



<b>Division of Children and Family Services Protection and Safety Procedure #14-2015</b>	
Regarding:	Interview of a State Ward by Law Enforcement
Replacing:	Program Memo #1-2011 – Interview of State Ward by Law Enforcement
Date Effective:	04/14/2015
Contact:	Connie Pfeifer at 402-471-9245 or <a href="mailto:connie.pfeifer@nebraska.gov">connie.pfeifer@nebraska.gov</a>
Issue by:	Tony Green, Acting Director, Division of Children and Family Services

**Philosophy:**

The Division of Children and Family Services (DCFS) has the responsibility to protect the constitutional rights of children who are in the custody of the Department of Health and Human Services and who are suspected of engaging in criminal activity.

**Procedure:**

390 NAC11-002.03C directs the Department of Health and Human Services to cooperate with law enforcement to detect and apprehend any ward (minor in the legal custody of DHHS) known to be or suspected of being involved in law violations.

The above regulation does not require DHHS to consent to an interview of a ward by law enforcement officials when they are suspected of committing a crime. Because children in the custody of DHHS have constitutional rights, DHHS will not consent to a law enforcement interview of any ward suspected of a crime unless the ward’s attorney is present during the interview or has consented in writing to the interview.

DHHS should initially request the ward’s court appointed attorney perform the above function if the ward has a court appointed attorney. If the ward does not have a court appointed attorney or the attorney refuses, DHHS will be responsible for obtaining an attorney for the ward and for the attorney’s fees associated with the interview of the ward by law enforcement who is a suspect of law violations by law enforcement.

DHHS will not interfere with law enforcement and any action they may take. Refusing to consent is different than interfering with the law enforcement investigation. Law Enforcement may not think they need the consent of DHHS to interview a state ward who is suspected of engaging in criminal activity. The Service Area Administrator will communicate with Law Enforcement the desire and intent for the child’s attorney to be present.

**References:**

None