

DSS ADMINISTRATIVE LETTER

CHILD WELFARE SERVICES CWS-03-09

TO:	COUNTY DIRECTORS OF SOCIAL SERVICES
ATTENTION:	CHILDREN'S SERVICES PROGRAM MANAGERS AND SUPERVISORS CHILDREN'S SERVICES SOCIAL WORKERS
DATE:	March 17, 2009
SUBJECT:	CLARIFICATION REGARDING OUT OF STATE REPORTS OF ABUSE OR NEGLECT OR OUT OF STATE PERPETRATORS AND NORTH CAROLINA CPS ASSESSMENTS
EFFECTIVE DATE:	IMMEDIATELY

I. BACKGROUND

Recently the Chapter V, Jurisdiction in Child Welfare, work group met to discuss the areas of current policy that require clarification. The subject of North Carolina CPS assessments when the reported incident of abuse or neglect occurs out of state, or in North Carolina by a perpetrator who lives out of state, was raised and fostered discussion about the applicability of our Responsible Individuals List and expunction policy to these cases. After consulting with our child welfare attorneys, it was determined that guidance regarding these cases that ensures the utmost protection for the victim child should be issued separately.

II. PROCEDURE

1. When a report is received and alleges that the maltreatment occurred in another state, but the alleged victim child and the alleged perpetrator currently reside in North Carolina, North Carolina would conduct the assessment based upon current risk factors. If the resulting case decision is to substantiate abuse or serious neglect, the perpetrator's name is required to be placed on the Responsible Individuals List (RIL). Subsequently if the perpetrator requests expunction and the Director upholds the case decision, the perpetrator would be referred to the assessing county's District Attorney and District Court for the expunction process. If the perpetrator requests expunction by the District Attorney or an expunction hearing in District Court, the county may be forced to remove the perpetrator's name from the RIL because, while 7B-320 requires placement on the RIL after any determination of serious neglect or abuse, G.S. 7B-322 and 7B-323 limit expunction reviews to the prosecutorial district or county "in which the abuse or neglect report arose."

For example, a North Carolina family goes on vacation to another state, and the child is abused or neglected while they are on vacation. North Carolina would conduct the assessment, and if abuse or serious neglect is found, the perpetrator's name would be placed on the RIL. Subsequently, if the perpetrator requests expunction and the Director upholds the case decision, the perpetrator would be referred to the assessing county's District Attorney and District Court for expunction. If the perpetrator requests an expunction review, the county may be required to remove the name from the RIL as the report did not arise in that district.

2. If a report is received and alleges that the maltreatment occurred in another state, and the alleged perpetrator is NOT a resident of North Carolina, but the victim child does reside in North Carolina, North Carolina would refer the report to the state where the incident occurred and offer to assist that state in interviewing the parties that are in North Carolina. However, if allegations in the report also point to suspected abuse or neglect by the parent(s)/caretaker in North Carolina, North Carolina would conduct an assessment of those allegations. If the resulting case decision is to substantiate abuse or serious neglect on a parent/caretaker in North Carolina, that perpetrator's name is required to be placed on the Responsible Individuals List (RIL). Subsequently, if the perpetrator requests expunction and the Director upholds the case decision, the perpetrator would be referred to the assessing county's District Attorney and District Court for the expunction process. If the perpetrator requests expunction by the District Attorney or an expunction hearing in District Court, the county may be forced to remove the perpetrator's name from the RIL because, while 7B-320 requires placement on the RIL after any determination of serious neglect or abuse, G.S. 7B-322 and 7B-323 limit expunction reviews to the prosecutorial district or county "in which the abuse or neglect report arose."

For example, when a North Carolina child is visiting a relative in another state, and that relative abuses or neglects that child, the state where the abuse or neglect occurred would investigate. However, if allegations in the report also point to suspected abuse or neglect by the parent(s)/caretaker in North Carolina, North Carolina may assess the current risk to the child on the part of the parent(s)/caretaker in North Carolina. Subsequently, if the perpetrator requests expunction and the Director upholds the case decision, the perpetrator would be referred to the assessing county's District Attorney and District Court for expunction. If the perpetrator requests an expunction review, the county may be required to remove the name from the RIL as the report did not arise in that district.

3. When it is alleged that a non-North Carolina resident abused or neglected a child who resides in North Carolina, and that alleged abuse or neglect occurred in North Carolina, North Carolina should conduct the assessment with the other state assisting. If the case decision results in a finding of abuse or serious neglect, North Carolina would place the perpetrator's name on the RIL as the "incident" occurred in North Carolina, and the expunction process is available to the perpetrator. Subsequently, if the perpetrator requests expunction and the Director upholds the case decision, the county conducting the assessment would refer the perpetrator to the District Attorney and District Court in the county where the report arose.

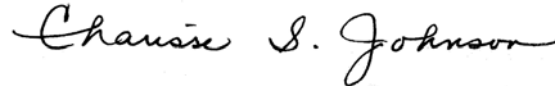
For example, a grandmother who resides in another state abuses or neglects her grandchild while visiting in North Carolina, this assessment would be conducted by the resident county, and if abuse or serious neglect is found, the grandparent's name must be placed on the RIL, and the expunction process will be available to her because the report arose here.

TO SUMMARIZE:

Residence of the child	Residence of the alleged perpetrator	Location of the alleged maltreatment	RIL expunction process
North Carolina	North Carolina	Out of State	County should conduct an assessment, but any RIL listing by a county here may be challenged because the incident did not occur here.
North Carolina	Out of state	Out of State	If there is suspected abuse or neglect on the part of N.C parent(s)/caretaker, N.C. should conduct an assessment of those allegations; however, any RIL listing by a county here may be challenged because the incident did not occur here.
North Carolina	Out of state	North Carolina	County should conduct the assessment, and the RIL expunction process is available.

This guidance will be reflected in the next update of the Family Services Manual, Volume 1, Chapter V and Chapter VIII. Should you have any questions please contact your Children’s Program Representative or the Child Welfare Policy team at (919) 733-4622.

Sincerely,



Charisse Johnson, Chief
Child Welfare Services Section

CJ:ttr

cc: Sherry S. Bradsher
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