



## Adult Protective Services Legal Custody

Policy 8.16

Effective: April 10, 2024

### Introduction

When the Tennessee Department of Human Services has determined the need for legal custody of a vulnerable adult, Adult Protective Services staff shall ensure a safe, appropriate placement that meets the needs of a custody client. Staff shall also ensure the client is provided appropriate ongoing services and monitor those services.

### Scope

The purpose of this policy is to prepare Adult Protective Services investigative specialists to assess, provide, and monitor appropriate services to clients in state custody.

### Policy

#### A. Ongoing Requirements

1. The following areas must be continually addressed after placing a client in Adult Protective Services (APS) custody:
  - a. Maintaining continuity of care,
  - b. Face-to-face contact with the client a minimum of every thirty (30) days,
  - c. Completing in full the [HS-3156 APS Custody Client Monthly Checklist](#) every thirty (30) days,
  - d. Reviewing patient chart
  - e. Reviewing and updating, as needed, the [HS-3135 Custody Client – Emergency Placement Information form](#),
  - f. Completing a strengths and needs (SAN) assessment and taking a photograph every six (6) months,
  - g. Visits with family or friends, and

- h. Working with placement staff to ensure the placement is appropriate to meet all the client's needs to include participation in care plan meetings.
2. Staff must not manage or handle the client's resources without approval from the APS Field Director and Office of General Counsel (OGC). This includes purchase of burial policies.
3. Requests for permission for non-routine procedures must be approved by the APS Field Director and OGC. APS staff should consult with a supervisor to determine if a procedure is "non-routine."
4. Incident reports received must be documented in the case management system (CMS) and discussed with the team coordinator (TC) to determine if an APS report should be made. If a report is assigned, staff must notify the APS Field Director and OGC.

**B. Court Actions on Existing Custody Clients**

APS staff shall obtain approvals from the APS Field Director and OGC for any subsequent legal interventions, such as:

1. Yearly review,
2. Do Not Resuscitate (DNR) ([HS-3119 Custody Client – DNR Request](#)),
3. Medical procedures,
4. Surgery,
5. Expiration of temporary guardianship,
6. Conservatorship conversion, see Interagency Cooperative Agreement: APS and DIDD for corporate conservators and [8.20 APS Legal Intervention Policy](#) for a public guardian
7. Change of custodian/guardian, and/or
8. Human rights restrictions to include communication and visitation.

**C. Death of Custody Client**

1. APS custody and legal authority ends on the date of the client's death.
2. Tennessee Department of Human Services (TDHS) has no authority or responsibility for personal belongings, burial, or resources.
3. APS staff shall, within two (2) business days of learning of the death:
  - a. notify the supervisor, OGC, and state office,
  - b. contact relatives,
  - c. request the death certificate,
  - d. notify the Veteran's Administration, if applicable, and
  - e. ensure that any burial plans are shared as needed with persons involved in carrying out funeral arrangements.
4. If Abuse/Neglect/Exploitation (A/N/E) is suspected in the death, APS staff must:

- ensure a report is made to intake,
- investigate the report related to the death, and
- contact law enforcement/TBI immediately.

APS staff may contact the medical examiner to advise them of a death that is suspected to be the result of A/N/E. APS staff should not request an autopsy. The decision to conduct an autopsy should be made by the medical examiner.

Note: Notifications should be made in person, via telephone ([888-APS-TENN](tel:888-APS-TENN) or [888-277-8366](tel:888-277-8366)), mail, or electronically (<https://reportadultabuse.dhs.tn.gov/>).

### **Supporting Documents**

[HS-3118 APS Statement for Handling Clients Cash/Resources/Property](#)

[HS-3119 Custody Client – DNR Request](#)

[HS-3120 Custody of Client – End of Life Decisions](#)

[HS-3135 Custody Client – Emergency Placement Information](#)

[HS-3156 APS Custody Client Monthly Checklist](#)

[Legal Custody Procedures](#)

[APS Service Provision Procedures](#)

[8.20 APS Legal Intervention Policy](#)

[APS Registered Nurse Specialist Procedures](#)

[8.06 APS Investigations](#)

## Definitions/Acronyms

Term	Definition
<b>CHOICES</b>	TennCare's program for long-term care to include nursing facility services and home and community-based services (HCBS) for adults twenty-one (21) years of age and older with a physical disability and seniors aged sixty-five (65) and older.
<b>Conservatorship conversion</b>	The process of transferring custody from TDHS to another entity or changing an entity serving as custodian and/or temporary guardian into a conservator of the person and estate.
<b>Continuity of care</b>	The quality and consistency of care over time.
<b>Custody client</b>	A person who has been deemed to lack capacity and TDHS has been appointed the custodian.
<b>DIDD</b>	Department of Intellectual and Developmental Disabilities
<b>Human rights restrictions</b>	Constraints on basic human and civil rights that have not been limited by law.
<b>Legal custodian</b>	A person or entity who has been appointed by a court of law to represent the best interests of the vulnerable adult to include legal, health care, and other personal matters.
<b>RNS</b>	APS Registered Nurse Specialist
<b>Temporary guardian</b>	A person appointed by a court of law for a maximum of six (6) months (which must be renewed by the court) for the purpose of handling another person's legal, financial, health care, and other personal matters.
<b>Yearly review</b>	Annual evaluation of the care of a custodial client.

## Supersedes

Adult Protective Services Legal Custody Policy, eff. date, 11/01/2023

## Authority

Tenn. Code Ann. § 71-6-107, 71-6-114

## Application

Adult Protective Service (APS) Investigative Specialists, Field Supervisor (FS1), Program Supervisors (PS), Directors

## Revision History

Date	Version	Location of Change	Description/Reason for Change
01/30/2026	04/10/2024	Manual Review	This policy was reviewed and no revisions were required.
04/09/2024	04/10/2024	Policy Section	This policy revision clarified types of assessment.
10/25/2023	11/01/2023	Policy Section	Corrected language/acronym, Removed RNS requirement to review custody cases monthly, Removed directive for APS staff to request an autopsy, Fixed Investigations policy link to segmented policy
08/30/2022	09/01/2022	Policy Section	Cleaned up language. Removed requirement to report deaths to the SSA.
05/01/2017	06/01/2017	N/A	New Policy

**Approval History**

Approved By	Approver Title	Approved Date	Effective Date
Clarence H. Carter	Commissioner	04/09/2024	04/10/2024
Clarence Carter	Commissioner	10/25/2023	11/01/2023
Clarence Carter	Commissioner	08/30/2022	09/01/2022
Cherrell Campbell-Street	Deputy Commissioner	05/01/2017	06/01/2017

**Current Approver:**

*Clarence H. Carter*