

DEPARTMENT OF SOCIAL SERVICES

CHILDREN'S DIVISION

P. O. BOX 88

JEFFERSON CITY, MISSOURI

April 12, 2007

What's Inside:
Supreme Court
decision on
CANRB.

MEMORANDUM

MEMORANDUM FOR ALL CHILDREN'S DIVISION STAFF

FROM: PAULA NEESE, DIRECTOR

SUBJECT: SUPREME COURT DECISION, JAMISON, ET AL.
RESPONDENTS VS. STATE OF MISSOURI

DISCUSSION:

On March 13, 2007, the Missouri Supreme Court handed down a decision addressing the constitutionality of the division's child abuse and neglect determinations, the Child Abuse and Neglect Review Board (CANRB) hearing process, and the issue of whether proper due process is afforded to individuals alleged to have committed child abuse or neglect.

Although the Court upheld the constitutionality of the overall process and the CANRB hearing, the decision requires some significant changes in how and when the division places names of alleged perpetrators in the Child Abuse and Neglect Central Registry. The Central Registry is a subset of our information system and is defined in statute (Section 210.110(2)) as a registry of persons where the division has found probable cause to believe prior to August 28, 2004, or by a preponderance of evidence after August 28, 2004, or a court has substantiated through court adjudication that an individual has committed child abuse or neglect. The Central Registry has become a source of data which is often accessed for background screening for employment and licensing activities.

The Jamison decision resulted in the need for the following changes, which are effective immediately:

- A person's name can no longer appear in the Central Registry until the person has waived his/her right to an appeal by failing to timely request a review of the finding or the substantiated finding has been upheld by the CANRB, based on the evidentiary standard of 'by a preponderance of the evidence'.

This means that Preponderance of Evidence (POE) Preliminary Findings and POE Preliminary Findings Pending Appeal will no longer be placed in the Central Registry and will no longer be available to be reported out for background screenings.

From this point forward, only POE findings with a Final Determination and Court Adjudicated findings will be included within the Central Registry and available for background screening. Probable Cause findings, rendered prior to August 28, 2004, which have had their full due process will remain on the Registry.

It is imperative that Children's Service Supervisors ensure that an individual's name is not inadvertently put into the Registry by entering a final determination prior to the expiration of the 60 day appeal period. System edits are now under development to prevent this from occurring in the future. Upon conclusion of a CA/N report, only the POE-preliminary finding should initially be entered into FACES.

- Due to the court decision, the division will need to expedite the administrative review process and subsequent referrals to the CANRB. These changes will be introduced when finalized.
- The CS-21 form is being revised to inform alleged perpetrators of these changes, and information relating to this is forthcoming.
- Manual changes related to these issues are forthcoming.

NECESSARY ACTION:

1. Review this memorandum with all Children's Division staff.
2. All questions should be cleared through normal supervisory channels and directed to:

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