

DEPARTMENT OF SOCIAL SERVICES

10 NORTH PEARL STREET, ALBANY, NEW YORK 12243



BARBARA B. BLUM
Commissioner

[An Informational Letter informs local districts of potential developments in the Social Services field, or of actual or potential developments in collateral fields of interest]

INFORMATIONAL LETTER

TRANSMITTAL NO.: 81 INF-8
[Services]

TO: Commissioners of Social Services

SUBJECT: Reports Alleging Maltreatment Due to Alcohol or Drug Use by Parent or Other Person Legally Responsible

DATE: March 4, 1981

SUGGESTED DISTRIBUTION: Directors of Services
All Child Protective Services Staff
All Child Welfare Staff

CONTACT PERSON: Any questions regarding this release should be directed to Hal Harkess, Division of Services, by calling 1-800-342-3715, extension 4-9574.

I. PURPOSE

The purpose of this informational letter is to reaffirm existing state policy regarding the taking of reports of suspected child abuse or maltreatment involving situations wherein the parent or other person legally responsible, as that term is defined in Section 1012(g) of the Family Court Act, uses a drug or drugs or uses alcoholic beverages to the extent that he or she loses self-control.

II. BACKGROUND

Some confusion has arisen regarding the application of Section 1012 (f) (i) (B) of the Family Court Act. It has been suggested by some parties outside of this Department that the mere showing that a parent or other person legally responsible uses a drug or drugs or uses alcoholic beverages to the extent that he or she loses self-control of his or her actions is sufficient to make a determination of neglect as defined in Section 1012(f)

FILING REFERENCES

Previous INFs/ADMs	Dept. Regs.	Social Services Law and Other Legal References	Bulletin/Chapter Reference	Miscellaneous References
		Article 6 of Title 6 of the SSL Section 1012 of the FCA		

of the Family Court Act. In particular, the State Division of Alcoholism and Alcohol Abuse has raised concerns over the application of such an interpretation and the impact upon the Division's rehabilitation and treatment services.

The statute in question is Section 1012(f) of the Family Court Act, which states in part:

- "(f) 'Neglected child' means a child less than eighteen years of age
 - (i) whose physical, mental or emotional condition has been impaired or is in imminent danger of becoming impaired as a result of the failure of his parent or other person legally responsible for his care to exercise a minimum degree of care . . .
 - (B) in providing the child with proper supervision or guardianship, by unreasonably inflicting or allowing to be inflicted harm, or a substantial risk thereof, including the infliction of excessive corporal punishment; or by using a drug or drugs; or by using alcoholic beverages to the extent that he loses self-control of his actions; or by any other acts of a similarly serious nature requiring the aid of the court; or . . ."

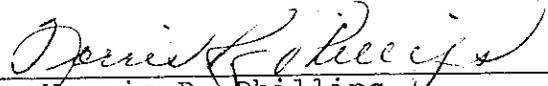
A "maltreated child" for the purposes of child protective services is defined in Section 412(2)(a) of the Social Services Law as a child under the age of eighteen who is "defined as a neglected child by the family court act."

III. IMPLICATIONS

This Department has maintained and continues to maintain, for the purpose of the determination of whether a child is maltreated under Section 1012(f) of the Family Court Act, that the fact that a parent or other person legally responsible uses a drug or drugs or uses alcoholic beverages to the extent that he or she loses self-control alone is not sufficient for there to be a finding of neglect. There must also exist either impairment or imminent danger of becoming impaired of the physical, mental, or emotional condition of the child. In other words, the condition of the child must be considered along with the usage of drugs or alcohol by the parent or other person legally responsible for there to be a finding of neglect pursuant to Section 1012(f)(i)(B) of the Family Court Act.

IV. RECOMMENDATION

This interpretation of Section 1012(f) of the Family Court Act does not constitute a change in previous State policy regarding the taking, investigation or disposition of reports of child abuse or maltreatment. However, local districts are requested to review their procedures regarding those situations which may arise within the purview of Section 1012(f)(i)(3). They are requested to align their reporting, investigating, evaluating and disposing procedures with the law and policy stated above.



Morris P. Phillips
Deputy Commissioner
Division of Services

