

Sacramento County

Protective Custody Information Sheet

What are the legal obligations of CPS to investigate child abuse or neglect?

CPS shall investigate reports of child abuse or neglect based on Welfare and Institutions Code (W&I) §328 and §§ 16501(f), 16504. Both law enforcement agencies and CPS have authority to accept child abuse reports and investigate child abuse reports. PC §§11165.9, 11166.3.

CPS investigates allegations of abuse and neglect of children, as defined by Penal Code (PC) §11165.6, Welfare & Institutions Code (W&I) §300 and California Department of Social Services' Division 31-100 Regulations.

How is CPS notified of possible child abuse or neglect?

Each county welfare department must maintain and operate a 24 hour response system to take reports of children endangered by abuse, neglect or exploitation. (W&I §16504(a). Sacramento County has a CPS 24 hour hotline (874-KIDS). If a report needs an in-person response, there are 2 response times available:

1. A report that describes a child to be in immediate danger is an Immediate Response (IR), and requires an in-person response within 24 hours.
2. A report that describes risk to a child, but not immediate danger requires an in-person response within ten calendar days.

How does a social worker determine whether a child needs to be placed into Protective Custody?

As part of the social worker's investigation of the referral, CPS uses Structured Decision Making (SDM) Tools, which is an evidenced based practice that ensures that every worker is assessing the same items in each case, and that the responses to these items lead to specific decisions regarding child safety. SDM tools guide social workers to assess the child's safety in the home and to determine whether there are any protective measures or reasonable means available that would allow the child to remain in the care and custody of the parents while ensuring the child's safety.

Safety concerns can include:

- physical or sexual abuse of the child by someone in the home and a failure to protect the child
- failure to provide proper supervision for a child
- failure to provide basic provisions such as food, clothing, shelter or necessary medical treatment

What is a Protective Custody Hold?

A Protective Custody Hold is when a child is removed from the custody of his or her parents by Law Enforcement or a CPS Social Worker and placed with relative, Non Related Extended Family Member (NREFM) or in a foster home because there is reasonable cause to believe the child is described by W&I §300 and there are no reasonable means to protect the child without removal.

How is a child placed into Protective Custody?

1. Exigent Circumstances

Circumstances which justify a social worker placing a child into protective custody are those circumstances in which a social worker has reasonable cause to believe the child is a person described by WIC section 300(b) or (g), and the child has an immediate need for medical care, or the child is at imminent risk of serious physical injury and there is no time to obtain a court order. (WIC 306; Rogers v County of San Joaquin (2007) 487 F. 3d 1288.)

2. Protective Custody Warrant

A Protective Custody Warrant is a written order by a judge or other judicial officer directing a law enforcement officer or a social worker to place a child into protective custody due to suspected abuse or neglect, or risk thereof. (See WIC §340.)

The court will make the order based on the petition and the written declaration (warrant application) of the social worker which contains the facts and evidence gathered during the investigation regarding the risk to the child.

3. Removal at the Initial Hearing

A court may order the removal of the child from the custody of the parents based on the evidence presented in the Detention Report. This is generally done when the children are not residing with their parents, but are residing in a safe place such that the current home environment does not endanger the child (i.e. parent voluntarily places child with a safe relative or at the crisis nursery, etc.)

4. Consent for Removal by the Parent, Guardian, Relative, Non Related Extended Family Member

The parent consents to the child's removal. The consent is given knowingly and voluntarily (i.e. parent is not under the influence or mentally incapacitated at the time consent is given.)

What happens after a child is placed into Protective Custody?

-Once a child is removed from the custody of the parents, CPS must locate temporary placement. CPS shall first assess able and willing relatives and Non Related Extended Family Members (NREFM) who request temporary placement of the child and who pass the requirements set forth in W&I §309, which include an in-home safety inspection, a criminal records check, and a child welfare records check. If there are no relatives or NREFMs available, a foster care placement will be made for the child.

-CPS must take steps to immediately notify all parents/guardians of a child's removal and the date, time and location of the detention hearing.

-CPS must make diligent and reasonable efforts to ensure regular telephone contact between the parent and child of any age, prior to the detention hearing, unless that contact would be detrimental to the child. The initial telephone contact shall take place as soon as practicable, but no later than five hours after the child is taken into custody.

-A Detention Hearing before the Sacramento County Juvenile Court will be held within 2 business days from the day of the child's removal. At that hearing, the judge will decide whether or not the child will be returned to the parents or remain detained out of the home based on the information gathered during the investigation by CPS.

-If the child is not returned to the parents at the Detention Hearing, and is detained out of the home with a relative, NREFM, or a foster home, the judge will order CPS to provide services to the family and to complete further assessment regarding the child's safety in the parent's home. A second Court hearing, Jurisdiction/Disposition hearing will be scheduled in 15 judicial/business days as defined by Section 361.3.

-If the child is returned to the home at the Detention Hearing, the judge may order the family to participate in services until the Jurisdiction/Disposition hearing, which will be scheduled in 15 business days as defined by Section 361.3.

-The judge could dismiss the petitions at the Detention Hearing due to lack of sufficient evidence showing the child is in danger in the parent's custody.