

DSS ADMINISTRATIVE LETTER
CHILD WELFARE SERVICES CWS-AL-40-10

TO: County Directors of Social Services

ATTENTION: Child Welfare Services Program Managers and Supervisors
Child Welfare Services Social Workers

DATE: August 18, 2010

SUBJECT: RIL Legislative and Policy Update

EFFECTIVE DATE: Thursday, August 20, 2010

Background

In May 2006 the Responsible Individuals List (RIL) was created in response to federal requirements under Section 106(e) of the Child Abuse and Treatment Act ([CAPTA](#)) to develop a child abuse registry that was accessible by employers, including foster and adoptive applicants, to assess the fitness of those individuals to provide care to children. However, on March 2, 2010 the North Carolina Court of Appeals (COA) issued an opinion (<http://www.aoc.state.nc.us/www/public/coa/opinions/2010/pdf/090205-1.pdf>) finding that the statutes governing the procedures used to place an individual's name on the RIL violated the North Carolina Constitution.

During this most recent legislative session, revised RIL legislation was proposed to bring the pertinent statutes into compliance with the COA opinion. Senate Bill [SB-567](#) was ratified July 8, 2010. The statutes became effective on July 11, 2010 when Governor Beverly Perdue signed the Senate Bill into law.

Intent

Information provided below includes a summary of the revised RIL policy, information related to the method in which RIL related data will be tracked, and information on updated Juvenile Court forms. County departments of social services will need to insure that all child welfare staff are aware of these changes and are strongly encouraged to share this information with their attorneys. This letter and the attached policy and forms are intended to address the majority of cases that are impacted by this legislation.

While members of the existing RIL workgroup have reviewed and provided feedback, this policy has not been reviewed by the Services to Family and Children Committee nor has the Executive Board of the North Carolina Association of County Directors of Social Services provided its endorsement. The Division recognizes that as the state and counties learn more of the fiscal, legal, and practice impacts of this legislation, the policy will be revised and brought forward to the workgroup, the committee and the board for feedback. However, the Division felt it necessary to expedite the release of this policy addressing the recently revised North Carolina law designed to protect children and families in compliance with CAPTA.

The Division also recognizes that, due to its complexity and its dependency on coordination and collaboration with outside agencies, some situations may arise that require county consultation with the Division on an individual basis. As always, if your agency has specific questions not answered by the policy or legislation, please contact your Children's Program Representative or the Division's Child Welfare Policy Team.

Changes Summary

Senate Bill 567 impacted some definitions associated with the RIL including:

- [G.S. § 7B-101\(18a\)](#) Responsible Individual, refined
- [G.S. § 7B-101\(19a\)](#) added a definition of Serious Neglect

The former process of expunction from the RIL has been eliminated and is now a Judicial Review process. Once a case decision has been made by the county department of Social Services that determines a juvenile has been abused and/or seriously neglected AND that there is an individual identified, or alleged, as the responsible individual, the county agency making the Investigative Assessment case decision will personally serve that individual with written notification. The written notification must include:

- a thorough, detailed, summarizing statement informing the alleged responsible individual of the evidence supporting the decision to substantiate the Investigative Assessment (without identifying the reporter or collateral contacts) and whether the Director determined abuse and/or serious and that the individual has been identified as responsible for the abuse and/or serious neglect
- a clear description of the actions the individual must take to request a Judicial Review to prevent the placement of their name on the RIL. These instructions shall include a copy of the Judicial Review petition ([AOC-J-131](#)) and a statement that their name will be placed on the RIL if they chose NOT to file a petition within the appropriate timeframe (15 days), and;
- a statement that (in accordance with [G.S. § 7B-320\(c\)\(3\)](#)) the North Carolina Department of Health and Human Services shall provide information from that list to child caring institutions, child placing agencies, group home facilities, and other providers of foster care, child care, or adoption services (including Guardian ad Litem) that need to determine the fitness of individuals to care for or adopt children as permitted by [G.S. § 7B-311](#).

Upon notification that an Investigative Assessment case decision has been made, the alleged responsible individual has 15 days to file a request for a Judicial Review of the case decision by filing a Petition for Judicial Review Responsible Individuals List ([AOC-J-131](#)). If the individual identified as a responsible individual fails to file a Judicial Review Petition within the 15 day timeframe, that individual will be added to the Responsible Individuals List by the county department of social services making the case decision.

If the alleged responsible individual files a Judicial Review Petition that meets the conditions outlined in either [G.S. § 7B-320](#) or [G.S. § 7B-323\(e\)](#), the Director will receive from the clerk of court a Notice of Hearing. Upon receipt of that Notice of Hearing, the Director must review the case record to determine if the agency's case decision and the agency's intent to place the alleged responsible individual's name on the RIL are appropriate. If, after reviewing the case record, the Director determines that there is NOT sufficient evidence to support a determination that the individual abused or seriously neglected the juvenile AND the individual is a responsible individual, the Director shall prepare a written statement of their determination and deliver it to both the alleged responsible individual and to the clerk of court. The clerk will then cancel the Judicial Review hearing and the individual's name will not be added to the RIL.

Should a the county department of social services file a Juvenile Petition ([AOC-J-130](#)) with the District Court, the court, in addition to adjudicating abuse, neglect, serious neglect or dependency, will be making a finding as to the placement of the alleged responsible individual's name on the RIL.

The following juvenile forms have been revised or created as a result of amended RIL legislation:

- Juvenile Petition (Abuse/Neglect/Dependency) ([AOC-J-130](#))
- Petition For Judicial Review ([AOC J-131](#))
- Notice of Hearing/Judicial Review ([AOC-J-32](#))
- Juvenile Summons (Abuse/Neglect/Dependency) ([AOC-J-142](#))
- Juvenile Adjudication Order (Abuse/Neglect/Dependency) ([AOC-J-153](#))

Additional amendments to Chapter 7B have also been made and can be found by accessing Senate Bill at: <http://www.ncga.state.nc.us/Sessions/2009/Bills/Senate/HTML/S567v5.html>.

Procedures

The revised general statutes regarding the RIL will impact child welfare policy in various areas. These sections will be updated to reflect the changes as soon as possible.

Beginning with reports received on or after Thursday, August 20, 2010, all Investigative Assessments shall include a discussion with the family that as a part of the Investigative Assessment, a case decision to substantiate abuse, serious neglect or abuse and neglect carries with it the potential for their name to be placed on the Responsible Individuals List. For more specific information regarding the activities required, please refer to the attached policy, Section 1427, Responsible Individuals List.

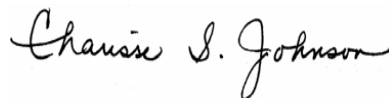
Tracking the information for the RIL shall be completed via hardcopy until such time as a data system can be placed into production. A copy of the DSS-5104a (revised) accompanies this letter. New codes have been developed to track the identification of a responsible individual.

All hardcopy DSS-5104a (revised) shall be forwarded to the North Carolina Division of Social Services once the appropriate processes are complete. The DSS-5104a can be submitted to the Division via e-mail provided that the document attached to the e-mail is password protected. Passwords will be assigned by the Division and cannot be communicated in the same document that contains the protected document. Password protected DSS-5104a forms can be e-mailed to: CW.RIL@dhhs.nc.gov (address is not case sensitive). Completed DSS-5104a forms may also be faxed to the Division at (919) 715-6714.

Please continue to enter your Central Registry / CPS Application ([DSS-5104](#)) within the timeframes specified in policy. The Division is aware that a new code will need to be developed to account for serious neglect as a type found in an Investigative Assessment. In the interim, please continue to capture serious neglect on the [DSS-5104](#) as has been done in the past. When serious neglect is substantiated select the serious box next to the neglect maltreatment type found in Field 32 of the [DSS-5104](#).

Again, the Division recognizes that this policy will have significant impacts on the county departments of social services and that clarifications will be required as additional knowledge and experience is gained. If you have any questions please contact your Children's Program Representative or the Child Welfare Policy team at (919) 733-4622.

Sincerely,



Charisse Johnson, Chief
Child Welfare Services Section

Attachments: 5014a (Rev. 08/2010)

cc: Sherry Bradsher
Jack Rogers
Hank Bowers
Kathy Sommese
Child Welfare Services Team Leaders
Children's Programs Representatives
Local Business Liaisons