

MANUAL TRANSMITTAL

Arkansas Department of Human Services
Division of Children and Family Services

Policy Form Policy Directive
Service Programs Policy Manual

Issuance Number FSP 2006-02
Issuance Date: 6-16-06

From: Roy Kindle, DCFS Director

**Expiration Date - Until
Superseded**

Subject: Infants Born with Methamphetamine in their System

In all cases where an infant is born with methamphetamine in their system and there is a true finding of “Newborn Child Born With An Illegal Substance In Its System Or Born with a Health Problem as a Result of the Pregnant Mother’s Use Before Birth of an Illegal Substance (Priority II),” DHHS-DCFS will petition the court for custody of the infant.

ACA 9-27-314(a)(1) states “In any case where there is probable cause to believe that immediate emergency custody is necessary to protect the health or physical well-being of the juvenile from immediate danger or to prevent the juvenile’s removal from the state, the court shall issue an ex parte order for emergency custody to remove the juvenile from the custody of the parent, guardian, or custodian and shall determine the appropriate plan for placement of the juvenile.” DCFS prepares and submits the affidavit to OCC. OCC prepares the petition and order for emergency custody and tenders it to the court. DCFS does not exercise a 72 hour hold in this situation, but waits for the court to sign the order granting custody to DHHS based on the standard that the juvenile is in immediate danger because of the meth in the juvenile’s system.

Please note that this is only for infants with methamphetamine in their system, not other illegal substances.

Also, if the FSW has more information concerning the infant and his family situation (e.g. parents homeless, arrested for cooking meth.), the FSW will contact OCC to determine if DCFS has grounds to exercise a 72 hour hold. To exercise a 72 hour hold, the child maltreatment act requires that “circumstances or conditions of the child are such that continuing in his or her place of residence or in the care and custody of the parent, guardian, custodian, or caretaker presents an immediate danger of severe maltreatment.” ACA 12-12-516(a)(1)(C) defines severe maltreatment as “sexual abuse, sexual exploitation, acts or omissions which may or do result in death, abuse involving the use of a deadly weapon as defined by 5-1-102(4), bone fracture, internal injuries, burns, immersions, suffocation, abandonment, medical diagnosis of failure to thrive, or causing a substantial and observable change in the behavior or demeanor of the child.”

In ACA 12-12-503 neglect (e.g. babies born with meth in their system) is not in the definition of severe maltreatment, but if DCFS has additional facts that fall within severe maltreatment, DCFS will exercise a 72 hour hold.

This Executive Directive is Effective Immediately.

Inquiries to: Policy Unit, 682-8750