**IN THE JUVENILE COURT OF DAVIDSON COUNTY, TENNESSEE**

 **)**

**STATE OF TENNESSEE, )**

**DEPARTMENT OF CHILDREN’S SERVICES, )**

 **)**

 **Petitioner, )**

 **Angela Harris, CPS )**

 **)**

 **) File No.**

**v. Docket No.**

**Marilyn Steward**

**416 Rambling Rd.**

**Your City, TN 37954**

**Richard Collins**

**894 Summer Circle**

**Bovine, VA 22193**

 **Respondents.**

**IN THE MATTER OF:**

**Travis Collins, d.o.b. 05/04/xx (16 years old)**

 **Michael Collins, d.o.b. 06/27/xx (14 years old)**

**Children under Eighteen Years of Age**

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**PETITION FOR TEMPORARY LEGAL CUSTODY**

# The State of Tennessee, Department of Children’s Services (“DCS”), by and through counsel, petitions this Honorable Court to find the children, Travis and Michale Collins, dependent and neglected, and to award temporary legal custody of the children to the Department of Children’s Services, pursuant to Tenn. Code Ann. § 37-1-129 to -130. This petition is brought upon the following facts.

# **I. JURISDICTION & VENUE**

1. This Court has jurisdiction over this action pursuant to Tenn. Code Ann. § 37-1-103. Venue is appropriate in this Court pursuant to Tenn. Code Ann. § 37-1-111(a) and because the children are currently present in Nashville, TN.

2. Pursuant to the Uniform Child Custody and Jurisdiction Enforcement Act, Petitioner states that DCS has not participated in any other proceeding concerning the custody of the children, that DCS does not know of any other proceedings that could affect this action, and that DCS does not know of any other person not a party to this proceeding who has physical custody of the children or claims rights of legal custody or physical custody of or visitation with the children, except as otherwise noted in this petition.

3. During the last four (4) years, the children have lived with the following people at the addresses shown herein: Marilyn Steward, 416 Rambling Road, Nashville, TN.

 4. Neither parent is a member of the Armed Forces and the Service Members Civil Relief Act does not apply to this proceeding.

5. The children are not a member of or eligible for membership in any federally recognized Indian tribe; the child’s parents are not members of or eligible for membership in any federally recognized Indian tribe, and the Indian Child Welfare Act does not apply to this proceeding.

**II. PARTIES**

1. The mother of the children is Marilyn Steward (“Mother”) whose contact information is shown in the caption.
2. The father of the children is Richard Collins, who resides at 894 Summer Circle, Bovine, VA.

# **III. DEPENDENCY & NEGLECT**

1. Travis and Michael Collins are dependent and neglected children

within the meaning of Tenn. Code Ann. § 37-1-102(b)(13)(F)(G) based upon the following:

1. On (three days before), the Department of Children’s Services received a referral for the allegation of Lack of Supervision.
2. On (three days before), CM Harris received a referral for a welfare check that

resulted in Travis and Michael being exposed to their older brother, Andrew Newel, although there is a no contact order between the three of them due to Andrew sexually abusing Travis in the past. Travis was in a psychiatric Hospital due to cutting as a result of his contact with Andrew.

1. On (three days before), CM Harris responded to Psychiatric Hospital and was

able to interview the Travis. He reported that his mother has been allowing his older brother, Andrew Newel, to be in the home and there is a no contact order between, Travis, Michael, and Andrew due to Andrew sexually abusing Travis in the past. He reported he has told his mother that he is uncomfortable with Andrew being in the home; however, she is unwilling to ask him to leave the home.

1. On (three days before), CM Harris met with the mother at her home.

The mother reported she was unwilling to ask Andrew to refrain from coming to the home. CM Harris completed a genogram and identified Maternal Grandparents as a possible placement for Michael. The mother agreed to an Immediate Protection Agreement for Michael to be placed with his grandparents, until a CFTM could be convened.

1. On (three days before), CM Harris responded to the family home and was

able to interview the Michael. He confirmed that Andrew was in the home at least once a week and when he confronted his mother about feeling uncomfortable with being exposed to him, she slapped him in the face.

1. On (four days before), CM Harris convened a Child and Family Team

Meeting to discuss options for the children. The mother stated she was unwilling to protect Travis and Michael from Andrew. CM Harris shared full disclosure options with the maternal grandparents, Phillip and Evelyn Wilson and they stated they would be willing to be a placement for Michael. The Psychiatric Hospital recommended Travis be placed in a residential facility following discharge to manage his behavioral and emotional needs.

1. It is in the best interest of the children and the public that this proceeding be

brought.

 **IV. REASONABLE EFFORTS**

The Department of Children’s Services make reasonable efforts to prevent removal of the children by completing an Immediate Protection Agreement and offering services to the mother; however, she was unwilling to protect the children from their brother, Andrew Newel. The children stated they did not want to return home with their mother. The father resides in Virginia and was unable to take custody of the children at this time.

## **V. CUSTODY**

 1. Based on the facts stated above, the children were subject to an immediate threat to the extent that delay for a hearing would be likely to result in severe or irreparable harm.

2. There is no less drastic alternative to removal from the home that will reasonably protect the children’s health and safety pending a preliminary hearing.

**V. BEST INTEREST**

 It is in the best interest of the children and the public that this proceeding be brought. It is contrary to the welfare of the children to remain in the home of the mother. It is also contrary to the welfare for the children to remain in the home of the mother, and the children should be removed from the home and placed in the temporary legal custody of DCS for the reasons stated above.

**VI. NOTICE REGARDING ABANDONMENT**

 A parent’s willful failure to support or visit his or her children for four (4) months or more could constitute abandonment and be used as a ground to terminate parental rights to those children.

**PETITIONER PRAYS:**

1. That upon the filing of this Petition, the Court enter an immediate protective custody order taking the above-named children into the protective jurisdiction of this Court and awarding the temporary care and custody of the children to DCS pending a further hearing.

2. That Respondents be served with a copy of this petition, the protective custody order, and a summons to appear and answer.

3. That a Guardian ad Litem be appointed for the children, to be compensated pursuant to T.C. A. § 37-1-150 and applicable rules.

 4. That the Court consider the need to appoint counsel for the children’s parents, who may be incompetent or indigent or as may otherwise be required by law, with compensation to be paid pursuant to Tenn. Code Ann. § 37-1-150 and applicable rules.

5. That the Court hold a preliminary hearing no later than three (3) days excluding Saturdays, Sundays, and legal holidays, but no longer than eighty-four (84) hours after the children’s removal, to determine the issue of temporary custody of the children pending the final adjudication of this matter. The mother shall:

a. comply with all court orders in this and any other matters;

b. comply with the rules and regulations of the Department of Children’s Services and the laws of the State of Tennessee and any other governmental agency;

c. comply with the rules and regulations of the Department of Children’s Services and the laws of the State of Tennessee and any other governmental entity; and

d. Comply with all herein requirements in an expeditious manner.

6. That at a final hearing of this matter, the Court find the above named children to be dependent and neglected within the meaning of the law; that it is contrary to the children’s best interest to remain in home; that reasonable efforts were made to prevent removal of the children or that reasonable efforts were not required, and that there is no less drastic alternative to removal.

7. That based on the findings above, the Court award temporary legal custody of the children to DCS, granting DCS the authority to consent to ordinary or necessary medical, surgical, hospital, educational, institutional, psychiatric or psychological care, subject to further orders of this Court.

 8. That the Court inquire into the ability of each parent to pay support and the cost of medical care for the children and enter an order accordingly.

9. That all state, county, or local agencies with information or records relevant to the children’s situation, including any public or private medical or mental health treatment resources and all educational facilities, shall release such information or records as are necessary for the management of this case to the Department of Children’s Services and to its agents.

 10. That all records produced by the Department of Children’s Services during these proceedings, either in response to a discovery request or distributed at a hearing, shall be maintained by the parties and their counsel as confidential records and shall not be disclosed or re-released to anyone for any purpose other than the proceedings currently before this Court without further authorization from the Department of Children’s Services or the individual identified in the record.

11. That at the conclusion of these proceedings, all such records containing protected health information (including medical, mental health, and substance abuse treatment records) in the possession of the parties and their counsel shall be returned to the Department of Children’s Services or destroyed.

 12. That the Court grant any other general relief necessary.

STATE OF TENNESSEE,

DEPARTMENT OF CHILDREN’S SERVICES

BY: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

 Roberta Sullivan,

 Associate Counsel

STATE OF TENNESSEE

COUNTY OF DAVIDSON

 I, ANGELA HARRIS, being duly sworn according to law, state that the facts set out in the petition above are true and correct to the best of my knowledge, information, and belief.

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 ANGELA HARRIS, CM

Sworn to and subscribed before me this the \_\_\_\_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_, 20\_\_.

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 Notary Public

 My Commission expires: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_