

# Child Safety Alert

From Commissioner Gladys Carrión, Esq.

#19 (Revised)

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## Protecting Children of Young People in Foster Care

This Child Safety Alert serves to clarify and strengthen Children's Services' policy regarding safety planning and protective measures for infants and children of youth in foster care, when the infants and children reside with their parents in a foster home or an alternate foster care setting. Children's Services and our provider agencies must work to provide the same safeguards to the children of youth in foster care as we do for all children with whom we come into contact through a protective, preventive or foster care case.

When a youth in foster care has a child of his or her own, New York State laws and regulations do not require that the youth's child be placed in the legal custody of the Commissioner of Children's Services (i.e., foster care) in order for the child to reside in a foster care setting with the parent (the youth in foster care). Nevertheless, Children's Services and our provider agencies are responsible for providing support and offering services to the young parent who is in our care so that he or she is able to keep his or her child safe without child protective (or safety) intervention.

The young parent is responsible for the care of his or her child as long as the young parent retains custody. A foster parent or residential care staff person may be a resource, but if the young parent is unwilling or unable to care for his or her child and the young parent's failure to do so poses a safety issue, then the case planner must intervene to address the situation.

If there is reasonable cause to suspect that a young parent is exposing his or her child to harm or risk of harm, a report must be made to the Statewide Central Register of Child Abuse and Maltreatment (SCR) and appropriate casework and/or legal intervention must be implemented. The Office of Special Investigations (OSI) within the Children's Services Division of Child Protection (DCP) shall investigate allegations accepted by the SCR. The child protective specialist (CPS) investigating the SCR report and the assigned agency case planner must promptly apprise the Division of Family Court Legal Services (FCLS) attorney assigned to the young parent's case of any concerns regarding the care of the young parent's child. If appropriate, OSI staff shall convene a Child Safety Conference.<sup>1</sup> OSI staff shall notify the FCLS attorney when a Child Safety Conference is scheduled to occur and of the outcome of the conference.

In certain cases it may be appropriate for the young parent to sign a voluntary placement agreement with Children's Services. The agreement would place the young parent's child in the legal custody of the Commissioner of Children's Services. If the outcome of the Child Safety Conference is a recommendation that the young parent sign a voluntary placement agreement

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<sup>1</sup> See the Initial Child Safety Conference (ICSC) Policy, revised June 2012, for additional information on Child Safety Conferences.

with Children's Services, the CPS shall follow the procedures for a legal consultation with FCLS and request that a voluntary placement petition be filed in Family Court.

If the outcome of the Child Safety Conference is a recommendation to file an abuse or neglect petition and seek a remand of the child, or court ordered supervision while the child remains in the care of the young parent, the CPS shall refer the case to the appropriate FCLS Family Court Unit to request that an abuse or neglect petition be filed against the young parent in Family Court.

Children's Services has several legal options with respect to obtaining court assistance to protect the child of a young parent in foster care including, but not limited to, the options specified below:

1. At the initial hearing after the filing of an abuse or neglect petition, Children's Services may request a Family Court order to temporarily place or release the child directly to the custody of the youth in foster care with Children's Services' supervision (commonly referred to as a "parole" of the child with supervision). This will enable the young parent and the child to live together in a foster boarding home or alternate foster care setting. Legal and physical custody would remain with the young parent, and the young parent may be mandated by court order to cooperate with services and any necessary restrictions.
2. At the initial hearing after the filing of an abuse or neglect petition, Children's Services may request, a Family Court order to place the child of the youth in foster care in the legal custody of the Commissioner of Children's Services. Children's Services may then place the youth's child in a different residence from the young parent. Legal custody of the child would be transferred to Children's Services. In addition, the Court may order that the young parent comply with services in order to regain legal custody of his or her child.
3. Children's Services may request a Family Court order to approve a voluntary placement agreement signed by the young parent placing the young parent's child in the legal custody of the Commissioner of Children's Services. Legal custody of the child would be transferred to Children's Services. In such a situation, Children's Services may then place the youth's child in a different residence from the young parent.

All decisions concerning whether Children's Services should seek legal custody of a child of a youth in foster care should be based on the facts and circumstances of the individual case and based upon determinations of a Child Safety Conference. Whenever possible, unless there is imminent risk to the child's life or health, staff from the provider agency and Children's Services should make reasonable efforts to prevent the removal of the young child from his or her parent in foster care.