

DEPARTMENT OF SOCIAL SERVICES

CHILDREN'S DIVISION

P.O. BOX 88

JEFFERSON CITY, MISSOURI

January 24, 2006

What's Inside:

Updated Protocol
on Duty to Warn

MEMORANDUM

TO: REGIONAL EXECUTIVE STAFF, CIRCUIT MANAGERS AND
CHILDREN'S DIVISION STAFF

FROM: PAULA NEESE, INTERIM DIRECTOR

SUBJECT: REPORTABLE CRIMINAL BEHAVIOR AND DUTY TO WARN
PROTOCOL FOR STAFF

CHILD WELFARE MANUAL REVISIONS:
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DISCUSSION:

The purpose of this memorandum is to advise staff of the protocol to follow in instances when an agency employee has concerns regarding the safety of another person who is not an agency employee and there is a foreseeable danger or a threat of harm exists.

The Council of Accreditation Standard G7.4.01 states: "The organization fully trains its personnel on its written policies and procedures regarding the laws and organizational/employee responsibilities regarding...reportable criminal behavior, including criminal, acquaintance, and statutory rape; and duty to warn." The Department of Social Services has protocol for [Threats to Employees in the Administrative Manual 3-301](#) (Employee Access Only) which addresses safety of its employees.

The Children's Division is in the process of adding risk management strategies and protocol on recognizing reportable criminal behavior to its Basic Training. These techniques will assist staff in determining when it is appropriate to take steps in their duty to warn and the protocol to follow. An update to Section 1, Chapter 1, 2. Roles and Responsibilities of the Children's Division addresses the CD's responsibilities to train staff to protect themselves, persons served, and the organization. Section 5, Chapter 2.4.2 has been expanded to include steps staff should utilize, if after careful assessment and analysis, a threat of danger or harm is considered imminent.

Duty to Warn has been added to the Related Subject Box in Section 4 Chapter 7.1.2. The definition of Duty to Warn has been added to Section 7 of the Glossary/Reference in the Child Welfare Manual. Duty to Warn is defined as “the duty of agency staff to inform an identified individual or ascertainable group there is a foreseeable danger or threat of harm exists and failure to act could result in injury.”

DUTY TO WARN PROTOCOL:

At any time a CD worker has concerns regarding the safety of a child, another person, self, or agency staff, and there is a foreseeable danger or a threat to harm exists, the worker shall immediately assess and analyze the risk of the threat with their supervisor or Circuit Manager.

Analysis of Threat

The analysis should determine:

- Does the person have the ability to carry out the threat immediately or in the future?
- What is the nature of the threat and is it specific?
- Does the threat identify a specific person or group?
- Does the agency have past information on the person carrying out the threat?

If it is determined the threat is imminent, the worker should document in the case record the facts supporting the decision to report the threat. The worker and supervisor need to determine if releasing the information would be a breach of confidentiality based on the Health Insurance Portability and Accountability Act (HIPAA) regulations and Protected Health Information (PHI), and according to 210.150 RSMo which addresses confidentiality. Disclosure of personal health information (PHI) is permissible when there is an imminent threat to public safety. Disclosure of PHI must meet the minimum necessary standard, in that only that information necessary to the reporting of the threat should be disclosed. Except in situations where the supervisor is unavailable and the imminent nature of the threat requires otherwise, the supervisor should be involved in making the calls to the person(s) and authorities.

- If the threat to harm is made *to another agency employee* staff should follow the procedures in the DSS manual Threat to Employees 3-301.
- If the threat is regarding a non-agency person, and the worker, supervisor and/or Circuit Manager have determined there is imminent risk of harm, the following steps should be taken:
 1. Contact the person or ascertainable group and disclose the nature of the threat. Reasonable steps should be made to directly contact the person(s) in imminent danger. The CSW should “disclose the least amount of confidential information necessary to achieve the desired purpose (NASW Code of

Ethics).” Leaving a message or writing a letter are **NOT** acceptable methods of notification.

2. Make reasonable efforts to notify law enforcement.
3. Thoroughly document date, times, subject and content of ALL contacts in the case record.

Reporting Criminal Behavior

Staff must also report any criminal behavior, acquaintance and statutory rape to law enforcement as soon as such is known. Update added in the Related Subject box in Section 4, Chapter 7.1.2 of the CW Manual.

NECESSARY ACTIONS: 1. Please review this memorandum with all Children’s Division Staff. 2. All questions should be cleared through normal supervisory channels and directed to:	
PDS CONTACTS: Belinda Kay Luke Fisher, PDS 573-751-8615 Belinda.k.lukefisher@dss.mo.gov	PROGRAM MANAGER: Cindy R. Wilkinson 573-751-3171 Cindy.R.Wilkinson@dss.mo.gov
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RELATED STATUTE: 210.150 RSMo 337.736 RSMo 574.010 RSMo 565.090 RSMo	
ADMINISTRATIVE RULES: NA	
COUNCIL ON ACCREDITATION (COA) STANDARDS: G7.4.01	
PROGRAM IMPROVEMENT PLAN (PIP): NA	

PN/BLF