

# OFFICE OF LEGAL AFFAIRS

## Superior Court for Juvenile Matters

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### Policy

The Superior Court for Juvenile Matters has authority over proceedings filed by the Department concerning the following:

- Neglect petitions;
  - Petition for termination of parental rights; and
  - Adoption.
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### Preparation of Court Work and Time Frames

The Social Worker assigned to the case shall be responsible for preparing legal work under the supervision of the Social Work Supervisor. The legal staff shall review the drafts and return with recommendations.

Neglect Petitions with accompanying Motions for Orders of Temporary Custody (OTC) shall be written and delivered to legal staff for review immediately after the decision to request an *ex parte* OTC is made. Legal staff shall make the review of a neglect petition with an OTC an immediate priority, superseding all other pending assignments.

Neglect Petitions without Motions for OTC shall be written and delivered to legal staff within five business days of the decision to file. Legal staff shall review and return the petition within three business days.

Petitions for Termination of Parental Rights shall be written and delivered to the legal staff within 15 business days of the decision to file. Legal staff shall review and return the petition within five business days of receipt.

Motions to Review Permanency Plans and studies shall be written and delivered to legal staff at least 21 business days prior to the court due date. Legal staff shall review and return the permanency plans within five business days. Social work staff shall deliver the completed Motion to Review Permanency Plan and study to the AAG for signature within one business day. Legal staff are responsible for ensuring that the AAG signs and files the motion in court prior to the court due date.

Unless otherwise specified, social studies and case status reports shall be filed in court at least three business days before the docket date.

Supervisors are responsible for following up to ensure these time frames are met. If a decision to file a Neglect Petition or Petition of Termination of Parental Rights is reversed before being filed in court, the decision and the reasons must be documented in the electronic record by the Program Supervisor.

Upon notification that a petition has been filed in court or upon the change of legal status of a child, the Social Worker shall record the filing date/order in the electronic record on the date it is filed.

Neglect petitions filed with a Motion for an Order of Temporary Custody (OTC) shall be filed in court by Social Workers only. The Social Worker shall remain at the courthouse to await the judge's signature. The Social Worker shall retrieve the OTC as soon as the judge signs it.

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### **Preparation of Court Work and Time Frames** (continued)

The Area Director shall designate staff responsible for delivering all other documents to the court clerk.

Legal staff in each office shall be knowledgeable about the particular procedure used by the courts in the area and shall advise Social Workers accordingly.

When the judge signs an Order of Temporary Custody (OTC), the Social Worker shall immediately return the documents to the area office staff responsible for service of process as the time frame during which service can be made is very short.

The Social Worker and Social Work Supervisor shall be responsible for meeting all court due dates including, but not limited to, hearings, case status conferences, and written status reports. To ensure that no court dates are missed, however, court and filing dates shall be supported by a separate tickler system.

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### **Attending Court**

The Social Worker and/or Social Work Supervisor shall arrive at court on time for all scheduled hearings and shall remain present during the hearing.

The Program Supervisor or a manager with decision-making authority shall be available by telephone during court proceedings.

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### **Neglect Petitions**

A Neglect Petition (JD-JM-98) shall be filed in juvenile court when the child is neglected in that he or she:

- has been abandoned;
- is being denied proper care and attention, physically, educationally, emotionally or morally;
- is being permitted to live under conditions, circumstances or associations injurious to the child's well-being; or
- has been abused and has:
  - physical injury or injuries inflicted by other than accidental means;
  - injuries which are at variance with the history given about them; or
  - a condition which is the result of maltreatment such as, but not limited to, malnutrition, sexual molestation, deprivation of necessities, emotional maltreatment or cruel punishment.

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### **Uncared for Petitions**

An Uncared for Petition (JD-JM-98) shall be filed in juvenile court when:

- the child is homeless;
- the child's home cannot provide the specialized care which the physical, emotional or mental condition of the child requires; or
- the child is the subject of human trafficking.

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### **Predictive Neglect**

A petition alleging predictive neglect may be filed when the child's is being permitted to live under conditions, circumstances, or associations which may cause harm at a future date.

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### Where to File

The Neglect Petition shall be filed in the juvenile court serving the town or city in which the child resides at the time of the filing, unless the child has been removed prior to the filing via a 96-Hour Hold. If the removal occurred prior to filing, the proper juvenile court is that which serves the town or city where the custodial parent resides. However, if the child is hospitalized, the address of the most recent caretaker shall be used.

**Legal reference:** Connecticut Practice Book, § 33a – 3.

**Note:** If a judge is not available in the local juvenile court to review a Motion for OTC, any Superior Court judge may sign the order. However, the documents shall be filed subsequently with the appropriate juvenile court.

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### Named Parties in a Neglect Petitions

The parents of all children in the case shall be named in a Neglect Petition. All legal and putative fathers shall be named. Unknown parents shall be referred to as John or Jane Doe.

If a legal guardian has been appointed for the child by a court, he or she shall be named on the petition.

If a parent is a minor, the grandparent(s) or guardians of the parent shall be named.

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### Confidentiality of Respondent Addresses

Whenever a respondent asks that his or her address remain confidential for safety reasons, the petitions and all other documents filed in court shall state "confidential address."

When a petition is filed with the court with a confidential address for a parent, an affidavit for "Request for Non-Disclosure of Location Information" should also be submitted in a sealed envelope addressed to the court.

The affidavit shall include the confidential address so that the court can send any required notices.

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### Child's Address

The child's address shall be listed on the petition. If sharing the child's address with the parents is a concern, then the petition shall state "DCF licensed foster home", or other general information.

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### Ground for Neglect Petition

All grounds for neglect that are supported by facts and can be proven in court shall be checked on the petition (Form JD-JM 98.)

The grounds shall reflect the condition of each child. Different grounds can be alleged for different children in one family.

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### Summary of Facts

The Summary of Facts shall include a brief history of the family's previous involvement with DCF, if applicable and relevant to the current allegations of child abuse/neglect. It shall also include a summary of any previous juvenile court involvement.

The Summary of Facts shall include dates and places of alleged incidents of neglect or abuse.

The Summary of Facts shall not include allegations known to be false, allegations made by anonymous persons that cannot be independently verified by the Social Worker or other available witness, or arrests that have not resulted in a conviction (although pending criminal charges and investigations of abuse and/or neglect may be included).

One summary of facts may be filed for multiple children who have the same mother, even if there are multiple fathers.

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### Signatures

A duly authorized agent of the Commissioner (usually a Program Supervisor) shall sign the Neglect Petition.

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### Burden of Proof for Neglect Petition

The standard of proof in neglect cases is a fair preponderance of the evidence, which is the same as in other civil (non-criminal) cases.

In the case of an Indian Child, the Department shall meet a higher burden of proof. See DCF Policy 21-17, "Native American Families."

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### Paternity

The Social Worker shall make efforts to determine if paternity has been legally established for a child. A request shall be submitted to the Department of Health, Vital Statistics requesting a copy of any acknowledgment of paternity.

Paternity has been legally established if:

- the child is issue of a marriage;
- a court has entered a finding or judgment regarding paternity; or
- the parents have executed and properly filed an acknowledgment of paternity with Vital Statistics.

At the initial court hearing, the Court shall take steps to determine the identify of the father.

If paternity has not been legally established, the Social Worker shall request that the AAG motion the court for such a finding. Upon entering a finding of paternity, the court clerk shall issue a JD-JM-204 to be sent to Vital Statistics to amend the birth records. The Social Worker shall request a copy of the JD-JM-204 for the case record.

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### Reasonable Efforts

DCF shall make reasonable efforts in every case to prevent unnecessary placement.

**Legal Reference:** Adoption Assistance and Child Welfare Act of 1980, Public Law 96-27 and the Adoption and Safe Families Act of 1997, Public Law 105-89.

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**Social Worker Responsibilities** The Social Worker shall submit specific, accurate and comprehensive information to the court to form the basis for a judicial determination of reasonable efforts.

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**Specific Steps** Pursuant to Conn. Gen. Stat. § 46b-129j, the court is required to provide both the Department and the parents with specific steps that the parents must take to facilitate the return of the child to the parents or to maintain the child in their home. The Department shall submit proposed Specific Steps (JD-JM 106 or 106S) with the Neglect Petition.

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**Custody Affidavit** A Custody Affidavit (Form JD-JM-30) shall be submitted to the court along with a Neglect Petition and Petition for Termination of Parental Rights to inform the court at the time of the filing of a neglect or termination of parental rights petition that:

- there is or is not a proceeding pending in any other court affecting the custody of the child, and
- the court disposition sought by the petitioner will not conflict or interfere with any other pending proceeding.

The Social Worker shall consult with the clerks of the area probate and family courts to determine the custody status of the child when such status is in question.

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**Motion for Order and Notice** If the parent(s) or guardian(s) reside at a known address out of the state or in another country, the DCF-2011, "Motion for Notice by Certified Mail" shall be used to seek the court's permission to serve a petition through certified mail.

The Department shall make a diligent search to locate a missing parent or guardian. Separate diligent search affidavits shall be filled out by each person involved in the search attesting to what each person has done to attempt to locate the missing respondent.

The DCF-2010, "Motion for Order of Notice" shall be submitted with the affidavits for a parent or guardian whose current identity or address is unknown. This motion shall include the name and address of a newspaper in the respondent's last known locality and a proposed date of publication, and shall be signed by the Program Supervisor, as the duly authorized agent of the Commissioner.

The Social Worker shall obtain a certified copy of the legal advertisement with an affidavit of publication and shall return it to the court. The judge cannot make a finding of adequate notice to the parent or guardian without these documents.

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**Military Affidavit** DCF shall file an JD-JM-172, "Affidavit Concerning Military Service" for any respondent.

**Legal reference:** Service Members Civil Relief Act, 50 U.S.C.S. Appx. Sec. 521 et seq.; Connecticut Practice Book §17-21.

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**Military Affidavit**  
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The affidavit shall state whether or not the parent is in the military service, and include facts supporting the affidavit. The affidavit shall also state that a query for military status was conducted on the public website <https://www.dmdc.osd.mil/scra/owa/home>. A copy of the report shall be attached to the affidavit.

If the military status search conducted on the public website is inconclusive or unable to be completed, the Social Worker shall send letters to the four branches of the armed services using DCF Form 2114. The Social Worker shall indicate on the affidavit the date that the letters were sent to the Army, Navy, Air Force and Marine Corps.

The Defense Manpower Data Center (DMDC) Military Verification Service shall be used when searching for the military status of a parent. The Social Worker shall conduct a search on the DMDC website.

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**Service of Process**

The Social Worker shall immediately contact the area office person assigned to arrange for service of process on the respondent parents after any Petition or Motion for Order of Temporary Custody has been filed with the Court.

Each parent and/or legal guardian named on the petition shall be served, including legal, acknowledged, or putative fathers,

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**Social Study in support of Neglect Petition**

The Social Worker shall submit a Social Study with the Neglect Petition that summarizes important information in the case record, which will be used to support a disposition in the best interest of the child.

The Social Study shall be submitted no later than three days before the first scheduled court date.

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**Motion for Order of Temporary Custody**

A Motion for Order of Temporary Custody (OTC) shall be filed if it is determined that immediate out of home placement is required to safeguard the immediate safety of a child without a hearing.

Note: A Neglect Petition must be filed concurrently with a Motion for OTC or have been previously filed.

The Department shall request a Motion for Order of Temporary Custody using Form JD-JM-58 when there is reasonable cause to believe that:

- the child is in immediate physical danger, or
- the child is suffering from serious physical illness or physical injury, and
- the conditions or circumstances surrounding the care of said child require that custody be immediately assumed to safeguard the child.

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#### **Motion for Order of Temporary Custody** (continued)

When an emergency medical situation exists that requires the immediate assumption of temporary custody of a child in order to save the child's life, two (2) physicians, under oath, must attest to the need for such medical treatment.

A judge may give oral permission after considering the sworn oral testimony of the physicians that a specified surgical or medical intervention is absolutely necessary to preserve the child's life.

#### **Affidavit in Support of Motion for OTC**

A Social Worker Affidavit shall be prepared and submitted by the Social Worker at the time a Motion for Order of Temporary Custody (OTC) is being submitted to the court.

The Social Worker with the personal knowledge of the facts contained in the Affidavit shall sign the Affidavit under oath in the presence of a Notary Public. If more than one Social Worker has pertinent information, each shall submit a separate Affidavit.

All relevant exculpatory evidence shall be included, as well as relevant information favorable to the parent.

All statements made in an affidavit are made under oath and must be true, to the best knowledge and belief of the affiant. An affiant who includes any statements that the affiant knows to be false may face criminal perjury charges.

**Legal reference:** Connecticut General Statutes, § 53a-156.

A brief paragraph summarizing the family history and any previous juvenile court activity shall be included to put the facts supporting the OTC in context. The main focus of the affidavit shall be the current conditions that place the child in imminent danger.

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#### **Supporting Affidavits**

The information presented by the Social Worker in the Affidavit may not, by itself, suffice to obtain an OTC. To contribute to the overall context of the case the following may be included:

- affidavit(s) from professionals who can attest to the child's needs, the parents' ability to meet those needs, and why an OTC is necessary to secure the child's safety; and
- affidavit(s) from any other person(s) with direct knowledge of the facts upon which the OTC is based.

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#### **When the Court Grants an OTC**

If the judge grants the Order of Temporary Custody, in accordance with statute, a preliminary hearing and case management conference on the Order of Temporary Custody shall be held within ten (10) days. If no agreement is reached, an evidentiary hearing or trial shall be held on the motion within the next ten (10) days.

The court may schedule a separate hearing for a plea on the neglect petition or may combine the plea hearing with an OTC hearing.

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#### **OTC Witnesses**

When witnesses are unable or unwilling to provide sworn statements, a subpoena shall be issued so that the individual(s) attend the evidentiary hearing to give testimony personally.

An affiant shall only state what he or she directly heard or saw and can only offer an opinion in an area in which he or she specializes. If a hearsay statement (a statement made by someone other than the affiant) is included, the direct witness shall be subpoenaed to testify at the OTC hearing.

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#### **OTC Filed Subsequent to Neglect Petition**

An Order of Temporary Custody may be filed at any time grounds exist, even if a neglect petition is already pending and even when children are under an order of protective supervision.

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#### **Reasonable Efforts to Reunify**

The Department shall make reasonable efforts to reunify a family by providing appropriate services to help the parents overcome deficiencies. The Department shall offer referrals to these services even if the parents say they are not interested.

Non-custodial parents shall also be offered services, as they may be a resource. Incarcerated parents shall also be offered services, even if it is only a referral to the services provided by the Department of Corrections.

The Social Worker shall document in writing to the client, all referrals for services. The Social Worker shall document in the Uniform Case Record all referrals to services and the parents' degree of compliance.

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#### **Permanency Motions and Hearings**

A Motion for Review of Permanency Plan shall be filed no later than nine months from the initial placement and annually thereafter.

The motion shall include information regarding reasonable efforts to reunify the child.

Preferred permanency plans are (in order of preference):

- Reunification;
- Termination of Parental Rights and Adoption;
- Transfer of Guardianship (including Permanent Transfer of Guardianship).

A non-preferred permanency plan is Other Planned Permanent Living Arrangement (OPPLA). OPPLA may only be recommended for children age 16 and older.

If the Department recommends a plan of Termination of Parental Rights (TPR) and Adoption, the Petition for TPR shall be filed concurrently with the motion. In no case shall the Petition for TPR be filed later than 60 days after the court's approval of the plan.

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#### **Permanency Motions and Hearings** (continued)

The Principal Attorney shall review the completed Motion for Review of Permanency Plan and supporting Social Study for legal sufficiency. The Social Work Supervisor and Program Supervisor shall review and approve the Motion for Review of Permanency Plan package. An Assistant Attorney General (AAG) shall sign the motion. The AAG shall file the motion with the court and return a date-stamped copy to DCF.

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#### **Study in Support of Permanency Plan**

The Study in Support of Permanency Plan shall be submitted at the time the Motion for Review of Permanency Plan is filed.

The Social Worker shall draft the study, which shall then be reviewed by the Social Work Supervisor and the Principal Attorney or Staff Attorney. The Program Supervisor shall further review and approve it.

The Social Worker shall include in the study all reunification efforts undertaken. The parents' acceptance or rejection of the services shall be specified.

The Social Worker shall identify the specific permanency plan the court is being asked to approve and indicate why this plan is in the child's best interests.

If the permanency plan is not reunification or adoption, the Social Worker shall state compelling reasons for not choosing one of these preferred plans.

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#### **Petition for Termination of Parental Rights**

A Summary of Facts shall be filed with the Petition for Termination of Parental Rights (JD-JM-40). A preliminary draft of the Summary of Facts shall be prepared by the Social Worker, reviewed by the Social Work Supervisor, finalized by the Area Office Attorney, and approved by the Program Supervisor.

The Social Worker shall complete one Summary of Facts for all children involved in the case.

A concise Summary of Facts includes a factual history of the case, which details dates, reasons, investigations, and dispositions of substantiated reports to the Department.

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#### **Consent to TPR**

A parent may consent to the voluntary termination of his or her parental rights. No consent to TPR shall be executed within the forty-eight (48) hours immediately after the birth of the child.

A parent who is a minor has the right to consent to a termination of parental rights regarding his/her child, after consultation with a court-appointed guardian ad litem.

Once a parent has signed the consent form, it is not necessary to allege any other ground for TPR. Consent for the termination of parental rights of one parent shall not diminish the parental rights of the other parent of the child, nor does it relieve the other parent of the duty to support the child.

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### **Motions to Revoke Commitment or Transfer Guardianship**

When the determine that a child(ren) may return home, the Department shall file a Motion for Revocation of Commitment.

Should the Department determine that Transfer of Guardianship of the child to a third party who is suitable, and worthy is in the best interest of the child, the Department shall file a Motion for Transfer of Guardianship or Motion for Permanent Transfer of Guardianship.

The Social Worker shall prepare a study in support of the respective motion and submit to the Assistant Attorney General who will draft the appropriate motion.

**Note:** Any party to the case may file Motions to Revoke or Transfer Guardianship.

### **Reports for Child for Whom DCF is Statutory Parent**

Thirty (30) days following a court order terminating parental rights, the Department shall submit a report to the court, which must include the following:

- the circumstances of the termination;
- the current situation of the child;
- the child's placement history since termination;
- the child's adjustment;
- the Department's permanency plan for the child;
- measurable objectives to achieve permanency;
- time schedule for transitioning the child into permanency; and
- reasonable efforts to achieve permanency.

The Department shall file reports quarterly.

The Department must submit a Motion for Review of Permanency Plan (DCF-2240) and Study nine (9) months after the date of the last permanency plan order.

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### **Motion for Determination Regarding Continuation in Care**

For any adolescent who opts to remain in the care of the Department post age 18, the Social Worker shall file with the Court a Motion for Determination Regarding Continuance in Care within 120 days of the youth's 18th birthday. The Court must rule on the motion within 180 days of the youth's 18th birthday.

If there is no approved permanency plan, a Motion for Review of Permanency Plan shall be filed concurrently with the Motion for Determination Regarding Continuance in Care and then annually thereafter. In all other cases, a Motion for Review of Permanency Plan shall be filed annually in accordance with the current schedule.

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### **Adoptions**

The Social Worker shall file the adoption petition in the Superior Court for Juvenile Matters that granted the termination of parental rights.

The Social Worker shall submit an adoption study which shall contain all of the facts relevant for the court to determine whether the adoption is in the best interests of the child.

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