

DSS ADMINISTRATIVE LETTER

FAMILY SUPPORT AND CHILD WELFARE SERVICES FSCWS-09-08

TO: County Directors of Social Services

ATTENTION: All Child Welfare Staff

DATE: May 6, 2008

SUBJECT: Caretaker Definition

EFFECTIVE DATE: Immediately

At the January 2008 Children Services Committee Meeting the North Carolina Division of Social Services was asked to provide clarification around the definition of "caretaker" relative to the screening reports of child maltreatment. Specifically the Division was asked to explore the definition as it may apply to step extended relatives (i.e., step-grandparents, step-aunts, step-uncles, etc.) and other individuals significant to the primary caretaker (i.e., boyfriend, girlfriend, significant other, etc.). At the conclusion of the discussion, the Division was asked to consult with our child welfare attorneys in order to address specific questions and subsequently issue a response in writing in order to facilitate a more consistent application of the definition across the 100 counties. The following interpretation is issued in consultation with our child welfare attorneys.

The purpose of this letter is to provide written clarification as an interim measure until the information may be included in the updated [Family Services Manual Volume 1, Chapter VIII, Section 1407 – Structured Intake](#). County department of social services will need to ensure that all child welfare staff, especially intake staff, are aware of this clarification and will need to carefully screen each report of child maltreatment to ensure that the person for whom the allegations are made against meet the definition of "caretaker."

Black's Law Dictionary defines relative as, "a person connected with another by blood or affinity; a kinsman" (Garner, 1999)¹ while [N.C.G.S. § 7B-101\(3\)](#) states that a caretaker is:

[a]ny person other than a parent, guardian, or custodian who has responsibility for the health and welfare of a juvenile in a residential setting. A person responsible for a juvenile's health and welfare means a stepparent, foster parent, an adult member of the juvenile's household, an adult relative entrusted with the juvenile's care, any person such as a house parent or cottage parent who has primary responsibility for supervising a juvenile's health and welfare in a residential child care facility or residential educational facility, or any employee or volunteer of a division, institution, or school operated by the Department of Health and Human Services.

Because the statute is specific to include certain relationships (such as stepparents) that meet this definition, these relationships should be liberally construed and inclusive of persons connected by blood as well as by marriage. Therefore, extended step-relatives such as step-grandparents, step-aunts, step-uncles, and step-cousins entrusted with responsibility for the health and welfare of the child should be considered caretakers. When reports are made alleging child maltreatment that meet the statutory definition of abuse, neglect and dependency and include information that an extended step-relative acted in the capacity as caregiver, county departments of social services should accept these reports for assessment.

Conversely, because the statute does not include persons in a special relationship with the primary parent, guardian, custodian or caretaker (such as a boyfriend, girlfriend, or a babysitter who does not meet the definition of a child care provider) who do not live in the child's residence, these relationships should be narrowly construed and exclusive to only mean those adult members of the juvenile's household. In

¹ Garner, B. A. (Ed.). (1999). *Black's Law Dictionary* (7th ed.). West Group.

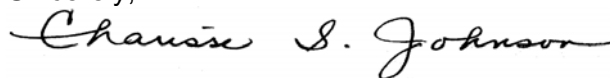
determining whether an individual “lives” in the child’s home (for example, the mother’s boyfriend who only spends the night a couple of times a week) counties are advised to use their professional judgment in this matter. Therefore, when reports are made alleging child maltreatment against a primary parent’s, guardian’s, custodian’s or caretaker’s friend or acquaintance who does not reside in the child’s home, county departments of social services should not accept these reports for assessment but may, instead, refer these cases to local law enforcement if appropriate. In this case, county departments of social services should also carefully consider the caretaker’s culpability in exposing the child to a situation where the child was harmed or not properly cared for by the caretaker’s friend or acquaintance when screening reports. A thorough and holistic screening of a report alleging child maltreatment includes not only determining if the allegations meet the statutory definition of abuse, neglect, or dependency but must also determine the relationship of the person for whom the allegations are made against to the identified victim child and must explore the caretaker’s role in providing protection to the identified child.

This clarification of the caretaker definition is used relative to making a determination whether a child has been abused, neglected and/or is dependent which is a separate determination from whether or not that same individual is on the juvenile petition or is made a party to any court action the county department of social services may initiate. That is, an individual who is determined by the county department of social services to be a caretaker may not necessarily be made a party to any court action initiated by that agency. For example, if a step-uncle is found by a county department of social services to be the caretaker that is responsible for abuse, neglect or dependency of a child and that agency initiates a juvenile petition to ensure the safety of the child, that step-uncle may not necessarily be made a party to the juvenile court action. The determination of who is made a party to a juvenile court action filed by the county department of social services must be made by that agency on a case-by-case basis. It is strongly recommended that county departments of social services make this determination in close consultation with their legal counsel. Additionally, should a county department of social services determine that a caretaker be made a party to the action, this determination does not mean that the caretaker is entitled to the right of appeal under [N.C.G.S. §7B-1001](#). Under [N.C.G.S. §7B-1002](#), an appeal may only be taken by the Guardian ad Litem or juvenile, the juvenile’s parent, guardian, or custodian, the State or county agency.

Finally, should an individual determined to be a caretaker by the county department of social services be placed on the Responsible Individual’s List (RIL) and that individual is not named as a party to the petition filed by the department, that individual retains the all rights to the expunction process, irrespective of the pending adjudication hearing.

Please contact your Children’s Program Representative or the Family Support and Child Welfare Policy Team at (919) 733-4622 if you have questions about this letter.

Sincerely,



Charisse S. Johnson, Chief
Family Support and Child Welfare Services

CSJ:rpb

cc: Sherry Bradsher
Jo Ann Lamm
Sarah Barham
Family Support and Child Welfare Team Leaders
Children’s Programs Representatives
Local Business Liaisons
Regulatory and Licensing Services Consultants
Hank Bowers