CF OPERATING PROCEDURE
NO. 175-60

STATE OF FLORIDA
DEPARTMENT OF
CHILDREN AND FAMILIES
TALLAHASSEE, June 1, 1999

Family Safety

STATE INSTITUTIONAL CLAIMS FOR DAMAGES CAUSED BY SHELTER OR FOSTER CHILD

1. Purpose. This operating procedure outlines the procedure to follow when an individual wishes to seek restitution for direct medical expenses and/or property damage caused by a shelter or foster child.

2. Definitions. For the purposes of this operating procedure:

a. State Institutions Claim Fund. A program established by the Legislature pursuant to s.402.181(1), Florida Statutes (F.S.) for the purpose of making restitution for property damages and direct medical expenses related to injuries caused by shelter or foster children.

b. Claimant. The person who suffered personal injury or property damage.

3. Authority. Section 402.181, F.S.; Chapter 2-6, Florida Administrative Code (authorizing Restitution Claim Form -- see appendix A to this operating procedure).

4. General Requirements.

a. Statutory language in s.402.181(2), F.S. makes the following distinction necessary:

(1) At the time the injury or damage occurred, if the child responsible was:

(a) In shelter legal status [pursuant to a court's shelter order], restitution up to $1,000.00 may be claimed.

(b) In foster care legal status[pursuant to a court order granting custody to the department for placement in foster care], restitution up to $1,500.00 may be claimed.

(2) The living arrangement, i.e., shelter or foster home or residential group care, has no bearing on the above distinction; it is based solely on the child's legal status at the time the injury or damage occurred.

b. When a shelter parent, foster parent or other individual advises Family Safety staff of expenses they have incurred as a result of personal injury or property damage caused by a shelter or foster child, the staff members will:

(1) Assist the claimant in completion of the Restitution Claim Form.

(2) Ensure that the form is completed in its entirety and that legible receipts (or estimates) from a licensed vendor are attached.

This operating procedure supersedes CFOP 175-60 dated September 3, 1997.
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(3) Review the circumstances of the claim and have the claimant sign the form.

(a) If the staff member reviewing the circumstances does not agree that the shelter or foster child was responsible for the injury or property damage, the staff member should note that opinion on the signature line.

(b) If the staff member reviewing the claim sees the circumstances from a different perspective than the claimant, the staff member's perspective should be noted in writing on the form or an attachment. Example: A foster child and the biological child of the foster parent were playing in a rough manner and, as a result, the table lamp was knocked over and destroyed. The foster parent might believe that the foster child was at fault because the foster child was older and started the rough play. The staff member might believe that both children were equally at fault. In this case, the staff member would note his or her perspective of the circumstances before signing the form.

(4) The claim must be filed by the claimant, in writing (see appendix A to this operating procedure, Restitution Claim Form), with the office of the Attorney General, within 120 days of the occurrence upon which the claim is based.

c. The claimant is not required to submit a claim to his or her homeowner's insurance company for primary coverage of the expenses.

d. The staff member must advise the claimant that it is improper (fraudulent) to request reimbursement from the Institutional Claims Fund and homeowner's insurance for the same claim unless one is used to supplement the other. If homeowner's insurance coverage is used, the Institutional Claims Fund may be used only to request restitution for any deductible amount and/or repair of damage the homeowner's insurance coverage did not pay. Paperwork from the homeowner's insurance must be included with the form and receipts. For example: If the damage cost $600 to repair and homeowner's insurance paid $100 due to a $500 deductible, the $500 deductible could be claimed through Institutional Claims.

e. Claims that exceed $1,000.00 for children in shelter status, and $1,500.00 for children in foster care status require legislative approval. The staff member should assist the foster parent or other claimant in contacting his/her state legislative representative, if necessary. The representative can be referred to section 402.181(2), F.S. for the statutory reference to the necessary legislative approval.

BY DIRECTION OF THE SECRETARY:

(Signed original copy on file)

ROBERT S. COHEN
Deputy Secretary

SUMMARY OF REVISED, DELETED OR ADDED MATERIAL

This publication supersedes CFOP 175-60 dated September 3, 1997, and has been updated to reflect current law, including chapter 98-403, Laws of Florida.

FLORIDA DEPARTMENT OF CHILDREN & FAMILIES

STATE INSTITUTIONS CLAIMS
RESTITUTION CLAIM FORM

This document must be completed and submitted by the state agency filing a claim on behalf of an individual for restitution of direct medical expenses and/or property damage up to $1,500 caused by foster children, or direct medical expenses and/or property damage up to $1,000 caused by shelter children, or escapees or inmates of state institutions under the Department of Children and Families, the Department of Juvenile Justice, or the Department of Corrections.

Please type or print legibly and complete all numbered items. Mail this completed document to the address shown on page 2.

1. Date of Incident_____, _____.

2. Name and address of the claimant (the person who suffered personal injury or property damage).

   Name:_____

   Address:_____

   City/State:_____ ZIP_____

   Home Telephone:_____ Work Telephone:_____

   Social Security Number:_____

3. If the claimant is a child, incompetent, deceased or otherwise incapable of preparing the claim, give the following information on the person who will receive the restitution payment on behalf of the claimant:

   Name:_____

   Address:_____

   City/State:_____ ZIP_____

   Home Telephone:_____ Work Telephone:_____

   Social Security Number:_____

   The relationship to the claimant:

   _____ Parent _____ Legal Guardian _____ Estate Representative _____ Other

   If "Other", explain:_____

4. Give a brief statement of the facts upon which the claimant seeks restitution for injury or damages, or attach your agency incident report. Include sufficient information to establish that the person causing the injury or property damage was an inmate, escapee, patient, shelter or foster child. Include the full name(s) of the person(s) causing the injury or damage.

   _____

   _____

   _____

   _____

5. Name and address of the state facility under the Department of Children and Families, Department of Juvenile Justice or Department of Corrections at which the child in custody, inmate, escapee or patient was assigned at the time of the claimant's injury or property damages. For claims resulting from the actions of shelter or foster children, indicate the Department of Children and Families office and case worker.

   Name of Facility:_____

   Chief Administrative Officer or Case Worker:_____

   Address:_____

   City/State:_____ ZIP_____

   Telephone:_____

6. **Total amount of damages to property:** $_____(Attach itemized receipts or estimate of repair)

7. **Total amount of direct medical expenses:** $_____(Attach itemized receipts)

8. **Statement of Claimant**

   By my signature, I certify that all information contained herein is accurate, based upon my direct and personal knowledge.

   _____ _____
   Signature of Claimant or Claimant's Representative Date

9. **Statement of State Agency Representative**

   I am aware of the circumstances regarding this incident and I believe the information contained herein is accurate to the best of my knowledge.

   _____ _____
   Signature Date

   Print Name:_____

   Position:_____

   Telephone:_____

Mail the completed <u>original</u> claim form and attachments to:
Office of the Attorney General
Bureau of Victim Compensation
The Capitol, PL-01
Tallahassee, FL 32399-1050

INSTRUCTIONS:

The claim must be filed in writing with the Office of the Attorney General within 120 days of the occurrence of the physical injury or damage upon which the claim is based. Failure to file within the prescribed time frame will result in denial of the claim.

It is the responsibility of the state agency to ensure that all information necessary to determine eligibility is provided.

In order to protest a decision of the Office, the claimant shall request a hearing, in writing, within 60 days following the date of the claim notice, pursuant to the provisions of Section 120.57, Florida Statutes, and Chapter 28-5, Florida Administrative Code.