

DEPARTMENT OF SOCIAL SERVICES

CHILDREN'S DIVISION

P. O. BOX 88

JEFFERSON CITY, MISSOURI

SEPTEMBER 13, 2017

M E M O R A N D U M

TO: CHILDREN'S DIVISION AND CONTRACTED STAFF

FROM: TIM DECKER, DIRECTOR

SUBJECT: SENATE BILL 160: UNKNOWN PERPETRATORS; RE-OPENING CASES (FORMERLY SB54 REVIEWS); CHANGES TO CARE, CUSTODY, AND CONTROL

DISCUSSION:

The purpose of this memorandum is to inform staff of changes to policies and procedures pursuant to Senate Bill 160. This memorandum will specifically address changes to investigative procedures when the perpetrator cannot be determined. It will also address changes to how a report can be re-opened (formerly known as SB54 reviews), as well as changes to the definition of care, custody, and control. Senate Bill 160 was passed in the 2017 legislative session. The portions of Senate Bill 160 addressed in this memorandum were effective as of June 22, 2017.

Unknown Perpetrators

In November 2016, the Eastern District Court of Appeals ruled the Children's Division does not have the authority to substantiate a report that an unknown perpetrator committed child abuse or neglect. The Court further ruled reports of alleged abuse by an unknown perpetrator cannot be retained in the Central Registry indefinitely (See [CD17-17](#)). Senate Bill 160 provides the Children's Division statutory authority to retain investigation reports and all identifying information when the child is known to have been abused or neglected, but the identity of the perpetrator cannot be identified. These reports will be retained forever, in the same manner as a family assessment.

An unknown perpetrator cannot be placed on the central registry. Due to this, a new investigative conclusion option of '*Child Abuse/Neglect Present, Perpetrator Unidentified*' is being developed. Staff will still be required to meet the elements of abuse/neglect by a preponderance of the evidence (POE) and should continue to use the POE conclusion templates in their conclusion summary. Staff should summarize in the care, custody, and control element of the conclusion template all efforts made to ascertain the identity of the perpetrator and why the perpetrator could not be determined. No investigation

may be concluded with this finding without authorization from a Regional Director or their designee.

Until the '*Child Abuse/Neglect Present, Perpetrator Unidentified*' conclusion is implemented in FACES, staff should put any investigations that meet the criteria for this finding in delayed conclusion status. All prior POE findings on an unknown perpetrator will be converted to this new conclusion.

Re-Opening Reports (Previously Known as SB54 Reviews)

Senate Bill 160 eliminates many of the restrictions that previous legislation placed on the Children's Division's ability to re-open an investigation. The language under 210.152(3), RSMo. now states, "the Children's Division may re-open a case for review if new, specific, and credible evidence is obtained." This will allow parties other than the alleged perpetrator, the alleged victim, or the office of the child advocate, to request a report be re-opened, including but not limited to, Children's Division staff and law enforcement. The previous timeframe for re-opening a report has also been removed. The procedures for requesting a case to be re-opened will remain the same as outlined in [Section 2, Chapter 4.5.4.1](#) of the Child Welfare Manual.

The Request to Re-Open Investigation (CD-255) form should be utilized by all individuals, including Children's Division staff, to request the re-opening of a case. This form should be sent to Central Office, attention to the CA/N Program Development Specialist. Central Office will review and screen the request and will be responsible for making the referral to Division of Legal Services (DLS). DLS will review requests to re-open cases to make a determination if there is sufficient new, specific, and credible evidence and to provide guidance in how to proceed with the request.

Staff should use caution when considering duplicating a report to a previously investigated report. Staff should first screen these reports and possibly make cursory contacts to determine if the new report warrants investigation based on new, specific, and credible evidence. While assessments may be re-opened under 210.152(3), RSMo., these situations should generally be handled by making a new hotline report.

Care, Custody, and Control

Senate Bill 160 revises the definition of care, custody, and control.

Those responsible for the care, custody, and control of the child includes, but is not limited to:

- The parents or legal guardians of the child;
- Other members of the child's household;
- Those exercising supervision over a child for any part of a twenty-four hour day;
- Any person who has access to the child based on relationship to the parents of the child or members of the child's household or the family; or
- Any person who takes control of the child by deception, force, or coercion.

Screening procedures for non-caretaker referrals of juvenile perpetrators will remain the same.

<p>NECESSARY ACTION</p> <ol style="list-style-type: none"> 1. Review this memorandum with all Children’s Division staff. 2. Review revised Child Welfare Manual chapters as indicated below. 3. All questions should be cleared through normal supervisory channels and directed to: 	
<p>PDS CONTACT Kara Wilcox-Bauer 573-526-9707 Kara.B.Wilcox-Bauer@dss.mo.gov</p>	<p>MANAGER CONTACT Christy Collins 573-751-9603 Christy.Collins@dss.mo.gov</p>
<p>CHILD WELFARE MANUAL REVISIONS Section 2, Ch. 4.1.8, Reaching a Conclusion Section 5, Ch. 4.1, CA/N Reports Section 2, Ch. 4.5, Alleged Perpetrator Appeal Process Overview Section 2, Chapter 4.5.4, Case Re-Opening Section 2, Chapter 2, Attachment C, Duplicate Reports Section 2, Chapter 3.2.2, Duplicating CA/N Reports and Referrals Section 2, Ch. 2, Attachment A, Care, Custody, and Control Section 7, Glossary, Care, Custody, and Control</p>	
<p>FORMS AND INSTRUCTIONS CD-255 Request to Re-Open Investigation CD-253 Notice of Case Re-Opening Determination CD-254 Notice of Outcome of Case Re-Opening</p>	
<p>REFERENCE DOCUMENTS AND RESOURCES N/A</p>	
<p>RELATED STATUTE 210.152, RSMo. 210.110, RSMo.</p>	