

# Child Protective Services: Juvenile Court Placement Issues

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## 2102.10 Emergency Removal

### Requirement

When, based on intake information or information gathered during the investigation, it becomes known that a child is in danger, immediately contact your supervisor or county director to proceed with county protocol for contacting the Juvenile Court and present facts to support a request for a temporary custody order, signed by the judge. If it is only possible to get a verbal order, follow steps outlined in 2202.12, Verbal Orders. Case managers are to request help from law enforcement officials to remove the child if there is not time to get an order from the juvenile court. Removal under any other circumstances requires court approval.

Obtain the supervisor's or county director's approval prior to removing a child.

### Procedures/Practice Issues

The department does not have authority to remove a child without the written consent of the parent/legal custodian or the approval of the court, except in short-term emergency care situations (see below). If the life of the child is in immediate danger because of maltreatment, and removal must take place without either parental or court approval, in such situations this function must be completed by law enforcement officials. Removal under any circumstance requires court approval.

Court approval for the removal of a child is considered the first judicial determination on behalf of the child. For the child to be eligible for IV-E Foster Care funds, the judicial determination of "contrary to the welfare" or best interests of the child" must be made by the judge in the first court ruling pertaining to the removal of the child from the home. This determination or order is known in different counties by various names: authorization to place, shelter care, emergency, pick-up, protective, *ex parte*, etc. If this determination is not made in this first judicial determination, the child is not eligible for IV-E funding for the duration of that stay in foster care. [Until a clarification is obtained the Department of Health and Human Services concerning these regulations, the order following the 72-hour detention hearing should also contain the "contrary to the welfare" or "best interest" findings.]

Any law enforcement officer has the authority and responsibility to take necessary action to protect children from immediate danger. This authority allows the office to take a child into custody without a court order. If immediate medical treatment is needed, the officer is further authorized to take the child directly to a medical facility, giving notice of this action promptly to the Juvenile Court (Georgia Juvenile Court Code 15-11-45, 15-11-47).

If a law enforcement officer removes a child, the officer should not expect that DFCS will take placement responsibility for that child without first having a judge's signed order or the signed approval from a delegated court authority. In a county where this practice occurs, take steps to eliminate it and to establish procedures that do not put DFCS in a situation where it is holding a child without the required legal authority. If any law enforcement agency leaves a child with a DFCS

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office without having obtained the required legal documentation, immediately initiate procedures for getting the judge's signed order (see 2102.11 and 2102.12).

The department is authorized (O.C.G.A. 15-11-14) to provide emergency care for a child without seeking a court order for a period not to exceed seven days when, as a result of an emergency or illness, the person who had physical and legal custody of the child is unable to provide for the care and supervision of the child. The request for emergency care must be made by the person having physical and legal custody of the child or by a law enforcement officer, emergency personnel employed by a licensed ambulance provider, fire rescue personnel, or hospital administrator or administrator's designee (see 2104.5). Emergency care, provided on this basis, is limited to a situation resulting from an immediate emergency or illness and where children are not at imminent risk of abuse or neglect, other than the risks arising from being without a caretaker. If there is evidence of imminent risk of abuse or neglect, the regular procedure of obtaining court approval is required. Acceptance of a child for emergency care must have the approval of the county or supervisor. At no other time will a case manager or other DFCS staff person become involved in removing a child or accepting responsibility for a removed child without court approval.