



## Who Protects Our Children?

In Missouri and across the nation, the handling of reports of alleged abuse of children is a concern for the general public and for the members of state legislators and governors. Tragic, highly publicized cases in which children have been lost, neglected, and sometimes killed, fuel public interest. The death of Dominic James at the hands of his foster father in Greene County was a flash point for a flurry of hearings, a Judicial Commission, and the filing of several dozen bills in 2003 and 2004.

**The intent of this policy brief is to broaden the public's understanding of the shared responsibility that belongs to many entities to improve the child protection system, and also to deepen understanding of the roles of the Children's Division and the Juvenile/Family Court. These institutions are the backbone of the child protection system, and their roles are frequently misunderstood and/or confused with one another.**

### Missouri ranked deficient in nine of the fourteen categories in the CFSR

- ◆ Protecting children first and foremost from abuse and neglect
- ◆ Maintaining children safely in their homes when possible and appropriate
- ◆ Permanency and stability of children's living situations
- ◆ Preserving continuity of family relationships and connections
- ◆ Giving families enhanced capacity to provide for their children's needs
- ◆ Giving children appropriate services to meet their educational needs
- ◆ Ensuring adequate service for children's physical and mental health needs
- ◆ Consistency of case reviews
- ◆ Providing needed services throughout the system

This spring the U.S. Department of Health and Human Services released the results of the Child and Family Services Reviews that were done for all 50 states. The Review was comprehensive, including issues of safety, stability, permanency, strengthening families, and meeting the educational and physical and mental health needs of each child. Missouri, along with every other state, failed that Review.

The Reviews have been criticized for setting the bar too high, and for sometimes using samples of data that do not reflect reality. These and other criticisms may have validity, but there is nothing to be gained by arguing about the process. Citizens for Missouri's Children believes that it is Missouri's challenge – and opportunity – to use the information from the Child and Family Services Review (CFSR) to focus efforts to improve the child protection system.

### *Where Does the Buck Stop?*

Discussion of ways to improve the child protection system usually focuses on the Children's Division of the Department of Social Services. In fact, many people identify the child protection system solely with the Children's Division (CD). Citizens for Missouri's Children believes that we will not achieve substantial improvement of the child protection system unless we recognize all its parts.

The list of provisions on which the Children's Division was judged deficient clearly indicates that the CD, the Missouri court system, the network of private providers, and the Departments of Mental Health and Elementary and Secondary Education, all share responsibility in meeting the standards in the CFSR. Efforts to improve the child protection system will be limited in effectiveness unless they involve all these stakeholders.

The Department of Health and Human Services clearly places responsibility for meeting the objectives in the CFSR on the Children's Division, and will penalize the CD by decreasing federal funds if the agency can not show

improvement. Ironically, federal money is often earmarked in such a way that it cannot be used to improve some of the areas addressed in the CFSR.

## ***The Role of the Children's Division***

The Children's Division is charged with "meeting the needs of homeless, dependent and neglected children." (RSMo 210.001) Its mandates include: developing and implementing protocols for the state's Child Abuse and Neglect Hotline; investigating or providing family assessments in alleged cases of abuse/neglect and assuring the child's safety; convening family support teams to plan for the reunification of the child with his/her family or for another permanent home; and providing case management services.

## ***The Hotline***

Children who are abused/neglected most often come to the attention of the Children's Division through a call to Missouri's Child Abuse/Neglect Hotline. The hotline is staffed 24 hours per day, 7 days per week. Any person who has reason to suspect that a child is being abused or neglected may call the hotline. Individuals who regularly come into contact with children are required by law to report suspected abuse. These mandated reporters include doctors, dentists, nurses, the staff of child care facilities, teachers, social workers, workers in correctional institutions and clergy.

Hotline staff collect information from each caller, and make an initial decision about whether they have sufficient information to take action, either by investigation (more serious allegations) or family assessment (less serious allegations). If they do, the caller's information is forwarded to the local county office.

## ***Responsibilities of the Children's Services Workers***

A Children's Division children's services worker is assigned and he/she must see the child within 24 hours, unless the alleged harm is educational neglect (for which the time limit is 72 hours). If the child is believed to be in immediate danger, the child is seen as soon as possible. The worker's first responsibility is to assure the safety of the child, and any other child, in the home.

If the children's services worker judges that the child is not safe, it is the worker's responsibility to contact the juvenile officer at family or juvenile court and ask for a court order to remove the

child from the home. The children's services worker cannot take custody of a child and remove the child from the home without a court order. Only doctors, police and law enforcement officers can take temporary custody of a child without a court order.

When a children's services worker follows up on a hotline call, the visit is often fraught with emotion, regardless of whether it is an investigation or the more family-friendly assessment. Parents feel accused and often respond in anger. The child is sometimes afraid. The children's services worker may also fear a verbal or physical attack. In spite of the emotionally charged atmosphere, the safety of the child must be the paramount concern.

The children's services worker has the important responsibility of convening the Family Support Team, which develops recommendations for placement of the child, and identifies responsibilities of the family and other team members.

When the court orders a child be removed from the home, the Children's Division children's services worker finds an appropriate foster home or other setting, brings the child to that setting and periodically visits to assure safety. The children's services worker assists the child's parents or guardian in obtaining services that are identified as needs, and supports the foster parent. The children's services worker's responsibilities also include taking the child to the doctor, enrolling the child in school (if needed), participating in Individual Education Plan meetings (if needed), and transporting the child to visit his/her siblings and parent/guardian.

If a case is opened, but it is decided that the child can safely remain at home with the provision of services, the children's services worker facilitates the provision of services to address needs identified by the Family Support Team or court hearing; periodically visits to assess the ongoing safety of the child; and supports the efforts of family to meet their own needs and to care for their child.

The children's services worker is required to report to the court, and ask the court to periodically review the status of the child through a Dispositional Hearing (after the child has been in custody for 6 months) and a Permanency Hearing (after 12 months) (RSMo 210.710, 210.720, and 210.730).

In short, the Children's Division has the front line responsibilities of working with the child, the child's family, and the foster or adoptive family. The Children's Division children's services worker may provide some services, but most likely arranges for services by contract with private agencies. He/She also inter-

### **CD Children's Service Workers**

- ◆ Must see the child within 24 hours
- ◆ Ask for a court order
- ◆ Convene the Family Support Team
- ◆ Find an appropriate foster home
- ◆ Periodically visit to assure safety
- ◆ Obtain services
- ◆ Facilitate the provision of services
- ◆ Report to the court
- ◆ Front line responsibilities

faces with schools and hospitals/clinics to assure the child's educational and medical needs are met.

The work of children's services workers is perhaps the most challenging of any public service employees. Decisions require a judgment about what should be best for a child, because there is rarely an obvious, absolute best course of action. Families often have multiple, complex problems, as well as strengths to build on. When an allegation of abuse is substantiated, the family is usually angry, even if there is unequivocal evidence that abuse occurred. But a crisis also presents an opportunity for change. The children's services worker needs the skills to accept anger without personalizing it; build rapport with the family and identify family strengths; facilitate the participation of all the members of the Family Support Team to develop a realistic plan that all are committed to implementing; and keep lines of communication open among all parties.

### ***Private Agencies Have a Role***

Private agencies play a key role in supporting and sometimes sharing the responsibility of the Children's Division. The Children's Division is expanding the number and scope of contracts with private agencies to manage cases of abuse/neglect. For simplicity in this document, the case manager is consistently described as the "Children's Services children's services worker," although these functions may be performed by a contracted private case manager. The Children's Division also contracts with private agencies to recruit and train foster and adoptive families. All residential treatment, day treatment, therapy, and mentoring are provided by private agencies.

### ***The Court Has the Final Word***

While the Children's Division and its contract providers have the bulk of responsibility for direct work with the child and his/her family, the final decision about what happens to a child who has been allegedly abused or neglected comes from family or juvenile court.

The court decides when it is appropriate to issue an order of protective custody and remove a child from home to ensure the child's safety.

The court must decide whether allegations of abuse/neglect are true. It then determines where the child will live. The court specifies particular requirements that the parent/guardian must follow (e.g. undergo a test for use of illegal substances, undergo a psychological evaluation, only visit the child under supervision) and also imposes requirements on the case manager (e.g. make arrangements for the parent to visit the child, provide particular services.)

Review hearings are conducted by the court every 6 months. Within 12 months after a child comes into care, the court

must hold a Permanency Hearing. At the Permanency Hearing the judge decides from the following options:

- ◆ Return the child to his/her home
- ◆ Establish guardianship
- ◆ Continue long-term foster care
- ◆ Place the child in an independent living program to prepare to live on his/her own;
- ◆ Terminate parental rights and free the child to be adopted.

The court considers input from the Family Support Team, Juvenile Officer, and Guardian ad litem and Court Appointed Special Advocate (whose roles are to advocate solely for the best interest of the child). The Guardian ad litem is usually a lawyer appointed to represent the child. The CASA is a trained volunteer who usually is not a lawyer. In some jurisdictions the Guardian ad Litem and Court Appointed Special Advocate roles are combined. The case manager, parents, and foster parents may also be represented by lawyers. While these proceedings are less formal than those found in other courts, the increasing presence of lawyers tends to increase the formality of the hearings.

### **Getting a Perspective on the Numbers**

**MYTH:** When a hotline call is made, the child is automatically removed from the home.

**FACT:** **84,939** children were alleged to be abused or neglected in 2003. **6,739** children were taken into the custody of the Children's Division

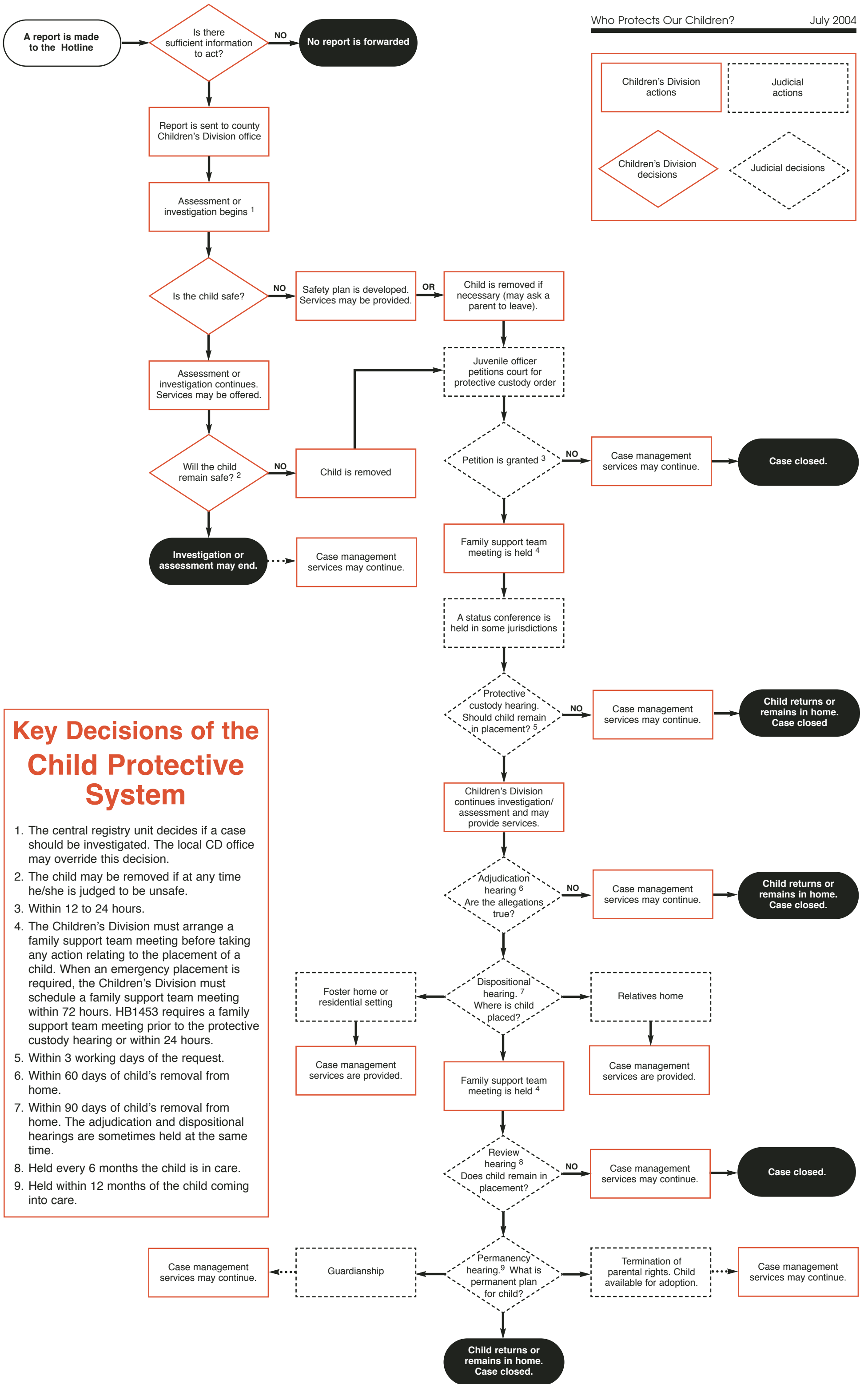
**MYTH:** Families who allegedly abuse their child are routinely subject to harassment and rigorous investigation.

**FACT:** **Sixty-four percent (64%)** of the hotline calls were responded to through the family assessment protocol in 2003. A family assessment assures the safety of the child, identifies family strengths on which to build, and identifies needed services. These are structured to support of the family. There is no investigation to determine who perpetrated abuse. There is no conclusion that the abuse is substantiated. The names of parents and caregivers who have a family assessment are not placed in the central registry.

**MYTH:** When a hotline call is made, the family is automatically judged to be "guilty".

**FACT:** The families or caretakers of **26,796** children were investigated for alleged abuse/neglect. The abuse or neglect of **10,202** children was substantiated.

Source: *Missouri Children's Services Annual Report 2003*, Missouri Department of Social Services, December, 2003.



### Key Decisions of the Child Protective System

1. The central registry unit decides if a case should be investigated. The local CD office may override this decision.
2. The child may be removed if at any time he/she is judged to be unsafe.
3. Within 12 to 24 hours.
4. The Children's Division must arrange a family support team meeting before taking any action relating to the placement of a child. When an emergency placement is required, the Children's Division must schedule a family support team meeting within 72 hours. HB1453 requires a family support team meeting prior to the protective custody hearing or within 24 hours.
5. Within 3 working days of the request.
6. Within 60 days of child's removal from home.
7. Within 90 days of child's removal from home. The adjudication and dispositional hearings are sometimes held at the same time.
8. Held every 6 months the child is in care.
9. Held within 12 months of the child coming into care.

## Glossary

The following glossary is a compilation of terms frequently used in discussing Missouri's child protection system.

**Accreditation** – Process that verifies that an agency/organization is substantially in compliance with recognized professional standards of operation.

**Adjudication Hearing** – In child welfare proceedings, the trial stage at which the court determines whether allegations of dependency, abuse, or neglect concerning a child are sustained by the evidence and whether they are legally sufficient to support state intervention on behalf of the child. This hearing provides the basis for state intervention into a family.

**Adoption** – Creates the legal status of parent and child between individuals who are not each other's biological parent or child. Adoptions can only occur after the consent or death of both biological parents or termination of parental rights.

**Adoption and Safe Families Act** – Federal law that provides a context and mandates practice that supports the best interests of each child as a primary goal. Some of the specifics that are particularly relevant in determining the best interests of the child include assuring the safety of child both at home and in out-of-home placements, requiring a permanency hearing 12 months after a child enters care (instead of 18 months), requiring the state to initiate the process to terminate parental rights when a child has been in state custody 15 out of the past 22 months, and requiring case plans to document the steps an agency takes to find a permanent home or living arrangement for a child in out-of-home care.

**Adoption hearing** – Judicial proceeding in which a relationship is legally established between adult individual(s) and a child not biologically related.

**Adoption subsidy** – Costs for children with special needs that are underwritten by the state. It includes costs for legal, medical, dental, psychiatric, psychological, and/or integrative services for the child both before and following adoption. Adoption subsidy is determined on a case-by-case basis.

**By a Preponderance of the Evidence** – The standard of proof in which evidence as a whole shows the fact to be proved to be more probable than not.

**Case management** – The process of overseeing cases, coordinating services, and serving as a resource for families as needed.

**Central Registry Unit** – Children's Division information system receiving and maintaining reports of suspected abuse and neglect. It contains information about the determination made as a result of an investigation, identifying information on the subjects of the report, those responsible for the care of the subject child, and other relevant information.

**Child abuse** – To threaten or to inflict lasting physical or emotional injury or harm to a child through maltreatment.

**Collateral contacts** – Individuals who know a child who has been alleged to be a victim of abuse or neglect and/or child's family, and who can be important sources of information about them.

**Contested adoption** – Adoption proceeding in which someone other than the petitioner seeks to adopt the same child, or in which the agency with custody of the child believes the adoptive placement was in error.

**Court Appointed Special Advocate (CASA)** – A specially screened and trained volunteer, appointed by the court, who conducts an independent investigation of child abuse, neglect, or other dependency matters, and who submits a formal report with recommendations for the best interests of a child.

**Court of competent jurisdiction** – A court that has authority over the geographical area in which the child's family lives.

**Dispositional hearing** – The stage of the juvenile court process in which the court determines who shall have custody and control of a child. The judge decides whether a child will continue in out-of-home placement or to remove a child from home.

**Educational neglect** – Failure to ensure that a school-aged child is regularly attending school or receiving alternative educational instruction.

**Family assessment** – In-depth screening of the circumstances surrounding a family, including its strengths, needs, emotional stability, financial stability, and family history. The focus of this intervention is the entire family and its overall situation.

**Family preservation** – Short term, intensive services provided to families to assure safety of the child, but to prevent out-of-home placement.

**Family support team** – Team that meets within 72 hours of a child's removal from the home to immediately formulate a plan for the child. People who must be invited to team meetings are identified by state law.

**Foster care** – Temporary residential care provided to a minor child following a neglect or dependency hearing. Foster care can include care by a relative, non-biological foster family, group care, residential care, or institutional care.

**Guardian** – A person who is appointed by the court to be responsible for the care and custody of a child. A guardian may be appointed without severing the parents' rights.

**Guardian ad litem** – A person appointed by the court to represent the best interests of an allegedly abused or neglected child in a legal proceeding.

**Home assessment** – One component of crisis assessments for newborn infants. Home assessments are initiated when medical personnel express a serious and well-founded concern that the safety of the newborn will be endangered if the newborn is released to the mother's home.

**Hotline** – Missouri's collection point for reports of suspected child abuse or neglect cases to the child protection system. A toll-free number (1-800-392-3738) accepts calls 24 hours per day, 7 days a week and is staffed by Children's Division workers.

**Independent living** – Program developed to help adolescents in out-of-home placement make a successful and productive transition to adulthood. Areas of focus include personal development skills such as self-esteem, communication skills, decision-making, conflict resolution, and anger management. Examples of independent living skills are career exploration, job skills, money management, housing, transportation, and legal issues.

**Indian Child Welfare Act** – Law that seeks to protect Native American families and tribes. It establishes federal standards for the involuntary removal of Native American children from their families and requires the tribe to be notified when a child is removed from a Native American family. When a Native American child is removed from his/her family, preference must be given to placing the child with relative, tribal members, or other Native American families.

**Interstate Compact on the Placement of Children** – An agreement that aids in the placement of children in a state different from where the child resides. It may include children who are wards of the court and being returned to their biological parents, children who are wards of the court and being placed with relatives, children entering foster care, children entering adoptive homes, and children entering foster group homes and/or residential treatment facilities.

**Investigation** – Process by which Children’s Division workers collect information to determine whether there is substantial evidence of alleged abuse/neglect.

**Juvenile Officer or Deputy Juvenile Officer** – The Juvenile Officer assumes varying responsibilities under the direction of the juvenile court judge, including: receiving children taken into judicial custody, conducting preliminary inquiries, informally deciding less serious juvenile matters, filing petitions against juveniles or parents when necessary, preparing social studies, presenting evidence in court and providing rehabilitative supervision and other treatment services to parents and children.

**Least-restrictive environment** – The most home-like environment in which a child’s needs can be met.

**M referral** – (see Mandated reporter referral)

**Mandated reporter** – An individual required by law to report suspected cases of child abuse and/or neglect. Mandated reporters include physicians, medical examiners, coroners, dentists, chiropractors, optometrists, podiatrists, interns, nurses, other hospital or clinic personnel caring for children, other health practitioners, psychologists, mental health professionals, social workers, day care providers, child care workers, juvenile officers, probation or parole officers, teachers, principals or other school personnel, clergy, Christian Science practitioners, law enforcement officers, jail or detention center personnel, or other individuals with responsibility for the care of children.

**Mandated reporter referral** – Report that is made by a mandated reporter and accepted by the hotline even though it does not meet the criteria to be classified as a child abuse and neglect report. Also called M referral.

**N referral** – (see Non-caretaker referral)

**Neglect** – To fail to give proper attention to a child; to deprive a child; to allow a lapse in care, supervision, or education that causes or threatens to cause lasting harm to a child.

**Newborn crisis assessment** – Assessments concerning newborns in which medical personnel believe that the child will be in danger if allowed to go home with the mother. Two subcategories include drug assessments (initiated when medical personnel report positive drug screen for mother or infant at time of birth) and home assessments (initiated when medical personnel express a serious and well-founded concern that the safety of the newborn will be endangered if the newborn is released to the mother’s home).

**Non-caretaker referral** – A report that involves alleged abuse by a person who does not have responsibility for the care or custody of a child. This type of case is typically referred to law enforcement or to the juvenile court (depending on the age of the alleged perpetrator); also called N referral.

**Out-of-home care** – The temporary placement of a child in foster care, group care or residential care.

**P referral** – (see Preventive services referral)

**Permanency** – The establishment of a safe, permanent home for a child in out-of-home care; can include adoption, guardianship, independent living, or a reunification with the family.

**Permanency Hearing** – A special type of post-dispositional proceeding designed to reach a decision concerning the permanent placement of a child.

**Permissive reporter** – Anyone who reports suspected cases of child abuse or neglect but is not required to do so. (see Mandated reporter).

**Post adoption hearing** – Court hearing to review placement after a child has been in the custody of the adoptive family for at least 6 months. It is the final step in the adoption process.

**Post termination of parental rights review hearing** – Review hearing held following the termination of parental rights. Key decisions to be made at this hearing include a permanent goal for the child, placement of the child, and services to be provided to the child.

**Preventive service referral** – Report (usually made by a permissive reporter) that does not meet the criteria to be classified as a child abuse and neglect report. This type of report generally describe a situation where some intervention, or at least an offer of intervention, would be in the family’s best interest (to avoid the family situation escalating into abuse or neglect). Also called P referral.

**Probable cause** – The standard of proof that must be met to substantiate an allegation of child abuse or neglect. It is evidence that would cause a reasonable person to judge that abuse or neglect occurred.

**Protective Custody Hearing** – Usually the first court hearing in cases of child abuse or neglect (required in circuits that are participating in the Juvenile Court Improvement Project). A determination is made in the Protective Custody Hearing regarding whether a child can be immediately and safely returned to his/her family, whether services are needed to assure the child’s safety, and/or how the family situation can be stabilized to protect the child.

**Reasonable efforts** – The exercise of reasonable diligence and care by the Children’s Division to utilize all available services related to meeting the needs of the child and the family. It includes attempts to prevent or eliminate the need for removal of a dependent, neglected, or abused child from the child’s home and to reunify the family if the child is removed.

**Safety plan** – Tool used by Children’s Division workers to ensure a child’s safety. The safety plan is developed jointly by the child’s family and the Children’s Division children’s services worker.

**Temporary Protective Custody** – The emergency removal of a child from the home by only a police officer, law enforcement official, or a physician who has reasonable cause to suspect that a child is in imminent danger of suffering physical harm or a threat to life as a result of abuse or neglect, and such person has reasonable cause to believe the harm or threat to life may occur before a juvenile court could issue a temporary protective custody order. A temporary protective custody shall not exceed 24 hours.

**Termination of Parental Rights** – The severance of a legal relationship between the parent and child with no opportunity for the parent(s) to regain custody of the child.



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Citizens for Missouri's Children is a statewide public interest organization. Its mission is to be a voice for children, especially those children with greatest need. For the past 20 years, CMC has advocated for improvements in the child protection system.

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Citizens for Missouri's  
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 Our mission is to advocate  
 the rights and well-being of  
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