



Mississippi

Statewide Protocol for Child Abuse Response

A protocol outlining the Multidisciplinary Team Approach for investigation, prosecution, and provision of services for child abuse, neglect, & exploitation.

2025 Edition

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PROTOCOL SIGNATURE PAGE


Whereas, the Mississippi Children’s Justice Act Task Force has developed a Statewide Protocol for Responding to Child Abuse Cases in Mississippi, ensuring that investigations and services for affected children are conducted consistently and thoroughly. The Mississippi Children’s Justice Act Task Force is committed to upholding the integrity of the Mississippi Statewide Protocol for Child Abuse Response by conducting an annual review through a designated sub-committee charged with identifying updates and/or amendments necessary.

This Agreement acknowledges that the understanding among the parties extends solely to the terms outlined herein, thus superseding all previous agreements or negotiations, whether written or spoken, related to this matter, including any prior county protocols or interagency practices. Any and all modifications to this Agreement must be documented in writing and endorsed by the affected party, ensuring that all parties acknowledge their commitment to this Agreement. This Agreement shall remain binding upon all parties, including their representatives and successors, with the stipulation that should any current or future practices conflict with this Agreement, its terms shall prevail. Signed and acknowledged by:

MISSISSIPPI CHILDREN’S JUSTICE ACT
TASK FORCE 

Printed Name Joel Smith, Chair

Date 2/20/2025

MISSISSIPPI DEPARTMENT OF CHILD
PROTECTION SERVICES 


Printed Name Andrea Sanders, Commissioner

Date 1/30/2025

MISSISSIPPI DEPARTMENT OF PUBLIC
SAFETY 

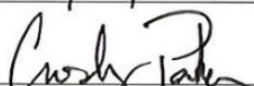
Printed Name Sean Tindell, Commissioner

Date 02/06/2025

OFFICE OF THE MISSISSIPPI ATTORNEY
GENERAL 

Printed Name Lynn Fitch, Attorney General

Date 2/12/2025

MISSISSIPPI PROSECUTOR’S
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CHILDREN’S ADVOCACY CENTERS OF
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Date 1/30/2025

INTRODUCTION

The primary goal of the multidisciplinary team response is to provide interdisciplinary collaboration for the most effective and comprehensive response to child abuse allegations. The multidisciplinary team is comprised of various professional disciplines responsible for the intervention, investigation, prosecution, and healing of child abuse without causing additional harm and trauma to the child and family.

Over the last three decades, this model has evolved significantly to better define and advance the professional expectations of each member of the team, including forensic interviewers, victim advocates, mental health providers, medical providers, law enforcement, social services, child protection investigators, and prosecutors. Each member offers a diverse perspective for the case through the following:

- Varying personal and professional backgrounds;
- Varying abundance of resources with regards to time, funding, facilities, etc.;
- Different legal mandates, goals, timelines, policies, areas of authority, trainings, and philosophies, and;
- Various organizational structures, protocols, and cultures.

Together, these professionals provide an effective, coordinated response to child abuse and are at the heart of the Child Advocacy Center model.

Children and their families are often faced with a confusing maze of entities in reporting child abuse and receiving appropriate therapeutic care. Local child advocacy centers offer a child-friendly environment where children can relate their experience to one trained professional with the team gathered together in **one place**, rather than being shuttled between doctors, police, counselors, social workers, and child advocates. Child Advocacy Center staff ensure collaboration and case review among all disciplines involved with a child abuse case, promoting a consistent response and peer accountability. The multidisciplinary team response has been implemented across the United States and is recognized as the most effective model for promoting hope, healing, and justice for child victims and their families.

PURPOSE OF THE MISSISSIPPI STATEWIDE PROTOCOL

The Mississippi Statewide Protocol is an initiative of the Children’s Justice Act grant administered through the Children’s Advocacy Centers of Mississippi™. The three-year assessment for Mississippi reflected overwhelming support for the development of a uniform statewide protocol to standardize a response to child abuse and neglect. The Children’s Justice Act Task Force collected data from around the state and found that a standard policy for response to these allegations is crucial to ensuring the highest quality of service to survivors of child abuse. The intent of this protocol is to:

- Provide continuity across the state regarding how child abuse cases are handled by investigative agencies – Law Enforcement/Mississippi Department of Child Protection Services.

- Establish a statewide commitment to agreed-upon expected practices to be enacted during the investigation, prosecution, and treatment phases of all child abuse cases throughout Mississippi.
- Ensure coordination and cooperation of the various agencies, organizations, and individuals, as they work with cases of child abuse.
- Set a minimum state standard to be followed and incorporated into local protocols.
- Minimize the stress created for the child by the legal and investigatory process.

ADVISORY GROUP AND CONTRIBUTORS

The Children’s Justice Act Task Force is a gubernatorial appointed multi-disciplinary group of professionals with primary responsibility for meeting the mandates of Section 107(a) of the Child Abuse Prevention and Treatment Act, hereinafter referred to as the Children’s Justice Act. The Task Force is charged with assessing the state’s child abuse response systems every three years and adopts recommendations designed to improve the handling of child abuse and neglect cases in Mississippi, as well as identifying systematic improvements for the state. Under the direction of this Task Force, the Mississippi Statewide Protocol Committee was developed to research and evaluate the systemic approach to care and services available for children and youth within the State of Mississippi.

The Mississippi Statewide Protocol Committee represented individuals from across the state of Mississippi involved in the multidisciplinary team response, investigation, and prosecution of child abuse, child neglect, and sexual exploitation cases in Mississippi. Professionals from all the core multidisciplinary team disciplines serve on the Mississippi Statewide Protocol Committee including representatives from law enforcement, child protective services, prosecution, medical, mental health, and victim advocacy, together with child advocacy center staff. In addition to the core multidisciplinary team disciplines, the Mississippi Statewide Protocol Committee also included representation from the Children’s Justice Act Task Force, Administration of Courts, Attorney General’s Office, Mississippi Association of Chiefs of Police, Mississippi Bureau of Investigations, District Attorney’s Office – First Judicial District, Rankin County Youth Court, University of Mississippi School of Law, Forrest County Sheriff’s Department, Gulfport Police Department, Mississippi Department of Child Protection Services, University of Southern Mississippi, the Arc of Mississippi, Mississippi Department of Health, Mississippi Children’s Safe Center, Jones County Sheriff’s Department, Rankin County Coroner, William Carey University, and local child advocacy centers.

The final draft of the Mississippi Statewide Protocol was reviewed and approved by the Children’s Justice Act Task Force. Draft sections of the protocol were also reviewed with the Mississippi Department of Child Protection Services, the Mississippi Prosecutor’s Association, the Mississippi Association of Chiefs of Police, the Mississippi Sheriff’s Association, and other stakeholders to seek input on the protocol. The Mississippi Statewide Protocol Advisory Committee is thankful for all organizations and representatives who provided content, expertise, and resources to support the completion of a functional Mississippi Statewide Protocol.



**MULTIDISCIPLINARY
TEAM APPROACH**

The multidisciplinary team approach allows for a coordinated response to child abuse and creates a system of investigation and prosecution that minimizes undue trauma for children and their families. This approach maintains two over-arching goals:

- **Minimize revictimization and improve outcomes for child victims and protective family members throughout the investigation, assessment, intervention, and prosecution processes.**
- **Facilitate successful outcomes in BOTH the child protection and criminal justice systems through effective, collaborative, fact finding, and coordinated case development.**

A multidisciplinary team includes professionals from a myriad of relevant disciplines who collaborate from the point of report throughout a child and family's involvement with an investigation. Multidisciplinary teams coordinate investigations and service delivery to maintain open lines of communication, promote transparency, foster trust, and help optimize a high-quality response while preserving and respecting the rights of the clients and the respective mandates of each member agency.

Members of the team represent government agencies responsible for investigating crimes against children. Members also include agencies and private practitioners who offer protection and treatment options for children in a particular community. The multidisciplinary team consists, at a minimum, of law enforcement, Mississippi Department of Child Protection Services (MDCPS), prosecutors, child advocacy center staff, mental health providers, victim advocates, and medical professionals. Multidisciplinary teams may be expanded to include professionals with other relevant roles and responsibilities including guardians ad litem, adult and juvenile probation officers, domestic violence service providers, and others as deemed necessary and appropriate for an individual child, family, or community on a case-by-case or routine basis.

A youth court order is required under Mississippi Code 43-15-51. The code reads, in pertinent part, "....to implement the multidisciplinary child abuse team, the team or task force must be authorized by court order from the appropriate youth court. The court order will designate which agencies will participate in the cooperative multidisciplinary team."

ORIENTATION TO THE MULTIDISCIPLINARY TEAM

Each child advocacy center will provide an orientation for onboarding new multidisciplinary team members and introducing them to the purpose, functions, and processes of the team. Orientation should include, at a minimum, information about:

- Team member roles and expectations
- Coordinated investigations
- Process for referrals
- Review of local services
- Multidisciplinary team members' names and contact details
- Mississippi Statewide Protocol and local addendums to the protocol
- Case review logistics (time, location, frequency)
- Multidisciplinary Team Code of Conduct (signed) – see appendix

- Other policies and forms (confidentiality agreements, code of conduct, documentation for release of records, etc.)

MULTIDISCIPLINARY TEAM MEMBER ROLES AND BENEFITS

MULTIDISCIPLINARY TEAM FACILITATOR/COORDINATOR

Multidisciplinary Team Facilitator/Coordinators are responsible for facilitating inclusive, comprehensive discussions of all cases and for communicating recommendations and necessary follow-up to multidisciplinary team members in a timely manner. Multidisciplinary Team Facilitator/Coordinator's foster open communication and collaboration between the multidisciplinary team members throughout the life of a case, including on-site at the child advocacy center when a forensic interview is conducted. Multidisciplinary Team Facilitators/Coordinators manage the case review process. Multidisciplinary Team Facilitators/Coordinators also serve as the multidisciplinary teams' primary point of contact for the child advocacy center child victim database and they prepare and circulate case review agendas to ensure the members can effectively track child victimization cases and their outcomes.

LAW ENFORCEMENT OFFICERS

The law enforcement agencies' primary goal is to conduct criminal investigations of alleged crimes that impact the safety of the community and the well-being of any child who may have been victimized. This responsibility includes interviewing the child's family, offender(s), and other witnesses; gathering evidence for the prosecution; recommending whether and when to arrest alleged offender(s); and providing protection during the intervention process.

Law enforcement agencies will assign officers responsible for coordinating law enforcement investigations of child abuse cases within their jurisdiction and for serving as members of the multidisciplinary team. Law enforcement will coordinate with the Mississippi Department of Child Protection Services during the investigation of felony child abuse cases. Law enforcement officers will observe forensic interviews held at the child advocacy center and participate in case review meetings.

Law enforcement agencies including local municipalities, County Sheriff's Offices, Mississippi Bureau of Investigations, Federal Bureau of Investigations, Homeland Security, Military Installations, and/or the Office of the Attorney General may be involved in an investigation.

MISSISSIPPI DEPARTMENT OF CHILD PROTECTION SERVICES WORKERS

Mississippi Department of Child Protection Services (MDCPS) is legally mandated to receive all child abuse, neglect and exploitation reports and refer appropriate reports to the Youth Court system, law enforcement agencies, and the District Attorney's office. MDCPS is the lead agency in removing and providing out-of-home care for a child if it is determined to be necessary for the safety and well-being of the child. MDCPS will coordinate with law enforcement in the criminal investigation of felony child abuse cases. MDCPS workers will observe forensic interviews held at the child advocacy center and participate in case review meetings.

MEDICAL PROVIDERS

Medical providers ensure that children receive proper medical examinations and treatment during an investigation of abuse. Medical providers who have received specialized training in pediatric/adolescent forensic examinations will perform such examinations, as needed, and interpret any medical finding for multidisciplinary team members. The purposes of a medical evaluation in suspected child abuse include:

- Helping ensure the health, safety, and well-being of the child.
- Diagnosing, documenting, and addressing medical conditions resulting from abuse.
- Differentiating medical findings that are indicative of abuse from those explained by other medical conditions.
- Diagnosing, documenting, and addressing medical conditions unrelated to abuse.
- Assessing the child for any developmental, emotional, or behavioral problems needing further evaluation and treatment and making referrals, as needed.
- Conducting forensic medical examinations of children involving allegations of sexual and/or physical abuse, when indicated.
- Reassuring and educating the child and family.
- Referring the child and/or family members for therapy to address trauma related to the abuse/assault, if not provided by another member of the multidisciplinary team and/or child advocacy center staff.
- Assisting multidisciplinary team members in navigating the process to obtain medical paperwork from previous hospitalizations or medical visits from other providers which may be necessary for the investigation or treatment.

Medical providers will participate as members of local/county multidisciplinary team and will participate in case review meetings to share information from the medical examination and any resulting recommendations.

MENTAL HEALTH PROVIDERS

All clients will have access to evidenced-based, trauma-focused mental health services designed to meet the unique needs of the children and non-offending caregivers through child advocacy center providers and/or other community resources. Mental health providers will participate as members of local county multidisciplinary teams and will participate in case review meetings to share information about children and families' mental health needs. Mental health providers also support other multidisciplinary team members in deepening their understanding of trauma and how it may present in each case.

VICTIM AND FAMILY ADVOCATES

Victim and family advocates provide advocacy, crisis intervention and case management services to children and families involved in child abuse investigations. Advocates provide children and their caregivers with information about resources for mental health services, medical services, victim compensation, as well as other resources, as needed. Advocates may be employed by multiple agencies, including child advocacy centers, law enforcement agencies, district attorneys' offices, and other community-based programs. If multiple advocacy agencies share the delivery of services, the child advocacy center is responsible for establishing protocols and linkage agreements with the multidisciplinary team that clearly defines victim advocacy roles and

ensures seamless coordination of victim advocacy services. Advocates will participate as members of local county multidisciplinary teams and will participate in case review meetings to share relevant information that has been gathered through their contact with client families. Advocates also support other multidisciplinary team members by acting as liaisons with partner agencies and identifying available community resources to help meet the needs of families.

PROSECUTORS

District Attorneys' offices are responsible for the prosecution of felony child abuse cases. A prosecutor from the district attorney's office will collaborate with the multidisciplinary team to build and enhance the case for the purpose of litigation, where applicable, when there is an allegation of felony child abuse. District attorneys will provide guidance to law enforcement and MDCPS during the investigation. In addition, the district attorneys' offices will assist with court preparation for child victims who may need to testify at preliminary hearings, grand jury hearings, or criminal trials. District attorneys' offices will collaborate with child advocacy centers to ensure that clients and their caregivers are aware of the status of their case and what their rights are at each stage. District attorneys' offices will participate as members of the local county multidisciplinary team and will participate in case review meetings.

Youth court prosecutors are responsible for handling child abuse and neglect cases in youth court, including shelter hearings, adjudication hearings, treatment programs, other delinquent and child protection matters. Youth court prosecutors will participate as a member of the local county multidisciplinary team and will participate in case review meetings.

Prosecutors include youth court prosecutors, district attorneys, and county or city prosecutors who may be involved in a child abuse case. While youth court prosecutors and district attorneys are primarily included as members of the multidisciplinary team, county and/or city prosecutors may be involved with the multidisciplinary team on a case-by-case basis.

CHILD ADVOCACY CENTER STAFF

A child advocacy center is a non-profit organization, operating within the membership guidelines of Children's Advocacy Centers of Mississippi. Child advocacy centers are a child-focused program in which representatives from the core multidisciplinary team disciplines – law enforcement, child protection, prosecution, mental health, medical, and victim advocacy – collaborate to investigate child abuse reports, conduct forensic interviews, and provide evidence-based interventions, and assess cases for prosecution. As community-based programs, child advocacy centers are designed to meet the unique needs of the communities they serve. Child advocacy centers will coordinate activities and interactions and provide training for multidisciplinary team members. Child advocacy centers will participate as members of the local/county multidisciplinary team and will participate in case review meeting that track all cases referred to the local multidisciplinary team and child advocacy center for services.

CONFIDENTIALITY

As stated in Mississippi Code 43-15-51 (5), "No person shall disclose information obtained from a meeting of the multidisciplinary team unless necessary to comply with the Department of Child Protection Services' regulations or conduct and proceeding in youth court or criminal court

proceedings or as authorized by a court of competent jurisdiction.” All signatories, within the bounds permitted by law, agree to maintain confidentiality of all information obtained as a result of multidisciplinary team participation. This includes all information obtained during meetings as well as other multidisciplinary team communication during the investigation or prosecution of alleged child abuse, and the resulting treatment services provided to children and families involved in multidisciplinary team cases.

Members of the multidisciplinary team should be aware of the limits to confidentiality relevant to their own scope of practice.

CASE REVIEW COORDINATION

Child advocacy centers routinely coordinate case review for the primary purpose of facilitating communication between agencies involved in the investigation and prosecution of child maltreatment and agencies responsible for protecting children. Under Mississippi Code 43-15-51, case review meetings must be conducted monthly at a minimum.

Because the purpose of the case review is to facilitate the sharing of information between agencies, all individuals from MDCPS, law enforcement, prosecution, the CAC, advocates, medical, and mental health providers who are involved with cases being reviewed, should be present and actively participate in the multidisciplinary team discussions.

Criteria should be established for which cases will be reviewed by the local multidisciplinary team during case review meetings (i.e. nonverbal children, children with high probability of recantation, poly-victimization cases, human trafficking, etc.). Additionally, any member of the multidisciplinary team may request that cases outside the agreed upon criteria be reviewed if they believe the case might benefit from the collaborative input of the team.

All agencies will cooperate fully in sharing information with each other concerning the allegation and all involved persons in order to fulfill their respective duties.

CASE TRACKING

Child advocacy centers are responsible for implementing and coordinating the case tracking for all cases referred to the multidisciplinary team. Case tracking provides a mechanism for monitoring case progress and evaluating programs to inform continuous improvement. Consistent case tracking also enables MDT members to provide accurate information on the status and disposition of cases to clients. Tracking guidelines should include but are not limited to demographic information about the child, family, and alleged offender(s); type(s) of abuse; the relationship(s) of the alleged offender(s) to the child(ren); MDT involvement and outcomes; charges filed and case disposition; child protection outcomes; and services accessed by the child and family, including medical, mental health, and advocacy referrals.

Any MDT member may request case tracking information from the CAC by contacting the CAC director or another authorized representative. All information provided is subject to confidentiality protections under Mississippi laws and/or HIPAA.

ACCESS TO CHILD RECORDS/CENTRALIZED INTAKE SYSTEM

MDCPS utilizes a statewide intake data system and will provide access to approved CACM and child advocacy center staff. The purpose of providing access is to:

- Proactively strengthen and sustain Child Abuse Multidisciplinary Teams
- Fortify overall multidisciplinary team components to ensure effective communication, coordination, and collaboration at all stages of child abuse cases.
- Ensure timely access to a full array of MDT/CAC services for all children within the existing protocol case criteria.

CULTURAL AND SENSITIVITY CONSIDERATIONS

Appropriate provisions will be made to ensure services are accessible to and useable by Limited English Proficient (LEP) persons and individuals with disabilities, including persons who are deaf, hard of hearing, or blind, or who have other sensory impairments. Timely meaningful access and equal opportunity to participate in and benefit from services will be made available for children and their family members throughout the investigation, intervention, and provision of services. Free language assistance services will be provided for LEP individuals or whenever language assistance services are requested.



COORDINATED INVESTIGATIONS & SPECIAL ISSUES

**LAW ENFORCEMENT,
CHILD PROTECTION SERVICES
& PROSECUTION**

Coordinated investigations represent the introduction of the multidisciplinary team response to a felony child abuse case. Coordinated investigations and cooperation between law enforcement and the Mississippi Department of Child Protection Services are vital to the multidisciplinary team model while strengthening case development for prosecution.

COORDINATED INVESTIGATIONS BETWEEN LAW ENFORCEMENT AND MDCPS

Coordinated investigations are designed for agencies to proactively maintain open communications and other activities that may impact civil or criminal investigations. It is vitally important for agencies to openly communicate with one another to ensure both agencies are able to meet their unique, individual requirements while protecting the child. Every effort should be made to coordinate duplicative or shared investigative duties when appropriate. When working on felony investigations law enforcement and MDCPS must coordinate their efforts from the start of the investigation.

Coordinating investigations may take more steps, involve more complexities, and/or take more time, but research demonstrates that the end results are better outcomes for both the child and the case. Understanding the legislative mandates, policies, and procedures of both agencies is paramount.

The multidisciplinary response and coordinated service delivery is the best approach for ensuring successful outcomes for children and families impacted by abuse and neglect and for child abuse professionals. Therefore, it is incumbent upon members of the multidisciplinary team to proactively work to ensure that every child in the state of Mississippi will have reasonable and consistent access to an effective multidisciplinary response and coordinated investigation.

Multidisciplinary Teams Agree

At a minimum, all cases involving commercial sexual exploitation, human trafficking, sexual abuse, child fatalities, or severe or potential felony physical abuse, exploitation, or maltreatment cases shall be referred to the local multidisciplinary team for coordinated investigation and follow-up service delivery.

FELONY CHILD ABUSE CASES REQUIRING COORDINATED INVESTIGATION

Felony crimes against a child that should be referred to the local Multidisciplinary Team for coordinated investigation and follow-up service delivery include:

- Felony child abuse as defined by M.C.A. §97-5-39(2).
- Child endangerment as defined by M.C.A. §97-5-39 (4)
- Human Trafficking as defined by M.C.A. §97-3-54.1(1)(a).

- Procuring sexual servitude of a minor as defined by M.C.A. §97-3-54.1(1)(c).
- Rape as defined by M.C.A. §97-3-65.
- Sexual Battery as defined by M.C.A. §97-3-95.
- Fondling as defined by M.C.A. §97-5-23
- Exploitation of children as defined by M.C.A. §97-5-33.
- Any other crime against a child that constitutes a child fatality or near fatality as defined by §41-111-3 (2).
- Felony neglect as defined by M.C.A. §97-5-39(1).

All felony crimes against children, as referenced above, shall be referred to the local multidisciplinary team for coordinated investigation consideration and follow-up service delivery. The above list of felony crimes against children is not an exhaustive list and may require case-by-case considerations by the local multidisciplinary team as necessary.

INTAKE/REPORTS

Any agency that receives an initial report of child abuse (sexual, physical, emotional, and/or neglect) or any agency that suspects child abuse will immediately make a direct report to the Mississippi Department of Child Protection Services through the centralized intake unit by phone, 1-800-222-8000, or online at <https://www.reportabuse.mdcps.ms.gov/>.

Reports should include the following information if known:

- Name of MDT member making the report
- Name(s) and address(es) of any child(ren) involved
- Name(s) and address(es) of alleged perpetrator(s)
- Address of where the abuse occurred
- Name(s) of parent(s), legal guardian(s) and/or caregiver(s)
- Age(s) of child(ren)
- Description of alleged abuse
- Nature and extent of any injuries suffered
- Any evidence of previous injuries
- Any known witnesses
- Any other information that would be useful in determining the cause of the injuries and the identity of the perpetrator(s)

MDCPS policy identifies that a coordinated investigation with law enforcement is required for all felony and/or complex reports of abuse or neglect (including but not limited to all sexual abuse, severe physical abuse, serious injury, child death, near fatality, and chronic severe maltreatment). Case records and information gathered and shared as part of a coordinated investigation are confidential and shall not be released or shared with other parties, except as may be authorized by law. These records are identified as “records involving children” and are subject to the protections of the Mississippi Youth Court Act.

MDCPS shall investigate all screened-in reports of abuse or neglect to determine whether the child and/or other children in the same environment fall within the jurisdiction of the Youth

Court. MDCPS shall report to the Youth Court the department's findings and recommendations as to whether the child and/or other children in the same environment require the protection of youth court.

If a report is made directly to MDCPS that a child has been abused or neglected or experienced commercial sexual exploitation in an out-of-home setting, a referral shall be made immediately to the law enforcement agency in whose jurisdiction the abuse occurred and the department shall notify the district attorney's office and the Statewide Human Trafficking Coordinator within forty-eight (48) hours of such report. MDCPS shall investigate the out-of-home setting report of abuse or neglect to determine whether the child who is the subject of the report, or other children in the same environment, fall within the jurisdiction of the youth court and shall report to the youth court the department's findings and recommendation as to whether the child who is the subject of the report or other children in the same environment require the protection of the youth court.

The law enforcement agency shall investigate the reported abuse immediately and shall file a preliminary report with the district attorney's office within forty-eight (48) hours and shall make additional reports as new information or evidence becomes available. If the out-of-home setting is a licensed facility, an additional referral shall be made by the Department of Child Protection Services to the licensing agency. The licensing agency shall investigate the report and shall provide the Department of Child Protection Services, the law enforcement agency and the district attorney's office with their written findings from such investigation as well as that licensing agency's recommendations and actions taken. These findings should be shared among all investigative agencies serving on the multidisciplinary team.

In addition to cross reporting to law enforcement, MDCPS shall investigate reports of abuse or neglect, commercial sexual exploitation and human trafficking that occur in an out-of-home setting to determine whether the child who is the subject of the report or other children in the same environment fall within the jurisdiction of the Youth Court and require the protection of the Youth Court.

Guidelines for reporting cases involving suspected human trafficking are outlined on page 20.

Anonymity of Confidentiality of the Name of Reporting Party

As defined by M.C.A. § 43-21-353 (4)

- Report may be anonymous but consider if anonymity is absolutely necessary, especially if reporting in one's professional capacity.
- Name of reporter is confidential except:
 - MDCPS can reveal identity to Law Enforcement officers and prosecutors as part of the notification process for felonies & other crimes listed in M.C.A. § 43-21-353 (1).
 - A court may order the reporter to testify if testimony is material to a judicial proceeding.
 - MDCPS may disclose identity to Law Enforcement officers if there is reason to suspect the reporter has made a fraudulent report. MDCPS must provide the subject of the fraudulent report written notification of the disclosure.
 - Any other disclosure of identity of reporter requires a Youth Court Order.

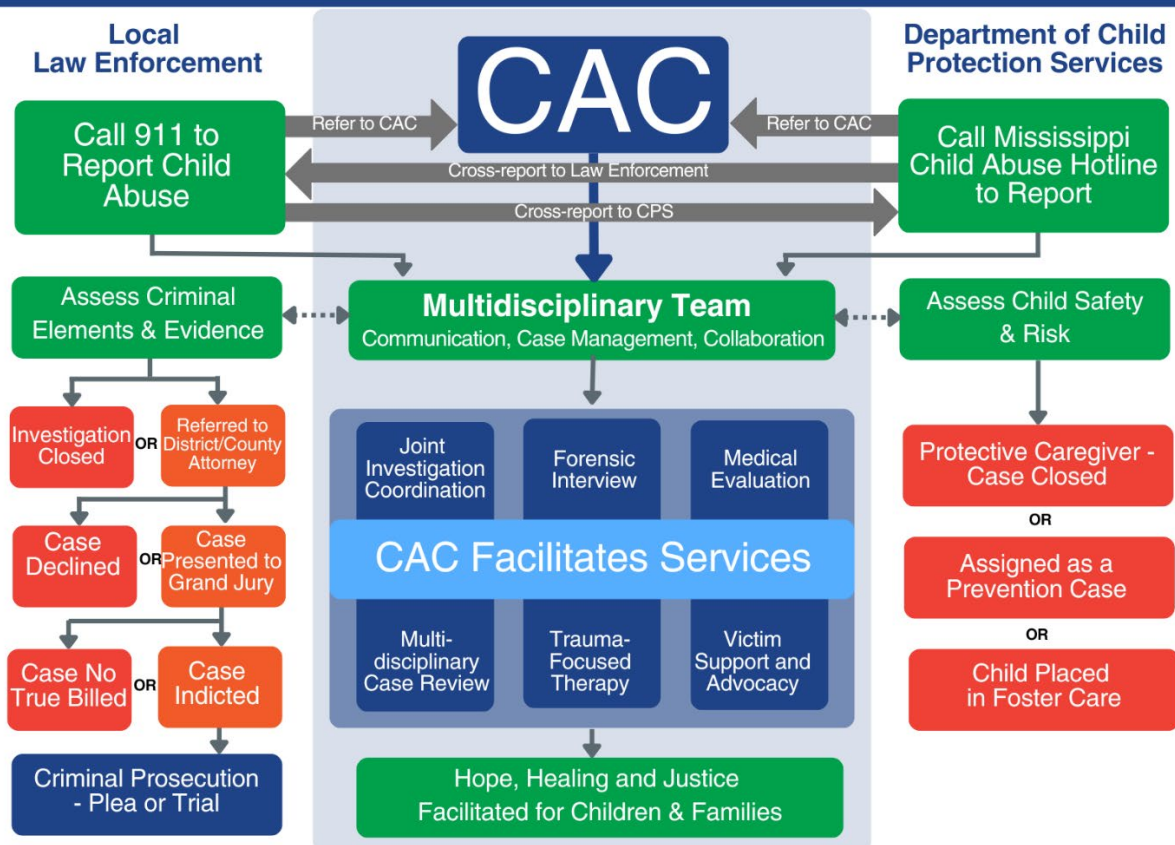
CROSS REPORTING

If the initial report is made to law enforcement, law enforcement will cross report to the Mississippi Department of Child Protection Services immediately by calling the centralized intake number, 1-800-222-8000, or online at <https://www.reportabuse.mdcps.ms.gov/>. If allegations of human trafficking are identified, law enforcement will also cross report to the Mississippi Human Trafficking Coordinator at the Mississippi Bureau of Investigation by emailing ReportHT@dps.ms.gov or calling 601-987-1671.

Ongoing cross-reporting of new or important information related to the investigation will be shared with the Multidisciplinary Team through participation at case review meetings and/or on-going communication with the Multidisciplinary Team Facilitator.

- Pursuant to *Mississippi Code 43-21-353 (1)*, “Upon receiving a report that a child has been sexually abused, is a victim of commercial sexual exploitation or human trafficking or has been burned, tortured, mutilated or otherwise physically abused in such a manner as to cause serious bodily harm, or upon receiving any report of abuse that would be a felony under state or federal law, the Department of Child Protection Services shall immediately notify the law enforcement agency in whose jurisdiction the abuse occurred. Within forty-eight (48) hours, the department must notify the appropriate prosecutor and the Statewide Human Trafficking Coordinator. The department shall have the duty to provide the law enforcement agency with all the names and facts known at the time of the report; this duty shall be of a continuing nature. The law enforcement agency and the department shall investigate the reported abuse immediately and shall file a preliminary report with the appropriate prosecutor’s office within twenty-four (24) hours and shall make additional reports as new or additional information or evidence becomes available.”
- Pursuant to *Mississippi Code 43-21-353 (8)*, “If a report is made directly to the Department of Child Protection Services that a child has been abused or neglected or experienced commercial sexual exploitation or human trafficking in an out-of-home setting, a referral shall be made immediately to the law enforcement agency in whose jurisdiction the abuse occurred and the department shall notify the district attorney’s office and the Statewide Human Trafficking Coordinator within forty-eight (48) hours of such report. The Department of Child Protection Services shall investigate the out-of-home setting report of abuse or neglect to determine whether the child who is the subject of the report, or other children in the same environment, comes within the jurisdiction of the youth court and shall report to the youth court the department’s findings and recommendation as to whether the child who is the subject of the report or other children in the same environment require the protection of the youth court. The law enforcement agency shall investigate the reported abuse immediately and shall file a preliminary report with the district attorney’s office within forty-eight (48) hours and shall make additional reports as new information or evidence becomes available.”

How the Child Advocacy Center (CAC) Model Works



COORDINATED INVESTIGATIONS GUIDELINES

Coordinated investigations within the MDT Model will be conducted as follows:

- All cases that meet the requirement under this protocol must be referred to the local multidisciplinary team for a coordinated investigation and decision-making regarding appropriate services. To obtain multidisciplinary team services, referrals should be made to and processed through the local child advocacy center. Referrals should be made within seventy-two (72) hours of receiving the abuse report. Referral procedures to obtain multidisciplinary services are included as an appendix to this protocol.
- MDCPS policy identifies that a coordinated investigation with law enforcement will be conducted for ALL felony and/or complex reports of abuse or neglect (including but not limited to all sexual abuse, severe physical abuse, serious injury, child death, near fatality, and chronic severe maltreatment).
- When initiating the investigation of cases that appear to be covered by this protocol, MDCPS and law enforcement shall establish the identity of the alleged perpetrator and take appropriate steps to protect the child from further abuse.
- MDCPS case records and information that is shared as part of a coordinated investigation is confidential and shall not be released or shared with other parties, except as may be required

by law. These records are identified as records involving children and handled according to Youth Court Statutes.

- Law enforcement shall accompany MDCPS to the scene/location of the initial investigation when requested by MDCPS.
- MDCPS shall accompany law enforcement to the scene/location of the initial investigation when requested by law enforcement.
- If a child abuse case is screened-out based on MDCPS policy and MDCPS is not involved, law enforcement will proceed with the criminal investigation.
- The local child advocacy center will collect data from the Comprehensive Child Welfare Information System on reported child abuse cases that meet eligibility criteria for a multidisciplinary team response. Data will also be collected for cases referred to the team by MDCPS, law enforcement, and/or the district attorney's office.
- If MDCPS has screened-in a child abuse case for investigation, MDCPS is required to investigate within twenty-four (24) hours to all Level 3 ANE (abuse/neglect/exploitation) reports and within seventy-two (72) hours for all Level 2 ANE (abuse/neglect/exploitation) reports.
- The investigation shall ensure appropriate interviews are conducted with all persons who may have information about the alleged criminal acts including, but not limited to, the reporting party and all individuals residing in the child's home.
- When a forensic interview of a child is required at any time during an investigation, the interview shall be conducted through a child advocacy center. Forensic interview referrals may be requested by law enforcement, child protection services, and/or prosecution.
 - Occasionally, child victim interviews may need to be conducted by a child advocacy center outside of the multidisciplinary team's case jurisdiction in order for the best interest of the child to be protected. These referrals are considered courtesy services by child advocacy centers with priority consideration given to geographic accessibility for the child and family, in the event they do not reside in the area of case jurisdiction. Coordination of those referrals is facilitated by the child advocacy center representing the case jurisdiction.
 - Law enforcement and child protection services must be present at courtesy forensic interviews to provide real time observation and participation in pre- and post-interview meetings. In rare circumstances when law enforcement or child protection services multidisciplinary team members with jurisdiction are unable to attend, those agencies should coordinate the presence of law enforcement and child protection services representatives from the jurisdiction in which the child resides or the jurisdiction of the child advocacy center conducting the courtesy interview.
- Children should be referred for a forensic medical exam for treatment and collection of evidence. The investigators should also consider referrals for collateral siblings and other children living in the home, particularly pre-verbal and non-verbal children who may not be seen by the child advocacy center for a forensic interview.
- Multidisciplinary team members have a responsibility to protect the confidentiality of case information and the integrity of the investigative and prosecution processes – both of which are at risk when conflicts of interest and/or conflicts of loyalty are present in a case.
 - A sensitive case represents any case referred to the multidisciplinary team involving an actual, potential, or perceived conflict of interest and/or conflict of loyalty based

- on personal involvement and/or familial relationship with alleged child victim(s), alleged perpetrator(s), and/or protective caregiver(s).
 - Collectively, the core multidisciplinary team members with jurisdiction in the case should develop a plan for mitigating any and all potential, actual and/or perceived conflicts of interest and/or loyalty.
 - Those core multidisciplinary team members should identify appropriate individuals from the child advocacy center and core multidisciplinary team partner agencies with jurisdiction in the case to be involved and included in subsequent discussions and decision-making. This selected team of individuals should represent the absolute minimum number plausible and be exclusive of any individuals with relationship to the case or clients to ensure confidentiality and privacy protections.
 - Considerations for whether the child/family should also be referred to an alternate child advocacy center for non-investigative support services should be determined as part of the multidisciplinary team response. Factors that should be considered in identifying the alternate child advocacy center for investigative and/or support services include, but are not limited to:
 - Physical location and accessibility for the child and family in delivery of both the initial investigative and ongoing support services;
 - Physical location and accessibility for the investigative agency multidisciplinary team members with jurisdiction and continued involvement in the case;
 - Capacity and ability of the alternate child advocacy center to provide relevant, comparable services in both the delivery of client services and support of the multidisciplinary team members (i.e. case review, court proceedings, etc.);
 - Ability of the alternate child advocacy center to maintain communication boundaries and confidentiality regarding case and client information throughout the life of the case.
- As an investigation into alleged felony child abuse and/or neglect is conducted, it is important to be mindful that any given case may also be progressing through multiple courts simultaneously.
 - It is not unusual for youth court and chancery court to be involved from the standpoint of adjudicating whether a child is abused or neglected and then making decisions about custody, temporary or otherwise, as well as issues regarding termination of parental rights. For an overview of youth court procedures, please see the appendix.
 - In addition to chancery court and youth court, circuit court will also very often be in the mix as the case is investigated and considered for criminal prosecution.
 - Having a basic understanding of the role of each of these courts in a child abuse/neglect case and how each may interact and, sometimes, conflict with the other courts is paramount to ensuring success of the multidisciplinary model.
 - It is also important to recognize that municipal or county courts may also be involved, albeit typically to a lesser extent.

Initial interviews with a child victim/witness, apart from or in advance of a child advocacy center forensic interview, shall be strictly limited to an as-needed basis and, when conducted, shall be within the parameters of a “minimal facts interview”.

Minimal Facts Interviewing is NOT needed in most cases.

The purpose of a minimal facts interview is to allow the person investigating a case to obtain the very basic facts concerning what may have happened to the child when there is an immediate concern for the child’s safety should they remain in their current living situation. More often, there is enough information in the initial report and/or interviews with caregivers to determine if the child is in a safe environment or should be removed from the immediate living situation without directly questioning the child about the abuse allegations. Minimal facts interviewing should be limited to the collection of information in the field necessary to make the following decisions: 1) Is immediate action necessary to protect this child or other children? 2) Is immediate medical attention necessary?

Regardless, even if it is determined that the child may remain in their current location, a forensic interview is still required to provide a more in-depth line of questioning in a safe, neutral environment. The interview should be scheduled immediately in order to gather information in a timely manner and minimize outside influence on the child and his or her disclosure.

Minimal Facts Interviewing Considerations

- Keep in mind that a minimal facts interview with the child victim or witness is not necessary if pertinent information regarding the alleged abuse can be gathered from those on scene or those providing care for the child. While child protection services are required to interview the child victim directly to assess safety, this interview should be limited to questions necessary to determine if the child has basic necessities (i.e. food, clothing, and safe shelter).
- In all cases involving a child victim of felony abuse/neglect or involving a child witness to a violent crime and in accordance with MDT criteria, the child shall be referred to a child advocacy center for a forensic interview by a trained interviewer.
- MDCPS and/or Law Enforcement are responsible for assisting with coordinating transportation, when needed, for the child’s forensic interview at the local child advocacy center. If the transporting agency/department policy requires specific authorization to transport a child(ren), the transporting agency/department is responsible for obtaining such authorization from the Youth Court.
- Any interview of a child victim or witness that goes beyond a minimal facts interview, conducted prior to a child advocacy center forensic interview, may result in the inability of the child advocacy center to accept a referral for a forensic interview.

See Appendix section for additional guidelines for minimal facts interviewing.

CASE DEVELOPMENT

The prosecutor is a critical member of the local multidisciplinary team. When criminal charges involving a child victim are sought by law enforcement, it is recommended that the prosecutor provide counsel regarding the appropriate preliminary charges based upon the facts and the evidence. Active participation in the multidisciplinary team will provide a forum to make well-informed decisions for the pursuit of criminal charges, coordination between agencies such as law enforcement and MDCPS for an appropriate resolution of the case, and limit additional trauma to the child victim and their protective family members. One goal of the multidisciplinary team should be to review all relevant evidence that can be gathered to assist in the development of proof beyond a reasonable doubt for the prosecution of the case. Such evidence includes, but is not limited to:

- Law enforcement reports detailing the scene, evidence gathered, and observations
- Witness/Victim contact information, interviews, and statements
- Photographs and body camera videos of the scene and/or child victim
- Forensic interview of the child
- Forensic medical evaluation of the child
- Child's medical records
- Child's school records
- Phone records and social media accounts

Law enforcement investigators will conduct a criminal investigation for all alleged felonies. Upon completion of the investigation, the assigned law enforcement investigator(s) will prepare and present the case file to the District Attorney's Office prior to presentation to the grand jury. Each District Attorney may have a specific formal procedure in place for case compilation and presentation, including how the file should be organized and whether specific forms or checklists should accompany the case file, etc. Maintaining open communication with the District Attorney and Assistant District Attorneys prior to and throughout the investigation will ensure a smooth transmittal of the investigative file.

FORENSIC INTERVIEW REFERRAL

A forensic interview is a nationally recognized process conducted by a trained forensic interviewer at a child advocacy center. When a forensic interview of a child is required at any time during an investigation, it must be conducted through a child advocacy center. Forensic interview referrals may be requested by law enforcement, child protection services, and/or prosecution. Forensic interview referrals should meet one or more of the following criteria:

- Children ages 3 to 17 who are subject to alleged commercial sexual exploitation, human trafficking, sexual abuse, or severe or potential felony child physical abuse, neglect, or maltreatment.
- Children ages 3 to 17 who are subject to child endangerment as defined by M.C.A. §97-5-39(4).

- Children who have witnessed aggravated assault, aggravated domestic violence, a murder or attempted murder.
- Siblings in a child fatality or near fatality case as defined by M.C.A. §41-111-3 even if the children did not directly witness the fatality.

In addition, allegations that may be considered on case-by-case basis, include, but are not limited to, the following:

Children who are involved in felony cases that may result in substantial harm involving the following:

- drug exposure
- domestic violence
- collateral children in a confirmed case
- school shootings
- children whose alleged offender is also a minor
- children under the age of 3 considering developmental level
- children under age 7 regarding his or her own involvement in a crime if purpose of interview is to determine neglect or criminal activity of another individual (e.g. child has access to a gun and kills another child. The interview would be used to determine if negligence occurred on the part of another individual.)

A child advocacy center cannot interview a child if the allegations giving rise to the referral for a forensic interview have not been reported to MDCPS or Law Enforcement.

NOTE: Refer to page 26 for details on forensic interviewing.

BASIC PROCEDURES FOR INVESTIGATION OF HUMAN TRAFFICKING AND SEXUAL EXPLOITATION

Mandated Reporting Provisions (§ 97-3-54.1)

- In addition to the mandatory reporting provisions defined by M.C.A. §43-21-353 and §97-5-51, any person who has reasonable cause to suspect that a minor under the age of eighteen (18) is a trafficked person shall immediately make a report of the suspected child abuse or neglect to MDCPS and to the Statewide Human Trafficking Coordinator.
- MDCPS or the Statewide Human Trafficking Coordinator, whichever is applicable, shall then immediately notify the law enforcement agency in the jurisdiction where the suspected child abuse, neglect or trafficking occurred as defined by M.C.A. §43-21-353.
- MDCPS shall also commence an initial investigation into the suspected abuse or neglect as defined by M.C.A. §43-21-353.

NOTE: “abused child” as defined by M.C.A. §43-21-105(m) includes a child who is or has been trafficked within the meaning of the Mississippi Human Trafficking Act by any person, without regard to the relationship of the person to the child.

Guidelines for Reporting

- For emergencies, call 911.

- All reports of suspected human trafficking of a minor shall be reported to the Human Trafficking Coordinator at ReportHT@dps.ms.gov or 601.987.1671.
- Every investigation of such an offense shall be reported to the coordinator by the initiating law enforcement agency pursuant to guidelines established (§ 97-3-54.9).
- The Department of Child Protection Services shall immediately send the on-call caseworker to the scene or location chosen by law enforcement (a) when the department is contacted by a law enforcement officer who encounters a minor whom the officer reasonably suspects of being a victim of human trafficking or commercial sexual exploitation, and (b) the officer requests such assistance using the Mississippi Child Protection hotline. (§43-26-3).
- The Department of Child Protection Services, in addition to its duties provided in Section 43-21-353, within twenty-four (24) hours of receiving a report of child abuse, human trafficking of a child or commercial sexual exploitation of a child, should send an on-call caseworker to a location at the request of a law enforcement officer, or when a Child Protection Services caseworker encounters a minor who is reasonably suspected of being a victim of human trafficking or commercial sexual exploitation, shall:
 - (a) Make in-person contact with the child to determine appropriate next steps for the protection of the child, or where in-person contact cannot be made within twenty-four (24) hours of receiving the report, shall immediately notify the Coordinator of Services for Victims of Human Trafficking and Commercial Sexual Exploitation within the Department of Child Protection Services and law enforcement, and shall document all steps taken to make contact with the child as well as the steps that will be taken to locate and ascertain the safety of the child;
 - (b) Attempt to have an on-site interview with the child's caretaker;
 - (c) Attempt to have law enforcement or an appropriate investigator conduct an on-site interview with the child's suspected offender; and
 - (d) Document and assess the safety of other children in the care or custody of the caretaker and/or who may be at risk of abuse by the suspected offender. (M.C.A. §43-26-3(2)).
- If the child is suspected to be a victim of human trafficking or commercial sexual exploitation, the Coordinator of Services for Victims of Human Trafficking and Commercial Sexual Exploitation within the Department of Child Protection Services shall activate an emergency, separate and specialized human trafficking and commercial sexual exploitation assessment team. The team shall include, at a minimum: (a) an investigator certified by the Mississippi Human Trafficking Operational Task Force Board, (b) an investigator from the Department of Child Protection Services, and (c) a person certified by the office of the Attorney General as an advocate for victims of human trafficking and commercial sexual exploitation (§43-26-3).



**CHILD
ADVOCACY
CENTERS**

CHILD ADVOCACY CENTERS

The child advocacy center is an integral part of investigations conducted by the Mississippi Department of Child Protection Services and law enforcement, including coordinated investigations.

- All children and their families with an allegation of, or concern for, felony level abuse will be referred for services at a child advocacy center. Those services may include multidisciplinary team case coordination, case review, forensic interviews, forensic medical evaluation referrals, advocacy, mental health services and coordination of services.
- Abuse types for all child advocacy center referrals include sexual abuse, sexual exploitation, human trafficking, felony physical abuse, alleged abuse resulting in a child fatality, felony neglect, and/or witnesses to a violent crime.
- Child advocacy centers serve children under the age of eighteen (18). Services vary by age.
- Adults functioning below normal cognitive level, precluding their ability to adequately protect themselves (vulnerable adults), may also be referred.
- Other cases may be deemed appropriate on a case-by-case basis after consultation with the multidisciplinary team.

The child advocacy center must be a member of the Children's Advocacy Centers of Mississippi. Each child advocacy center must be accredited by the National Children's Alliance or working to achieve accreditation.

REFERRALS FOR FORENSIC INTERVIEWS and VICTIM ADVOCACY

- Child advocacy centers accept referrals from investigative agencies serving on multidisciplinary teams in Mississippi and other states.
- Referrals are commonly received from: local police departments, sheriff's offices, attorney general's office cybercrime and special investigation units, Mississippi Bureau of Investigations, Mississippi Department of Child Protection Services, Adult Protective Services, Homeland Security, FBI, Military Installations, and courts.
- Investigative agencies will assist one another in making the child available for forensic interviewing.
- Multidisciplinary team members will inform one another immediately upon learning of a change of location, address, or phone number of the child.
- The referral agency is responsible for determining if the child has any kind of disability and if the disability may impact the forensic interview process. Disability information should be shared with the child advocacy center as part of the referral process.

Referral for services may be denied in certain circumstances. Examples include: a child(ren) previously interviewed regarding the same allegations, in-depth questioning prior to the referral (e.g. a minimal facts interview that is too in-depth), victim gave written statement or was electronically recorded previously regarding the same allegations, or if the case does not otherwise meet established referral criteria.

THE FORENSIC INTERVIEW

A forensic interview is a nationally recognized process conducted by a trained forensic interviewer at a child advocacy center. When a forensic interview of a child is required at any time during an investigation, an investigative agency on the multidisciplinary team will refer the case to the local child advocacy center for the interview. The forensic interview is developmentally, culturally, and linguistically appropriate and allows for the child's narrative recall of events. The purpose of a child advocacy center forensic interview is to obtain information from a child about abuse allegations that will support accurate and fair decision-making by the multidisciplinary team within the criminal justice, child protection and service delivery systems. The child advocacy center and multidisciplinary team must adhere to research-based forensic interview guidelines that create an interview environment that enhances free recall, minimizes interviewer influence, and gathers information needed by all the multidisciplinary members in order to avoid duplication of the interview process.

All child advocacy centers in Mississippi utilize the ChildFirst Forensic Interview Model. The ChildFirst Forensic Interview Protocol is a semi-structured protocol. This allows for the protocol to be modified to fit the unique needs of the child being interviewed as well as follow the pace and direction of the child. No investigative agency should rely solely on a forensic interview to make a final determination for the case. A thorough investigation is required.

Specific goals of the forensic interview process include:

- To determine whether a child has had an abusive, exploitative, or otherwise traumatic experience;
- To allow the child a safe, supportive forum in which to share the experience;
- To maximize the information obtained from the child about the experience;
- To minimize contamination of the child's memory of the event(s);
- To minimize the number of times the child is interviewed;
- To facilitate investigative and follow-up efforts between relevant parties; and
- To maximize each child's competency by utilizing an approach that meets individual needs.

Quality interviewing involves an appropriate, neutral setting, effective communication among MDT members, and employment of legally sound interviewing techniques. The manner in which a child is treated during the initial forensic interview may impact the child's understanding of and ability to successfully respond to the intervention process.

REQUIRED TRAINING FOR FORENSIC INTERVIEWERS

The role of the forensic interviewer must be fulfilled by a selected, supervised, and appropriately trained professional. At a minimum, any professional in the role of a forensic interviewer must have initial and ongoing formal, nationally-recognized, forensic interviewer training (including peer review of forensic interview videos).

- All forensic interviewers in Mississippi must be trained in the ChildFirst Forensic Interview Protocol. This interviewing protocol has been upheld by the Mississippi court systems and is the protocol most widely recognized. However, interviewers may have also been trained in

other forensic interviewing protocols to enhance their skills. Most nationally-recognized protocols are similarly aligned and include the same basic principles.

- All forensic interviewers must actively engage in structured Forensic Interviewer Peer Supports annually. Peer support serves as a quality assurance mechanism that reinforces the methodologies utilized and provides support and problem solving for participants.

TIMING OF THE FORENSIC INTERVIEW

Children should be forensically interviewed as soon as possible after the allegation/concern surfaces, while first taking into account the needs of the child and then considering the specific facts of the case. Professionals should be cognizant of the developmental level of the child, degree of trauma, and the child's current emotional and physical condition when determining the best time of day and date for the forensic interview.

Referrals should be made to the child advocacy center as soon as possible, preferably no later than 72 hours within the start of the investigation or as soon as they learn the abuse allegation type meets the criteria for referral. In emergency cases, such as a witness to a murder which just occurred, a referral should be made immediately as timing of the forensic interview and crisis intervention may be critical, taking into consideration accommodations for the child's immediate physical and psychological needs.

EXPECTATIONS OF INVESTIGATIVE AGENCIES ON DAY OF FORENSIC INTERVIEW

- During pre-interview meetings, investigative agencies should discuss any child or family information that needs to be shared among the team in preparation for the interview. This may include the abuse hotline report information, any statements the child may have made prior to the interview, safety issues, and any developmental or disability considerations.
- The MDCPS and law enforcement investigators assigned to the case shall observe the interview live and participate with pre/post interview discussion. In exceptional situations where an emergency prevents one or both investigative parties from attending the forensic interview, the child advocacy centers must record the specific reasons for the absence. Decisions to proceed with the interview or to reschedule should prioritize the best interests of the child and family and must be thoroughly documented in the case file.
- Most interviews occur in one session. However, for more complex cases or cases involving multiple allegations, complex trauma or offenders, expanded interviews may be necessary. When this is the case, MDCPS and law enforcement investigators should return to observe the additional interview(s).
- Investigative agencies should provide input during the interview. Input is critical to the forensic interview process to ensure all agencies gain knowledge of the case, garnering all relevant information needed to meet each agencies' unique case investigation needs. This will reduce the number of times a child is required to share information.
- Investigative agencies present are advised to meet again at the conclusion of the interview to discuss investigative next steps, referrals for services necessary for the child or caretaker, or other relevant concerns and actions.

DOCUMENTATION OF THE FORENSIC INTERVIEW

The interview shall be electronically recorded in its entirety. Once recording begins, it should not be interrupted until the interview is complete. For expanded interviews, each session should be recorded in its entirety. This recording captures the child's behavior, demeanor, gestures, emotions, developmental capabilities, and language, as well as the interviewer's verbal and non-verbal communication.

CHILD ADVOCACY CENTER RELEASE OF FORENSIC INTERVIEW RECORDING AND OTHER RECORDS

- Recorded forensic interviews are considered evidentiary but may be released without a court order to law enforcement, prosecutors, and/or youth court personnel who hold jurisdiction of the case.
- All other requests for disclosure of records should follow statutory requirements as defined by M.C.A. §43-21-261.
- Child advocacy centers must properly document the release of the interview recording and document the release of records.

FORENSIC INTERVIEW OF SPECIAL POPULATIONS

- The child advocacy center staff will ensure accommodation is available for clients with special needs to support the forensic interview process. These accommodations may include multiple interview sessions, use of adaptive equipment, recognition of learning disabilities, identifying language barriers, and providing an interpreter when necessary.
- It is imperative that MDCPS and law enforcement inform the child advocacy center of any special needs a child and/or caregiver may have prior to the interview being scheduled, to allow the appropriate amount of time for the child advocacy center to make any necessary accommodations.

EXPANDED FORENSIC INTERVIEW

Although normal standard practice suggests that children should have a forensic interview as soon as possible, interviews with children who may have been sexually exploited may require an interval of time to assess their readiness to be interviewed. More than one interview session (with the same interviewer unless contraindicated) may be required due to dynamics related to exploitation. This is called an expanded interview.

Expanded interviews may also be appropriate for a child or vulnerable adult with a disability, poly-victimization, extensive history for one victimization, or who needs time for more rapport building, etc.

Expanded interviews involve pre-planned multiple forensic interview sessions carried out over 2-6 sessions to address and accommodate the child or vulnerable adult's needs such as age, developmental disabilities or other special needs, ability to communicate, being multi-lingual

and/or requiring an interpreter, multiple allegations, offenders and/or types of abuse, and for those who have been severely traumatized.

Expanded interviews allow a child to have breaks and build trust with the interviewer.

- Expanded interviews are not duplicative interviews.
- Expanded interviews are not a litmus test for veracity.

INTRODUCTION OF EVIDENCE IN A FORENSIC INTERVIEW

At times, there may be evidence that could be introduced during the forensic interview process. The decision of whether to introduce evidence shall be determined pre-interview on a case-by-case basis by the investigative agencies and child advocacy center participating on the multidisciplinary team. The investigative agencies may consult with the prosecutor prior to introducing the evidence in the interview. The following stipulations are required:

- All investigative agencies shall have knowledge of the evidence prior to introducing the evidence during the interview.
- Only evidence in the custody of law enforcement may be introduced in the forensic interview and will be immediately returned at the conclusion of the interview.
- All investigative agencies will consult and weigh in on the appropriateness of the evidence introduction.
- All investigative agencies will consult on the benefits and risks of introducing the evidence ensuring that the child's needs and best interests are met.
- The investigator(s) shall document in their case the reasoning for the use of evidence in the forensic interview.
- Only forensic interviewers trained in the skills of introduction of evidence may introduce evidence to the child during a forensic interview.
- Any relevant video evidence should be presented to the child as a still frame.

If evidence is introduced in the forensic interview process, the investigative agencies shall discuss the process and benefits/risks at case reviews.

COURTESY INTERVIEW SERVICES

Multidisciplinary teams must ensure consistent, effective communication and coordination between member child advocacy centers when referrals/requests are made for the provision of client services outside the area of official service/jurisdiction. Only with such communication and coordination can the timely, effective delivery of vital services to children and families be ensured, regardless of where in the state of Mississippi that child/family may reside. Courtesy services are generally requested and provided in an effort to ensure the greatest possible geographic accessibility of those services for the child and family, who may not reside in the area of case jurisdiction.

Factors that need to be considered in determining whether the child will be referred to a child advocacy center outside of the case jurisdiction include:

- Physical location and accessibility for the child/family in delivery of the forensic interview services.
- Any staff capacity, scheduling, and facility availability challenges that may interfere with the ability for the child to receive services.

The child advocacy center with jurisdiction will communicate with law enforcement and child protection multidisciplinary team members with jurisdiction in the case to ensure they are notified of the interview logistics. Law enforcement and child protection services must be present at the forensic interview for real time observation of the forensic interview and participation in pre- and post-interview staffing just as they would for cases handled at the local child advocacy center. In rare circumstances when law enforcement or child protection multidisciplinary team members with jurisdiction are unable to attend the courtesy forensic interview, those agencies should coordinate the presence of law enforcement and child protection representatives from the jurisdiction in which the child resides or the jurisdiction of the Courtesy CAC.

The child advocacy center with jurisdiction shall not re-interview a child who has received a Courtesy Forensic Interview elsewhere regarding the same allegation(s).

VICTIM SUPPORT AND ADVOCACY

A critical part of the MDT response is the provision of victim support and advocacy from the time of disclosure throughout the life of the case. Children and families in crisis need assistance in navigating the various systems involved in the multidisciplinary team response. More than one victim advocate may perform these functions at different points throughout a case, requiring efforts to ensure continuity and consistency in service delivery.

It is recommended that children and their caregivers have access to the following constellation of services from victim advocates:

- Crisis assessment and intervention, risk assessment and safety planning, and support for children and family members;
- Assessment of individual needs, cultural considerations for child/family and help to ensure those needs are being addressed in concert with the multidisciplinary team and other service providers;
- Presence at the child advocacy center during the forensic interview in order to participate in information sharing with other multidisciplinary team members, inform and support the family regarding the coordinated, multidisciplinary response, and assess needs of children and nonoffending caregivers;
- Provision of education and assistance in ensuring access to victim rights and crime victim compensation;
- Assistance in procuring concrete services (housing, protective orders, domestic violence intervention, food, transportation, public assistance, civil legal services, etc.);
- Provision of referrals for trauma-focused, evidence-supported mental health and specialized medical treatment;

- Facilitating access to transportation to interviews, court, treatment, and other case-related meetings;
- Engagement with the child and family to help them understand the investigation/prosecution process and help ensure understanding of crime victim rights;
- Participation in case review to communicate and discuss the unique needs of the child and family; help ensure the coordination of identified services; and document that the child and family's concerns are heard and addressed;
- Assist with the provision of case status updates to the family, including investigations, court date, continuances, dispositions, sentencing and inmate status notification (including offender release from custody);
- Provision of court education and support, including court orientation and accompaniment;
- Facilitate case coordinated meetings among all advocates providing services within a case.

All children who receive a forensic interview will automatically also receive advocacy services through the local child advocacy center. In addition, the multidisciplinary team may refer the following children and families for victim advocacy services:

- Any children who, due to age restrictions, would not meet criteria for a forensic interview;
- Children involved in non-felony level cases where a multidisciplinary team member requests assistance with referral services.
- Allegations which may be considered on case-by-case basis include:
 - drug exposure
 - domestic violence
 - collateral children in a confirmed case
 - school shootings
 - siblings involved with child fatality or near fatality

REQUIRED TRAINING FOR VICTIM ADVOCATES

The role of the victim advocate must be fulfilled by a selected, supervised, and appropriately trained professional. Depending on the role and place of employment of the advocate, training requirements vary. Each advocate should refer to their own professional guidelines for training requirement guidance.

OTHER CONSIDERATIONS

Court Preparation and Court Accompaniment

An essential role of the advocate is supporting children through related court proceedings. The CAC advocates can be an important support for the family and caregivers during preparation for court. In some jurisdictions this is conducted in partnership between the district attorneys' office and the local child advocacy center. Each multidisciplinary team must implement a court preparation and court accompaniment procedure outlining agencies involved, timing of services, and notification to the child and caregiver.

Advocates should make age and developmentally appropriate efforts to prepare a child victim or witness to testify in the courtroom. The advocate should orient the child to the courtroom, including familiarizing the child with the witness stand and microphone.

The goals of Court Advocacy are to:

- Increase understanding of court procedures
- Alleviate stress and anxiety for the child and family
- Support the child if he/she is expected to testify; provide support to the caregiver and other witnesses
- Understand the child's and caregiver's rights in the process and advocate on their behalf

Coordinated Case Management Among Advocates

When multiple advocacy agencies share the delivery of services, the child advocacy center is responsible for establishing protocols and linkage agreements agreed upon by the multidisciplinary team that clearly define the victim advocacy roles and ensure seamless coordination of victim advocacy services (CAC advocates, rape crisis and domestic violence advocates, prosecution-based advocates, etc.). To better understand each other's roles, optimize cross-referrals for CAC clients, avoid unnecessary duplication and ensure meaningful coordination of services, the child advocacy center must develop a process of achieving these goals in collaboration with one another. This process will need to include understanding and respect for issues of confidentiality and methods for sharing case-specific information accordingly.



FORENSIC MEDICAL EVALUATIONS

FORENSIC MEDICAL EVALUATIONS

A forensic medical evaluation is an integral part of the multidisciplinary team response to child abuse. The purpose of the forensic medical evaluation is to help ensure the health, safety, and well-being of the child; evaluate, document, diagnose, and treat medical conditions resulting from abuse or neglect; differentiate medical findings that are indicative of abuse from those which may be explained by other medical conditions; and document, diagnose, and address medical conditions unrelated to abuse. A forensic medical evaluation will consist of a complete and thorough medical history from the child (if verbal) and caregivers, and a head-to-toe physical examination, including the anogenital area. The evaluation may also include diagnostic laboratory tests, radiology studies, and photo documentation of findings if applicable.

REFERRAL PROCESS

Any child with suspicion of child abuse shall be referred for a forensic medical evaluation. However, a child may present at an emergency room or clinic where evidence is collected. Following this initial medical exam, the child should be referred for a forensic medical evaluation.

PARTICIPATION ON THE MULTIDISCIPLINARY TEAM

Medical providers will participate on the multidisciplinary team and attend the MDT meetings. Additionally, medical providers will attend case review meetings to provide information on the forensic medical evaluation and help the MDT further assess the best outcome for the child. The role of the medical provider on the multidisciplinary team is to report any medical findings, be available for consultation and questions related to findings, provide education around lack of findings, and provide training for the multidisciplinary team on the purpose and nature of the medical evaluation for suspected abuse.

WHO SHOULD PERFORM THE FORENSIC MEDICAL EXAM

Medical evaluations are conducted by health care providers with specific training in child sexual abuse who meet at least ONE of the following training standards:

- Child Abuse Pediatrics Sub-board eligibility or certification
- Physicians without board certification or eligibility in the field of child abuse pediatrics, advanced practice nurses, and physician assistance should have a minimum of 16 hours of formal didactic training in the medical evaluation of child sexual abuse
- Sexual assault nurse examiners (SANEs) without advanced practitioner training should have a minimum of 40 hours of coursework specific to the medical evaluation of child sexual abuse followed by a competency-based clinical preceptorship with an experienced provider in a clinical setting, where the SANE can demonstrate competency in performing exams

All medical providers must complete a minimum of 8 hours of education in child abuse every 2 years. Medical professionals providing child sexual abuse evaluations must demonstrate that all findings deemed abnormal or “diagnostic” of trauma from sexual abuse have undergone expert review by an “advanced medical consultant”. Advanced medical consultant is defined by the National Children’s Alliance Accreditation Standards as a child abuse pediatrician, physician or advance practice nurse who: 1) has met the minimum training outlined for a child advocacy center provider; 2) has performed at least 100 child sexual abuse examinations; 3) current in

continuous quality improvement requirements (continuing education and participation in expert review on their own cases).

INITIAL AND FOLLOW-UP EXAM REQUIREMENTS

- All exams should be photo-documented to include all areas of complaint or concern regardless of visible findings
- All exams should be reviewed with a board certified/eligible child abuse pediatrician
- All follow-up testing and treatment should follow the CDC standards in regard to timing and collection. The medical provider is responsible for educating investigators, legal guardians, and victims on the various follow-up medical care necessary for the collection of evidence and treatment.

All children should be tested for:

- N gonorrhea (NG), C trachomatis (CT or Chlamydia), T vaginalis (TV or Trichomoniasis). This test is done with a “dirty catch” urine NAAT.
- Syphilis, tested with an RPR blood draw.
- Hepatitis Panel, tested with blood draw.
- HIV, tested with blood draw.
- Herpes-test lesions if present.
- HPV-test warts if present.

GUIDELINES FOR FORENSIC MEDICAL EVALUATIONS

During the investigation, children under the age of eighteen (18) should generally be referred for a forensic medical examination when one or more of the following conditions is suspected:

- A child with a physical injury suggestive of sexual abuse (physical injury includes any trauma to anus or genitals, including scars, abrasions, bruises, lacerations, incised wounds, or burns);
- A child making statements describing current or past sexual contact that is statutorily prohibited, including but not limited to gratification of lust, sexual battery, exploitation, human trafficking, and rape;
- A child who is not making disclosures of abuse, but:
 - An observer has witnessed abuse of the child;
 - A suspect has confessed to abusing the child;
 - The child has been in an environment, which is very high risk (e.g. living with a convicted sex offender);
 - The child’s sexual behavior or knowledge is beyond typical for his/her developmental level;
 - The child tests positive for a sexually transmitted infection (STI);
 - Other evidence of abuse of the child is available (e.g. pornography, internet solicitation, etc.);
 - A sibling of a child who has been abused, tests positive for an STI, or who is exposed to the alleged offender;
- A non-verbal or pre-verbal child with physical injury;

- A non-verbal or pre-verbal child without obvious physical injury but was exposed to an environment in which another child was maltreated, sustained life-threatening injury, or died;
- A child being abused in a manner expected to potentially cause internal injury was observed by a witness;
- A verbal child with physical injury when clarification is needed to understand how the injury occurred, the timing of the injury, the implications of the injury, or if the injury is inconsistent with their history;
- A child where there have been multiple episodes of failure to provide basic age-appropriate needs such as shelter, food, sanitation, safety, supervision, medical care, and/or education;
- A child that was starved or malnourished.



**CLINICAL
ASSESSMENT
& TREATMENT
SERVICES**

EVIDENCE BASED MENTAL HEALTH SERVICES

Mental health services are an integral part of the multidisciplinary team response to child abuse, providing resources to help the child and family heal and recover from the effects of child abuse. The focus of the multidisciplinary team response is to foster healing and avoid potential re-traumatization of children and families by systems designed to respond to their needs. Without effective therapeutic intervention, many children who have experienced trauma may suffer ongoing or long-term adverse social, emotional, developmental, and health outcomes. Evidence-based treatments and other practices with strong empirical support help reduce the impact of trauma, the risk of future abuse, and other negative consequences. For these reasons, a multidisciplinary team response must include screening for trauma exposure and/ or symptoms by a qualified member of the multidisciplinary team, who will then use that information to ensure trauma-focused mental health assessment and treatment services are provided for child victims and caregivers.

REFERRAL PROCESS

The multidisciplinary team will review all cases and determine if there is a need for a mental health referral.

- If a referral is indicated, the child (and family if indicated) will be referred to a trauma-trained therapist at a child advocacy center or to a local, trauma-trained therapist with whom the child advocacy center has a linkage agreement.
- The MDT shall determine 1) the best referral for the child/family based on the needs of the child/family, 2) the resources available; 3) the availability; and 4) the experience and credentialing of the mental health provider.

The multidisciplinary team must consider that, in some rural areas, there are limited mental health resources. At a minimum, the mental health provider will be trauma informed and experienced in:

- 1) the assessment and treatment of child abuse and trauma symptoms and
- 2) be familiar with the use of standardized assessment tools for trauma victims.

As needed, the child advocacy center Family Advocates or other multidisciplinary team members can assist the caregiver with procuring appointments with the mental health provider.

REQUIRED TRAINING FOR MENTAL HEALTH PRACTITIONER

Mental health providers have completed 40 contact hours in training and consultation calls to deliver an evidence-supported mental health treatment to children who have experienced trauma from abuse. Training programs that include fewer than 40 hours (including consultation calls) may be supplemented with contact hours in evidence-based assessment training.

EVIDENCE BASED TRAUMA TREATMENT MODALITIES

Children/families are often referred to mental health providers that are trained and/or certified in a trauma focused, evidenced-supported mental health treatment.

Some of the most widely used, evidence-supported trauma treatment modalities include:

- **PCIT - Parent Child Interaction Therapy**

PCIT is completed across two treatment phases. This modality focuses on the caregiver-child relationship and the second phase equips the caregiver to manage the most challenging of the child's behavior while remaining confident, calm, and consistent in the approach to discipline.

- **TF-CBT - Trauma Focused Cognitive Behavioral Therapy**

TF-CBT interventions are specifically tailored to meet the needs of children and adolescents experiencing emotional and psychological difficulties because of trauma. They are integrated with humanistic, cognitive behavioral and familial strategies. This treatment is short-term and generally lasts no more than 16 sessions, as more than 80% of traumatized children see improvement within this timeframe.

- **EMDR - Eye Movement Desensitization & Reprocessing**

Eye Movement Desensitization and Reprocessing (EMDR) therapy is designed to allow the brain to resume its natural healing process rather than focusing on changing the emotions, thoughts, or behaviors resulting for the distressing issue.

- **AF-CBT – Alternatives for Families: A Cognitive Behavioral Therapy**

AF-CBT therapy is designed to improve the relationships between children and caregivers in families involved in arguments, frequent conflict, physical force/discipline, child physical abuse, or child behavior problems.

- **CFTSI – Child and Family Traumatic Stress Intervention**

A brief, intervention therapy that reduces traumatic stress reactions and the onset of post-traumatic stress disorder. CFTSI is implemented within 30-45 days following a traumatic event or the disclosure a traumatic experience with the goal of decreasing post-traumatic stress reactions by increasing communication and family support.

PARTICIPATION ON THE MULTIDISCIPLINARY TEAM

As part of the multidisciplinary team, the mental health provider will participate in the multidisciplinary team meetings, as appropriate, as well as in the case review meetings. Mental health providers must adhere to client confidentiality protection and HIPPA regulations, to inform the content and scope of information that is shared with the multidisciplinary team.

The mental health provider also serves as a clinical consultant to the multidisciplinary team regarding child trauma and evidence-based treatment.

Standard information sharing may include:

- Update on the progress of the child and/or family (i.e. compliant with treatment, discharge status).
- Update MDT on any concerns that would be related to the case (i.e. Readiness for the court process; non-compliant caregiver).
- Questions that the caregiver may have for the MDT.
- Provide a trauma-informed perspective to possible behavior demonstrated from a child or family member, even if the child/family is not a client of the clinician.

Note: Diagnosis, case notes and other therapeutic information will not be shared with the multidisciplinary team unless the client consents to such disclosure.

INFORMED CONSENT

As part of the informed consent, caregivers will be given information of how the mental health provider will inform the multidisciplinary team of the treatment process and the limits of information that will be shared.



**LEGAL & COURT
CONSIDERATIONS
FOR MULTIDISCIPLINARY
TEAM MEMBERS**

LEGAL CONSIDERATIONS

CRIMINAL STATUTES INVOLVING CHILDREN

Criminal conduct perpetrated against children may come within the purview of several statutes. The following list of felony crimes involving child physical abuse, neglect, sexual abuse and exploitation is a non-exhaustive list of those offenses that may be considered for prosecution more often than others:

- Felony child abuse, M.C.A. § 97-5-39(2)
 - Note that the acts that constitute felony child abuse are divided into three categories—those acts where bodily harm is not an element, those acts requiring some bodily harm and those requiring serious bodily harm.
- Contributing to the Neglect of a Child, M.C.A. § 97-5-39(1)(d) and (e)
 - Felony neglect arises when a parent, guardian or other person:
 - Deprives a child of necessary clothing, shelter, health care or supervision appropriate to the child’s age and that deprivation results in substantial harm to the child’s physical, mental or emotional health, or
 - Knowingly permits the continuing physical or sexual abuse of a child.
- Child Endangerment, M.C.A. § 97-5-39(4)
 - This felony may be charged when a parent, legal guardian or caretaker endangers a child by knowingly causing or permitting a child to be present where any person is selling, manufacturing, or possessing immediate precursors or chemical substances with the intent to manufacture, sell or possess a controlled substance as defined by M.C.A. §§ 41-29-139 or 41-29-313.
- Rape, M.C.A. § 97-3-65
 - Mississippi’s rape statute contains three types of rape:
 - Age-based (commonly referred to as statutory rape)
 - Forcible sexual intercourse
 - Rape by administering any substance or liquid which shall produce such stupor or such imbecility of mind or weakness of body as to prevent effectual resistance
 - Age-based or statutory rape is the most common type of rape involving children.
 - Statutory rape may be charged only when the ages, age differences and marital status of both the child victim and perpetrator meet the specific requirements of subsection 1.
 - Neither consent nor lack of chastity is a defense.
 - Note that a child under the age of 16 does not have the legal capacity to consent to sexual intercourse.
 - A 16-year old, however, does have the lawful capacity to consent to sexual intercourse, even when the other person is much older.

- Statutory rape is not a viable charge when the child is 16, regardless of how much older the other person may be when there is consent to sexual intercourse.
 - Ignorance of age is also not a defense to statutory rape.
- Sexual Battery, M.C.A. § 97-3-95
 - Sexual battery is a viable charge where there has been sexual penetration:
 - without consent or
 - where the child is mentally defective, mentally incapacitated or physically helpless, or
 - where the age of the victim and age difference between the victim and perpetrator meet the specific requirements of the statute.
 - Note that where the perpetrator is in a position of trust or authority to the child, the lawful capacity to consent is 18 years old rather than 16.
 - Note that acts constituting oral sex and digital penetration fall within the definition of sexual penetration. See M.C.A. § 97-3-97(a) for the full definition of “sexual penetration.”
- Touching, handling, etc., child, mentally defective or incapacitated person or physically helpless person (commonly referred to as fondling), M.C.A. § 97-5-23
 - Perpetrator must be above the age of 18 years old.
 - Persons under the age of 16 years cannot lawfully consent to the acts prohibited by this statute.
 - Persons under the age of 18 years cannot lawfully consent to the acts prohibited by this statute if the perpetrator is in a position of trust or authority.
- Exploitation of Children, M.C.A. § 97-5-33
 - A child under the age of 18 years does not have the lawful capacity to consent to any of the acts prohibited by this statute.
- Human Trafficking Act Offenses, M.C.A. § 97-3-54.1 (a) and (c)
 - Human trafficking
 - Applies when a child is subjected to forced labor.
 - Procuring sexual servitude of a minor (Commonly referred to as Child Sex Trafficking)
 - For purposes of this crime, a minor is defined as someone under 18 years of age.
 - The acts prohibited by this statutory subsection include commercial sexual activity, sexually explicit performance and the production of sexually oriented material.
 - Note that it is not a defense to the acts prohibited in this subsection that the child consented or that the defendant reasonably believed the child to be 18 years of age or older.
- Aggravated Domestic Violence, M.C.A. § 97-3-7(4)
 - Requires a specific relationship between the victim and perpetrator and may be charged in lieu of felony child abuse at the discretion of the prosecutor

- Note that for purposes of sentencing upon conviction of either aggravated domestic violence or simple domestic violence, Mississippi law requires courts to consider as an aggravating factor whether the crime was committed in the physical presence or hearing of a child under sixteen (16) years of age who was, at the time of the offense, living within either the residence of the victim, the residence of the perpetrator, or the residence where the offense occurred. See Miss. Code Ann. § 97-3-7(6).

Hearsay

An out-of-court statement made by a child describing any act of sexual contact, physical abuse or neglect, or any other form of defined abuse, is considered hearsay and is inadmissible at the trial of a perpetrator unless that statement is specifically made admissible under the Mississippi Rules of Evidence.

- Note that statements made during the forensic interview are considered hearsay and, thus, the recording of the forensic interview would constitute hearsay.
- Hearsay may be made admissible at trial if the statement(s) fall within the exceptions to the hearsay rule. The most common exceptions utilized in a prosecution for crimes against children include the following:
 - Present Sense Impression, M.R.E. 803(1)
 - Excited Utterance, M.R.E. 803(2)
 - Then Existing Mental, Emotional, or Physical Condition, M.R.E. 803(3)
 - Statement Made for Medical Diagnosis or Treatment, M.R.E. 803(4)
 - Tender Years, M.R.E. 803(25):

A statement by a child of tender years describing any act of sexual contact with or by another is admissible if: (A) the court – after a hearing outside the jury’s presence – determines that the statement’s time, content, and circumstances provide substantial indicia of reliability; and (B) the child either: (i) testifies; or (ii) is unavailable as a witness, and other evidence corroborates the act.

- The factors the court should consider in determining whether the circumstances provide substantial indicia of reliability may be found in the comments to M.R.E. 803(25).
- A rebuttable presumption that a child is of tender years applies if the child victim is under 12 years of age. See *Veasley v. State*, 735 So. 2d 432 (Miss. 1999).
- Where an alleged sexual abuse victim is twelve or older, there is no such presumption and the trial court must make a case-by-case determination as to whether the victim is of tender years.

TESTIMONY AT TRIAL

Child Witnesses

- **Court Preparation:** Prosecutors should make age and developmentally appropriate efforts to prepare children to testify in the courtroom. It is recommended that prosecutors utilize the services of a victim advocate to orient the child to the courtroom, become familiar with the witness stand and speaking into a microphone.
- **Competency:** The child's competency to testify should be addressed with age and developmentally appropriate questions before their testimony at trial. Efforts, via appropriate motions, should be made to request the trial court to employ age and developmentally appropriate questions to ascertain the child's competency to testify.
- **Determining Competency:** Mississippi Case Law sheds light on how Mississippi Courts determine if a child is competent to testify. In *Williams v. State*, 859 So. 2d 1046 (2003), the Mississippi Court of Appeals ruled that a child is competent to testify if the court ascertains that the child possesses the ability to perceive and remember events, to understand and answer questions intelligently and to comprehend and accept the importance of truthfulness. In *Graham v. State*, 120 So. 3d 1038 (2013), the Mississippi Court of Appeals further held that the determination of competency is left to the discretion of the trial court.
- **Child Specific Oath:** Under M.R.E. 603, witnesses must give an oath or affirmation to testify truthfully before testifying. M.C.A. § 99-43-101(2)(a) provides that a child has a right upon motion to be asked questions in a manner that a child of that age can reasonably understand, including, but not limited to, a child friendly oath. The Advisory Committee notes for M.R.E. 603 state that children who are too young to comprehend the meaning of an oath can instead provide an affirmation under M.R.C.P. Rule 43(b). Rule 43(b) provides: "Whenever under these rules an oath is required to be taken, a solemn affirmation may be accepted in lieu thereof."
- **DEBRIEFING AND FOLLOW-UP:** Debriefing with the child and family/caregiver is important following testifying. It is key to identifying any distressing, confusing, or traumatic aspects of the proceedings, need for explaining/clarifying what occurred, what to expect next, and to honor the child's and/or caregiver's courage. The advocate is key to this debriefing process and can coordinate with the prosecutor and other members of the MDT about the best way to debrief with the child and family.

EXPERT WITNESSES

- It is important that prosecutors seek the consultation of individuals who, due to their knowledge, skill, experience, training, or education, can assist the trier of fact in understanding the multitude of complex issues that often arise in child abuse cases.
- Testimony by expert witnesses whose qualifications and opinions meet the requirements of M.R.E. 702 and 703 is generally admissible. Mississippi case law provides further guidance, stating that expert testimony should only be admitted if it withstands the two-prong inquiry under the rule governing testimony by an expert witness.
 - First, the witness must be qualified by virtue of his or her knowledge, skill, experience, or education.

- Second, the witness’ scientific, technical, and/or other specialized knowledge must assist the trier of fact in understanding or deciding fact in issue. *Bradley v. Diamondhead Country Club & Prop. Owners Ass'n Inc.*, No. 2017-CA-01389-COA, 2019 WL 1915370 (Miss. Ct. App. Apr. 30, 2019).
- The admission of expert testimony is within the sound discretion of the trial judge. *Taylor v. State*, No. 2017-KA-00838-COA, 2019 WL 276006 (Miss. Ct. App. Jan. 22, 2019).
 - In child maltreatment cases, expert witnesses from various disciplines may be beneficial. The most utilized experts in child maltreatment cases include forensic interviewers, physicians, sexual assault nurse examiners as well as child psychologists or child therapists, and social workers, just to name a few.
- Regarding forensic interviewing, specifically, Mississippi has recognized forensic interviewing as an area of expertise. See *Powell v. State*, 240 So. 3d 449 (Miss. Ct. App. 2017).
 - The forensic interviewer who interviewed the child is often called as both a fact witness as well as an expert witness.
 - A forensic interviewer testifying as an expert may be able to address a variety of dynamics related to child maltreatment, such as delayed disclosure, grooming, secrecy, accommodation and entrapment, the process of disclosure, memory and suggestibility, and recantation in addition to providing testimony on the forensic interview process, the ChildFirst Forensic Interview Protocol and current research in the field of child maltreatment.
- Standard of Testimony Limited to “Consistent with Child Abuse”
 - Regardless of the expert witness’s professional discipline or field of expertise, an expert opinion regarding whether a child has suffered a particular type of maltreatment is not permitted.
 - Prosecutors should take great care to avoid eliciting inadmissible expert testimony.
 - Experts opining on child maltreatment can go no further than “consistent with child abuse” testimony and expert witnesses cannot give their opinions regarding the credibility or truthfulness of the victim. See *Barnett v. State*, 757 So. 2d 323 (Miss. Ct. App. 2000) holding that it is the duty of the jury to assess the credibility of all the witnesses who appeared at trial and to determine what weight and worth to afford to their testimony.
 - Mississippi case law provides valuable insight on how testimony can be limited to that which is “consistent with child abuse.” One such case is *Madden v. State*, 97 So. 3d 1217 (Miss. Ct. App. 2011), a child sexual-abuse case where the court found that the expert testimony of a child therapist, who stated that the child victim's behavior and statements were consistent with that of a child who had been sexually abused, was admissible, as the therapist did not testify that sexual abuse had in fact occurred and did not opine on the credibility of child's statements.

ACCOMMODATION IN SPECIAL CIRCUMSTANCES:

Both Mississippi statutes and rules of evidence address the provision of accommodations when a child must testify in a court proceeding. The rules and statutes most commonly in play when considering accommodation for the child are as follows:

- Specific Behavioral Indicators: Miss. Code Ann. § 13-1-411
 - “Specific behavioral indicators” are used to help determine any special accommodations the child may receive at trial.
 - “Specific behavioral indicators” refers to evidence (regardless of admissibility) that a child has suffered physical or sexual abuse or might suffer traumatic emotional or mental distress if required to testify in court.
 - The indicators shall include, by way of illustration and not of limitation, indications of physical or psychological trauma which are
 - (a) well defined,
 - (b) positively correlated or causally linked with the likelihood of traumatic emotional or mental distress on testifying, and
 - (c) rarely, if at all, are present in children who have not suffered child abuse, considering the combination or intensity present in the child at issue.
- Rights of Children Testifying in Criminal Proceedings, M.C.A. § 99-43-101
 - Some of the specific rights that are provided by this statute include the following:
 - (a) To be asked questions in a manner a child of that age can reasonably understand, including, but not limited to, a child-friendly oath.
 - (b) To be free of nuisance, vexatious or harassment tactics in the proceeding.
 - (c) To have present in the courtroom and in a position clearly visible in close proximity to the child, a support person, if the support person is not a witness in the proceeding.
 - (d) To have the courtroom or the hearing room adjusted to ensure the comfort and protection of the child.
 - (e) To have the relaxation of the formalities of the proceedings in an effort to ensure the comfort of the child.
 - (f) To permit a properly trained facility animal or comfort item or both to be present inside the courtroom or hearing room.
 - (g) To permit the use of a properly constructed screen that would permit the judge and jury in the courtroom or hearing room to see the child but would obscure the child’s view of the defendant or the public or both.
 - (h) To have a secure and child-friendly waiting area provided for the child during court proceedings and to have a support person stay with the child while waiting.
 - (i) To have an advocate or support person inform the court about the child’s ability to understand the nature of the proceedings, special accommodations that may be needed for the child’s testimony, and any other testimony relevant to any of the rights set forth in this section.
 - M.C.A. § 99-43-101 also provides other rights that might be pertinent in criminal proceeding where the child’s testimony is required.
- Taking Testimony of a Child via Closed Circuit Television, M.R.E. 617
 - Applicable only in criminal proceedings involving a sex crime and where the child is under the age of 16 years.

- The court must determine that there is a substantial likelihood that the child will suffer traumatic emotional or mental distress if compelled to testify in open court, in a criminal case, in the presence of the defendant.
- Use of Child’s Videotaped Testimony, M.C.A. § 13-1-407
 - Child must be under the age of 16;
 - The occurrence or non-occurrence of sexual abuse or child abuse must be a material fact in the case, and
 - The child would suffer traumatic emotional or mental distress if they were required to testify in open court; or
 - The child is otherwise unavailable.

RECORDS INVOLVING CHILDREN

This section will cover the laws in place specifically to protect records involving children with a focus on statutory language most pertinent to protecting records of children who find themselves navigating the civil and criminal justice systems within the context of abuse or neglect allegations. Mississippi law recognizes the sensitivity of records involving children and provides considerable safeguards for these records to ensure the child’s privacy is protected and that information regarding the child or any acts to which the child has been subjected is cloaked with substantial guarantees of confidentiality. Nowhere is this more important than in abuse and neglect cases. State law has established the Youth Court as the primary gatekeeper for records involving children and sets out a statutory scheme identifying who may obtain records involving children without a youth court order and who may be authorized to obtain these records upon the issuance of a youth court order.

The statutes and rules governing these protections can be found, for the most part, in M.C.A. §§ 43-21-105(u), 43-21-261 and U.R.Y.C.P. Rules 5 and 6.

What are “records involving children”?

M.C.A. §§ 43-21-105(u) very specifically defines what records are included:

- (i) All youth court records as defined in Section 43-21-251;
- (ii) All forensic interviews conducted by a child advocacy center in abuse and neglect investigations;
- (iii) All law enforcement records as defined in Section 43-21-255;
- (iv) All agency records as defined in Section 43-21-257; and
- (v) All other documents maintained by any representative of the state, county, municipality, or other public agency insofar as they relate to the apprehension, custody, adjudication or disposition of a child who is the subject of a youth court cause.

Who may obtain records involving children without a Youth Court Order?

- Staff and officials of the youth court
- Guardians ad litem (GAL) appointed by the youth court
- CASA volunteer assigned in an abuse & neglect case by the youth court
- Others specifically identified in M.C.A. § 43-21-261

- Listed throughout M.C.A. § 43-21-261 are other persons/entities who may access records involving children without a youth court order. These will be listed in a separate subsection below.

Practice Note

- ✓ *GALs appointed by chancery court must go through the process of obtaining a youth court order authorizing release of the records involving children. The order issued by chancery court appointing the guardian ad litem and authorizing access to records pertaining to the GAL's investigation into allegations of abuse or neglect does not authorize access to records involving children, which are statutorily protected by the youth court with jurisdiction of a particular child's records.*
- ✓ *If a chancery court appoints the GAL while it is sitting as the youth court, the GAL needs no other authorization, provided that the chancery court that is sitting as the youth court has jurisdiction of the records in question and the order that is issued indicates that it has been issued by the youth court.*

Who may obtain records involving children with a Youth Court Order?

M.C.A. § 43-21-261(1) sets out who may access records involving children pursuant to an order of the youth court specifying the person or persons to whom the records may be disclosed, the extent of the records which may be disclosed and the purpose of disclosure.

Such court orders for disclosure shall be limited to those instances in which the youth court concludes, in its discretion, that disclosure is required for the best interests of the child, the public safety, the functioning of the youth court, or to identify a person who knowingly made a false allegation of child abuse or neglect, and then only to the following persons:

- Judge or staff of another youth court.
- The court of the parties in a child custody or adoption cause in another court
- A judge or staff of any other court, including a chancery court that ordered a forensic interview.
- Representatives of a public or private agency providing supervision or having custody of a child under an order of the youth court
- Any person involved in bona fide research provided that no information identifying the subject of the records shall be made available to the researcher unless it is absolutely essential to the research purpose and the judge gives prior written approval, and the child, through his or her representative, gives permission to release the information.
- Mississippi Department of Employment Security for purpose of a child enrolling in a Job Corps training program (does not include access to abuse/neglect records)
- Any person upon a finding of compelling circumstances affecting health, safety, or well-being of a child and such disclosure is in the best interests of the child or an adult who was formerly the subject of a youth court delinquency proceeding.
- A person who was the subject of a knowingly made false allegation of child abuse or neglect which has resulted in a conviction of a perpetrator in accordance with Section 97-35-47 or which allegation was referred by the Mississippi Department of Child Protection

Services to a prosecutor or law enforcement official in accordance with the provisions of Section 43-21-353(4).

Who else may access records involving children without a youth court order?

Note that these exceptions are specifically qualified by who may access, what may be accessed and, in some instances, qualified by the type of “record involving children,” i.e., law enforcement records, agency records, etc. Each of these types of “records involving children” are separately defined by statute as indicated above in the definition for “records involving children.” Some exceptions have been excluded from the list below because they have no relevance to cases involving allegations of abuse or neglect. Please consult the statute for a complete list of who may obtain records with or without a youth court order and to view the full context of the statutory language.

M.C.A. § 43-21-261:

- (3): Upon request, a parent, guardian, custodian of a child who is the subject of a youth court cause or the attorney for these persons shall have the right to inspect any record, report or investigation relevant to a matter to be heard by a youth court.
 - The attorney, upon request, may be provided with a copy of the record but the attorney may not provide a copy or access to it to another without specific youth court authorization.
 - Note that this subsection does not permit the release of the identity of the reporter. It also does not permit the release of the name of any other person, where it is determined that disclosure would likely endanger the person.
- (4): Upon request, the child who is the subject of a youth court cause shall have the right to have his counsel inspect and copy any record, report or investigation which is filed with the youth court or which is to be considered by the youth court at a hearing.
- (5):
 - Youth court prosecutor, county prosecutor, district attorney, youth court defender or any attorney representing a child may inspect/copy any law enforcement record involving children;
 - MDCPS shall disclose any record from a child abuse or neglect investigation to the county prosecutor or district attorney when the case has been referred by MDCPS to the county prosecutor or district attorney for criminal prosecution;
 - Agency records may be provided to a court of competent jurisdiction;
 - Records involving children shall be disclosed to the Attorney General’s Victim Compensation Division upon request of the Division to determine victim compensation eligibility.
- (6): Information concerning the investigation of abuse/neglect may be provided by MDCPS to certain professionals who made the report of abuse or neglect if the reporter has a continuing professional relationship with the child and a need to know in order to protect or treat the child.
- (7): Information concerning an investigation into a report of child abuse or neglect may be disclosed to any interagency child abuse task force created by order of the youth court.
 - This is a reference to the multidisciplinary team (MDT) in counties where an MDT has been established by court order.

- (10): The circuit/county judges & circuit presentence investigators, shall have the right to inspect any youth court records for sentencing purposes only.
- (14): The Administrative Office of Courts (AOC) shall have the right to inspect any youth court records for statistical and tracking purposes.
- (15): Upon request by a youth court, the AOC shall disclose all information at its disposal concerning previous intakes alleging that a child was a delinquent child, child in need of supervision, child in need of special care, truant child, abused child or neglected child, as well as previous youth court adjudications for the same and all dispositional information concerning a child who is under the jurisdiction of the youth court at the time of the request.
- (16): The AOC may disclose to the Department of Public Safety any information involving children that is contained in Mississippi Youth Court Information Delivery System (MYCIDS).
- (17): Youth Courts shall disclose youth court records to PEER for tracking & monitoring purposes.
- (18): In every case where an abuse or neglect allegation has been made, any state regulatory agency, any state or local prosecutorial agency or law enforcement agency shall not be prohibited from accessing records involving children.
- (19): MDCPS may disclose certain information in abuse/neglect cases where child is critical or dead.
- (20): The Foster Care Review Board shall have the right to inspect youth court records related to the abuse, neglect or child in need of supervision cases assigned to the Board member for review.
- (21): Information concerning child abuse/neglect may be disclosed in administrative/due process hearings held by MDCPS for persons whose names will be placed on the central registry as substantiated perpetrators.
- (22): MDCPS may disclose records involving children to the following:
 - (a) A foster home, residential child-caring agency or child-placing agency to the extent necessary to provide such care and services to a child;
 - (b) An individual, agency or organization that provides services to a child or the child's family in furtherance of the child's permanency plan to the extent necessary in providing those services;
 - (c) Health and mental health care providers of a child to the extent necessary for the provider to properly treat and care for the child;
 - (d) An educational institution or educational services provider where the child is enrolled or where enrollment is anticipated to the extent necessary for the school to provide appropriate services to the child;
 - (e) Any state agency or board that administers student financial assistance programs.
 - This request shall be initiated by the agency or board for the purpose of determining the child's eligibility for student financial assistance, and any disclosure shall be limited to the verification of the child's age during the period of time in which the child was in the department's legal custody;
 - (f) Any other state agency if the disclosure is necessary to the department in fulfilling its statutory responsibilities in protecting the best interests of the child.

- (23): A municipal or county prosecutor, a district attorney or statewide prosecutor, having possession of records involving children, is not prohibited from disclosing the records if doing so in the context of a criminal proceeding and pursuant to the Mississippi Rules of Criminal Procedure.
 - Disclosure, however, is permitted only if the records are disclosed under a protective order issued by the Circuit Court presiding over the criminal matter which incorporates the penalties stated in M.C.A. § 43-21-267.

Practice Note

✓ *Before disclosing any records pursuant to paragraphs 3 and 4 above, the person or entity in possession of the records sought may need to seek guidance from the youth court to determine if the requesting party is who he says he is and the records sought are in fact relevant to a matter pending in the youth court.*

Caution should be exercised prior to disclosure of any record involving children but particular care should be taken if there has been no prior youth court authorization and there is uncertainty as to whether the requesting party is entitled to the record absent a youth court order.

What confidentiality protections exist once records involving children are disclosed in accordance with the provisions of M.C.A. § 43-21-261?

Except for the disclosure permitted in subsection 23, any records involving children which are disclosed under an order of the youth court or pursuant to the terms of this section and the contents thereof shall be kept confidential by the person or agency to whom the record is disclosed unless otherwise provided in the order. Any further disclosure of any records involving children shall be made only under an order of the youth court as provided in this section. M.C.A. § 43-21-261(2).

Is there a procedure for obtaining youth court authorization for release of records involving children?

Persons seeking access to records involving children, who are not otherwise permitted to access or obtain these records without a youth court order, must follow the procedures set out in U.R.Y.C.P. Rules 5 & 6.

Rule 5(b) speaks to the confidentiality of records and proceedings in child protection proceedings. This rule simply reemphasizes the confidential protections afforded records involving children as set forth in M.C.A. § 43-21-261. Rule 5(b)(2) specifically addresses disclosure of records involving children pursuant to a youth court order and states as follows: “The procedures set forth in Rule 6 of these rules must be followed whenever any court other than youth court issues a subpoena duces tecum for records involving children.”

Rule 6 specifies the steps required for issuance of a subpoena duces tecum to the youth court with jurisdiction of the records sought. The steps in Rule 6 are as follows:

(a) **Procedures for issuing a subpoena duces tecum.** No subpoena duces tecum for records involving children, as such records are defined under section 43-21-105 of the Mississippi Code,

shall issue from any court other than youth court except upon compliance with the following procedures:

- (1) the party shall make an application to the court specifying which records are sought;
- (2) the court shall issue a subpoena duces tecum to the youth court for these records;
- (3) the youth court, unless a hearing is conducted pursuant to Rule 6(b) of these rules, shall transfer copies of the records to the court;
- (4) the court shall conduct an in camera inspection of the records, in accordance with the procedures set forth in *Pennsylvania v. Ritchie*, 480 U.S. 39 (1987), to determine which records should be disclosed to the party;
- (5) the court shall, at all times, protect the confidentiality of the records to the extent required of the youth court under Mississippi's Youth Court Law.

(b) **Hearing on access to confidential files.** The youth court may require a hearing to determine whether the court or parties have a legitimate interest to be allowed access to the confidential files. In determining whether a person has a legitimate interest, the youth court shall consider the nature of the proceedings, the welfare and safety of the public, and the interest of the child.

Practice Notes

- ✓ *Those persons or entities in possession of records involving children cannot lawfully disclose these records without a youth court order authorizing release unless the requesting party is someone who is entitled to access the records without a court order as provided in M.C.A. § 43-21-261.*
 - *The procedure for obtaining the necessary authorization is via application for a subpoena duces tecum as set forth above in U.R.Y.C.P Rule 6.*
 - *Note that Rule 6 states that the subpoena duces tecum is to be served on the youth court not on the person/entity in possession of the records.*
 - *Once proper authorization is obtained from the youth court in the form of an order, the order must be provided to the person/entity in possession of the records.*
 - *The person/entity in possession of the records may not disclose the records directly to the party who is seeking the records. Pursuant to Rule 6, the disclosure is to the court presiding over the proceeding in which the requesting party wishes to use the records or to which the records are pertinent. This disclosure is in camera and it is that judge who will determine which records to release to the requesting party.*
- ✓ *Given the sensitive nature of records involving children and the intent of the statutory protections to ensure these records are viewed or possessed by only those persons with a legitimate interest in the records, those persons/entities in possession of the records should implement a tracking method for records that are released that documents, at a minimum, to whom the records were released, which records were released and the date of the release. This tracking method should be instituted whether the release is in camera to a court or to a person or entity who is authorized to receive the records directly.*
- ✓ *Whenever a court determines, after in camera inspection, to release records directly to the requesting party, strong consideration should be given to releasing the records under a protective order.*

COURT VICTIM ADVOCACY

Advocates that serve child abuse victims have various titles – victim advocate and family advocate, among others. An essential role of the advocate is supporting children through related court proceedings. Court cases may be civil (such as a protective order or custody hearing) – or criminal – if an allegation of abuse leads to criminal charges or arrest. The family’s interaction with the system can differ based on the type of case and point in the process. Requirements and decisions in civil and criminal cases, especially when happening at the same time, can sometimes conflict with one another. Both systems have the potential to leave clients – and especially children – feeling confused, frightened, powerless, and re-victimized. The advocate’s role is central to avoiding or minimizing these negative consequences.

- **PROTECTIVE ORDER HEARINGS** - A protective order is often suggested immediately following the forensic interview and/or as part of an MDCPS service plan. An advocate should accompany the family to the protective order hearing.
- **CRIMINAL COURT PROCEEDINGS** - When children report abuse and an alleged perpetrator is charged with a crime, the child and family are thrust into the adult legal system. It is the responsibility of the advocate to help children and their families prepare for court. A strong child-witness court preparation program can improve the child’s ability to manage the difficult and intimidating process of testifying and assist the caregiver in their efforts to support the child as well.
- **COLLABORATION FOR EFFECTIVE COURT ADVOCACY** - The advocate has an essential role in supporting a child through any court proceedings related to their case. However, the specifics of that role may vary from system to system, court to court, and even proceeding to proceeding. The roles of CAC advocates and community-based, law enforcement or prosecution-based advocates may overlap, seem duplicative, or sometimes feel in conflict with one another. Building relationships and collaborating with all advocates involved is critical to ensuring a seamless coordination of advocacy services and avoid confusion, duplication, and conflicting messages.
- **COURT ACCOMPANIMENT AND SUPPORT** - Many courts around the country allow a support person – who is not also a witness in the case – to be in the courtroom with a child. If the child’s primary support person is the caregiver, be sure to determine if the caregiver will also be a witness and, as a result, be sequestered from the courtroom during the child’s testimony. Alternate arrangements can be made to have another support person present in the courtroom per their request.
- **DEBRIEFING AND FOLLOW-UP** - Debriefing with the child and family/caregiver is important after testifying. It is key to identifying any distressing, confusing, or traumatic aspects of the proceedings, explaining what occurred, and honoring the child’s and caregiver’s courage. The advocate is key to this debriefing process and can coordinate with the prosecutor and other members of the MDT about the best way to debrief with the child and family.

Section 99-43-101 of the Mississippi Code requires questions to be asked in a manner that a child of that age can reasonably understand, including a child-friendly oath. Plain language and age-appropriate questions should be asked when assessing a child’s ability to testify.

GUARDIAN AD LITEM AND COURT APPOINTED SPECIAL ADVOCATES:

Upon appointment by the appropriate court, a guardian ad litem is charged with the duty to protect the interest of a child for whom he has been appointed. It is the duty of the GAL to investigate and make recommendations to the court that are in the best interest of the child. Whether a guardian ad litem must be appointed is dictated by statute or rule as is whether the appointed GAL must be an attorney.

A CASA volunteer is a trained lay person who may be appointed by the youth court in addition to the appointment of a GAL.

Appointment of a Guardian Ad Litem or CASA Volunteer for Youth Court Proceedings – U.R.Y.C.P. 13 and M.C.A. § 43-21-121

- The youth court shall appoint guardian ad litem in every case involving an abused or neglected child which results in a judicial proceeding. See U.R.Y.C.P. 13(1)(e).
- The youth court shall also appoint guardian ad litem for the child in the following circumstances:
 - (a) When a child has no parent, guardian or custodian;
 - (b) When the youth court cannot acquire personal jurisdiction over a parent, a guardian or a custodian;
 - (c) When the parent is a minor or a person of unsound mind;
 - (d) When the parent is indifferent to the interest of the child or if the interests of the child and the parent, considered in the context of the cause, appear to conflict;
 - (f) In any other instance where the youth court finds the appointment of a guardian ad litem to be in the best interest of the child.
- The appointment shall occur when custody is ordered or at the first judicial hearing, whichever is first.
- There is no requirement in youth court that the guardian ad litem be a lawyer, but the guardian ad litem must be a competent person with no adverse interest to the child and who has received the requisite child protection and juvenile justice training provided by or approved by the Mississippi Judicial College within the year immediately preceding the appointment.
 - If the court appoints a layperson as the guardian ad litem, the court shall also appoint an attorney to represent the child.
- The guardian ad litem, in addition to all other duties required by law, shall:
 - protect the interest of a child for whom he/she has been appointed guardian ad litem; and
 - investigate, make recommendations to the court or enter reports as necessary to hold paramount the child's best interest.
 - It should also be noted that the report of the guardian ad litem that is submitted to the court should include all of the material information which weighs on the issue to be decided by the court including information that does not support the recommendations of the guardian ad litem. See *S.G. v. D.C.*, 13 So.3rd 269, 282 (Miss. 2009).
 - It is the duty of the court to ensure that the guardian ad litem is adequately instructed on the duties that should be performed.
 - The guardian ad litem has the responsibility to fully protect the interests of the child. See *In re D.K.L.*, 652 So. 2d 184, 191 (Miss. 1995). Such requires being

prepared to testify as to the present health, education, estate and general welfare of the child, which, of necessity, requires interviewing the minor children, their current custodians, and prospective parents, if any. *See 31 M.J.S.H.S. v. Yalobusha County Dep't of Human Servs.*, 782 So. 2d 737, 741 (Miss. 2001). Additionally, the guardian ad litem must submit a written report to the court during the hearing, or testify and thereby become available for cross-examination by the natural parent. *See D.J.L. v. Bolivar County Dep't of Human Servs.*, 824 So. 2d 617, 623 (Miss. 2002). The court should include in its findings of facts and conclusions of law a summary of the guardian ad litem's recommendations, whether it agrees or disagrees with the guardian ad litem, and why. *In re L.D.M.*, 848 So. 2d 181, 183 (Miss. 2003); *S.N.C. v. J.R.D.*, 755 So. 2d 1077, 1082 (Miss. 2000).

See Comments to U.R.Y.C.P. 13.

- Recommendations or reports by the guardian ad litem pursuant to this provision shall not constitute an ex parte communication.

- When investigating under this rule, the guardian ad litem shall inform the child and the parent(s), guardian(s), or custodian(s) that:
 - the role of the guardian ad litem is to act as an arm of the court in protecting the interest of the child, and not as the parties' attorney, and
 - any statements made to the guardian ad litem affecting the health, safety, or welfare of the child will be reported to the court.
- If there is a conflict between the child's preferences and the recommendation of the guardian ad litem, the court shall retain the guardian ad litem to represent the best interest of the child and appoint an attorney to represent the child's preferences.
- The court may appoint a CASA (Court-Appointed Special Advocate) volunteer in addition to a guardian ad litem. *See M.C.A. § 43-21-121(7).*
 - A CASA volunteer is a trained layperson appointed to assist children and the appointment of a guardian ad litem.
 - A CASA volunteer shall be appointed from a program that supervises the volunteer and meets all state and national CASA standards to advocate for the best interests of children in abuse and neglect proceedings.
 - The court shall issue an order of assignment that shall grant the CASA volunteer the authority, equal to that of the guardian ad litem, to review all relevant documents and to interview all parties and witnesses involved in the proceeding in which he or she is appointed.

All CASA volunteers shall:

- a) Be sworn in by a judge of the court;
- b) Swear or affirm to abide by all laws, regulations, and orders of the court;
- c) Swear or affirm to advocate what he or she perceives to be in the best interests of the child for whom he or she is assigned in all matters pending before the court;
- d) Provide independent, factual information to the court regarding the children and cases to which they are assigned;
- e) Advocate on behalf of the children involved in the cases to which they are assigned what they perceive to be in the best interest of the children; and

- f) Monitor proceedings in cases to which they have been assigned and advise and assist the court in its determination of the best interests of the children involved.

Regarding any case to which a CASA volunteer has been assigned, the CASA Volunteer:

- a) Shall be notified by the court of all court proceedings and hearings of any kind pertaining to the child;
- b) Shall be notified by the MDCPS of all administrative review hearings;
- c) Shall be entitled to attend all court proceedings and hearings of any kind pertaining to the child;
- d) May be called as a witness in the proceedings by any party or by the court and may request of the court the opportunity to appear as a witness; and
- e) Shall be given access to all portions of the court record relating to proceedings pertaining to the child and the child's family.

Appointment of a Guardian Ad Litem in Chancery Court Proceedings

Note that the appointment and role of the guardian ad litem is, for the most part, governed by the same statute (M.C.A. § 43-21-121) that governs the appointment of a guardian ad litem in youth court.

- Chancery court may investigate, hear and make a determination in a custody action when a charge of abuse and/or neglect arises in the course of a custody action as provided in M.C.A. § 43-21-151, and in such cases the court shall appoint a guardian ad litem for the child as provided under Section 43-21-121, who shall be an attorney.
- M.C.A. § 93-5-23 specifically provides the following:
 - “Whenever in any proceeding in the chancery court concerning the custody of a child a party alleges that the child whose custody is at issue has been the victim of sexual or physical abuse by the other party, the court may, on its own motion, grant a continuance in the custody proceeding only until such allegation has been investigated by the Department of Child Protection Services. At the time of ordering such continuance, the court may direct the party and his attorney making such allegation of child abuse to report in writing and provide all evidence touching on the allegation of abuse to the Department of Child Protection Services. The Department of Child Protection Services shall investigate such allegation and take such action as it deems appropriate and as provided in such cases under the Youth Court Law (being Chapter 21 of Title 43, Mississippi Code of 1972) or under the laws establishing family courts (being Chapter 23 of Title 43, Mississippi Code of 1972).”
- While the appointment of a guardian ad litem is required in chancery court where allegations of abuse or neglect arise, the chancellor has discretion in determining whether there exists a “significant factual basis” underlying the allegations before appointing a guardian ad litem. Upon a determination that a significant factual basis supports the claim of abuse or neglect, the guardian ad litem appointment is mandated. *See Carter v. Carter*, 204 So. 3d 747, 758-59 (Miss. 2016).
- Note that this procedure differs from Youth Court child protection proceedings. In youth court the guardian ad litem must be appointed when custody is ordered or no later than the first judicial hearing in the case (whichever is first) whereas the guardian ad litem mandate in chancery court turns on a determination that the allegations of abuse and neglect are supported by a significant factual basis.

- In other words, chancellors have discretion in his/her determination of the legitimacy of the allegations and do not have to act “based merely on an unsubstantiated assertion found in the pleadings of one of the parties.” *Id.*
- In cases where appointment of a guardian ad litem is mandatory, the chancellor is not bound by the recommendations of the guardian ad litem. See *Borden v. Borden*, 167 So.3d 238, 243-44 (Miss. 2014).
 - However, chancellors must include a summary of the recommendations in the court’s findings of fact, and, when the chancellor rejects the recommendations, the court’s findings must include the reasons for rejection. *Id.*

Practice Notes

- ✓ *In cases involving allegations of abuse or neglect that rise to the level of a felony, guardians ad litem should be cognizant of the possibility that a criminal investigation has been or may be commenced. As such, the interview by the guardian ad litem with the child may need to be delayed until after a forensic interview has been conducted. This will help to ensure that questioning of the child by the guardian ad litem does not impact the integrity of the evidence obtained during the forensic interview or result in the CAC having to decline to conduct a forensic interview under forensic interviewing protocols on the basis that an interview has already been conducted by the guardian ad litem.*
- ✓ *Regarding records to which the guardian ad litem may need to access, keep in mind that “records involving children” as defined by M.C.A. § 43-21-105 are not accessible in many circumstances without specific authorization of the youth court with jurisdiction of the child. The exceptions to this required authorization can be found in M.C.A. § 43-21-261 and procedures for obtaining proper youth court authorization is governed by U.R.Y.C.P. Rule 6.*
 - *Further discussion on protection of records involving children can also be found in the following section.*

NOTE: Please refer to the appendix for a summary of the Youth Court Response in Child Abuse and Neglect Cases.



APPENDIX

APPENDIX A - DEFINITIONS

**APPENDIX B - YOUTH COURT RESPONSE
- CHILD ABUSE/NEGLECT CASES**

APPENDIX C - MINIMAL FACTS INTERVIEWING GUIDELINES

**APPENDIX D - MULTIDISCIPLINARY TEAM CODE OF
CONDUCT**

**APPENDIX E - LOCAL MULTIDISCIPLINARY TEAM
- ADDENDUM CONSIDERATIONS**

DEFINITIONS

Disclaimer: Information appearing in this Appendix consists of selected statutory and non-statutory definitions as well as selected crimes that are commonly utilized when allegations of child abuse/neglect arise. This information is provided as a guide and is not intended as legal advice or intended to be an exhaustive list of definitions, statutes or rules that may be pertinent in child abuse/neglect cases.

The criminal acts listed do not necessarily reflect the entirety of the statute referenced. Where portions of a statute have been omitted, an ellipsis (. . .) will appear. To see the verbatim language and structure of a particular statute, please consult the Mississippi Code.

Information in this Appendix that is derived from Mississippi statutes or rules will reflect the applicable code section and is current as of the date that appears below in the left corner. Legislative changes that may be enacted after the date indicated below will not be reflected in this Appendix.

If there is no reference to a code section, the definition is the commonly accepted definition but is not based on statutory language.

YOUTH COURT ACT DEFINITIONS – M.C.A. § 43-21-105

(d) “Child” and “youth” are synonymous, and each means a person who has not reached his eighteenth birthday. A child who has not reached his eighteenth birthday and is on active duty for a branch of the armed services or is married is not considered a “child” or “youth” for the purposes of this chapter.

(l) “Neglected child” means a child:

- (i) Whose parent, guardian or custodian or any person responsible for his care or support, neglects or refuses, when able so to do, to provide for him proper and necessary care or support, or education as required by law, or medical, surgical, or other care necessary for his well-being; however, a parent who withholds medical treatment from any child who in good faith is under treatment by spiritual means alone through prayer in accordance with the tenets and practices of a recognized church or religious denomination by a duly accredited practitioner thereof shall not, for that reason alone, be considered to be neglectful under any provision of this chapter; or
- (ii) Who is otherwise without proper care, custody, supervision or support; or
- (iii) Who, for any reason, lacks the special care made necessary for him by reason of his mental condition, whether the mental condition is having mental illness or having an intellectual disability; or
- (iv) Who, is not provided by the child’s parent, guardian or custodian, with food, clothing, or shelter necessary to sustain the life or health of the child, excluding such failure caused primarily by financial inability unless relief services have been offered and refused and the child is in imminent risk of harm.

(m) “Abused child” means a child whose parent, guardian or custodian or any person responsible for his care or support, whether legally obligated to do so or not, has caused or allowed to be caused, upon the child, sexual abuse, sexual exploitation, commercial sexual exploitation,

emotional abuse, mental injury, nonaccidental physical injury or other maltreatment. However, physical discipline, including spanking, performed on a child by a parent, guardian or custodian in a reasonable manner shall not be deemed abuse under this section. "Abused child" also means a child who is or has been trafficked within the meaning of the Mississippi Human Trafficking Act by any person, without regard to the relationship of the person to the child.

(n) "Sexual abuse" means obscene or pornographic photographing, filming or depiction of children for commercial purposes, or the rape, molestation, incest, prostitution or other such forms of sexual exploitation of children under circumstances which indicate that the child's health or welfare is harmed or threatened.

(u) "Records involving children" means any of the following from which the child can be identified:

(i) All youth court records as defined in Section 43-21-251;

(ii) All forensic interviews conducted by a child advocacy center in abuse and neglect investigations;

(iii) All law enforcement records as defined in Section 43-21-255;

(iv) All agency records as defined in Section 43-21-257; and

(v) All other documents maintained by any representative of the state, county, municipality or other public agency insofar as they relate to the apprehension, custody, adjudication or disposition of a child who is the subject of a youth court cause.

(v) "Any person responsible for care or support" means the person who is providing for the child at a given time. This term shall include, but is not limited to, stepparents, foster parents, relatives, non-licensed babysitters or other similar persons responsible for a child and staff of residential care facilities and group homes that are licensed by the Department of Human Services or the Department of Child Protection Services.

(x) "Out-of-home" setting means the temporary supervision or care of children by the staff of licensed day care centers, the staff of public, private and state schools, the staff of juvenile detention facilities, the staff of unlicensed residential care facilities and group homes and the staff of, or individuals representing, churches, civic or social organizations.

(hh) "Commercial sexual exploitation" means any sexual act or crime of a sexual nature, which is committed against a child for financial or economic gain, to obtain a thing of value for quid pro quo exchange of property or for any other purpose.

CRIMINAL LAW STATUTES

Offenses Affecting Children:

§ 97-5-23. Touching, handling, etc., child, mentally defective or incapacitated person or physically helpless person.

(1) Any person above the age of eighteen (18) years, who, for the purpose of gratifying his or her lust, or indulging his or her depraved licentious sexual desires, shall handle, touch or rub with hands or any part of his or her body or any member thereof, or with any object, any child under the age of sixteen (16) years, with or without the child's consent, or a mentally defective, mentally incapacitated or physically helpless person as defined in Section 97-3-97, shall be guilty of a felony and, upon conviction thereof, shall be fined in a sum not less than One Thousand Dollars (\$1,000.00) nor more than Five Thousand Dollars (\$5,000.00), or be committed to the custody of the State Department of Corrections not less than two (2) years nor more than fifteen (15) years, or be punished by both such fine and imprisonment, at the discretion of the court.

(2) Any person above the age of eighteen (18) years, who, for the purpose of gratifying his or her lust, or indulging his or her depraved licentious sexual desires, shall handle, touch or rub with hands or any part of his or her body or any member thereof, any child younger than himself or herself and under the age of eighteen (18) years who is not such person's spouse, with or without the child's consent, when the person occupies a position of trust or authority over the child shall be guilty of a felony and, upon conviction thereof, shall be fined in a sum not less than One Thousand Dollars (\$1,000.00) nor more than Five Thousand Dollars (\$5,000.00), or be committed to the custody of the State Department of Corrections not less than two (2) years nor more than fifteen (15) years, or be punished by both such fine and imprisonment, at the discretion of the court. A person in a position of trust or authority over a child includes without limitation a child's teacher, counselor, physician, psychiatrist, psychologist, minister, priest, physical therapist, chiropractor, legal guardian, parent, stepparent, aunt, uncle, scout leader or coach.

(3) Upon a second conviction for an offense under this section or a substantially similar offense under the laws of another state, the person so convicted shall be punished by commitment to the State Department of Corrections for a term not to exceed twenty (20) years.

§ 97-5-33. Exploitation of children; prohibitions.

(1) No person shall, by any means including computer, cause, solicit or knowingly permit any child to engage in sexually explicit conduct or in the simulation of sexually explicit conduct for the purpose of producing any visual depiction of such conduct.

(2) No person shall, by any means including computer, photograph, film, video tape or otherwise depict or record a child engaging in sexually explicit conduct or in the simulation of sexually explicit conduct.

(3) No person shall, by any means including computer, knowingly send, transport, transmit, ship, mail or receive any photograph, drawing, sketch, film, video tape or other visual depiction of an actual child engaging in sexually explicit conduct.

(4) No person shall, by any means including computer, receive with intent to distribute, distribute for sale, sell or attempt to sell in any manner any photograph, drawing, sketch, film, video tape or other visual depiction of an actual child engaging in sexually explicit conduct.

(5) No person shall, by any means including computer, knowingly possess or knowingly access with intent to view any photograph, drawing, sketch, film, video tape or other visual depiction of an actual child engaging in sexually explicit conduct.

(6) No person shall, by any means including computer, knowingly entice, induce, persuade, seduce, solicit, advise, coerce, or order a child to meet with the defendant or any other person for the purpose of engaging in sexually explicit conduct.

(7) No person shall by any means, including computer, knowingly entice, induce, persuade, seduce, solicit, advise, coerce or order a child to produce any visual depiction of adult sexual conduct or any sexually explicit conduct.

(8) The fact that an undercover operative or law enforcement officer posed as a child or was involved in any other manner in the detection and investigation of an offense under this section shall not constitute a defense to a prosecution under this section.

(9) For purposes of determining jurisdiction, the offense is committed in this state if all or part of the conduct described in this section occurs in the State of Mississippi or if the transmission that constitutes the offense either originates in this state or is received in this state.

§ 97-5-39. Contributing to the neglect or delinquency of a child; felonious abuse and/or battery of a child.

(1)(d) If the parent has failed to provide the child with food, clothing, or shelter necessary to sustain the life or health of the child, excluding failure caused by financial inability unless relief services have been offered and refused and the child is in imminent risk of harm, or the parent is unwilling to provide reasonably necessary medical care, though that medical care does not include recommended or optional vaccinations against childhood or any other disease, [the parent is guilty of **felony neglect of a child**]

(1)(e) A parent, legal guardian or other person who knowingly permits the continuing physical or sexual abuse of a child is guilty of [**felony**] **neglect of a child** and may be sentenced to

(2) Any person shall be guilty of **felonious child abuse** in the following circumstances:

(a) Whether bodily harm results or not, if the person shall intentionally, knowingly, or recklessly: (i) Burn any child; (ii) Torture any child; (iii) Strangle, choke, smother, or in any way interfere with any child's breathing; (iv) Poison a child; (v) Starve a child of nourishments needed to sustain life or growth; (vi) Use any type of deadly weapon upon any child) or (b) If some bodily harm to any child actually occurs, and if the person shall intentionally, knowingly, or recklessly (i) Throw, kick, bite, or cut any child; (ii) Strike a child under the age of fourteen (14) about the face or head with a closed fist; (iii) Strike a child under the age of five (5) in the face or head; (iv) Kick, bite, cut or strike a child's genitals; circumcision of a male child is not a violation under the subparagraph (iv); (c) If serious bodily harm to any child actually occurs, and if the person shall intentionally, knowingly or recklessly: (i) Strike any child on the face or head; (ii) Disfigure or scar any child; (iii) Whip, strike, or otherwise abuse any child.

(g) For purposes of this subsection (2), "torture means any act, omission, or intentional neglect committed by an individual upon a child within his custody or physical control, whereby unnecessary or unjustifiable physical or mental pain or suffering is caused or permitted, regardless of whether serious physical injury results. Child torture involves treatment that is intentionally cruel, inhumane, and degrading, including, but not limited to: intentionally starving a child; forcing a child to sit in urine or feces; binding or restraining a child; repeatedly physically injuring a child; exposing the child to extreme temperatures w/out adequate clothing or shelter; locking a child in closets or other small spaces; and forcing a child into stress positions or exercise resulting in prolonged suffering.

(4) (a) A parent, legal guardian or caretaker who endangers a child's person or health by knowingly causing or permitting the child to be present where any person is selling, manufacturing or possessing immediate precursors or chemical substances with the intent to manufacture, sell or possess a controlled substance prohibited under Mississippi Code Section 41-29-139 or 41-29-313 is guilty of [the felony of] **child endangerment** and

Crimes Against Persons:

§ 97-3-54.1. Human Trafficking Act; prohibited conduct; penalty.

(1)(a) A person who coerces, recruits, entices, harbors, transports, provides or obtains by any means, or attempts to coerce, recruit, entice, harbor, transport, provide or obtain by any means,

another person, intending or knowing that the person will be subjected to forced labor or services, or who benefits, whether financially or by receiving anything of value from participating in an enterprise that he knows or reasonably should have known has engaged in such acts, shall be guilty of the crime of human-trafficking.

(b) A person who knowingly purchases the forced labor or services of a trafficked person or who otherwise knowingly subjects, or attempts to subject, another person to forced labor or services or who benefits, whether financially or by receiving anything of value from participating in an enterprise that he knows or reasonably should have known has engaged in such acts, shall be guilty of the crime of procuring involuntary servitude.

(c) A person who knowingly subjects, or attempts to subject, or who recruits, entices, harbors, transports, provides or obtains by any means, or attempts to recruit, entice, harbor, transport, provide or obtain by any means, a minor, knowing that the minor will engage in commercial sexual activity, sexually explicit performance, or the production of sexually oriented material, or causes or attempts to cause a minor to engage in commercial sexual activity, sexually explicit performance, or the production of sexually oriented material, shall be guilty of procuring sexual servitude of a minor and shall be punished by commitment to the custody of the Department of Corrections for not less than twenty (20) years nor more than life in prison, or by a fine of not less than Fifty Thousand Dollars (\$50,000.00) nor more than Five Hundred Thousand Dollars (\$500,000.00), or both. It is not a defense in a prosecution under this section that a minor consented to engage in the commercial sexual activity, sexually explicit performance, or the production of sexually oriented material, or that the defendant reasonably believed that the minor was eighteen (18) years of age or older.

(4) In addition to the mandatory reporting provisions contained in Sections 43-21-353 and 97-5-51, any person who has reasonable cause to suspect that a minor under the age of eighteen (18) is a trafficked person shall immediately make a report of the suspected child abuse or neglect to the Department of Child Protection Services and to the Statewide Human Trafficking Coordinator. The Department of Child Protection Services or the Statewide Human Trafficking Coordinator, whichever is applicable, shall then immediately notify the law enforcement agency in the jurisdiction where the suspected child abuse, neglect or trafficking occurred as required in Section 43-21-353, and the department that received the report shall also commence an initial investigation into the suspected abuse or neglect as required in Section 43-21-353. The department that received such report shall provide an annual report to the Speaker of the Mississippi House of Representatives, the Lieutenant Governor, the Chairpersons of the House and Senate Judiciary Committees that includes the number of reports received, the number of cases screened in or out, the number of cases in which care and services were provided as a result of the report, and the type of care and services that were provided. A minor who has been identified as a victim of trafficking shall not be liable for criminal activity in violation of this section.

§ 97-3-65. Statutory rape; enhanced penalty for forcible sexual intercourse or statutory rape by administering certain substances; criminal sexual assault protection order.

§ 97-3-95. Sexual battery.

(1) A person is guilty of sexual battery if he or she engages in sexual penetration with:

(a) Another person without his or her consent;

(b) A mentally defective, mentally incapacitated or physically helpless person;

- (c) A child at least fourteen (14) but under sixteen (16) years of age, if the person is thirty-six (36) or more months older than the child; or
- (d) A child under the age of fourteen (14) years of age, if the person is twenty-four (24) or more months older than the child.
- (2) A person is guilty of sexual battery if he or she engages in sexual penetration with a child under the age of eighteen (18) years if the person is in a position of trust or authority over the child including without limitation the child's teacher, counselor, physician, psychiatrist, psychologist, minister, priest, physical therapist, chiropractor, legal guardian, parent, stepparent, aunt, uncle, scout leader or coach.

§ 97-3-97. Sexual battery; definitions.

For purposes of Sections 97-3-95 through 97-3-103 the following words shall have the meaning ascribed herein unless the context otherwise requires:

- (a) "Sexual penetration" includes cunnilingus, fellatio, buggery or pederasty, any penetration of the genital or anal openings of another person's body by any part of a person's body, and insertion of any object into the genital or anal openings of another person's body.
- (b) A "mentally defective person" is one who suffers from a mental disease, defect or condition which renders that person temporarily or permanently incapable of knowing the nature and quality of his or her conduct.
- (c) A "mentally incapacitated person" is one rendered incapable of knowing or controlling his or her conduct, or incapable of resisting an act due to the influence of any drug, narcotic, anesthetic, or other substance administered to that person without his or her consent.
- (d) A "physically helpless person" is one who is unconscious or one who for any other reason is physically incapable of communicating an unwillingness to engage in an act.

Rules of Evidence:

M.R.E. 803, Exceptions to the Rule Against Hearsay – Regardless of Whether the Declarant Is Available as a Witness, Advisory Committee Note for 803(25) Tender Years Exception:

The Advisory Committee Note provides the following in regards to factors to be considered by the court in determining whether there are sufficient indicia of reliability to admit evidence under the tender years hearsay exception in child sexual abuse cases:

Some factors that the court should examine to determine if there is sufficient indicia of reliability are (1) whether there is an apparent motive on declarant's part to lie; (2) the general character of the declarant; (3) whether more than one person heard the statements; (4) whether the statements were made spontaneously; (5) the timing of the declarations; (6) the relationship between the declarant and the witness; (7) the possibility of the declarant's faulty recollection is remote; (8) certainty that the statements were made; (9) the credibility of the person testifying about the statements; (10) the age or maturity of the declarant; (11) whether suggestive techniques were used in eliciting the statement; and (12) whether the declarant's age, knowledge, and experience make it unlikely that the declarant fabricated. Corroborating evidence may not be used as an indicia of reliability. *Smith v. State*, 925 So. 2d 825, 837 (Miss. 2006); *Hennington v. State*, 702 So. 2d 403, 415 (Miss. 1997). A finding that there is a substantial indicia of reliability should be made on the record.

YOUTH COURT RESPONSE IN CHILD ABUSE & NEGLECT CASES

THIS SECTION IS A SUMMARY OF YOUTH COURT PROCEDURES OFTEN UTILIZED IN RESPONSE TO ABUSE AND NEGLECT CASES AND DOES NOT CONSTITUTE LEGAL ADVICE NOR IS IT INTENDED TO BE A COMPLETE LISTING OF ALL LAWS, RULES, OR PROCEDURES THAT MAY BE APPLICABLE.

Jurisdiction - M.C.A. §43-21-151:

- The youth court has exclusive jurisdiction in all proceedings involving a neglected child or an abused child.

- An exception to exclusive jurisdiction exists when allegations of abuse or neglect arise for the first time in a custody proceeding between the parents of a child in chancery court and the chancery court had no notice of the abuse prior to commencement of the proceedings. In these circumstances, chancery court may retain jurisdiction and proceed with the investigation and adjudication hearing to determine whether the child is an abused or neglected child.
 - Note: Chancery court may defer to the youth court in these circumstances and decline to assume jurisdiction of the abuse/neglect determination. If chancery court declines to proceed with the abuse/neglect determination, the abuse/neglect determination falls to the youth court's exclusive jurisdiction.

- The youth court also has exclusive jurisdiction in all proceedings involving a delinquent child. Circumstances may arise where the alleged perpetrator is a juvenile who is accused of committing a crime against another child. Unless the crime committed is automatically certifying to adult court or the youth court judge certifies the child to adult court, the delinquent child will be processed through youth court.
 - Note: Children who abuse another child, particularly those who commit sexual abuse, are often victims of abuse themselves. Circumstances may then exist where the accused child is both the alleged perpetrator in one case and the alleged victim of abuse in a separate case. When this occurs, the youth court will need to address the perpetration by the child as well as the victimization of the child accused, which should include a criminal investigation into the victimization and possible prosecution.

Proper Venue – U.R.Y.C.P. 21(b) and M.C.A, § 43-21-155(2)

- If a child is alleged to be an abused or neglected child, the proceedings shall be commenced:
 - In the county where the child's custodian resides or
 - In the county where the child is present when the report is made to the intake unit.

Intake Procedure:

- Any person or agency having knowledge that a child residing or being within the jurisdiction of the youth court may make a written report to the intake unit alleging facts sufficient to establish jurisdiction of the youth court. M.C.A. §43-21-351(1)
 - The intake unit is also charged with entering intake and case information into the Mississippi Youth Court Information Delivery System (MYCIDS). M.C.A. §43-21-351(2)

- If the intake unit receives an abuse or neglect report, the intake unit shall immediately forward the complaint to Mississippi Department of Child Protection Services (MDCPS) to

promptly make an investigation or report concerning the child, and any other children in the same environment and promptly present the findings to the youth court intake unit. M.C.A. §43-21-357(1)

- Likewise, if MDCPS receives a report of abuse or neglect of a child pursuant to the mandatory reporting law that requires any person with reasonable suspicion that a child is abused or neglected to report that suspicion to MDCPS, MDCPS shall immediately refer the case to the youth court intake unit. M.C.A. §43-21-353(1)
- MDCPS must also advise the clerk of the youth court and the youth court prosecutor of all cases of abuse reported to MDCPS within 72 hours and must update such report as information becomes of available. M.C.A. §43-21-353(1)
- The youth court intake unit shall promptly make a preliminary inquiry to determine whether the interest of the child or other children in the same environment requires further action of the youth court and, thereafter, make a recommendation to the youth court. The recommendation may include the following and the youth court may accept the recommendation and order same without a hearing:
 - Take no action
 - Make an informal adjustment
 - Require MDCPS monitor the child, family, and other children in the same environment
 - Order the parents to be warned or counseled informally
 - Referral to youth court prosecutor for consideration of initiating formal proceedings. The prosecutor may do any of the following:
 - File a petition
 - Make a written request for the court to handle informally
 - Make a written request for the court to dismiss the case

See M.C.A. §43-21-357(1) and (2); U.R.Y.C.P. 8(b).

- If the preliminary inquiry discloses that a child needs emergency medical treatment, the judge may order the necessary treatment. M.C.A. §43-21-357(3); U.R.Y.C.P. 8(b).
- [\[All final dispositions of investigations by MDCPS shall be determined only by the youth court. M.C.A. §43-21-353\(5\)\]](#)

Temporary Custody/Custody Orders – U.R.Y.C.P 11(b) and M.C.A. § 43-21-301

- The youth court judge or referee, or the judge's designee, or a chancellor when hearing, pursuant to section 93-11-65 of the Mississippi Code, an allegation of abuse or neglect of a child that first arises in the course of a custody or maintenance action, and **no other judge of another court**, may issue an order to take into custody a child within the exclusive original jurisdiction of the youth court.
 - Custody may not exceed 48 hours, excluding Saturdays, Sundays and statutory state holidays, and the custody order must state:
 - There is probable cause that child is within the jurisdiction of the youth court
 - There is probable cause that custody is necessary for any of the following reasons:
 - Child is endangered or is a danger to others, or
 - To insure the child's attendance in court, and
 - There exists no reasonable alternative to custody.

- Note: If the court cannot make these findings, the child must be released to the child’s parent, guardian or custodian.
- The custody order may be written or oral but if oral, it must be reduced to writing within 48 hours, excluding Saturdays, Sundays and statutory state holidays.
- The written order shall include, among other things, the following:
 - A statement that a continuation of the child residing in his own home would be contrary to the welfare of the child and that placement in foster care or relative care is in the best interest of the child
 - A statement that reasonable efforts have been made to maintain the child in his own home, that there is no reasonable alternative to custody and that reasonable efforts to reunify the child with family will be made.
 - Note: M.C.A. § 43-21-603(7)(c) provides criteria under which the court may bypass reasonable efforts.
 - If reasonable efforts are not required to prevent removal of the child, the youth court shall adopt a permanency plan and concurrent plan and order MDCPS to make reasonable efforts to finalize the adopted permanency plan and concurrent plan. Until this is achieved, the court shall conduct a permanency hearing or permanency review hearing consistent with the Uniform Rules of Youth Court Practice.
- After the child is ordered into custody, the court may:
 - Arrange for the custody of the child with any private institution or agency caring for children;
 - Commit the child to the MS Department of Mental Health; or
 - Order MDCPS or any public agency to provide for custody, care and maintenance of the child.

Taking into Custody without a Custody Order - U.R.Y.C.P 12 and M.C.A. § 43-21-303

- Procedures for taking a child into custody without a custody order shall be pursuant to M.C.A. § 43-21-303.
 - A child taken into custody without an order may not exceed 24 hours unless an order for temporary custody is issued by the court pursuant to U.R.Y.C.P 11.
 - If a temporary order is not issued within that time period, the child shall be released to his parent, guardian, or custodian.

Shelter Hearings – U.R.Y.C.P. 16(b)

- A child who has been ordered or taken into custody may be held in custody for longer than temporary custody if:
 - (1) A written report, complaint, or petition has been filed.
 - (2) Reasonable oral or written notice of the time, place and purpose of the hearing has been given to the child; to the child’s parent, guardian or custodian; to the child’s guardian ad litem, if any; and to the child’s counsel.
 - If the parent, guardian or custodian cannot be found, the youth court may hold the hearing in the absence of the child's parent, guardian or custodian.
 - (3) All parties present are afforded the opportunity to present evidence and cross-examine witnesses produced by others.

- The youth court may receive any testimony and other evidence relevant to the necessity for the continued custody of the child without regard to the formal rules of evidence, including hearsay and opinion evidence.
 - All testimony shall be made under oath and may be in narrative form.
 - (4) At the conclusion of the shelter hearing, the court finds and the shelter order recites that:
 - (i) there is probable cause the child is within the jurisdiction of the court;
 - (ii) there is probable cause that custody is necessary as described in U.R.Y.C.P. 16(a)(4)(ii); and
 - (iii) the effect of the continuation of the child's residing within the child's own home would be contrary to the welfare of the child; the placement of the child in foster care is in the best interest of the child; and, unless bypassed as permitted by law:
 - (1) reasonable efforts have been made to maintain the child within his own home, but that the circumstances warrant his removal and there is no reasonable alternative to custody; or
 - (2) the circumstances are of such an emergency nature that no reasonable efforts have been made to maintain the child within his own home, and there is no reasonable alternative to custody.
 - The court shall order that reasonable efforts be made towards the reunification of the child with the child's family if it finds and the shelter order recites that the circumstances are of such an emergency nature that no reasonable efforts have been made to maintain the child within the child's own home, and there is no reasonable alternative to custody.
 - (5) The court orders custody of the child and that a petition be filed if one has not been filed.

Petition – U.R.Y.C.P. 20(c)

- All proceedings seeking an adjudication that a child is a neglected child or an abused child shall be initiated by the filing of a petition.
 - Upon referral by the youth court, the youth court prosecutor may file a petition to initiate formal proceedings.
- The petition shall be filed within five (5) days from the date of the shelter hearing continuing custody.
- In non-custody cases, the petition shall be filed within ten (10) days of the court's referral to the prosecutor for consideration of formal proceedings.
 - The court, in its discretion, may authorize a different time period in non-custody cases.
- On each petition alleging an abused or neglected child, a notice shall be placed in capital letters at the bottom of the petition and must include the following:
 - A parent, guardian, or custodian of a child shall be a party to the case.
 - A person made a party may be required:
 - To pay for the support of a child placed in the custody of any person or agency including payment for any necessary medical treatment

- To pay for any court-ordered medical and other examinations and treatment for the child
- To pay reasonable attorney’s fees and court costs
- To pay for other expenses found necessary or appropriate in the best interest of the child
- To pay damages or restitution
- To participate in a counseling program or other suitable family treatment program
- To receive counseling and parenting classes
- To do or omit to do any act deemed reasonable and necessary for the welfare of the child
- See U.R.Y.C.P. 20(c) for the exact language required.

Appointment of a Guardian Ad Litem or CASA Volunteer – U.R.Y.C.P. 13 and M.C.A. § 43-21-121

- The youth court shall appoint guardian ad litem in every case involving an abused or neglected child which results in a judicial proceeding. See U.R.Y.C.P. 13(1)(e).
- The youth court shall also appoint guardian ad litem for the child in the following circumstances:
 - (a) When a child has no parent, guardian or custodian;
 - (b) When the youth court cannot acquire personal jurisdiction over a parent, a guardian or a custodian;
 - (c) When the parent is a minor or a person of unsound mind;
 - (d) When the parent is indifferent to the interest of the child or if the interests of the child and the parent, considered in the context of the cause, appear to conflict;
 - (f) In any other instance where the youth court finds appointment of a guardian ad litem to be in the best interest of the child.
- The appointment shall occur when custody is ordered or at the first judicial hearing, whichever is first.
- There is no requirement in youth court that the guardian ad litem be a lawyer but the guardian ad litem must be a competent person with no adverse interest to the child and who has received the requisite child protection and juvenile justice training provided by or approved by the Mississippi Judicial College within the year immediately preceding the appointment.
 - If the court appoints a layperson as the guardian ad litem, the court shall also appoint an attorney to represent the child.
- The guardian ad litem, in addition to all other duties required by law, shall:
 - protect the interest of a child for whom he/she has been appointed guardian ad litem; and
 - investigate, make recommendations to the court or enter reports as necessary to hold paramount the child's best interest.
 - The guardian ad litem has the responsibility to fully protect the interests of the child. See *In re D.K.L.*, 652 So. 2d 184, 191 (Miss. 1995). Such requires being prepared to testify as to the present health, education, estate and general welfare of the child, which, of necessity, requires interviewing the minor

children, their current custodians, and prospective parents, if any. *See* 31 *M.J.S.H.S. v. Yalobusha County Dep't of Human Servs.*, 782 So. 2d 737, 741 (Miss. 2001). Additionally, the guardian ad litem must submit a written report to the court during the hearing, or testify and thereby become available for cross-examination by the natural parent. *See* *D.J.L. v. Bolivar County Dep't of Human Servs.*, 824 So. 2d 617, 623 (Miss. 2002). The court should include in its findings of facts and conclusions of law a summary of the guardian ad litem's recommendations, whether it agrees or disagrees with the guardian ad litem, and why. *In re L.D.M.*, 848 So. 2d 181, 183 (Miss. 2003); *S.N.C. v. J.R.D.*, 755 So. 2d 1077, 1082 (Miss. 2000).

See Comments to U.R.Y.C.P. 13.

- Recommendations or reports by the guardian ad litem pursuant to this provision shall not constitute an ex parte communication.
- When conducting an investigation under this rule, the guardian ad litem shall inform the child and the parent(s), guardian(s), or custodian(s) that:
 - the role of the guardian ad litem is to act as an arm of the court in protecting the interest of the child, and not as the parties' attorney, and
 - any statements made to the guardian ad litem affecting the health, safety, or welfare of the child will be reported to the court.
- The court may appoint a CASA (Court-Appointed Special Advocate) volunteer in addition to a guardian ad litem. For CASA qualifications and duties, see M.C.A. § 43-21-121(7).
- If there is a conflict between the child's preferences and the guardian ad litem's recommendation, the court shall retain the guardian ad litem to represent the best interest of the child and appoint an attorney to represent the child's preferences.

Discovery -U.R.Y.C.P. 15

- The child or other party to an adjudicatory hearing, or any proceeding thereafter, may make a written request for discovery to any other party consistent with the United States Constitution and the Mississippi Constitution and to the extent that such does not require the disclosure of confidential or privileged information prohibited from disclosure pursuant to Rule 5 of these rules or otherwise by law.
- A written request for discovery may be made, if possible, no later than seven (7) days preceding the adjudicatory hearing.
- The child or other party requesting discovery shall promptly provide reciprocal discovery.
- If a request for discovery is refused, application may be made to the court for a written order granting the discovery.
 - Motions for discovery shall certify that a request for discovery has been made and refused.
 - An order granting discovery may make such discovery reciprocal for all parties to the proceeding, including the party requesting discovery.
 - The court may deny, in whole or part, or otherwise limit or set conditions for discovery, upon its own motion, or upon a showing by a party upon whom a request for discovery is made that granting discovery may jeopardize
 - the safety of a party, witness, or confidential informant,
 - result in the production of perjured testimony or evidence,

- endanger the existence of physical evidence,
 - violate a privileged communication,
 - disclose confidential information, or
 - impede the criminal prosecution of a minor as an adult or of an adult charged with an offense arising from the same transaction or occurrence.
- An application for a discovery order shall be made, if possible, no later than seven (7) days preceding the date set for the adjudicatory hearing or other applicable proceeding.
- Any hearing on an application for a discovery order shall be conducted in a way that protects the best interests of the child and the interest of justice.

Adjudication Proceedings – U.R.Y.C.P. 24(b) and M.C.A. § 43-21-551, -553, -555, -557, -559, -561, -203

- Time for hearing:
 - Ninety (90) days if child is not in shelter
 - As soon as possible but not later than thirty (30) days if child is in shelter
- At any time after the petition has been filed, all parties to the cause may appear before the judge and voluntarily choose not to contest the allegations in the petition.
 - In such instances, the court may adjudicate the child as a neglected child or an abused child or a sexually abused child or a dependent child, as applicable, if
 - there is a sufficient factual basis to sustain the charge(s) and
 - the court has verified the information and explained the rights and procedures required pursuant to U.R.Y.C.P. 24(b)(4).
- The judge may exclude the general public from the hearing and admit only those persons found by the court to have a direct interest in the case or work of the court.
 - Any person found by the court to have a direct interest has the right to appear and be represented by legal counsel.
 - This shall include the foster parent(s) and the residential child caring agency providing care for the child.
 - The court may exclude the child with consent of the child’s guardian ad litem or legal counsel.
- The adjudicatory hearing shall be on the record.
- Evidence:
 - All testimony shall be under oath and may be in narrative form.
 - The court shall admit any evidence that would be admissible in a civil proceeding.
 - Members of the youth court staff may appear as witnesses but may not testify to any admission or confession made to them.
 - All parties shall have the right at any hearing in which an investigation, record or report is admitted in evidence to subpoena, confront and examine the person who prepared or furnished data for the report and to introduce controverting evidence.
- Standard of proof is by a preponderance of the evidence.

Disposition Hearings – U.R.Y.C.P. 26(c) and M.C.A. § 43-21-601, -603, -201; M.C.A. § 43-27-25

- Time of hearing:

- The youth court shall immediately set a date and time for the disposition hearing.
- The disposition hearing must be separate, distinct and subsequent to the adjudicatory hearing.
- The disposition hearing may immediately follow the adjudicatory hearing unless a party needs a continuance to prepare.
- If the child has been taken into custody, the disposition hearing shall be held within fourteen days (14) of the adjudicatory hearing unless good cause be shown for postponement.
- Evidence:
 - All testimony shall be under oath and may be in narrative form.
 - The court shall consider any evidence that is material and relevant including hearsay and opinion evidence.
 - All parties shall have the right at any hearing in which an investigation, record or report is admitted in evidence to subpoena, confront and examine the person who prepared or furnished data for the report and to introduce controverting evidence.
 - The court may exclude, with consent of counsel, the child from any portion of the disposition hearing that would be injurious to the best interest of the child.
- Factors to be considered by the court:
 - The child's physical and mental conditions;
 - The child's need of assistance;
 - The manner in which the parent, guardian or custodian participated in, tolerated or condoned the abuse, neglect or abandonment of the child;
 - The ability of a child's parent, guardian or custodian to provide proper supervision and care of a child; and
 - Relevant testimony and recommendations, where available, from the foster parent of the child, the grandparents of the child, the guardian ad litem of the child, representatives of any private care agency that has cared for the child, the family protection worker or family protection specialist assigned to the case, and any other relevant testimony pertaining to the case.
- Entry of Disposition Order:
 - The court shall enter a disposition order that shall not recite any facts or circumstances upon which the disposition is based but shall recite that a child is found to be a neglected or abused child.
 - Upon a written motion by a party, the court shall make written findings of fact and conclusions of law upon which it relies for the disposition order.

MINIMAL FACTS INTERVIEWING GUIDELINES



CPS/Law Enforcement First Response for Child Abuse Cases

When investigators and officers respond to initial calls of alleged child abuse, enough information must be collected in the field to make the following decisions:

- 1) Is immediate action necessary to protect this child or other children?
- 2) Is immediate medical attention necessary?

When a victim or witness is a child (under the age of 18), use the minimal facts interviewing guidelines to assess whether the child is safe and/or needs immediate medical attention. Avoid questioning the child if possible.

1) Gather information from the reporter or a non-offending adult AWAY from the child to include at a minimum:

- Names, ages, and current location of victim(s) and suspect(s)
- Type of abuse and how they learned about it
- Where it happened (What law enforcement jurisdiction)
- When it most recently happened *
- Any witnesses

*If child is injured, sick, or a sexual assault incident occurred within the last 72 hours, seek immediate medical attention.

2) ONLY if the reporter or a non-offending adult is NOT available to provide information, ask the child minimal fact questions:

- WHAT happened? (type of abuse)
 - Are you hurting?
- WHO did this? (relationship to child)
 - Do they live with you?
- WHEN did this happen? (*assess immediate medical needs)
 - When did you last see this person?
- WHERE did it happen? (jurisdiction)

* If child is injured, sick, or a sexual assault incident occurred within the last 72 hours, seek immediate medical attention.

3) Contact a local child advocacy center where a more detailed interview can be conducted by a trained forensic interviewer.

MULTIDISCIPLINARY TEAM CODE OF CONDUCT

The successful operation and reputation of the multidisciplinary team model are built upon setting clear roles and purposes among a sufficient diversity of professionals and disciplines who are well-led and organized. Child safety and well-being is a primary priority and value in the MDT model and one that guides policy and practice decisions. To assist with this, a code of conduct detailing set rules around the behaviors of MDT members must be enacted and followed. The code of conduct acts as an explicit expression of personal and professional expectations from MDT members with one another and children. It also serves as an external statement of the MDT's commitment to its core values and principles for interdisciplinary, cross-agency work. In addition, a code of conduct helps provide a healthy work environment for staff and MDT members and thereby helps ensure the delivery of high-quality, relevant, and accessible child- and family-centered services. In the event of any violations of stated codes of conduct, it also provides an understanding of how to report and/or address them.

Personal Integrity

A personal commitment to integrity in all circumstances benefits everyone as well as the organization(s) they represent. MDT members must:

- Respect and seek out the truth and avoid misrepresentation.
- Ensure fairness and objectivity in all activities.
- Set an example for high standards of professionalism.
- Honor the right to privacy of all people.

Professional Excellence

While representing your agency as an MDT member, you are expected to promote professional excellence and encourage open and honest communication among all representatives to create an atmosphere conducive to collaboration among team members as well as utilizing standard practices to promote a consistent response to child abuse with peer support.

- Encourage development and communication with representatives to help achieve the best outcomes for child/children.
- Show respect and empathy for representatives and are considerate while being mindful of supervisory responsibilities.
- Implement child protection protocols that ensure the overall safety of children.
- Create an environment that encourages the voicing of minority opinions.
- Treat all team members with fairness and due respect, providing appropriate mechanisms for their views, interests, and concerns to be expressed.
- Encourage growth and self-improvement in themselves and their team members.
- Respect all those they encounter while working cases within the CAC/MDT model.

- Comply with laws and regulations applicable to their positions and/or Mississippi statutes; including but not limited to the requirement that all individuals must comply with Mississippi’s law regarding mandatory reporting of suspected child abuse and neglect.
- Direct questions or concerns related to interpretations or compliance with the MDT Code of Conduct to the Multidisciplinary Facilitator/Coordinator.
- Encourage the reporting of breaches of the MDT Code of Conduct and protect persons who report these offenses.
- Never use insider knowledge gained about, or through, MDT or any partners for personal gain.

Confidential Information

MDT representatives shall not discuss with the public any information or personal opinions gained as a result of participating in confidential MDT activities. All multidisciplinary team members and appropriate observers must sign a confidentiality agreement.

Similarly, MDT members will take proper measures to ensure the privacy of children. Private information will never be sold or given to someone outside the team or organization, and files will be kept in a restricted area. Access to files will be limited to those who demonstrate a legitimate need to know and to situations where the law demands disclosure.

Disclosure

MDT representatives are encouraged to disclose any perceived breaches of the Code of Conduct. Disclosure should be made to the MDT facilitator/coordinator who will work with appropriate leadership representatives to assess the breach of information and take appropriate action. Confidentiality will be maintained for the person disclosing the breach unless the matter raises serious legal implications. In such instances, the person disclosing the breach will be notified. Representatives are encouraged to be prompt, open, and forthright in reporting perceived breaches of the Code of Conduct.

Suspected Abuse of Children – Accusations and Administrative Leave

The multidisciplinary team model must not tolerate the abuse of children. If any staff or team member is accused of a crime against a child or a crime of domestic violence, upon the completion of any investigations, dismissal from the multidisciplinary team may ensue. During an investigation by law enforcement and/or the Mississippi Division of Child Protection Services (MDCPS), the team member may be asked to take a temporary leave of absence from the multidisciplinary team. Multidisciplinary team members will cooperate fully with any investigation conducted by law enforcement and/or MDCPS.

LOCAL MULTIDISCIPLINARY TEAM - ADDENDUM CONSIDERATIONS

Goals and Objectives

- Minimize revictimization and improve outcomes for child victims and protective family members throughout the investigation, assessment, intervention, and prosecution processes.
- Facilitate successful outcomes in BOTH the child protection and criminal justice systems through effective, collaborative, fact finding, and coordinated case development.

Date and Time of Meetings

MDT Roster

Expectations Regarding Attendance at Meetings

How to Make a Referral to the Local Child Advocacy Center

Guidance for Orientation for New Members

Case Review Functions

Notification of Cases Being Reviewed

Local Resources for Medical, Mental Health, and Other Services

Medical Linkage Agreement (required)

Facility Animal Policy

Outline Live Forensic Interview Viewing Options

Interagency Agreement Signatures