

**CIRCUIT COURT OF COOK COUNTY, ILLINOIS  
COUNTY DEPARTMENT, CHANCERY DIVISION**

**IF YOU WERE INVESTIGATED OR INDICATED IN ILLINOIS  
FOR CHILD NEGLECT UNDER EMERGENCY ALLEGATION 60  
("environment injurious") FROM JANUARY 1, 2014 TO MAY 31,  
2014 THIS NOTICE AFFECTS YOUR RIGHTS.**

**A State Court authorized this notice. This is not a solicitation  
from a lawyer.**

**Please Read this Notice Carefully.**

- A proposed statewide settlement has been reached in a class action lawsuit involving investigations or indications for child neglect under DCFS Allegation 60 "Environment Injurious" issued as an Emergency Rule. You may be a class member and may be entitled to participate in the proposed settlement.
- The Circuit Court of Cook County ("Court") has ordered issuance of this notice in the lawsuit entitled *Jessica R. v. Department of Children and Family Services* ("DCFS"), 2015 CH 4487 (N. Cohen, J.). Both sides have agreed to settle this dispute to avoid burdensome and costly litigation.
- If you were investigated for neglect under Allegation 60 from January 1, 2014 to May 31, 2014, you must take action described under "Settlement" below in order to benefit from a settlement.
- If you were indicated between January 1, 2014 and May 31, 2014, you do not need to take any action to benefit from the settlement described here.

**Summary.** The following chart describes the basic terms of the settlement. You are not responsible for any attorneys' fees or any other costs. This settlement resolves the claims raised in this lawsuit.

**YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT**

<b>If you</b>	<b>Relief</b>
<p>Are the subject of an indicated finding for Allegation 60 that was entered into the State Central Register <b>between January 1, 2014 and May 31, 2014</b></p>	<p>Your indicated finding for Allegation 60 <b>will be removed</b> from the State Central Register if the settlement is approved.</p> <p>The removal of your name as a perpetrator of child neglect for Allegation 60 will not impact any proceedings in Juvenile Court.</p> <p>If you were indicated for any other allegations during this time period, those allegations will remain indicated on the State Central Register.</p>
<p>Are the subject of an indicated finding for Allegation 60 that was issued <b>after May 31, 2014</b> but which was investigated at any time between <b>January 1, 2014 and May 31, 2014</b></p>	<p>In order to benefit from the settlement, you need to contact Beth Solomon by e-mail at <a href="mailto:Beth.Solomon@illinois.gov">Beth.Solomon@illinois.gov</a> to request expungement.</p> <p>This request will be granted if DCFS is able to confirm that your investigation was started between January 1, 2014 and May 31, 2014.</p>
<p>Are the subject of an investigation for Allegation 60 that began <b>after May 31, 2014.</b></p>	<p>You are not affected by this settlement.</p>

Are the subject of an indicated finding for Allegation 60 <b>prior to January 1, 2014</b>	You are not affected by this settlement.
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**Lawsuit.** Jessica R. and Claudia C. (together, the “Named Plaintiffs”) have been appointed by the Court to act as representatives of all persons investigated or indicated under Allegation 60 from January 1, 2014 to May 31, 2014 (the “Plaintiff Class”). The Plaintiff Class alleges that the Illinois Department of Children and Family Services violated the Illinois Administrative Procedure Act by investigating and indicating persons under an emergency rule issued for Allegation 60 after the Illinois Supreme Court in *Julie Q. v. DCFS* found Allegation 60 to be legally void on March 21, 2013.

The *Jessica R.* is a lawsuit brought by the Family Defense Center concerning Allegation 60 and addresses the rights of persons who were investigated or indicated from January 1, 2014 to May 31, 2014, during the pendency of an emergency rule for Allegation 60.

**Settlement.** The parties have reached a settlement of this matter. Under the settlement:

- DCFS does not admit liability for using emergency rulemaking authority but nevertheless has agreed to expunge persons who are class members in the *Jessica R.* class.
- Within 90 days of the fairness hearing described below, DCFS will expunge indicated findings of Allegation 60 from the State Central Register for any and all persons located in the State of Illinois who were investigated or indicated as perpetrators of child neglect for Allegation 60 between January 1, 2014 and May 31, 2014.
- Persons who were investigated for neglect pursuant to Allegation 60 between January 1, 2014 and May 31, 2014 but indicated after May 31, 2014 may request expungement by contacting Beth Solomon by e-mail at [Beth.Solomon@illinois.gov](mailto:Beth.Solomon@illinois.gov).

- DCFS will send a letter to each person whose indicated findings are expunged under the settlement at their last known address.
- DCFS will report to the lawyers for the Plaintiff Class on the number of expungements granted pursuant to this settlement.
- The lawyers for the Plaintiff Class have waived any claim to attorneys' fees in connection with the settlement.

### ***Background Information***

The Illinois Department of Children and Family Services (or “DCFS”) was created by the Children and Family Services Act, 20 ILCS 505/1 *et seq.* and derives its authority to investigate allegations of child abuse and neglect from the Abused and Neglected Child Reporting Act (“ANCRA”), 325 ILCS 5/2. Pursuant to these statutes, DCFS has promulgated administrative rules regarding child abuse and neglect investigations. These rules include an allegation system that defines the specific harm to a child and provides guidance to investigators on the evidence that is necessary to be gathered to investigate the specific allegation. The allegation system is contained in Appendix B to DCFS Rule 300 and Procedure 300, Child Abuse and Neglect Investigations. The Administrative Procedure Act, 5 ILCS 100/1 *et seq.*, is the state law that governs administrative rulemaking.

DCFS investigates allegations of child abuse and neglect and indicates persons based on the allegation system. Allegation 60 concerns neglect by subjecting children to an environment injurious to their health, well-being, or welfare.

This lawsuit arose from the actions of DCFS under so-called “emergency” rulemaking authority. On January 1, 2014, DCFS filed an emergency rule containing a revised Allegation 60, which incorporated language from ANCRA defining and providing examples of “environment injurious to a child’s health and welfare” and “blatant disregard of parent or caretaker responsibilities.” Simultaneous to posting the emergency rule, DCFS pursued regular rulemaking to re-promulgate a permanent and

final rule for Allegation 60 and issued First Notice for Allegation 60 on January 1, 2014. 38 Ill. Reg. 1100 (January 1, 2014). The emergency rule regarding Allegation 60 expired on May 30, 2014. A final permanent rule regarding Allegation 60 was adopted on June 11, 2014, and has remained in effect since that date. As a result of a previous lawsuit (*Ashley M. v. DCFS*, 13 CH 20278, persons indicated after May 31 and before June 11 already have had their names expunged from the register as to Allegation 60 indicated findings, but the *Ashley M.* settlement did not address the rights of persons investigated and indicated under Allegation 60 between January 1, 2014 and May 31, 2014. In this lawsuit, the plaintiffs claimed that emergency rulemaking was not properly used to authorize DCFS's actions.

### ***Court Hearing***

The Court has scheduled a Fairness Hearing (the "Hearing") to consider whether to approve the settlement. The Court has found that the plaintiffs' attorneys Denise Lazar and Gregory Gistenson, Barnes & Thornburg LLP, and Diane Redleaf and Melissa Staas, of the Family Defense Center are appropriate "Class Counsel." The Named Plaintiffs and Class Counsel believe the settlement confers substantial benefits upon the Class, and that it is fair, adequate, reasonable, and in the best interest of the Class.

**The Hearing has been scheduled for November 16, 2016 at 10:00 a.m. in the Circuit Court of Cook County, 50 West Washington Street, Courtroom 2308, Chicago, IL 60602.** At the Hearing, the Court will determine whether the proposed settlement should be finally approved as fair, reasonable, and adequate.

You do not need to appear at the Hearing, but you may appear if you wish. You may obtain a copy of the full proposed settlement agreement at [www.familydefensecenter.net](http://www.familydefensecenter.net).

### **Additional Information**

If you have any further questions, you may email class counsel at [[fdc@familydefensecenter.net](mailto:fdc@familydefensecenter.net)]. In any email you send to the class

counsel, please identify your question as concerning “*Jessica R. Litigation.*” Do not contact the Court.