

DEPARTMENT OF SOCIAL SERVICES

CHILDREN'S DIVISION

P. O. BOX 88

JEFFERSON CITY, MISSOURI

SEPTEMBER 22, 2017

M E M O R A N D U M

TO: CHILDREN'S DIVISION AND CONTRACTED STAFF
FROM: TIM DECKER, DIRECTOR
SUBJECT: REVISED DEFINITIONS OF ABUSE AND NEGLECT AND IDENTIFYING VICTIMS OF TRAFFICKING

DISCUSSION:

The purpose of this memo is to provide staff with new definitions of abuse and neglect, effective immediately. This memo also introduces a new reporter/worker finding for a portion of one of the definitions, child sex trafficking, as federal reporting for those victims in Missouri is required by the Preventing Sex Trafficking and Strengthening Families Act of 2014.

Revised Definitions of Abuse and Neglect:

Senate Bill 160 amends the legal definitions of abuse and neglect in [Section 210.110, RSMo.](#) so that a child victim of trafficking will be considered a victim of child abuse and neglect, as required under the Child Abuse Prevention and Treatment Act (CAPTA).

Abuse: any physical injury, sexual abuse, or emotional abuse inflicted on a child other than by accidental means by those responsible for the child's care, custody, and control, except that discipline including spanking, administered in a reasonable manner, shall not be construed to be abuse. **Victims of abuse shall also include any victims of sex trafficking or severe forms of trafficking as those terms are defined in 22 U.S.C. 78 Section 7102(9)-(10).**

Neglect: failure to provide, by those responsible for the care, custody, and control of the child, the proper or necessary support, education as required by law, nutrition or medical, surgical, or any other care necessary for the child's well-being. **Victims of neglect shall also include any victims of sex trafficking or severe forms of trafficking as those terms are defined in 22 U.S.C. 78 Section 7102(9)-(10).**

Sex trafficking is defined as the recruitment, harboring, transportation, provision, obtaining, patronizing, or soliciting of a person for the purpose of a commercial sex act.

Severe forms of trafficking in persons is defined as:

(A) Sex trafficking in which a commercial sex act is induced by force, fraud, or coercion, or in which the person induced to perform such act has not attained 18 years of age; or

(B) The recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery.

Commercial sex act is defined as any sex act on account of which anything of value is given to, promised, or received by any person.

Screening at the Child Abuse and Neglect Hotline Unit (CANHU):

When a call of concern is received at CANHU that meets the following new child abuse/neglect (CA/N) condition definition, the report will be screened in as an investigation:

Child(ren) of any age has forcefully or willingly been involved in any type of sexual act in exchange for anything of value, such as money, drugs, shelter, food, or clothes. This includes situations in which a third party profits from the child's sex act. This also includes situations in which the child's basic needs are met in exchange for a sexual act and situations in which the child's parent/caregiver allows, permits, or encourages a child to engage in a commercial sex act. Examples include pornography, prostitution, and stripping.

These reports will be coded with a new reporter description of "child sex trafficking (HT)". The existing code of "prostitution (A8)" has been eliminated as these concerns will fall under the new code.

Investigating Allegations of Child Sex Trafficking:

Staff must report immediately, but no later than twenty-four (24) hours, to law enforcement any child or youth who has been identified as a sex trafficking victim.

Child sex trafficking does not require force, fraud, or coercion and can occur even if it appears the child has consented to the sexual act(s). All victims of sex trafficking are victims of sexual abuse. Sex trafficking occurs when individuals buy, trade, or sell sexual acts with a child.

Example:

A child is a victim of sexual abuse if pornographic images are taken of them solely for the gratification of the perpetrator. The child is also a victim of sex

trafficking if the perpetrator then trades their images to someone else in exchange for money, pictures of other children, etc.

When a child is suspected of, or confirms being a victim of sex trafficking, staff should utilize their local Child Advocacy Center (CAC) and multi-disciplinary team (MDT) protocols to conduct the investigation. Staff should refer to [Section 3, Chapter 4, Attachment D](#) of the Child Welfare Manual for more information on indicators of commercial sexual exploitation of children.

The Missouri Attorney General's Office (AGO) has established a human trafficking hotline to assist in investigating reports of human trafficking. The hotline can be accessed at 844-487-0492, or online at <https://www.ago.mo.gov/app/HTHReport>. The AGO has established a human trafficking unit that can either directly investigate reports or coordinate with appropriate law enforcement jurisdictions with experience and training in human trafficking.

Determining a Preponderance of Evidence (POE) Finding:

Sex Trafficking

Any child involved in a commercial sex act is a victim of human trafficking. There does not need to be any evidence of force, fraud, or coercion. When a child is determined to be both a victim of sexual abuse and sex trafficking, the new "child sex trafficking-HT" code **must** be utilized on the individual conclusion screen in FACES.

Under the amended definitions above, when a child has been identified as a victim of sex trafficking, they are considered victims of both sexual abuse **and** neglect. Being a victim of sex trafficking is a new legal element of the abuse and neglect definitions. Therefore, the following conclusion template must be used when making a POE finding of sex trafficking:

"The Investigation has been completed under Sections 210.110-210.165, RSMo., and the Division has determined by a Preponderance of Evidence that (Alleged Victim Child) was the victim of sexual abuse and neglect perpetrated by (Alleged Perpetrator).

This determination of sexual abuse and neglect by a Preponderance of Evidence was made after weighing all of the evidence and based upon the following:

1. (Alleged Victim Child) was under the age of 18 at the time of the incident in that...;
2. (Alleged Perpetrator) was responsible for care, custody and control of the alleged victim child at the time of the incident in that...;
3. (Alleged Victim Child) was sex trafficked in that..."

The new "child sex trafficking-HT" code will be mapped in FACES to both sexual abuse and neglect. Staff should address in the third element above how the child was sex trafficked and how the child was neglected.

Labor Trafficking

If a Preponderance of Evidence (POE) finding is made as a result of a child being found to be a victim of labor trafficking, they are also victims of abuse and neglect under the revised definitions. Staff must ensure the most appropriate abuse **and** neglect worker findings for the situation are added on the individual conclusion screen as there is no reporter description/worker finding specific to labor trafficking.

Labor trafficking differs from sex trafficking in that when a child is a victim of labor trafficking, staff **must** be able to identify how the perpetrator used force, fraud, or coercion to victimize the child.

Being a victim of labor trafficking is also a new legal element of the abuse and neglect definitions. Therefore, the following conclusion template should be used when making a POE finding of labor trafficking:

"The Investigation has been completed under Sections 210.110-210.165, RSMo., and the Division has determined by a Preponderance of Evidence that (Alleged Victim Child) was the victim of [physical, sexual, and/or emotional] abuse and neglect perpetrated by (Alleged Perpetrator).

This determination of [physical, sexual, and/or emotional abuse] and neglect by a Preponderance of Evidence was made after weighing all of the evidence and based upon the following:

1. (Alleged Victim Child) was under the age of 18 at the time of the incident in that...;
2. (Alleged Perpetrator) was responsible for care, custody and control of the alleged victim child at the time of the incident in that...;
3. (Alleged Victim Child) was labor trafficked in that...."
4. (Alleged Perpetrator) used force, fraud, or coercion in that..."

NECESSARY ACTION

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:

PDS CONTACT

Kara Wilcox-Bauer
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MANAGER CONTACT

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CHILD WELFARE MANUAL REVISIONS

[Section 2, Chapter 4.1.8.1.1, The Laws on Child Abuse/Neglect](#)

[Section 2, Chapter 4.1.8.1.2, The Legal Elements of Child Abuse/Neglect](#)

Section 2, Chapter 4.1.8.1.5, Determining Sex Trafficking by a Preponderance of Evidence

Section 2, Chapter 4.1.8.1.6, Determining Labor Trafficking by a Preponderance of Evidence

[Section 7, Glossary “A”, Abuse](#)

[Section 7, Glossary “N”, Neglect](#)

FORMS AND INSTRUCTIONS

N/A

REFERENCE DOCUMENTS AND RESOURCES

N/A

RELATED STATUTE

N/A