

CHAPTER 122E

REMOVAL OF CHILDREN IN PLACEMENT
FROM RESOURCE FAMILY HOMES

Authority

N.J.S.A. 30:4C-4(h) and 30:4C-26a.

Source and Effective Date

R.2009 d.6, effective December 2, 2008.
See: 40 N.J.R. 3935(a), 41 N.J.R. 256(a).

Chapter Expiration Date

Chapter 122E, Removal of Children in Placement from Resource Family Homes, expires on December 2, 2013.

Chapter Historical Note

Chapter 122E, Removal of Foster Children and Closure of Foster Homes, was adopted as new rules by R.1993 d.18, effective January 4, 1993 (operative July 1, 1993). See: 23 N.J.R. 3708(a), 25 N.J.R. 127(a).

Pursuant to Executive Order No. 66(1978), Chapter 122E, Removal of Foster Children and Closure of Foster Homes, was readopted as R.1998 d.64, effective December 22, 1997. See: 29 N.J.R. 4275(a), 30 N.J.R. 492(a).

Chapter 122E, Removal of Foster Children and Closure of Foster Homes, was readopted as R.2003 d.256, effective June 5, 2003. See: 35 N.J.R. 532(a), 35 N.J.R. 2931(a).

Subchapter 3, Closure of a Foster Home, expired on June 5, 2008 and will not be readopted. See: 40 N.J.R. 3935(a).

Chapter 122E, Removal of Foster Children and Closure of Foster Homes, was readopted as R.2009 d.6, effective December 2, 2008. As a part of R.2009 d.6, Chapter 122E, Removal of Foster Children and Closure of Foster Homes, was renamed Removal of Children in Placement from Resource Family Homes; and Subchapter 2, Removing the Child From the Foster Home, was renamed Removing a Child in Placement from the Resource Family Home, effective January 5, 2009. See: Source and Effective Date. See, also, section annotations.

CHAPTER TABLE OF CONTENTS

SUBCHAPTER 1. GENERAL PROVISIONS

- 10:122E-1.1 Authority
- 10:122E-1.2 Purpose
- 10:122E-1.3 Scope
- 10:122E-1.4 Definitions

SUBCHAPTER 2. REMOVING A CHILD IN PLACEMENT
FROM THE RESOURCE FAMILY HOME

- 10:122E-2.1 Removal in emergency situations
- 10:122E-2.2 Removal in non-emergency situations
- 10:122E-2.3 Procedures prior to a non-emergency removal
- 10:122E-2.4 Removal due to criminal conviction
- 10:122E-2.5 Considerations in deciding whether or not to remove
- 10:122E-2.6 Notification
- 10:122E-2.7 Disagreements

SUBCHAPTER 1. GENERAL PROVISIONS

10:122E-1.1 Authority

Pursuant to N.J.S.A. 30:4C-4(h) and 30:4C-26a, the Division of Youth and Family Services, Department of Children and Families, is authorized to establish rules for the removal by the Division of a child in placement from a resource family home. Under the above statute, the Division has the discretionary authority to remove a child in placement from a resource family home at any time with or without the consent of the resource family parent, parent or child in placement.

Amended by R.2009 d.6, effective January 5, 2009.
See: 40 N.J.R. 3935(a), 41 N.J.R. 256(a).

Substituted "Children and Families" for "Human Services" and "resource family" for "foster" three times, deleted "foster" preceding "child" three times, inserted "in placement" three times; and deleted "and for the closure of a foster home" from the end of the first sentence.

Case Notes

Child Placement Review Act was not proper vehicle for resolution of what foster home a child may reside in; issue of removal of child and placed with other foster parents was matter to be resolved by the Director for Division of Youth and Family Services and reviewed by Appellate Division. State in Interest of J.B., 293 N.J.Super. 485, 681 A.2d 668 (Ch.1996).

10:122E-1.2 Purpose

The purpose of this chapter is to describe when it is appropriate for the Division to remove a child in placement from a resource family home. A child in placement may be removed from a resource family home in order to ensure the child's safety, to protect the child from risk of harm, to ensure that the case goal is implemented, and to ensure that the interests of the Division, the child in placement, the parents and the resource family parent are considered.

Amended by R.2003 d.256, effective July 7, 2003.
See: 35 N.J.R. 532(a), 35 N.J.R. 2931(a).

In (a), inserted "to ensure the foster child's safety," preceding "to protect the foster child" in the second sentence; rewrote (b).

Amended by R.2009 d.6, effective January 5, 2009.
See: 40 N.J.R. 3935(a), 41 N.J.R. 256(a).

Deleted designation (a), deleted "first" preceding "purpose", "foster" preceding "child" throughout, and "foster" preceding "child's", substituted "resource family" for "foster" three times, and inserted "in placement" three times; and deleted (b).

10:122E-1.3 Scope

The provisions of this chapter shall apply to each child in placement, his or her family, each resource family licensed by the Office of Licensing for the placement of children under the Division's supervision, and the Division.

Amended by R.2003 d.256, effective July 7, 2003.
See: 35 N.J.R. 532(a), 35 N.J.R. 2931(a).

Substituted "licensed" for "approved" and inserted "for the placement of children under the Division's supervision,".

Amended by R.2009 d.6, effective January 5, 2009.

See: 40 N.J.R. 3935(a), 41 N.J.R. 256(a).

Deleted "foster" preceding "child", inserted "in placement", and substituted "resource" for "foster" and "Office of Licensing" for "Division".

10:122E-1.4 Definitions

The definitions in N.J.A.C. 10:122B-1.3 and 10:122C-1.3 are hereby incorporated in this chapter by reference.

Amended by R.2003 d.256, effective July 7, 2003.

See: 35 N.J.R. 532(a), 35 N.J.R. 2931(a).

Amended N.J.A.C. references.

Amended by R.2009 d.6, effective January 5, 2009.

See: 40 N.J.R. 3935(a), 41 N.J.R. 256(a).

Deleted "1.2 and" following "10:122C-".

SUBCHAPTER 2. REMOVING A CHILD IN PLACEMENT FROM THE RESOURCE FAMILY HOME

10:122E-2.1 Removal in emergency situations

(a) The Division representative shall remove a child in placement from a resource family home when the Division determines that the child is not safe in the resource family home.

(b) When abuse or neglect of any child in a resource family home is substantiated, the office manager may consult with:

1. The Institutional Abuse Investigation Unit of the Department or the Office of the Public Defender acting as the Division's agent in conflict matters, when that unit conducted the child abuse and neglect investigation; and

2. The Office of Licensing to determine if the resource family home license will be denied, suspended, or revoked, if the Office of Licensing shall refuse to renew the license, or if the Office of Licensing shall permit the home to be licensed for the placement or continued placement of the children already in placement or recommended for placement in the home in accordance with N.J.A.C. 10:122C-5.5(b).

(c) When abuse or neglect of any child in a resource family home is substantiated, the office manager shall determine if each child in placement is safe in the resource family home and then:

1. Determine whether to remove any child in placement in the resource family home and, if necessary, direct a Division representative to remove the child; or

2. Recommend to the Area Director that a child in placement continue to be placed in the resource family home, based upon the considerations set forth in N.J.A.C. 10:122E-2.5(a).

(d) The Area Director decides whether or not to remove the child in placement from the resource family home, based

on the considerations in N.J.A.C. 10:122E-2.5(a), when child abuse or neglect of any child is substantiated in a resource family home. When the Area Director determines that it is in the child's interest to keep the child in the resource family home, the Area Director shall:

1. Determine that each condition listed in N.J.A.C. 10:122C-5.5(b) has been met; and

2. Determine if the Office of Licensing has given approval, in accordance with N.J.A.C. 10:122C-5.5(b)5.

(e) A resource family parent may request an emergency removal of a child in placement and the Division representative shall remove the child in placement when:

1. The child in placement is at risk of harm if he or she remains in the resource family home; or

2. The resource family is at risk of harm if the child remains in the resource family home.

(f) A resource family parent may request an emergency removal of a child in placement when the resource family is experiencing a personal emergency and is unable to make alternate appropriate plans for the child. The Division representative shall respond promptly and shall remove the child in placement when necessary.

(g) A child in placement may request emergency removal from his or her resource family home and the Division representative shall remove the child in placement when the child is not safe in the resource family home.

(h) In all emergency cases, the Division representative shall document in the child's electronic case record and the resource family home record, the decision to remove or not remove the child and shall inform the resource family parent, the child in placement, the parents and other interested parties of the outcome.

Amended by R.1998 d.64, effective January 20, 1998.

See: 29 N.J.R. 4275(a), 30 N.J.R. 492(b).

Amended by R.2003 d.256, effective July 7, 2003.

See: 35 N.J.R. 532(a), 35 N.J.R. 2931(a).

Rewrote the section.

Administrative correction.

See: 36 N.J.R. 1225(a).

Amended by R.2009 d.6, effective January 5, 2009.

See: 40 N.J.R. 3935(a), 41 N.J.R. 256(a).

Deleted "foster" preceding "child", inserted "in placement", and substituted "resource family" for "foster" throughout; in (b)1, substituted "Department" for "Division"; rewrote (b)2; in (c)2, and in the introductory paragraph of (d), substituted "Area Director" for "Deputy Director, Program Operations,"; in the introductory paragraph of (d), inserted the last sentence; added (d)1 and (d)2; in (f), substituted "resource" for "foster" preceding "family is"; and in (h), substituted "child's electronic" for "foster".

10:122E-2.2 Removal in non-emergency situations

(a) The Division representative may remove a child in placement from a resource family home for any of the following reasons: