



North Carolina Department of Health and Human Services

Division of Social Services

325 North Salisbury Street • Raleigh, North Carolina 27603

Courier # 56-20-25 MSC 2408

Michael F. Easley, Governor Sherry Bradsher, Director

Carmen Hooker Odom, Secretary (919) 733-3055

## **CHANGE NOTICE FOR MANUAL 1-2006**

**To: County Directors of Social Services**

**Attention: CPS Supervisors**

**CPS Social Workers**

**Data Management**

**Manual: Family Services Manual**

**Volume 1: Children's Services**

**Chapter VIII: Child Protective Services**

**New Section 1427, Expunction**

**Effective: May 01, 2006**

**Date: April 24, 2006**

**Re: New Manual Material and Forms**

Beginning May 01, 2006 Section 1427 will become effective. Section 1427 provides policy and guidance on an Expunction process that will be available to individuals determined to be responsible for the **abuse** or **serious neglect** of a juvenile.

The Department of Health and Human Services received authorization from the General Assembly to begin an Expunction process through legislation that was passed during the 2005 session. You may access this legislation at [North Carolina General Assembly - House Bill 661 Information/History \(2005-2006 Session\)](#). Please note that the statute numbers printed in HB 661 have been re-numbered.

G.S. 7B-312 is now 7B-320 – Notification to individual responsible for abuse or substantial neglect

G.S. 7B-313 is now 7B-321 – Request for expunction; director review

G.S. 7B-314 is now 7B-322 - District attorney review expunction request

G.S. 7B-315 is now 7B- 322 – Petition for expunction; district court

G.S. 7B-316 is now 7B-324 – Persons ineligible to request expunction; stay of expunction proceeding pending juvenile court case

The Social Services Commission has adopted rules regarding the operation of the Responsible Individuals List. You may access the rules shortly at [Title 10A - Health and Human Services, Chapter 70 - Children's Services](#).

This legislation has created new definitions, a new system designed to track data about people determined to be responsible for the abuse of serious neglect of juveniles (Responsible Individuals List), and a process for requesting Expunction from the Responsible Individuals List. This has resulted in a few changes to the Central Registry system. Those changes are under a separate change notice.

One of the new definitions found in Section 1427 is a definition of “serious neglect.”

Serious Neglect is conduct, behavior, or inaction that evidences a serious disregard of consequences of such magnitude as to constitute an unequivocal danger to a child’s health, welfare, or safety.

When making an investigative assessment finding of neglect, social workers have the additional option to designate the neglect as serious. Once identified as a “perpetrator” of serious neglect, the individual is designated as a “responsible individual” and the name is placed on the Responsible Individuals List. Information from the Responsible Individuals List is accessible to “Authorized Persons” for the purpose of determining current or prospective employability or the fitness of an individual to care for children. Section 1427 provides a definition of Authorized Persons. Because placement on the Responsible Individuals List may affect employment or a person’s access to children, due process requires that a process be established for the responsible individual to request a review of the decision to place their name on the Responsible Individuals List.

All investigative assessment case decisions of abuse or serious neglect shall result in placement on the Responsible Individuals List. Assessments that were conducted as Family Assessments are **not** eligible for the Expunction process, because no name will be placed on the Responsible Individuals List. There are other conditions that may make a person ineligible for the Expunction process, such as failing to timely file a request for review.

The Expunction process involves the responsible individual requesting removal of their name on the Responsible Individuals List. Removal of the responsible individual's name from the Responsible Individuals List does **not** affect information in the central registry.

The responsible individual must first make a request for expunction from the Director of Social Services of the county that made the case decision. ***Upon final clarification from our Child Welfare Attorneys, this means that when the investigative assessment was conducted by another agency due to a conflict of interest, the request for expunction is to be made to the Director of the county that conducted the assessment.***

The responsible individual has two additional options to request a further review. One option involves a review by the District Attorney and if desired a petition for expunction to the District Court. The other option is the responsible individual may bypass the District Attorney and proceed directly to the District Court for expunction. A draft version of the petition is attached to this notice. Once a petition is approved it will be made available, however the draft attached is legally sufficient to invoke the jurisdiction of the court under G.S. 7B-323. Use this draft until the final petition is available.

With the implementation of the Expunction process social workers are now required to provide "Personal Written Notice" of the case decision. Personal Written Notice is defined in Section 1427 simply as delivery in person of the case decision to the responsible individual by the social worker. The notice informing the individual of the case decision has new requirements that include identifying the timeframes for requesting expunction.

It is important to note that the Department of Social Services is still responsible for providing services and ensuring the safety of the children during the Expunction process. However, should it be determined that services are no longer necessary and case closure is appropriate, nothing in the expunction process should prevent the closure of the case.

The attachments contained in this notice include the new policy, the users manual for the Responsible Individuals List, DSS-5104-a, sample letters, Petition for Expunction, House Bill 661 and the Administrative Rules that govern the Expunction process.

The DSS 5104-a is the Responsible Individuals List form that is used to track the Expunction Process and will serve as the mechanism to notify the Department of Health

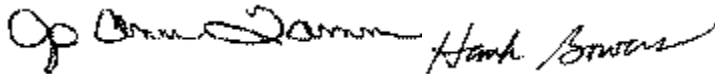
and Human Services of the results of the reviews. The DSS 5104-a is only used when a request for Expunction has been received.

To receive information from the Responsible Individuals List, Authorized Persons are required to submit their request in writing to the Division using the Request for Information from the North Carolina Responsible Individuals List system. This form is included in the attachments of this notice. The Responsible Individuals List will be maintained by staff at the Division. It is important to be clear that information from this list is to be used for determining current or prospective employment or fitness of an individual to care for children.

This is just a brief overview of the Expunction Process. We would like to thank the workgroup that was comprised of county Directors of Social Services that convened in October of 2005 to begin development of policy surrounding expunction. The workgroup worked diligently and composed a draft policy that was approved by the children and families services committee of the N.C. Association of Directors of Social Services. Since the drafting of that policy the Administrative Rules that govern Children's Services have been amended and rules regarding expunction were adopted on April 20, 2006. We have continued to work on the expunction policy in an effort to provide clarity to this new process. We believe that the foresight of the workgroup and the clarifications made to this policy will facilitate a smooth implementation.

Should you have any questions regarding the policy please contact Terri T. Reichert, CPS Policy Consultant at (919) 733-4622 or by email at [terri.reichert@ncmail.net](mailto:terri.reichert@ncmail.net). For questions regarding the operation of the Responsible Individuals List please contact Kate Johnson at (919) 733-3801 or by email at [katherine.johnson@ncmail.net](mailto:katherine.johnson@ncmail.net).

Sincerely, Sincerely,

A handwritten signature in black ink, appearing to read "Jo Ann Lamm Hank Bowers". The signature is written in a cursive style.

Jo Ann Lamm, Chief Hank Bowers, Chief

Family Support and Child Welfare Performance Management/

Services Section Reporting & Evaluation Management

JAL/ttr

HB/ttr

Attachments:

[Section 1427](#)

**[Responsible Individuals List User Manual](#)**

**[DSS-5104-a](#)**

**[Personal Written Notification to the Responsible Individual Sample Letter](#)**

**[Notification by the Director denying the request for Expunction Sample Letter](#)**

**[Notification by the Director expunging the responsible individual's name Sample Letter](#)**

**[Suggested Juvenile Petition](#)**

House Bill 661 (Hard Copy to Follow)

Administrative Rules regarding Expunction (Hard Copy to Follow)

**[DSS-5268, Request for Information from the North Carolina Responsible Individuals List](#)**

\* The sample letters and petition will be made available in Spanish on the web site.

cc Sherry Bradsher

Children's Program Representatives

Work First Representatives

Family Support and Child Welfare Services Team Leaders

Local Business Liaisons

Sarah Barham

Child Welfare Attorneys