



Administrative Policies and Procedures: 20.29

Subject:	Death of a Child/Youth in Department of Children's Services Custody/Guardianship
Authority:	TCA 37-2-415 (a) (17), 37-2-416, 37-5-105(3), 37-5-106, 37-5-107, 38-1-104, 38-5-107, 38-7-106, 38-7-108, 38-7-109, 68-4-103, 68-4-111, 68-30-102, 68-30-104, 68-30-114, 68-30-115.
Standards:	ACA: 4-JCF-4C-43; DCS: 7-100 A, 8-306; COA: PA-RPM 2.02 (f), PA-RPM 2.03.

Policy Statement:

When a child/youth dies while in the custody of the Department of Children's Services (DCS), employees, resource parents and private provider agency representatives will follow designated procedures in compliance with legal statutes and department protocols. DCS will provide assistance to the family, if needed, for a proper and dignified burial in keeping with their religious and cultural beliefs.

Purpose:

The impact of the death of a child/youth is felt widely and can affect many people. Whether the family was prepared for the possibility of death or whether the death was an unexpected, sudden loss, the DCS staff will professionally and compassionately guide the family and others affected by the loss through this most difficult time, keeping in mind their individual and cultural needs and religious beliefs. The procedures outlined in this policy are designed to provide guidelines of the notification, reporting, authorization, and funeral arrangement process, however, staff must be mindful that all cases are unique and additional support will be given by executive regional staff.

Procedures:

A. Child Death

1. If a child/youth is pronounced dead, but still remains in the home or facility, do not touch or move the body. Allow law enforcement to complete an investigation and arrange for the body to be transported to the proper facility.
2. If the manner of death was unexplained or under suspicious circumstances, the investigating law enforcement agency will contact the County Coroner or Medical Examiner for an investigation and post mortem examination and will contact the area District Attorney to provide information regarding the death.
3. If the death occurred in the hospital, the hospital staff will notify proper law enforcement agencies if appropriate, and arrange for disposition of the body for post mortem examination.

<p>B. Notification protocol</p>	<ol style="list-style-type: none"> 1. When a child/youth in DCS custody/guardianship dies, DCS Central Intake must be notified as soon as possible. Central Intake shall follow the contact protocol outlined by their unit's procedural guidelines and ensure all critical stakeholders are notified that a child has died. 2. The Regional Administrator or Youth Development Center (YDC) Superintendent must also be notified, as appropriate, based on the child's placement. 3. The YDC Superintendent, DCS Community Residential Facility Director, or DCS Family Service Worker (FSW) with an appropriate supervisor must notify the child's parents or guardians immediately. 4. The DCS Regional Administrator or YDC Superintendent will ensure that the Commissioner of DCS, DCS General Counsel, Director of Medical and Behavioral Services, the DCS Office of Communications, Internal Affairs, and local law enforcement are contacted and will guide field staff activity.
<p>C. Identification</p>	<p>The resource parents, FSW, private provider agency representative, or DCS facility staff person must identify the body.</p>
<p>D. Family notification guidelines</p>	<ol style="list-style-type: none"> 1. When a family must be notified about a child/youth's death: <ol style="list-style-type: none"> a) Contact should be made in person if at all possible. <ul style="list-style-type: none"> ◆ Telephone contact should be made if a personal contact is not possible. b) Phone contact can be made with a follow up face-to-face meeting. c) Meetings should occur in private. d) It is advised, the person delivering the notification be accompanied by another person. e) The meeting should provide guidance to the family regarding what policy and procedural steps will occur in the immediate future. f) An understanding of DCS policy and procedure is necessary to provide professional and compassionate assistance to the family. g) A range of emotion is common in these situations; however, families should not be placed in the position of consoling the professional. h) If the parent/guardian is alone, try to find someone to stay with them and provide emotional support before you leave. i) If the parent/guardian cannot be located seek other sources for contact information. j) Call the police or other law enforcement agencies for assistance if all attempts at contacting the parent/guardian have failed.

<p>E. Disposition of the body when the family cannot be located</p>	<p>If all efforts at next-of-kin notification are futile, or if the body is unclaimed after 96 hours (4 days), Regional Administrator or designee, in consultation with the Commissioner or designee, must notify the County Coroner or Medical Examiner. If the Coroner or Medical Examiner, upon notification, does not make a demand for the body, then it shall be buried as provided by Tennessee law.</p>
<p>F. Documentation</p>	<p>The death should be recorded in TFACTS in the court history icon under the general tab. Cause of death can be entered at a later date if it is not known initially. A corresponding entry should be made in the case recording documenting information about the death and all contacts with the family.</p>
<p>G. Reports</p>	<ol style="list-style-type: none"> 1. A Notice of Child Fatality/Near Fatalities Notification, CS-0635 will be completed for any child who dies when in DCS custody. 2. YDC staff must utilize the Critical Incident Reporting Application, as outlined in the Incident Reporting Manual for YDC's, to report the death of a child/youth. 3. The FSW, in collaboration with the Regional Health Nurse or the YDC Residential Case Manager in collaboration with the YDC Health Care Administrator (for a child placed in a YDC), must prepare a detailed written summary of the circumstances surrounding the death for presentation to the Child Death Internal Review Team, as pursuant to DCS Policy, 20.56 Child Death Internal Review Policy. 4. This summary will be sent to the CPS Director and should include the following: <ol style="list-style-type: none"> a) A summary of the circumstances surrounding the death, b) Any relevant medical information, c) Relevant medical history, d) Observations and information from by staff, caregivers, or others and e) Whether or not an autopsy has been or will be completed.
<p>H. Circumstances requiring an autopsy</p>	<ol style="list-style-type: none"> 1. An autopsy is necessary when: <ol style="list-style-type: none"> a) An unexpected unexplained sudden death occurs; b) The death may have resulted from an overt or negligent act by someone; c) The cause of death cannot be determined adequately in the absence of an autopsy; or d) When there is some public health concern 2. The County Coroner or Medical Examiner will take possession of the body to complete an investigation and autopsy when these circumstances exist. There is no charge for the autopsy.

<p>I. Circumstances when an autopsy may be requested</p>	<ol style="list-style-type: none"> 1. The County Coroner or Medical Examiner, in consultation with the attending physician, may decline to do an autopsy if the death can be reasonably determined by the child/youth’s medical condition. In these cases, a family may request an autopsy to determine the exact cause of death, to determine if proper medical care was given, to determine if there were other conditions present that were not detected and treated that may have contributed to the death, and/or to determine if there are inheritable problems whose early recognition may be of benefit to other family members. It is also an opportunity to further study the disease process for research and educational purposes so other patients may benefit from the advanced knowledge. The autopsy request may be for a full autopsy or for an autopsy that only examines a specific body part or region. If the family requests an autopsy, there may be a charge for which they will be responsible. 2. A Department of Children’s Services Deputy Commissioner, in consultation with the Director of Medical and Behavioral Services or designee, can seek an autopsy with the written consent of at least one of the child/youth’s parents or guardians or the child/youth’s legal next of kin, being mindful of the family’s religious and cultural beliefs. Department of Children’s Services will be responsible for the costs of the autopsy. 3. A Department of Children’s Services Deputy Commissioner, in consultation with the Director of Medical and Behavioral Services or designee, may authorize an autopsy of a child/youth who was, at the time of death, in custody but not full guardianship if the parent, guardian or next of kin cannot be located with 96 hours (4 days) despite diligent efforts to locate such persons. DCS shall be responsible for the costs of the autopsy. 4. A Deputy Commissioner, in consultation with the Director of Medical and Behavioral Services or designee, may authorize an autopsy of a child/youth full DCS guardianship. DCS shall be responsible for the costs of the autopsy.
<p>J. Autopsy and open caskets</p>	<p>A child/youth that has an autopsy can still have an open casket funeral, if that is the family’s wish. The autopsy examination will not affect how the body will look and any incision lines are sutured and covered by clothes or the casket pillow.</p>
<p>K. Autopsy reports</p>	<p>The Director of CPS or designee shall request the autopsy report from the appropriate County Coroner or Medical Examiner’s office. Upon receipt, copies of the report are forwarded to the Deputy Commissioner of Protection and Prevention, Deputy Commissioner of Juvenile Justice (if Juvenile Justice youth), Director of Medical and Behavioral Services, Regional Administrator, YDC Superintendent, Quality Assurance Director, and the Family Services Worker for inclusion in the case file.</p>
<p>L. Autopsy documentation</p>	<p>The FSW should enter case recording into TFACTS explaining when the autopsy was conducted, who did the autopsy, the results if available, and if the autopsy was mandatory or requested and by whom.</p>
<p>M. Donation of organs and tissue for</p>	<ol style="list-style-type: none"> 1. The Department staff will assist in notifying the appropriate parent, guardian or legal next of kin so the decision about donation or organs and tissue can

transplantation and/or donation of a body for medical research

be made in a timely manner and in compliance with applicable laws.

- ◆ When a body is donated for medical research, arrangements are made prior to death with full agreement by the person wanting to make the donation. No person, agency or organization will solicit a family to donate a body for research after death.

2. Children in Custody but not Guardianship

When a request is made for donation of organs and tissues of a child/youth in custody, the FSW and the Regional Health Nurse will take the following actions:

- a) Advise the physician, hospital personnel and/or the organ procurement agency that DCS has no authority to make this decision.
- b) Immediately notify the Director of Medical and Behavioral Services and the DCS Regional General Council or designee of the request.
- c) Provide the physician, hospital personnel and/or the organ procurement agency with any contact information for the parent(s), guardian, grandparent(s), and/or all adult siblings, if any.
- d) Immediately and diligently contact these family members and place them in communication with the physician, hospital personnel or organ procurement agency.
- e) If the child/youth has expressed a desire or a refusal to donate organs or tissues for transplantation or their body for medical research, the Regional Health Nurse or FSW shall communicate this information to the family, physician, hospital personnel and/or organ procurement agency. This communication must include all pertinent information about the disclosure including when, where, how, and any documentation from the child/youth expressing that intention.
- f) It is the responsibility of the hospital personnel or organ procurement agency to follow appropriate procedures to discuss donation of organs and tissues. DCS staff shall not initiate a discussion regarding donation or discuss donation issues with the family.
- g) The adjudication that brought the child/youth into custody is irrelevant to this policy as the parental authority to donate all or part of their deceased child's body is statutory. This policy applies even when the Court has ordered that DCS shall have authority to make medical decisions and even when the Court has appointed a Guardian ad Litem to make medical decisions or otherwise render decisions concerning resuscitation and removal of life support pursuant to [DCS Policy 20.57, End of Life Decisions for Children in DCS Custody/Guardianship](#).

3. Child/Youth in Full Guardianship

The Juvenile Court has jurisdiction to determine if donation of organs and tissue for transplantation and/or donation of a body for medical research can occur for a child/youth in full guardianship.

When a request is made for donation of organs and tissues of a child/youth in full DCS guardianship, the FSW and the Regional Health Nurse will take the following actions:

	<p>a) Advise the physician, hospital personnel and/or the organ procurement agency that parental rights have been terminated and that the Juvenile Court has jurisdiction to make the decision about organ/tissue donation.</p> <p>b) Immediately notify the Director of Medical and Behavioral Services and the DCS General Council or designee, and the Guardian ad Litem of the request.</p> <p>c) Regional General Council shall petition the Juvenile Court for a “determination of extraordinary medical care” and will schedule an expedited hearing.</p> <p>d) If the child/youth has expressed a desire or a refusal to donate organs or tissues for transplantation or their body for medical research, the Regional Health Nurse or FSW must communicate this information to the physician, hospital personnel and/or organ procurement agency. This communication must include all pertinent information about the disclosure including when, where, how, and any documentation from the child/youth expressing that intention.</p> <p>e) If the child/youth was placed with resource parents, the Regional General Council must ensure that such persons receive notice of any hearings pursuant to Tennessee Code Ann. §§37-2-415(a)(17) and 37-2-416. Although resource parents cannot make the ultimate decision about the donation of organs and tissues, they will have valuable information to assist the Court in reaching its decision.</p> <p>4. Organs Suitable for Donation</p> <p>Organs that can be transplanted include, but are not limited to the heart, lungs, kidneys, pancreas, lungs, liver, intestines, and bone. Tissues that can be transplanted include, but are not limited to the cornea, skin, bone marrow, heart valves and connective tissue. A single donor might provide organs and tissue to eight or more people.</p> <p>5. Costs</p> <p>The donor’s family is not responsible for the costs incurred through organ donation. The recipient, most times through the insurance carrier or Medicare, pays all costs related to the donation of organs and tissues.</p> <p>6. Religious Beliefs</p> <p>A majority of religions around the world either support and encourage donation, or take no formal position but leave the decision to donate up to the individual and family. If a family member has a question, refer them to their clergy.</p> <p>7. Donation and Open Caskets</p> <p>Donation of organs or tissue does not disfigure the body and does not interfere with having a funeral, including open casket services.</p>
<p>N. Funeral expenses and burial</p>	<p>1. The Department of Children’s Services will provide for a funeral and burial for a child who dies in custody if the parent/guardian or next of kin cannot be located or cannot afford to pay. The Family Service Worker will need to</p>

determine what arrangements the parent/guardian and relatives want to make regarding the funeral and burial. If they will assume full responsibility then the body will be released to them for funeral arrangements.

2. Funeral Arrangements

If the parent/guardian or next of kin request all or partial assistance with the funeral expense the FSW in cooperation with the Regional Fiscal Unit will follow these steps:

- a) Obtain two itemized estimates for basic funeral arrangements. Ask the family if they have a preference in choosing a funeral home and note that on the estimate. If there is only one funeral home in the county, the FSW will write a letter of justification for using this funeral home.
- b) Obtain an estimate for a burial plot that the family has chosen. Note: DCS does not pay for flowers or a vault.
- c) Any religious services will be arranged by the family.
- d) Immediately fax the two itemized funeral estimates, or the letter of justification, along with the burial estimates to the Office of Finance and Program Support. If the family chooses to pay for certain items, note that on the estimates.
- e) The Executive Director of Finance and Program Support or designee must give approval before the body is released to a funeral home.
- f) The Office of Finance and Program Support will fax to the FSW an authorized copy of the approved estimate and additional instructions once approval is made.
- g) The FSW in cooperation with the Regional Fiscal Unit will inform the selected funeral home and the cemetery to bill the state through the regional DCS office with an itemized statement of expenditures. No sales tax will be paid.
- h) Complete and attach form **CS 0493-Standard Claim Invoice**, upon receipt of the itemized statement from the funeral home and from the cemetery. Use the Standard Claim Form Instructions for Funeral Expenses as a guide. FSW staff may contact the Payables Office for additional information or instructions.
- i) The completed invoice is sent to the Office of Finance and Program Support.
- j) Document activities associated with planning the funeral and burial in **TFACTS** case recordings.

3. Releasing the Body to the Funeral Home

When the funeral and burial estimate has been approved, the DCS Team Coordinator or designee will call the County Coroner, Medical Examiner, or hospital and authorize them to release the body to the specified funeral home. If the family is assuming all costs related to the funeral and burial, the DCS Team Coordinator or designee will call the County Coroner, Medical Examiner, or hospital and advise them the body can be released to the family. The family will then call to give information about the funeral home

	<p>that will pick up the body.</p> <p>4. Death Certificate</p> <p>Generally the funeral home will compile information for the death certificate. The parent/guardian or next of kin should provide that information. If there is no family, the DCS Family Service Worker should provide the information. The FSW may need to refer to the birth certificate and social security card to be sure the information is correct.</p> <p>5. Resource Parents</p> <p>The parent’s wishes will be given priority, however, the FSW shall consider the wishes of the resource parents if there is a close relationship and the child has been in their home for any significant amount of time. If there is a disagreement between the resource parents and the parent/guardian, the FSW or some other neutral person can mediate a compromise.</p>
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Forms:	<p><u>CS-0635 – Notice of Child Fatality/Near Fatality</u></p> <p><u>CS 0493 - Standard Claim Invoice</u></p>
Collateral Documents:	<p><u>Incident Reporting Manual for YDC’s</u></p> <p><i>Critical Incident Report Web-Based Application</i></p> <p><u>Attachment to Policy 20.29, Death of a Child/Youth in DCS Custody/Guardianship</u></p> <p>Estimates of Funeral Costs</p> <p>Estimates of Burial Costs (If not included in the funeral estimate)</p>