
THREATENED HARM

Overview

The legal definition of child abuse and neglect (CAN) includes the phrase, “harm or threatened harm” to a child. Harm is clearly determined based on the occurrence of a non-accidental injury, sexual abuse or exploitation, or maltreatment by a parent or person responsible for the child’s health or welfare.

Definition of Threatened Harm

A child found in a situation where harm is **likely to occur** based on:

- A current circumstance (e.g., home alone, DV, drug house).
- A historical circumstance (e.g., a history of abuse/neglect, a prior termination of parental rights or a conviction for crimes against children) absent evidence that past issues have been **successfully** resolved.

Legal Basis

In *Michigan vs. Gazella (2005)*, the court ruled that a parents rights can be terminated based solely on “anticipatory (harm)” abuse/neglect due to the previous care and treatment of a child. The courts also ruled that physical compliance with case services is not sufficient to prevent termination of parental rights; a parent must demonstrate that there has been benefit from services. In other words, attending parenting classes is not sufficient if parenting skills did not improve.

Two Forms of Threatened Harm

There are two forms of threatened harm to consider:

1. A threat to the safety of a child that is based on a current action or inaction by a person responsible for the child’s health and welfare. Examples include, but are not limited to, when a child:
 - Is home alone or left alone in a vehicle. (See [When a Child is Home Alone](#) section for more information.)
 - Is found in a drug house or is exposed to drug use and/or the manufacturing of drugs.
 - Is provided prescription drugs not prescribed to them and/or given doses higher/lower than prescribed.
 - Resides in a home wherein domestic violence (DV) has occurred.
 - Resides in a home that is unsafe/unsanitary.
 - Resides in a home where there are unsecured loaded weapons.
 - Is found with a parent or person responsible that is unable to properly supervise/care for the child due to the parent/person

responsible's intoxication, drug use, or diminished mental and/or physical capacity.

- Is exposed to extreme physical actions or excessive discipline which could result in physical injury.
2. A threat to the safety of a child that is based on the history of child abuse and/or neglect of the person responsible for the child's health and welfare or a non-parent adult, or a conviction(s) of crimes against children. Examples include but are not limited to:
- New birth with prior termination of parental rights (see related sections in [CFP 712-6](#) and below [in this item](#)).
 - Known perpetrator of a crime against a child (see related sections in [CFP 712-6](#) and below [in this item](#)).

A thorough review of current and historical information must be completed to ensure child safety. Assessing the threat of harm to a child is an essential part of that review. Assess not only current evidence of abuse/neglect, but also whether or not a preponderance of evidence exists based solely on historical facts and evidence.

In situations involving allegations of abuse/neglect based solely on historical factors, a thorough assessment must include whether or not evidence exists that a person responsible/non-parent adult has taken appropriate steps (participated **and** benefited from services) to rectify conditions that led to the previous abusive and/or neglectful behavior toward children.

The intent of the following is to provide a framework that is to be consistently applied to threatened harm cases.

Investigation

When investigating complaints of threatened harm, the CPS worker must complete all appropriate investigative steps, including a thorough assessment of known facts and circumstances (see CFP 713-1). Workers must also evaluate and document findings related to the following factors to determine the safety of a child in a threatened harm situation.

Severity of Past Behavior

1. Criminality and/or a prior substantiation on a CPS case involving issues identified in Section 8(3)(a)(b)(c)(f) of the Child Protection Law, outlined below:
 - (a) Abuse or neglect was the suspected cause of a child's death.
 - (b) The child was the victim of suspected sexual abuse or sexual exploitation.

- (c) Abuse or neglect resulted in severe physical injury to the child that required medical treatment or hospitalization and seriously impaired the health or physical well-being of the child.
- (d) The child had been exposed to or had contact with methamphetamine production.

Verified evidence of a prior conviction of a crime against children must also be considered when determining if a pattern of abuse or neglect exists. Obtain documentation of past criminal and/or central registry incidents and document how the past behavior relates to current allegations of anticipatory harm (e.g., past conviction involved criminal sexual conduct with a child and the current allegations involve a child living in the home with the perpetrator).

Length of Time Since Past Incident

2. The length of time that has passed since the documented historical incident occurred and how it relates to the current allegations.

Evaluation of Services

3. Workers must attempt to obtain documentation of the offender's participation in and benefit from services and determine if the past behaviors have been resolved. Workers must review the offender's progress (participation and benefit from services) since the prior incident(s) and document this assessment in the Investigation Report (DHS-154).

Comparison Between Past History and Current Complaint

4. Workers must evaluate historical incidents in relation to current circumstances to determine if there is a threat to a child's safety based on reasonable, justifiable, and specific information (e.g., prior termination was based on parental incapacity due to substance abuse and the parent is currently abusing substances or a prior conviction was for sexual abuse of a child, the perpetrator did not participate in services and the perpetrator is currently living in the home with a child).

Vulnerability of Child

5. Workers must consider the vulnerability of the child. A child may be more vulnerable due to age, mental capacity, a disability, etc.

Disposition

When making a determination of whether or not a preponderance of evidence exists, all of the above factors must be evaluated to assess the risk of threatened harm to the child. A preponderance of evidence is to be found if either is true:

- Current circumstances provide evidence of abuse or neglect (e.g., vulnerable child is found home alone).
- Historical circumstances provide evidence that abuse or neglect is likely to occur (e.g., prior termination of parental rights or criminal

conviction and evidence indicates that historical issues have not been successfully resolved).

COMPLAINTS INVOLVING A KNOWN PERPETRATOR MOVING IN OR RESIDING WITH A NEW FAMILY

When completing a known perpetrator investigation, every effort must be made to interview the children outside the presence of all adults, including the known perpetrator, the parent(s), and/or person(s) responsible. The investigation must also include verification of the well-being of children that are unable to be interviewed and a face-to-face contact with the parent(s) of the child(ren). The face-to-face interview with the parent(s) must include a disclosure of the known perpetrator's **criminal or circuit court history** regarding abuse or sexual offenses. The parental contact must also include informing the parent of their responsibility to protect their child and specifics on how this could be accomplished.

Confidentiality of CPS History

Caution must be taken to ensure that information from the known perpetrator's CPS file is **not** shared with the parent. A perpetrator's conviction or circuit court finding (including termination of parental rights) is, however, a public record. This information must be used when disclosing perpetrator history to the parent. Only information from a criminal conviction or circuit court finding, can be shared. If a perpetrator has been placed on the central registry **only**, this information cannot be shared.

Filing a Family Court Petition

The filing of a petition must be evaluated in all known perpetrator investigations. The decision to file must depend on the facts of a particular case and a documented evaluation of the following factors:

- The nature and scope of the previous offenses.
- How recently the previous offense(s) occurred.
- Whether the offense(s) involved children of the same age as those in the case being investigated. (An **important consideration** is that sexual offenders frequently look for younger victims than those they previously assaulted.)
- Whether the perpetrator successfully completed a treatment program.

**CASES IN WHICH A
FAMILY, AN
ALLEGED
PERPETRATOR OR
CHILD CANNOT BE
LOCATED OR
REFUSE TO
COOPERATE**

When a worker has been unable to contact a family, alleged perpetrator or child victim, the worker must make the following minimum efforts and document the results in the Investigation Report (DHS-154):

**Unable to Locate
the Family**

1. When unable to locate the family:
 - Seek case information on CIMS, SWSS CPS, Infoview, local office files, etc.
 - Contact the FIS/ES worker, if the family has an open assistance case. A family's assistance case may need to be closed if they cannot be located. (See PAM 220, Case Actions.)
 - Contact any known relatives or individuals (e.g., friends, neighbors, the reporting person, etc.) regarding the family's whereabouts.
 - Contact the child's school, if the child is school-aged.
 - Use all routine means of contacting individuals, such as phone calls, letters, worker's business card left at the residence, etc.
 - Check telephone books, the internet, and other available directories. The local or state library (phone (517) 373-3700) may have electronic telephone lists which may include addresses. Generic cross indexes (e.g., Bressers') would include names, addresses and phone numbers. There are numerous resource directories available on the internet (e.g., www.yahoo.com offers free "people search" services).

**Unable to Locate
Child(ren) or
Parent(s)/Legal
Guardian(s)
Refuse(s) Access
to the Child(ren)**

2. When unable to locate the victim or make face-to-face contact with all children, **or** verify the safety and whereabouts of **all** children in a case assigned for investigation, including siblings who reside in another location:
 - Contact any other known individuals e.g., neighbors, friends or extended family regarding the child(ren)'s whereabouts.
 - When the parent or person responsible states that a victim or sibling of a victim is visiting or residing in another county, state, etc., verify by collateral contact that the child is with that

person. Assistance from CPS in the other county, state, or jurisdiction may need to be sought to check the family's records and central registry in that jurisdiction and/or to interview the child.

- Contact the child's school, if the child is school-aged.

Note: If the worker is having difficulty having face-to-face contact with children who are **not** alleged to be victims, the worker may accept a collateral contact verification of the child's well-being from an individual who meets the criteria of a mandated reporter in the Child Protection Law (e.g., teacher, law enforcement, etc.).

Evidence and/or
Allegations
Indicate
imminent Risk of
Harm to the Child

If there is evidence and/or allegations that indicate imminent risk of harm to the child, and the whereabouts of a child cannot be verified and/or the parent or legal guardian refuses to cooperate, the worker must:

- Contact local law enforcement in the jurisdiction where the child is alleged to reside. Explain why the child may be at risk and request that law enforcement check on the child's safety.
- Petition the Family Division of Circuit Court to take temporary jurisdiction of the child and order the parent or legal guardian to make the child available for an interview by CPS.

**Unable to Locate
the Alleged
Perpetrator/
Alleged
Perpetrator
Refuses to
Cooperate**

3. The alleged perpetrator must be interviewed, if located, in all serious complaints as defined by MCL 722.628(3), also including complaints alleging chronic physical abuse or neglect or involving children under age six. When unable to locate/interview the alleged perpetrator:
 - The worker must attempt to make contact by phone, inquiries at place of work or by arranging after hours visits to the home. A letter may be sent advising the individual of the need to interview them, but cannot be the only action taken.
 - In serious cases, the non-offending parent or caretaker must be advised that the alleged perpetrator must not be in contact with the child until the worker has an opportunity to interview the alleged perpetrator.
 - In serious cases, if the alleged perpetrator cannot be located and/or interviewed after taking the above actions, assistance from law enforcement and/or a court petition must be filed requesting court assistance in interviewing the alleged perpetrator.

(See CFP 715-3, Family Court: Petitions, Hearings and Court Orders, Absent Parent Protocol section for more information on locating absent parents.)

WHEN A CHILD IS HOME ALONE

A complaint may be assigned for a preliminary or full field investigation when a child age 10 or under was left home alone, or a child is physically, emotionally, mentally challenged or has some other problem that appears to place the child at risk and was left home alone. During the investigation, evaluate the following in determining disposition of the complaint:

- The child's level of functioning. Is the child fearful, anxious or emotionally distressed? What is the child's maturity level, e.g., does the child exhibit developmentally appropriate decision making? Does the child have special needs, e.g., does the child have any physical, emotional or mental limitations that place him/her at risk when home alone? Does the child exhibit anti-social behavior, e.g., delinquency/incorrigibility?
- The situation in which the child is found. Is the child vulnerable because of the time of day that he/she is left alone? Is the length of time a factor, e.g., a few minutes or many hours? Is the child left alone often, e.g., every day or occasionally? Have the persons responsible for the child's health and welfare developed a safety plan and appropriate procedures for emergency situations that the child understands and can carry out? Is the child responsible for caring for other children? If so, can the child do so appropriately? (**Note:** Consider the age and functioning level of the other children.) Does the child have immediate access to an adult, and is that adult aware of this? Has the child been given any responsibilities that will compromise his/her safety or the safety of others?
- The environment. Does the location of the home or where the child is left alone pose a threat to the child's safety? Do the conditions of the home pose a safety threat to the child? Can the child exit or enter the home in the caretaker's absence?

The conditions referenced here and other conditions found by the CPS worker during the course of his/her investigation must be used to determine whether the child is at risk and/or unsafe because he/she is home alone.

(See [CFP 713-3](#), Face-to-Face Contact for restrictions on entering a home when a parent or adult is not present.)

**GUIDELINES FOR
INVESTIGATION
WHEN A CHILD
DENIES ABUSE/
NEGLECT**

A child victim may deny that he or she was abused or neglected or may refuse to identify the perpetrator. A child's refusal to confirm abuse does not mean it has not occurred or that the investigation should end. It is possible to prove a case without the victim acknowledging the abuse or neglect. The victim's cooperation may be impossible to gain based on level of fear, injury or manipulation by others. When presented with this type of situation, CPS should follow the required investigation steps (see [CFP 713-1](#), General Instructions and Checklist). In addition to the required investigation steps, the following actions should be taken:

- Consult with a CPS supervisor.
- Reinterview the reporting person.
- Interview school personnel.
- Interview or reinterview collateral contacts, witnesses, and other persons who routinely have contact with the child.
- Follow up on potential sources of information such as mental health providers or law enforcement. (See also [CFP 713-6](#), Requesting Medical and Mental Health Record Information.)
- Compile a detailed, chronological list of all known injuries, medical treatment, incidents, complaints and other key events. Be specific and thorough, these summaries may illustrate patterns of abuse or neglect.
- Ask the suspected perpetrator or a non-offending caretaker to participate in a polygraph. (See [Investigations Involving Polygraphs](#) below for more information on offering and obtaining polygraphs.)
- Search warrants through law enforcement, subpoenas, or court orders should be used, if consent forms or releases cannot be obtained to carry out a thorough investigation.

All actions taken must be documented in case record.

SPECIAL NOTE: These guidelines are not intended for cases in which there is **no** evidence of CA/N, and CPS is conducting an abbreviated investigation. (See [CFP 713-1](#), General Instructions and Checklist, Abbreviated Investigation section.)

CHILD WITHOUT PROPER CUSTODY OR GUARDIANSHIP

If investigating either a relative or an unrelated caregiver who does not have a legal guardianship of a child, provide them with information regarding the location/name of the court where a legal guardianship may be initiated. Give them information on obtaining a Power of Attorney for the child if they do not choose to obtain a legal guardianship. Specific assistance is to be provided, as necessary, to assist the relative/unrelated caregiver in completing the guardianship process.

CHILD(REN) CURRENTLY IN OUT-OF-HOME PLACEMENT/ PRIOR TERMINATION OF PARENTAL RIGHTS

If CPS becomes aware of a “new” child to parents who currently have child(ren) in out-of-home care, or that are/were permanent wards, as a result of a child abuse/neglect court action, CPS must conduct a full field investigation to ensure the safety of the child. (This might occur when a new child is born, or was previously undiscovered.) The investigation must focus on the reasons for prior removal and/or termination of parental rights and how the family has addressed these specific issues. Differences and similarities between prior and current child abuse/neglect allegations must be documented in the DHS-154. Specific facts must be included that demonstrate that the family has, or has not, resolved the risk and safety issues that resulted in the previous court actions.

(See the [Threatened Harm](#) section above for more information on threatened harm due to a parent’s history of child abuse/neglect, removal of a child, and/or termination of parental rights.)

The Sibling Placement Evaluation (DHS-3) form must be completed in these cases if the child is not removed from the home. See [CFP 715-4](#), Coordination With Foster Care Staff for more information on completing the DHS-3 and the approvals required when a child(ren) remains in the home when sibling(s) has/have been removed or siblings are/were permanent wards as a result of child abuse/neglect court action.

INVESTIGATION INVOLVING TEENAGERS

Decisions to confirm complaints involving teenagers must be based on a determination of whether a preponderance of evidence of child abuse/neglect exists, not on age, behavioral problems, incorrigibility, etc. The investigation of a complaint concerning a teenager must be investigated and evaluated in the same manner as one concerning a younger child.

SIBLING ON SIBLING VIOLENCE

The department is to evaluate the complaint sufficiently to determine whether the parent is aware of the sibling violence and is taking action.

If the parent is aware and is taking action to protect, or is willing to take action but does not know what resources are available, the department will **not** confirm a finding of neglect but will refer the parent to appropriate community resources such as family services, family court, etc., if the parent wishes information. **Document the steps the parents have agreed to take in order to ensure the continued safety of the children in the home.** Steps to ensure the safety of the children involved may include, but are not limited to, the development of the following:

Parent Safety Plan

- Appropriate sleeping arrangements for the parents and children.
- Parental understanding of the situation and willingness to believe that protection is needed.
- Adequacy of alternative care.
- Parental plans to respond to further incidents.
- Other community agency involvement and/or prior treatment.

Child Service Delivery Plan

- Assessment of whether formal counseling is needed.
- Determination of whether the victim is able to protect him/herself.
- Determination of whether the victim is aware of what to do if threatened again.
- Assessment of whether adequate informal support systems are in place.
- Assessment of whether the child assailant has been abused or determine other possible causation for the abusive behavior.

If new allegations arise from this assessment, preserve safety and conduct a continued investigation.

If the parent is aware and is not willing or able to take action to protect, the department may make a finding of neglect and open a CPS case.

Note: The only circumstance in which a child may legitimately be investigated as a perpetrator of child abuse and/or neglect and be entered on central registry as a perpetrator is if that child is the parent of the alleged/identified victim.

CHILD DEATH

CPS must seek the assistance of and cooperate with law enforcement at the point the investigation is commenced when a complaint includes allegations that abuse or neglect may be the cause of the child's death

or if it is a sudden and unexplained infant death (e.g., SIDS, overlay, unknown cause, etc.). See [CFP 712-3](#), Coordination With Prosecuting Attorney and Law Enforcement for more information.

CPS should observe the scene (at the home or the location other than the home) where the alleged abuse/neglect causing the child's death occurred or where the child was found unresponsive/deceased with law enforcement, as soon as possible. Any objects alleged to have been involved should also be observed.

Note: CPS must take steps to ensure the safety of any surviving children, as soon as possible. See [CFP 713-1](#), CPS Investigation - General Instructions and Checklist, Safety Assessment Overview section for information on assessing the safety of children.

The death of a child who is the subject of a CPS investigation, must be reported as outlined in the Services General Requirements Manual ([SRM](#)) [172](#).

The Child Death Investigation Checklist (DHS-2096) is an optional tool for CPS workers to use during the investigation of a child death. This checklist can be used as a guide to ensure a thorough investigation is completed and that elements specific to child death investigations are considered. See [RFF 2096](#) for more information on completing this form.

DOMESTIC VIOLENCE

Investigation Process

In every CPS investigation domestic violence (DV) should be considered as it relates to the safety of the child.

During the course of the CPS investigation, CPS must make every attempt to interview the alleged victim of DV separately from the alleged perpetrator of the DV.

Note: Interviewing the alleged victim of DV in front of or while the alleged perpetrator of DV is in the home, could place the victim, the child, and the CPS worker in danger.

It is important to document the steps the parent has agreed to take, or has taken, in order to ensure the continued safety of the child in the home. The following factors should be evaluated in determining the parent's ability to ensure the child's safety:

- Parental understanding of the situation and acknowledgement that additional protection is needed.
- Parental plans to ensure child safety in the event of further incidents.

- Other community agency involvement and/or prior treatment.

Some steps the parent may take to ensure the safety of the child involved when responding to further incidents may include, but are not limited to, the following:

- Identify whether or not the perpetrator of the DV will remain in or return to the home.
- Keep important phone numbers near the phone and teach the children when and how to use them.
- Tell neighbors (or others) about the violence and instruct them to contact the police if they see or hear anything suspicious.
- Make a list of safe places to go in case of an emergency (family, shelter, police department, friends, etc.).
- Create a code word for the child or friends so they know when to call for help.

If the child is safe and the victim of DV is aware of the need for and is taking action to protect the child, or is willing to take action but does not know what resources are available, the worker should refer the victim of DV to appropriate supportive services (e.g., a local DV program). The worker must develop an immediate safety plan in consultation with the victim of DV. This safety plan may not be appropriate for the victim of DV to take home because the information it contains may increase the risk to the family if the perpetrator of the DV becomes aware of the plan.

For additional information about safety plans, contact a local DV program.

Disposition

The presence of DV is not sufficient basis, in and of itself, for confirming a finding of child abuse and/or neglect. Policies in place to hold the perpetrator of the DV accountable (e.g. confirming the perpetrator of the DV as a perpetrator of CA/N) must be evaluated prior to confirming neglect against the victim of DV.

The victim of DV may use protective strategies that are obvious such as physically intervening to protect the child, reporting the risk to the child to law enforcement, or leaving the perpetrator in order to protect the child. There are additional, less obvious, protective strategies the victim of DV may use (noted below). Gather information regarding the DV victim's efforts to protect the child. The following factors should be evaluated in determining whether or not to confirm failure to protect:

- CPS history for prior CPS services and the responses of the victim of DV to past situations involving DV.

- Actions taken by the victim of DV to protect the child from harm.
- Protective strategies the DV victim may have employed in an attempt to protect the child such as:
 - Disciplining the child so the perpetrator does not.
 - Not leaving the perpetrator of DV in order to protect the child (e.g., the perpetrator may have made threats against the child if the victim of DV should attempt to leave or the victim of DV may feel the child is at greater risk in a different environment).
 - Shifting the perpetrator's abuse from the child to the adult victim of DV.
 - Leaving child with others (outside the home) as a way to protect the child.

Failure to Protect Assess whether the child is in danger of serious or immediate harm based on a failure to protect the child by the non-offending caretaker in domestic violence situations. A non-offending caretaker will not be held responsible for neglect, based on failure to protect, if the child is not at imminent risk.

A caretaker previously referred to as the non-offending caretaker is a perpetrator if they:

- Directly harm the child.
- Fail to protect a child who is at imminent risk.
- Allow a child to be seriously harmed.
- Have a historical record that shows a documented pattern of domestic violence where the non-offending caretaker has been unable or unwilling to protect the child.

See the domestic violence sections in [CFP 712-6](#), CPS Intake-Special Cases and [CFP 714-1](#), Post-Investigative Services.

INVESTIGATIONS INVOLVING POLYGRAPHS

Suspected perpetrators or non-offending parents may request to take a polygraph during a CPS investigation. CPS workers may offer a polygraph to a suspected perpetrator or non-offending parent. Polygraphs may be done only if the prosecuting attorney or law enforcement officer gives approval, including approval of the resource which will be used to do the polygraph. If done by experienced professionals, polygraphs can result in admission by the suspected offender. Polygraphs should be used with caution. Polygraphs are not a substitute for a comprehensive investigation and cannot be used as a basis to make a finding on the investigation.

ACCOMMODATION FOR DEAF AND HARD OF HEARING

DHS is responsible for providing information and assistance to applicants and recipients of all department programs who are deaf and/or hard of hearing. See the Administrative Handbook (AHJ 1314) for how to select and pay for the appropriate accommodation.

Accommodation in Emergency Situations

For emergency situations, such as a **CPS investigation** and an accommodation is not readily available, the safety of the child must come first.

- Follow-up should be conducted as soon as possible with effective communication in the appropriate mode.
- In situations requiring that notetaking be used as a last resort, verify the information obtained through the provision of interpreters or assistive technology as soon as possible to prevent misunderstandings or erroneous conclusions.

Technical Assistance

Technical assistance on communication access may be obtained by contacting the Division on Deaf and Hard of Hearing within the Commission on Disability Concerns at 1-877-499-6232. The Commission is located in the Victor Building at 201 N. Washington Square, Suite 150, Lansing, MI 48913.

ACCOMMODATION FOR LIMITED OR NON-ENGLISH SPEAKING CLIENTS

Applicants and recipients of all department programs are to be informed that the department will arrange and pay for the cost of a bilingual interpreter to be present at all interviews and situations where an interpreter is necessary and appropriate. See the Administrative Handbook (AHJ 1021) for how to arrange and pay for a bilingual interpreter.

Accommodation in Emergency Situations

For emergency situations, such as a **CPS investigation** and a bilingual interpreter is not readily available, the safety of the child must come first. Follow-up with a bilingual interpreter should be conducted as soon as possible.