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	Contact: Colin Parks; ParksC@michigan.gov	
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	Subject/Title: Modification to CPS Removal Requirement Standards (PA 163)	
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On June 14th, 2012, Michigan Public Act 163 of 2012 (Senate Bill 320) went into immediate effect. Public Act 163 of 2012 establishes higher legal standards for removal which impact the legal requirements for law enforcement, Children's Services workers and the courts. This bill amends the juvenile code to do the following:

- Provide authorization for a law enforcement officer to take a child into protective custody without a court order, if the child is at substantial risk of harm or if they are in surroundings that present an imminent risk of harm. That officer would immediately notify DHS. While awaiting the arrival of DHS, the child may not be held in a detention facility.
- Require the law enforcement officer or DHS staff to immediately seek a written (electronic or otherwise) court order for the placement of the child pending a preliminary hearing, if the child is not released immediately.
- If the court is closed, the designated judge or referee may, upon receipt of a petition or affidavit of facts (electronically or otherwise), order placement if the order is communicated in writing (electronically or otherwise) to the appropriate county office. This order shall take effect as an interim order pending a preliminary hearing.
- Allow for either a judge or referee to issue a written ex parte order (electronically or otherwise) authorizing DHS staff to take that child into protective custody and place the child pending a preliminary hearing if the court finds all of the following:
 - There is reasonable cause to believe that the child is at substantial risk of harm, or is in surroundings that present an imminent risk of harm and the child's immediate removal from those surroundings is necessary to protect the child's health and safety.
 - The circumstances warrant issuing an ex parte order pending the preliminary hearing.
 - Consistent with the circumstances, reasonable efforts were made to prevent or eliminate the need for removal of the child.
 - No remedy other than protective custody is reasonably available to protect the child.
 - Continuing to reside in the home is contrary to the child's welfare.

- The ex parte order shall be supported by written findings of fact.
- At a preliminary hearing, the court may order placement of a child in foster care if the court finds all of the following:
 - Custody of the child with the parent presents a substantial risk of harm to the child's life, physical health or mental well-being.
 - No provision or service or other arrangement except removal of the child is reasonably available to adequately safeguard the child from risk as described above.
 - Continuing the child's residence in the home is contrary to the child's welfare.
 - Consistent with the circumstances, reasonable efforts were made to prevent or eliminate the need for removal of the child.
 - Conditions of child custody away from the parent are adequate to safeguard the child's health and welfare.

Emergency removal and placement must **only** occur when a child is either at substantial risk of harm or their surroundings present an imminent risk of harm. Placement of a child in out of home care requires a written (electronic or otherwise) court order. In all other situations, workers may submit a petition requesting removal for the court to review at a preliminary hearing. Workers should be aware that the court may require more detailed information to meet these modified removal standards.

CPS policy has been drafted and will soon be available to staff. A job aid will also be created to provide additional clarification to the field.

Summary of PA 163

Effective June 14, 2012, Public Act 163 of 2012 changed the standards and procedures for removing a child from parental custody and placing the child in out-of-home care. The changes affect law enforcement officers, CPS workers, and the courts.

Under the new law, a law enforcement officer may take a child into protective custody without a court order if the officer has reasonable cause to believe that a child is at substantial risk of harm, or is in surroundings that present an imminent risk of harm and immediate removal is necessary to protect the child's health and safety. A CPS worker may obtain an ex parte court order for protective custody of a child if the CPS worker alleges facts that meet this same standard.

The new law streamlines the process for obtaining protective custody orders by allowing either a judge or a referee to issue the orders. Currently, only a judge has this power, which can lead to unnecessary delays. A referee's interim order is effective until the court commences a preliminary hearing. The new law also allows a CPS worker to electronically submit a petition to the judge or referee with a request for protective custody, and the judge or referee may electronically send a resulting protective custody order to the appropriate local office. Finally, the new law changed the standard for out-of-home placement that applies to preliminary hearings. A court must find that parental custody of the child presents a substantial risk of harm to the child's life, physical health, or mental well-being.

As current policy states, in all cases, DHS employees must have a written order (sent electronically or otherwise) before taking protective custody of a child or placing a child in out-of-home care.