

DSS ADMINISTRATIVE LETTER
Family Support and Child Welfare Services

FSCWS-01-07

TO: County Directors of Social Services

ATTENTION: DSS CPS Supervisors and Program Managers
DSS CPS Social Workers

DATE: January 5, 2007

SUBJECT: Expunction Policy Clarification

EFFECTIVE DATE: Immediately

In light of the questions surrounding the Expunction Policy located in [Chapter VIII: Protective Services Section 1427 Expunction](#) we have conducted a review of the expunction process in consultation with our child welfare attorneys.

This clarification affects only those cases in which a **petition is filed *prior*** to making a CPS assessment case decision. Current policy states that the county Department of Social Services (DSS) shall not make a CPS assessment case decision until after the court has adjudicated the petition.

It is no longer required that the case decision (Family or Investigative Assessment) be held until adjudication. Once it has been determined that all components of an assessment have been completed, the DSS should make a case decision and report the decision as required to the CPS Central Registry through the DSS-5104.

During adjudication the court will be making a finding of abuse, neglect or dependency only, and will not determine if the neglect was serious. Nothing has changed regarding the DSS's responsibility in determining if the individual's name should be placed on the Responsible Individuals List (RIL), as the adjudication hearing is that individual's right to due process.

An **Investigative Assessment** adjudication of neglect shall always be considered serious neglect and the individual's name placed on the RIL. The adjudication hearing remains the individual's due process and there is no further expunction process available. It remains, however, that if the court adjudicates something different than the case decision, the DSS shall notify the Division of Social Services to modify the Responsible Individuals List (RIL). If the court dismisses or concludes without adjudication, the DSS shall notify the Division of Social Services to have the individual's name expunged from the Responsible Individuals List (RIL).

For those **Investigative Assessments** in which a petition is filed prior to the case decision and the case decision to substantiate is subsequently made, the case decision notice should contain language that informs the individual that the petition filed stayed their expunction process and that upon adjudication they are not eligible to request expunction. (See attached Sample Letter, "Attachment 9".) Conversations should be taking place between the family and the social worker early in the CPS assessment and court processes that an adjudication of abuse or neglect in an investigative assessment will result in their name being placed on the list.

When a **Family Assessment** is being conducted and it becomes necessary to file a petition, the DSS must determine if the assessment should change tracks and become an **Investigative**

Assessment. If the level of risk in a Family Assessment rises to the level that a child cannot be safely maintained within their own home, this should be considered a criteria to change assessment tracks. If the assessment track does change, the principles of family centered-practice should continue to be followed.

During a **Family Assessment** there may be times when the agency files a petition alleging abuse or neglect without requesting an order for custody of the child. These petitions are sometimes commonly referred to by social workers as “non-compliance” petitions. It remains the agency’s decision as to whether to switch tracks from a **Family Assessment** to an **Investigative Assessment.** If the decision is to switch to an **Investigative Assessment**, the adjudicatory hearing on a “non-compliance” petition serves as the individual’s due process and there is no further expunction process available.

There are those rare situations in which a **Family Assessment** rises to the level that a petition is required and the agency seeks an order to remove the child from the home, but the situation would not warrant switching tracks. The expunction process does not apply in those situations.

In consultation with our child welfare attorneys, we strongly encourage that the expunction process be presented to the family at the initial contact. When conducting a CPS assessment, the family should be informed of the two “tracks”, Family Assessment and Investigative Assessment, and that in the event that a Family Assessment becomes an Investigative Assessment, there is the potential for their name to be placed on the RIL.

Please contact your Children’s Program Representative or the Work First/CPS Policy Team at (919) 733-4622 if you have questions about this letter.

Sincerely,



Esther T. High, Acting Chief
Family Support and Child Welfare Services
Section

[Attachment](#)

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cc: Sherry Bradsher
Jo Ann Lamm
Sarah Barham
Family Support and Child Welfare Team Leaders
Children’s Programs Representatives
Work First Program Representatives
Local Business Liaisons