

**DIVISION OF CHILDREN AND FAMILY SERVICES
PROGRAM MEMO #1-2011
TITLE 390**

To: All Children and Family Services Staff

From: Terri Nutzman, OJS Administrator
Chris Hanus, Child Welfare Administrator
Division of Children and Family Services

Approved by: Scot L. Adams, Ph.D., Interim Director
Division of Children and Family Services
Department of Health and Human Services

Date: November 21, 2011

RE: Interview of a State Ward by Law Enforcement

Effective: Immediately

Duration: Until regulation is revised

Contact: Jeri Grachek, Attorney
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Chris Hanus, Child Welfare Administrator, Division of Children and Family Services at (402) 471-9308 or at chris.hanus@nebraska.gov

Purpose: To provide clarification to Department Staff regarding 390 NAC 11-002.03C

Action Required: 390 NAC 11-002.03C 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. Because wards still have constitutional rights, DHHS will not consent to a law enforcement interview of any ward unless:

1. The ward's attorney is present during the interview or has consented in writing to the interview; or
2. The Children and Family Services Administrator for that service area determines it is in the ward's best interest to be interviewed. For example, where the proposed interview relates to a crime of abuse or neglect and the ward is the victim.

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 attorneys fees associated with the interview of the ward by law enforcement who is a suspect of law violations by law enforcement.

There are no exceptions to this policy.