

NEBRASKA DEPARTMENT OF HEALTH AND HUMAN SERVICES
NOTICE OF PUBLIC HEARING

May 10, 2021
10:00 a.m. Central Time
Nebraska State Office Building – Lower Level A
301 Centennial Mall South, Lincoln, Nebraska
Phone call information: 888-820-1398; Participant code: 3213662#

The purpose of this hearing is to receive comments on proposed changes to Title 395, Chapter 6 of the Nebraska Administrative Code (NAC) – *Assessment of Abuse and Neglect Reports*. The proposed changes would add new sections regarding the authority for the regulations, the abuse and neglect reporting hotline, screening of reports, categorizing of reports, and requirements for non-court involved cases. The proposed changes also update the requirements for assessments; specify additional details regarding contact with child victims, parental notification, and the completion of assessments; update the provisions regarding identification of trafficking victims and the criteria for an ongoing case; and restructure and renumber the chapter.

Authority for these regulations is found in Neb. Rev. Stat. § 81-3117(7).

Due to the current public health crisis, the agency will enforce any Directed Health Measure Order on the size of gatherings that is in effect at the time of the hearing. In order to encourage participation in this public hearing, a phone conference line will be set up for any member of the public to call in and provide oral comments.

Interested persons may provide verbal comments by participating via phone conference line by calling 888-820-1398; Participant code: 3213662#.

Interested persons may attend the hearing and provide verbal or written comments or mail, fax or email written comments, no later than the day of the hearing to: DHHS Legal Services, PO Box 95026, Lincoln, NE 68509-5026, (402) 742-2382 or dhhs.regulations@nebraska.gov, respectively.

A copy of the proposed changes is available online at <http://www.sos.ne.gov>, or by contacting DHHS at the mailing address or email above, or by phone at (402) 471-8417. The fiscal impact statement for these proposed changes may be obtained at the office of the Secretary of State, Regulations Division, 1201 N Street, Suite 120, Lincoln, NE 68508, or by calling (402) 471-2385.

Auxiliary aids or reasonable accommodations needed to participate in a hearing can be requested by calling (402) 471-8417. Individuals who are deaf or hard of hearing may call DHHS at (402) 471-9570 (voice and TDD) or the Nebraska Relay System at 711 or (800) 833-7352 TDD at least 2 weeks prior to the hearing.

FISCAL IMPACT STATEMENT

Agency: Department of Health and Human Services	
Title: 395	Prepared by: Jamie Kramer
Chapter: 6	Date prepared: 1/25/2021
Subject: Assessment of Abuse and Neglect Reports	Telephone: 402-670-4126

Type of Fiscal Impact:

	State Agency	Political Sub.	Regulated Public
No Fiscal Impact	(<input type="checkbox"/>)	(<input checked="" type="checkbox"/>)	(<input checked="" type="checkbox"/>)
Increased Costs	(<input type="checkbox"/>)	(<input type="checkbox"/>)	(<input type="checkbox"/>)
Decreased Costs	(<input type="checkbox"/>)	(<input type="checkbox"/>)	(<input type="checkbox"/>)
Increased Revenue	(<input type="checkbox"/>)	(<input type="checkbox"/>)	(<input type="checkbox"/>)
Decreased Revenue	(<input type="checkbox"/>)	(<input type="checkbox"/>)	(<input type="checkbox"/>)
Indeterminable	(<input checked="" type="checkbox"/>)	(<input type="checkbox"/>)	(<input type="checkbox"/>)

Provide an Estimated Cost & Description of Impact:

State Agency: See Indeterminable

Political Subdivision:

Regulated Public:

If indeterminable, explain why:

The cost for updating these regulations is indeterminable. Each case is different. There could be additional upfront costs for a case that would out way long-term costs if the youth was moved to an out of home setting rather than being with a relative. Costs for being in a relative/kinship home would be less over time than removing a child and paying for all out of home services. It is not possible to identify the costs as the state has no waiting list or way to reduce the number of cases in our care.

TITLE 395 CHILDREN AND FAMILY SERVICES: PROTECTION AND SAFETY
CHAPTER 6 ASSESSMENT OF ABUSE AND NEGLECT REPORTS

001. REPORTS OF ABUSE AND NEGLECT AUTHORITY. These regulations are authorized by Nebraska Revised Statute (Neb. Rev. Stat.) § 28-713 and § 28-713.03 and establish the process of for the investigation, screening, and assessment of reports of child abuse and neglect related to trafficking victims are set forth in this chapter.

002. HOTLINE. The Department will provide a means for the public to report child abuse and neglect as required by Neb. Rev. Stat. § 28-711.

003. SCREENING OF REPORTS. The Department will utilize an evidence-informed screening tool to determine whether a report of abuse or neglect will be accepted for investigation or assessment.

003.01 REPORTS OF TRAFFICKING. Any report where the child is a reported or suspected victim of sex or labor trafficking will be accepted for assessment or investigation.

003.02 SHARING OF REPORTS. Pursuant to Neb. Rev. Stat. § 28-713, all reports, whether or not accepted for investigation or assessment, will be provided to the appropriate law enforcement agency.

004. CATEGORIZING REPORTS. Each accepted report will be referred for response by law enforcement or the Department.

004.01 REFERRED FOR DEPARTMENT RESPONSE. The Department will assess accepted reports of abuse or neglect where the alleged perpetrator is:

- (A) A caregiver who resides in the same home of the alleged victim; or
- (B) A caregiver in a day care home, foster home, day care center, child care facility or other residential care facility.

004.01(i) RESPONSE TIME. The Department will make contact with the identified family within a maximum of ten days after receipt of an accepted report of child abuse or neglect, unless an exception is granted.

004.02 REFERRED FOR LAW ENFORCEMENT RESPONSE. Each accepted report which is not referred to the Department for assessment will be referred to law enforcement for investigation. This includes reports of abuse or neglect where the perpetrator is a teacher, school employee, counselor, therapist, or other licensed medical or mental health practitioner, and the perpetrator is not the parent of the alleged victim.

~~0025. INITIAL ASSESSMENT. Reports to the child abuse and neglect hotline that meet the Department's definition of child abuse and neglect will be accepted for assessment or investigation as authorized by Neb. Rev. Stat. §§ 28-710 to 28-713. Any report where the child is a reported or suspected victim of sex or labor trafficking will be accepted for assessment or investigation.~~

~~002.01 ASSESSMENT OF ABUSE AND NEGLECT. When a report is referred to the Department for investigation or assessment a report, the Department will utilize an evidence-informed and validated standardized assessment tool to determine the current safety of the child, whether the child is a victim of child abuse or neglect or is at the risk of future maltreatment. A tool will also be used and to determine a family's need for services, if any.~~

~~005.01 CONTACT WITH CHILD VICTIM AND PARENTAL NOTIFICATION. When a child is a possible witness to or an alleged victim of abuse or neglect, the Department has the authority to contact the child to conduct an interview necessary for an assessment. This may be done without the consent or knowledge of the parent. A child may be contacted at school, child care, or other locations away from the home.~~

~~005.02 COMPLETION OF ASSESSMENT. The Department will complete the initial assessment within sixty days, unless an exception is granted.~~

~~002.026. IDENTIFICATION OF TRAFFICKING VICTIMS. Based on the information gathered during the screening or initial assessment process, the Department may designate the child as a suspected victim of sex or labor trafficking.~~

~~0026.012(A) SUSPECTED VICTIMS OF SEX OR LABOR TRAFFICKING. Each minor who is designated by the Department as a suspected victim of trafficking will be assigned for in-person investigation as required by Neb. Rev. Stat. § 28-713. As part of the in-person investigation, the Department will use specialized instruments to:~~

- ~~(iA) Screen and assess to identify whether the child is a trafficking victim or at high risk of becoming a trafficking victim; and~~
- ~~(iiB) Determine the needs of the child and family to prevent or respond to abuse, neglect, and exploitation.~~

~~0026.02(B) SERVICES. For each report where the child is designated as a suspected trafficking victim or at high risk of becoming a trafficking victim, the Department will refer and connect the child and family to the appropriate services.~~

~~0073. CRITERIA FOR OPENING AN ONGOING CASE. When determining whether to open an ongoing case, the following criteria will be considered:~~

- ~~(A) The child's safety as determined by the Department's evidence-informed tool;~~
- ~~(B) The child's risk of future maltreatment as determined by the Department's evidence-informed tool; and~~
- ~~(C) The family's willingness to voluntarily engage in child welfare services.~~

~~008. NON-COURT-INVOLVED CASE. The Department may open a non-court-involved case when the Department determines that ongoing services are required to maintain the safety of the~~

child or alleviate the risk of future abuse or neglect and the family voluntarily agrees to participate in on-going services without a filing in juvenile court.

008.01 NOTICE OF RIGHTS. The Department will provide a parent and, if applicable, a kin or relative caregiver participating in a non-court-involved case with a written notice of rights as required by Neb. Rev. Stat. § 28-713.02.

008.02 PAYMENT TO CAREGIVER. In a non-court-involved case in which a child lives temporarily with a kin caregiver or a relative caregiver, the Department may reimburse a kin caregiver or a relative caregiver for facilitating services for the child. To be eligible for reimbursement the following conditions must be met:

- (A) The parent is unable to cover the costs of the services for the child;
- (B) The caregiver has applied for and been denied eligibility for other available benefits that would cover the costs of the services for the child;
- (C) The Department agrees, in advance, to provide reimbursement for the costs of services for the child; and
- (D) The caregiver provides the Department with documentation to verify proof of payment for the child's services.

008.03 COURT FILING REQUEST. If the Department finds a child is seriously endangered in the child's surroundings and immediate removal is necessary for the protection of the child, the Department may make an immediate request for the county attorney to institute juvenile court proceedings.

008.03(A) SERIOUSLY ENDANGERED CHILD. The Department will utilize an evidence-informed and validated standardized assessment tool to determine the current safety of the child. A child is considered seriously endangered when the Department determines the child is unsafe and the safety threat cannot be mitigated.

008.03(B) COURT FILING. When the county attorney institutes juvenile court proceedings alleging the child is within the meaning of Neb. Rev. Stat. § 43-247(3)(a) or § 43-247(3)(c), a non-court-involved case will be considered a court-involved case.

008.04 CASE CLOSURE. The Department will consider closing a non-court-involved case when:

- (A) The Department determines the child is safe and the risk of future maltreatment is low or moderate; or
- (B) The family requests the non-court-involved case close.

008.05 ADMINISTRATIVE APPEAL. Any child, parent, kin caregiver, or relative caregiver may request an administrative appeal of any Department action or inaction in a non-court-involved case.

008.05(A) APPEAL TIME FRAME. The appeal must be filed in writing within 30 days of when the action or inaction of the Department is known or should've been known by the person filing the appeal.