

SENATE, No. 2637

STATE OF NEW JERSEY 217th LEGISLATURE

INTRODUCED OCTOBER 7, 2016

Sponsored by:

Senator DIANE B. ALLEN

District 7 (Burlington)

Senator DAWN MARIE ADDIEGO

District 8 (Atlantic, Burlington and Camden)

Co-Sponsored by:

Senator Beck

SYNOPSIS

Permits religious institutions to request DCF conduct child abuse record checks of certain prospective and current employees and volunteers.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 3/15/2017)

1 AN ACT concerning regarding child abuse record checks and
2 amending P.L.1977, c.102.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6

7 1. Section 1 of P.L.1977, c.102 (C.9:6-8.10a) is amended to
8 read as follows:

9 1. a. All records of child abuse reports made pursuant to
10 section 3 of P.L.1971, c.437 (C.9:6-8.10), all information obtained
11 by the Department of Children and Families in investigating such
12 reports including reports received pursuant to section 20 of
13 P.L.1974, c.119 (C.9:6-8.40), and all reports of findings forwarded
14 to the child abuse registry pursuant to section 4 of P.L.1971, c.437
15 (C.9:6-8.11) shall be kept confidential and may be disclosed only
16 under the circumstances expressly authorized under subsections b.,
17 c., d., e., f., and g. herein. The department shall disclose
18 information only as authorized under subsections b., c., d., e., f.,
19 and g. of this section that is relevant to the purpose for which the
20 information is required, provided, however, that nothing may be
21 disclosed which would likely endanger the life, safety, or physical
22 or emotional well-being of a child or the life or safety of any other
23 person or which may compromise the integrity of a department
24 investigation or a civil or criminal investigation or judicial
25 proceeding. If the department denies access to specific information
26 on this basis, the requesting entity may seek disclosure through the
27 Chancery Division of the Superior Court. This section shall not be
28 construed to prohibit disclosure pursuant to paragraphs (2) and (7)
29 of subsection b. of this section.

30 Nothing in P.L.1977, c.102 (C.9:6-8.10a et seq.) shall be
31 construed to permit the disclosure of any information deemed
32 confidential by federal or State law.

33 b. The department may and upon written request shall release
34 the records and reports referred to in subsection a., or parts thereof,
35 consistent with the provisions of P.L.1997, c.175 (C.9:6-8.83 et al.)
36 to:

37 (1) A public or private child protective agency authorized to
38 investigate a report of child abuse or neglect;

39 (2) A police or other law enforcement agency investigating a
40 report of child abuse or neglect;

41 (3) A physician who has before him a child whom he reasonably
42 suspects may be abused or neglected or an authorized member of
43 the staff of a duly designated regional child abuse diagnostic and
44 treatment center which is involved with a particular child who is the
45 subject of the request;

**EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is
not enacted and is intended to be omitted in the law.**

Matter underlined thus is new matter.

1 (4) A physician, a hospital director or his designate, a police
2 officer, or other person authorized to place a child in protective
3 custody when such person has before him a child whom he
4 reasonably suspects may be abused or neglected and requires the
5 information in order to determine whether to place the child in
6 protective custody;

7 (5) An agency, whether public or private, including any division
8 or unit in the Department of Human Services or the Department of
9 Children and Families, authorized to care for, treat, assess, evaluate,
10 or supervise a child who is the subject of a child abuse report, or a
11 parent, guardian, resource family parent, or other person who is
12 responsible for the child's welfare, or both, when the information is
13 needed in connection with the provision of care, treatment,
14 assessment, evaluation, or supervision to such child or such parent,
15 guardian, resource family parent, or other person and the provision
16 of information is in the best interests of the child as determined by
17 the Division of Child Protection and Permanency;

18 (6) A court or the Office of Administrative Law, upon its
19 finding that access to such records may be necessary for
20 determination of an issue before it, and such records may be
21 disclosed by the court or the Office of Administrative Law in whole
22 or in part to the law guardian, attorney, or other appropriate person
23 upon a finding that such further disclosure is necessary for
24 determination of an issue before the court or the Office of
25 Administrative Law;

26 (7) A grand jury upon its determination that access to such
27 records is necessary in the conduct of its official business;

28 (8) Any appropriate State legislative committee acting in the
29 course of its official functions, provided, however, that no names or
30 other information identifying persons named in the report shall be
31 made available to the legislative committee unless it is absolutely
32 essential to the legislative purpose;

33 (9) (Deleted by amendment, P.L.1997, c.175).

34 (10) A family day care sponsoring organization for the purpose
35 of providing information on child abuse or neglect allegations
36 involving prospective or current providers or household members
37 pursuant to P.L.1993, c.350 (C.30:5B-25.1 et seq.) and as
38 necessary, for use in administrative appeals related to information
39 obtained through a child abuse registry search;

40 (11) The Victims of Crime Compensation Board, for the purpose
41 of providing services available pursuant to the "Criminal Injuries
42 Compensation Act of 1971," P.L.1971, c.317 (C.52:4B-1 et seq.) to
43 a child victim who is the subject of such report;

44 (12) Any person appealing a department service or status action
45 or a substantiated finding of child abuse or neglect and his attorney
46 or authorized lay representative upon a determination by the
47 department or the presiding Administrative Law Judge that such
48 disclosure is necessary for a determination of the issue on appeal;

1 (13) Any person or entity mandated by statute to consider child
2 abuse or neglect information when conducting a background check
3 or employment-related screening of an individual employed by or
4 seeking employment with an agency or organization providing
5 services to children;

6 (14) Any person or entity conducting a disciplinary,
7 administrative, or judicial proceeding to determine terms of
8 employment or continued employment of an officer, employee, or
9 volunteer with an agency or organization providing services for
10 children. The information may be disclosed in whole or in part to
11 the appellant or other appropriate person only upon a determination
12 by the person or entity conducting the proceeding that the
13 disclosure is necessary to make a determination;

14 (15) The members of a county multi-disciplinary team,
15 established in accordance with State guidelines, for the purpose of
16 coordinating the activities of agencies handling alleged cases of
17 child abuse and neglect;

18 (16) A person being evaluated by the department or the court as a
19 potential care-giver to determine whether that person is willing and
20 able to provide the care and support required by the child;

21 (17) The legal counsel of a child, parent, or guardian, whether
22 court-appointed or retained, when information is needed to discuss
23 the case with the department in order to make decisions relating to
24 or concerning the child;

25 (18) A person who has filed a report of suspected child abuse or
26 neglect for the purpose of providing that person with only the
27 disposition of the investigation;

28 (19) A parent, resource family parent, or legal guardian when the
29 information is needed in a department matter in which that parent,
30 resource family parent, or legal guardian is directly involved. The
31 information may be released only to the extent necessary for the
32 requesting parent, resource family parent, or legal guardian to
33 discuss services or the basis for the department's involvement or to
34 develop, discuss, or implement a case plan for the child;

35 (20) A federal, State, or local government entity, to the extent
36 necessary for such entity to carry out its responsibilities under law
37 to protect children from abuse and neglect;

38 (21) Citizen review panels designated by the State in compliance
39 with the federal "Child Abuse Prevention and Treatment Act
40 Amendments of 1996," Pub.L.104-235;

41 (22) The Child Fatality and Near Fatality Review Board
42 established pursuant to P.L.1997, c.175 (C.9:6-8.83 et al.); **or** or

43 (23) Members of a family team or other case planning group
44 formed by the Division of Child Protection and Permanency and
45 established in accordance with regulations adopted by the
46 Commissioner of Children and Families for the purpose of
47 addressing the child's safety, permanency, or well-being, when the
48 provision of such information is in the best interests of the child as

1 determined by the Division of Child Protection and Permanency.
2 Any individual, agency, board, court, grand jury, legislative
3 committee, or other entity which receives from the department the
4 records and reports referred to in subsection a., shall keep the
5 records and reports, or parts thereof, confidential and shall not
6 disclose the records and reports or parts thereof except as
7 authorized by law.

8 c. The department may share information with a child who is
9 the subject of a child abuse or neglect report, as appropriate to the
10 child's age or condition, to enable the child to understand the basis
11 for the department's involvement and to participate in the
12 development, discussion, or implementation of a case plan for the
13 child.

14 d. The department may release the records and reports referred
15 to in subsection a. of this section to any person engaged in a bona
16 fide research purpose, provided, however, that no names or other
17 information identifying persons named in the report shall be made
18 available to the researcher unless it is absolutely essential to the
19 research purpose and provided further that the approval of the
20 Commissioner of Children and Families or his designee shall first
21 have been obtained.

22 e. For incidents determined by the department to be
23 substantiated, the department shall forward to the police or law
24 enforcement agency in whose jurisdiction the child named in the
25 report resides, the identity of persons alleged to have committed
26 child abuse or neglect and of victims of child abuse or neglect, their
27 addresses, the nature of the allegations, and other relevant
28 information, including, but not limited to, prior reports of abuse or
29 neglect and names of siblings obtained by the department during its
30 investigation of a report of child abuse or neglect. The police or
31 law enforcement agency shall keep such information confidential.

32 f. The department may disclose to the public the findings or
33 information about a case of child abuse or neglect which has
34 resulted in a child fatality or near fatality. Nothing may be
35 disclosed which would likely endanger the life, safety, or physical
36 or emotional well-being of a child or the life or safety of any other
37 person or which may compromise the integrity of a department
38 investigation or a civil or criminal investigation or judicial
39 proceeding. If the department denies access to specific information
40 on this basis, the requesting entity may seek disclosure of the
41 information through the Chancery Division of the Superior Court.
42 No information may be disclosed which is deemed confidential by
43 federal or State law. The name or any other information identifying
44 the person or entity who referred the child to the department shall
45 not be released to the public.

46 g. The department shall release the records and reports referred
47 to in subsection a. of this section to a unified child care agency
48 contracted with the department pursuant to N.J.A.C.10:15-2.1 for

1 the purpose of providing information on child abuse or neglect
2 allegations involving a prospective approved home provider or any
3 adult household member pursuant to section 2 of P.L.2003, c.185
4 (C.30:5B-32) to a child's parent when the information is necessary
5 for the parent to make a decision concerning the placement of the
6 child in an appropriate child care arrangement.

7 h. An organization operated primarily for religious purposes
8 may request that the Department of Children and Families conduct a
9 check of its child abuse records to determine if an incident of child
10 abuse or neglect has been substantiated pursuant to section 4 of
11 P.L.1971, c.437 (C.9:6-8.11) against any prospective or current
12 employee or volunteer who may have access to, or provide
13 instruction or other services to, children.

14 The department shall not release any information that would
15 likely endanger the life, safety, or physical or emotional well-being
16 of a child or the life or safety of any other person.

17 (cf: P.L.2012, c.16, s.22)

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19 2. This act shall take effect immediately.

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STATEMENT

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24 This bill would permit religious institutions to request that the
25 Department of Children and Families (DCF) conduct a check of its
26 child abuse records to determine if an incident of child abuse or
27 neglect has been substantiated pursuant to section 4 of P.L.1974,
28 c.437 (C.9:6-8.11) against any prospective or current employee or
29 volunteer who may have access to, or provide instruction or other
30 services to, children.

31 Current law specifies the circumstances under which DCF is
32 authorized to disclose to certain entities records and reports of child
33 abuse, information obtained by DCF in investigating such reports,
34 and reports of findings that are forwarded to the State child abuse
35 registry. Religious institutions are not included among the entities
36 to which DCF is permitted to disclose this information, as was
37 recently noted in an opinion of the Appellate Division of the
38 Superior Court, decided April 5, 2013, in New Jersey Div. of Youth
39 & Family Servs. v. P.H. and J.C., 2013 N.J. Super. LEXIS 52.