
  - Criminal justice agencies of appropriate jurisdiction
  - The state attorney of the judicial circuit in which the child resides or in which the alleged maltreatment occurred (access includes name of reporter)
  - The parent/legal custodian of a child who is alleged to have been maltreated and the child, and their attorneys, including any attorney representing a child in civil or criminal proceedings
  - Any person alleged in the intake as having caused the maltreatment of a child
    - Access must be granted no later than 30 days after the receipt of the initial intake.
  - Florida Statewide and Local Advocacy Councils
  - Employees or agents of an agency of another state that has comparable jurisdiction, if related to case-specific activity
  - The principal of a public school, private school, or charter school where the child is a student
- F.S. 39.00145(4): Agencies which may share with each other confidential records under Chapter 119.
  - Department of Juvenile Justice
  - Department of Health
  - Agency for Health Care Administration
  - Agency for Persons with Disabilities
  - Department of Education
  - School Districts
  - Department of Revenue
  - Guardian ad Litem
  - Any provider contracting with such agencies
- F.S. 39.00145(4): Court may authorize release of the record to ensure appropriate services or for the safety of the child.
- Case records must be made available and, upon request, provided at no cost to the child, child's attorney, caregiver, and GAL.
- The case records must be provided to a child in a manner and setting that are appropriate for the age and maturity of the child.
- Records that may not be shared:
  - records of information made confidential by federal law; F.S. 39.00145(4)(a)
  - Information concerning clients
  - records of certified domestic violence centers; F.S. 39.00145(4)(b)
- F.S. 39.202(2)(a-s): Access to reports and records of child abuse (excluding reporter information) must be granted to:
  - foster parents with approved home study (if being considered for placement)
  - designee of a licensed residential group home
  - approved relative or non-relative with whom the child is placed
  - pre-adoptive parents with favorable preliminary adoptive home study and adoption entity acting on their behalf
  - adoptive parents
  - an adoption entity acting on behalf of pre-adoptive or adoptive parents
  - Reports and records of all cases under Chapter 39 pertaining to a child and family must be preserved until the child who is the subject of the record is 30 years of age.
  - F.S. 39.202(7)(a): Within 90 days after the child leaves Department custody, notice must be given to the person having legal custody of the child or to the young adult who was in the Department’s custody how to obtain the records.
Guardian Ad Litem (GAL) Access to Records

Authority to Access Records: s. 39.822(3); 39.00145

- An agency must allow the GAL to inspect/copy records related to the best interests of the child to include confidential records.

Penalties - Unlawful Disclosure of Confidential Information

- F. S. 39.205(3): "A person who knowingly and willfully makes public or discloses any confidential information contained in the records of any child abuse case, except as provided in this chapter, commits a misdemeanor of the second degree.

Penalties and Fines, ~ s. 775.082 and s. 775.083, F. S

s. 775.082, F. S., Penalties; applicability of sentencing structures; mandatory minimum sentences for certain re-offenders previously released from prison.

4) A person who has been convicted of a designated misdemeanor may be sentenced as follows:
   a) For a misdemeanor of the first degree, by a definite term of imprisonment not exceeding 1 year;
   b) For a misdemeanor of the second degree, by a definite term of imprisonment not exceeding 60 days.

s. 775.083, F. S., Fines.

1) A person who has been convicted of an offense other than a capital felony may be sentenced to pay a fine in addition to any punishment described in s. 775.082; when specifically authorized by statute, he or she may be sentenced to pay a fine in lieu of any punishment described in s. 775.082. A person who has been convicted of a non-criminal violation may be sentenced to pay a fine. Fines for designated crimes and for non-criminal violations must not exceed:
   a) $15,000, when the conviction is of a life felony.
   b) $10,000, when the conviction is of a felony of the first or second degree.
   c) $5,000, when the conviction is of a felony of the third degree.
   d) $1,000, when the conviction is of a misdemeanor of the first degree.
   e) $500, when the conviction is of a misdemeanor of the second degree or a non-criminal violation.
   f) Any higher amount equal to double the pecuniary gain derived from the offense by the offender or double the pecuniary loss suffered by the victim.
   g) Any higher amount specifically authorized by statute.

HIV/AIDS Records

A person who unlawfully discloses HIV/AIDS information is subject to a penalty. The following procedures apply to HIV/AIDS records and information access:

- Case narrative must not contain statements directly reflecting the child is infected with HIV or suffers from AIDS.
- The agency must disclose to prospective adoptive/substitute care parents the medical condition, but not the identity, of a child who suffers from HIV or AIDS positive child:
  - prior to the decision of the individual to pursue adoption or accept the child into their home
- only after the individual has committed to pursue adoption/accept the child into the home is the identity of the child disclosed.
- The substitute care parents must be provided with documentation of the complete medical history and condition of a child placed in their care, including HIV/AIDS status.
- This documentation must be maintained by the substitute care parents and held as confidential information.
- Access is strictly limited to the child's physician(s) and other providers of medical and dental care when treatment is required.
- Medical documentation needed for school enrollment, day care or similar purpose must be provided separately by the physician and may not contain any reference to the child's HIV/AIDS status.
- With the exception of the child's medical records provided to substitute care parents (and to the child's natural parents or other legal guardian), case material disclosing that the child has HIV infection or AIDS is kept in the file in a "Confidential Information" envelope used to safeguard sensitive case information.
- The child's case records must not be segregated or flagged in any way to permit their identification as case records of HIV infected children.
- Documentation must be recorded as "suppressed immune system" or "suppressed immune disease" and not HIV and/or AIDS.

Missing Children

Information That May be Released to the Public F.S. 39.202(4):  
If a child under investigation or services is missing, the following information may be released to the public if it will assist in locating the child or promote the safety/well-being of the child:
- Child's name and date of birth
- Physical description of the child
- Photograph of the child
- Any additional information believed likely to assist in efforts to locate the child or to promote the safety/well-being of the child (must concur with law enforcement agency responsible for the investigation)
- Law enforcement may release any information regarding the investigation if it believes the information may assist in locating the child or to promote the safety/well-being of the child.

Note: The reporter's name may not be released.
Criminal Record Checks
CFOP 175-94 provides additional information/clarification:
CPIs, Department attorneys and the courts can view sealed and expunged information. CPIs can request rap sheets containing sealed and expunged information in the course of their investigation.
Case Managers cannot view sealed or expunged information, and CPIs cannot request a rap sheet containing sealed or expunged information for a Case Manager.

National Crime Information Center
Specific details of NCIC results (detailed national arrest and conviction history records from outside Florida) must not be provided to or shared with anyone other than authorized Department staff.
Department staff are not to disseminate specific details of an NCIC records check nor make reference to such record or details in FSFN.

Florida Crime Information Center
FC/C criminal history records are public record and may be disseminated. The exception is any portion of the report that is identified as a sealed or expunged record.
Sealed and expunged records are not public record and may not be disseminated outside of the Department.
Only that portion of the criminal history record that is not "sealed or expunged" is public record and may be shared with CBC’s and referenced in FSFN.

Department of Juvenile Justice
The Information Access program (InfoAccess) allows access to the juvenile data contained in the expanded face sheet located within the Juvenile Justice Information System (JJIS).
Information received under the InfoAccess program must not be shared with anyone outside this agency, Department designees, and the courts.
All information obtained from JJISWeb must be kept in the appropriate client file and may not be viewed by anyone other than those authorized to view child or adult welfare case files and client records.
Individuals directly responsible for child protective investigation, placement, or services must submit requests for delinquency record checks. This includes Community Based Care contracted providers who are acting on behalf of or in place of the Department.

Guardians Ad Litem may view delinquency rap sheets.
**Reporter Information**

- 39.202(5) outlines who is permitted access to the name of the reporter, without written consent of the person reporting
- Hotline counselors; LE; CPT; appropriate state attorney; DCF personnel who provide services
- Staff employed by an independent contractor/CBC are not considered agents of the department and thus are not authorized to have reporter information.

**Access to Records and Reports**

- 39.202(2) and 39.00145(4) outlines the persons or entities having access to records and intakes of child maltreatment, excluding the name of the reporter.

Refer class to **PG1-6, Confidentiality Requirements (Penalties - Unlawful Disclosure of Confidential Information)**. *(PG pages inserted on the following pages TG3-8)*

- Refer class to **PG7-8, Social Media Policy** and review. *(PG pages inserted on the following pages TG10-11)*

*In addition to PG7-8, obtain a copy of the agency specific Social Media policy and review with the class.*
Cautions When Using Social Media

Representing Yourself and Your Agency Online

What is Social Media?
- Any online communication used by individuals for the purpose of social interaction and networking. Examples:
  - Facebook
  - MySpace
  - YouTube
  - LinkedIn
  - Foursquare
  - Wikipedia
  - Twitter
  - Yelp
  - Flickr
  - Blogs

Why is social media policy important?
- Protection
  - Protecting clients’ personal information, even if you think no one will see it.
  - Divulging too much information can lead to threats, violence and/or loss of employment
  - Protecting your agency from misrepresentation, loss of credibility, respect and possibly funding
  - Protection from lawsuits
- Professionalism
  - Agencies and staff are bound by law and professional ethics, including:
    - Treating clients with dignity and respect
    - Honoring clients’ rights to confidentiality
    - Maintaining appropriate boundaries with clients
  - Representing yourself online must be done with the same level of professionalism displayed in any other public arena
The Do's and Don'ts

Do
- Make your profile “private” and limit access to your personal information.
- Remember you are always representing your agency.
- Write smart - always think before you type.
- Be aware of the dangers of posting photographs - once out in cyberspace, anyone can find them.
- Consider what would happen if a supervisor/coworker/client stumbled upon your site.

Don’t
- Publish anything you wouldn’t put on a billboard.
- “Friend” clients, former clients, or their families.
- Use the Internet as a forum to “vent” about work, your agency, or clients’ information.

This information obtained from: Florida’s Supervised Visitation Programs: Protecting Children, Connecting Families; The Clearinghouse on Supervised Visitation, Institute for Family Violence Studies, College of Social Work, Florida State University
Refer class to PG9-10, Access to Child Protection Case Records - Open Records and discuss. *(PG pages inserted on the following pages TG13-14)*

Using PG1, Confidentiality Requirements under Penalties and Fines Related to Breach of Confidentiality, s. 775.082, 775.083, F.S. present the possible punishment and fine for a misdemeanor of the second degree.
Access to Child Protection Case Records

Open Records

The following guidelines for the release of case records of children who were subject to an investigation that did not result in a removal, those who were in out of home care and subsequently returned to a parent or relative and youth who are out of care.

- Within 90 days after a child leaves the agency’s custody, information must be provided to a person with legal custody of the child/young adult who was in custody on how to obtain a case record. CLS is required to include in all court orders where custody of a child is changed, notification that records are available to the child, the child’s caregiver, GAL, or attorney until the child reaches the age of 30 years.

- The brochure describing the child protection process that CPIs are required to provide to parents and caretakers has been updated to clearly state the right to obtain copies of case records. Creole and Spanish versions are only available in DCF Forms.

- When a CPI, CM or other provider in the local system of care receives a request from an authorized party for a case record, notification of such request must be transferred in writing to the single point of contact. This request must be submitted no later than 24 hours after receipt of the request.

- The single point of contact for the CPI must be either the identified department or sheriff’s representative. The single point of contact for a CM/provider must be the identified lead agency representative.

- A written communication on local protocol establishing the regional single point of contact who must be notified of all requests for case records received from authorized parties by CPIs, CM and other professionals who may receive such requests must be developed and submitted to the Assistant Secretary for Operations.

- An initial reaction of documents must be performed by the custodian of the record and submitted to the single point of contact within 14 days of the receipt of the request. Following redaction, the case record must be submitted to Regional General Counsel Offices’ by the single point of contact for review and approval of release which must occur within 14 days of receipt of Regional General Counsel.

- The single point of contact must notify the requesting party within two days of receipt of the record of the time and place to be provided the case record.

- The timeframes are developed to ensure the case record is provided to the authorized party no later than 30 days after the request is received by the single point of contact. The written communication establishing local protocol may depart from the 14 day redaction and legal review timeframes proposed so long as the case record is provided to the authorized party no later than 30 days after the request is made.

- The authorized party will be notified by the single point of contact if there are any delays in the ability to respond to the request for the case record within this established 30 day timeframe.

- All case records must be presented free of charge in hard copy and not by electronic means to maintain integrity of the careful review and redaction of the documents.

- A complete and accurate copy of the case record includes the full name and street address of all shelters, foster and group homes, treatment facilities or locations where the child has been
placed. It also includes case plans, pre-disposition reports, judicial reviews reports, court orders, GAL reports, evaluations and comprehensive assessments, medical health history, school records and report cards, mental health reports, hospitalization/residential setting records, any letters, photographs and all other information contained in the case record as directed under law.

- All local procedures for the destruction of records must be revised in accordance with the new statutory requirement to preserve the case record pertaining to a child and family until the child who is the subject of the record is 30 years of age.

The following guidelines are offered by the General Counsel's Office of the Department:

- Confidential information regarding other individuals (adult or child) contained in the case record must be redacted if the information is specifically confidential by a state of federal law to be withheld.
- The law is meant to apply only to a child's case record, which includes the investigation and any subsequent services provided.
- Each custodian of records is responsible to redact the records in their custody. DCF Regional General Counsel Offices is the final review of the case record before it is released to the requesting party.
HIV/AIDS Records

- **384.34** outlines the penalties associated with confidentiality of information regarding sexually transmissible diseases. (includes HIV/AIDS information)
- Persons with sexually transmissible diseases cannot be identified in reports, case files, etc.

Missing Children

- Display **PPT29, Releasing Information on Missing Children** and discuss.

**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

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FSFN

- Display PPT30, FSFN Access and discuss.

![FSFN Access](image)

**Topic ~ Children’s Access to Case Records**

**Materials**

- **PG11** Sharing Records with Children
- **PPT31** Sharing Records with Children

? Ask learners to share when they believe it might not be appropriate to allow children access to records.

Refer learners to PG11, Sharing Records with Children, and summarize key points on PPT31, Sharing Records with Children. (PG page inserted on the following page TG17)
Sharing Records with Children
The following sections of Chapter 39, F.S., allow a child access to his or her dependency records:

- **Section 39.6011(1)(a), F.S.:** The case plan must be developed in a face-to-face conference with the parent of the child, any court-appointed GAL, and, if appropriate, the child and the temporary custodian of the child.

- **Section 39.504(4), F.S.:** Copy of injunction order must be delivered to the protected party, or to a parent, caregiver or individual acting in the place of a parent who is not the respondent. (section 39.01(51) includes child in the definition of party)

- **Section 39.521(1)(a), F.S.:** Copy of predisposition study and case plan must be furnished to all parties.

- **Section 39.00145, F.S.:** Case record must be made available and, upon request, provided at no cost to the child...

**General Procedures**

- The child has clear right under 39.0132(3), F.S. and 39.00145, F.S., to inspect the official record;
  
  "official record" includes any documents that were considered by the judge in reaching the court's determination. No document must be released without review and approval of legal counsel.

- Care, concern, and sensitivity must guide sharing of records with children.
  
  You must be aware that some records could be disturbing to the child and be prepared to appropriately respond to the child's reaction.

  Considering the child's maturity and age, it is recommended that the record sharing take place during a face-to-face meeting with the child and an adult the child knows and trusts. In no case must copies of records simply be handed over to the child.

- The child is entitled to copies of any official court records, except adoption records, pertaining to his or her case at no cost. Copies of any documents filed with the court and also in the case record may be provided to the child.

  This includes petitions, orders, PDS reports, JRS/3CPU, psychological reports, CPT reports, medical reports, and any other report/record filed in the official court record.

  The agency legal counsel must be consulted prior to release of any information (other statutory confidentiality provisions may be applicable so as to require referral of the requesting party to the originating source). In addition, the child may be given copies of notes or minutes of case planning meetings.
Review ~ Module 4: Confidentiality

- Display PPT28, Module 4 Objectives

? Ask learners the following questions to review Module 4.

? What are the confidentiality issues surrounding the following topics?

- **Reporter information** - law outlines who has access; must assure that all information regarding reporter is redacted; CBC providers do not have access to reporter information

- **Access to records/reports** - law outlines who has access to specific reports and records; excluding the name of the reporter; CPT, etc.

- **HIV/AIDS records** - all information must be maintained separately; never identify an individual as having HIV/AIDS

- **Missing children** - specific identifying information may be released when a child in care or the subject of an investigation is missing

- **FSFN Access** - Access to FSFN person or case information must only occur when there is a legitimate business purpose

- **Criminal Records** - Law outlines who has access; must follow 175-94 when referring cases for services

? How would you assure confidentiality is not breached?

- Do not leave records in your car, on your desk; do not discuss your cases with others unless they are permitted; discuss all requests for release of information with your supervisor, CLS; not logging out of computer system when completed.

? Do children have the right to access their records? What are some of the factors that must be considered when sharing records with children?

- Yes; obtain attorney approval; consider the child’s age and maturity level; know agency protocol; be aware of adoption record requirements; should occur in a supportive environment