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To: Regional Managers
Directors, Local Offices, Department of Child Services

From: James W. Payne, Director
Angela Green, Deputy Director Practice Support
Dave Judkins, Deputy Director Field Operations
Department of Child Services

Subject: Fatality Assessment Legislation 2009
DCS-09-08

The Indiana Department of Child Services (DCS) assesses all child fatalities for which there are allegations that child abuse and/or neglect (CA/N) may be a factor in the fatality. DCS coordinates child fatality assessments with law enforcement and the coroner. This administrative letter outlines a recent legislative change surrounding child fatality assessments. Below is a summary of the changes effective July 1, 2009.

According to IC 31-34-12-7, if a parent, guardian, or custodian had care, custody, and control of a child immediately before the death of a child, IC 31-34-12-7 may be utilized. If law enforcement or an employee of DCS has probable cause to believe the parent, guardian, or custodian was impaired, intoxicated, or under the influence of drugs or alcohol immediately before or at the time of death, then law enforcement or DCS may request, **within three (3) hours of the child's death**, that the parent, guardian, or custodian take a drug or alcohol screen.

If the parent, guardian, or custodian does not take the test **within three (3) hours from the time of the request**, the failure to submit may be used to determine that the parent, guardian, or custodian was intoxicated or under the influence of drugs or alcohol for purposes of determining whether to substantiate or unsubstantiate pursuant to IC 31-33-8-12. However, the evidence from the screen is not admissible in criminal proceedings, unless the police obtained a court order for the test instead of relying on this



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particular statute.

It is important that DCS record all observations while interacting with the parent, guardian, or custodian and utilize standard assessment skills addressed in Chapter 4 – Assessment of the DCS Child Welfare Policy Manual. If DCS has probable cause to believe that the parent, guardian, or custodian was impaired, intoxicated, or under the influence of drugs or alcohol and in the event the drug or alcohol screen cannot be completed at the scene, collaboration shall occur between law enforcement and the DCS Supervisor to determine a safe plan for transport. The parent, guardian, or custodian must voluntarily submit to this drug or alcohol screen unless a court order has been obtained.

The DCS Child Welfare Policy Manual will be revised to reflect these important changes.

If you have any questions regarding these changes, please address them to the DCS policy mailbox at DCSPolicy@dcs.in.gov.

Sincerely,

James W. Payne, Director
Department of Child Services



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