

CPS and Refusal to Accept Parental Responsibility

In Texas, the Child Protective Services Program (CPS) is legislatively mandated to investigate allegations of child abuse or neglect and to work with children and their families. CPS provides services to prevent further abuse, helps alleviate the effects of the abuse suffered, and provides reunification services when appropriate for the child to return home.

When necessary, CPS is required to secure appropriate court orders and take possession of a child if:

- there is an immediate danger to the physical health or safety of the child; or
- the child has been a victim of neglect or sexual abuse; and
- continuation in the home would be contrary to the child's welfare.

In Texas, it is not considered child abuse or neglect if a parent lacks resources to provide for a child's needs. Some parents of children who have mental or behavioral health needs are faced with very difficult decisions when resources have been exhausted or are not easily accessed. These challenges may lead parents to give custody to DFPS in order to access mental and behavioral health resources for their children.

What is Refusal to Accept Parental Responsibility?

Chapter 261, Texas Family Code, defines abuse or neglect investigated by CPS. Refusal to Accept Parental Responsibility (RAPR) is defined as the failure by the person responsible for a child's care, custody, or welfare to permit the child to return to the child's home without arranging for the child's necessary care after the child has been absent from the home for any reason. This includes absences due to residential placement or running away.

There are many family situations that bring children into care because of services issues, but the major items in common are that public, private, and familial monetary resources are not available. The child's needs might be so wide-ranging that the child does not fit a specific agency criterion for service and the parents or other potential caretakers are either unable or unwilling to care for the child any longer.

What can a parent expect from CPS when a child has mental and behavioral health needs?

When a child is placed in Department's conservatorship, CPS is required to provide medical and behavioral health services to children to these children. While the child is in conservatorship, the parent will have regular contact with their child, engage in service planning for their child, be expected to be a part of the decision-making process by providing input, and will be entitled to receive information regarding their child.

What kind of information can be provided regarding children who enter CPS care due to RAPR?

When children come into DFPS care due to a lack of services, generally the children need out-of-home residential care subsequent to mental health or juvenile justice intervention and the parents and other potential caretakers are either unable or unwilling to care for the child. In 2008, there were 788 children who entered substitute care with a removal reason of RAPR. 431 of those children had no identified disabling condition and are likely not children for whom a lack of behavioral or mental health services was the significant contributing factor. Of the 357

children with one or more disabling conditions, 298 had a disabling condition identified as "emotional."

Are there other states that have a similar practice to Texas?

A federal clearing house (Child Welfare Information Gateway) provides information about state definitions, practice, and statute. Reviewing information from the clearinghouse, it appears North Dakota has a similar practice to Texas regarding RAPR. Other states may have similar practice, but do not appear to have specific language in statute that addresses these cases. Definitions of neglect and delivery of services vary from state to state.

Summary

At times, parents are faced with the challenge of limited or no access to mental or behavioral health services. Due to this challenge, parents may relinquish custody of child to DFPS to access services in order to meet the child's mental or behavioral health care needs. Although this does not occur in a high percentage of cases, the Department is collaborating with other state agencies to develop resources and to enhance access to services to prevent parents from feeling that they must relinquish custody in order to obtain mental or behavioral health services for their child. DFPS is an active participant in a variety of work efforts with external stakeholders that include:

- Children with Special Health Care Needs;
- Texas Integrated Funding Initiative;
- Transformation Workgroup on Mental Health;
- Council on Children and Families;
- Interagency Taskforce for Children with Special Needs;
- Children's Policy Council;
- State Community Resource and Coordination Group;
- Texas Children's Mental Health Forum;
- Texas Council on Autism; and
- Best Practice for Integration of Health and Behavioral Health Services.

In addition to the collaborative efforts with external stakeholders, DFPS has developed an internal workgroup to review and identify best practices for CPS to use in working with children with mental or behavioral health needs and their families.