

ASSEMBLY, No. 698

STATE OF NEW JERSEY

Introduced Pending Technical Review by Legislative Counsel

PRE-FILED FOR INTRODUCTION IN THE 1996 SESSION

By Assemblyman ZISA and Assemblywoman WEINBERG

1 AN ACT concerning child abuse, amending P.L.1977, c.102 and
2 supplementing Title 9 of the Revised Statutes.

3
4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6
7 1. (New section) As used in this act:

8 "Abused or neglected child" means a child under the age of 18 who
9 has alleged to have been abused pursuant to the provisions of section
10 1 of P.L.1974, c.119 (C.9:6-8.21).

11 "Board" means the Department of Human Services Child Death and
12 Critical Incident Review Board.

13 "Critical incident" means a serious injury, a life-threatening
14 condition or a newsworthy event occurring to a child, currently or
15 formerly, within the past 12 months, under the supervision of the
16 Division of Youth and Family Services, alleged to have been due to an
17 act of child abuse or neglect.

18 "Death by child abuse or neglect" means the death of a child as a
19 result of acts or omissions by a parent or guardian that constitute child
20 abuse or neglect as defined in section 1 of P.L.1974, c.119
21 (C.9:6-8.21)

22 "Division" means the Division of Youth and Family Services in the
23 Department of Human Services.

24 "Life-threatening condition" means any condition caused by
25 exceptional or extraordinary occurrences which creates the probability
26 of death in the foreseeable future.

27 "Newsworthy event" means any incident which attracts television,
28 newspaper or radio interest.

29 "Parent or guardian" means a person defined pursuant to section 1
30 of P.L.1974, c.119 (C.9:6-8.21) who has the responsibility for the
31 care, custody or control of a child or upon whom there is a legal duty
32 for such care.

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

Matter underlined thus is new matter.

1 "Serious injury" means any fracture of the skull or long bones, ribs,
2 spine or pelvis; head injury such as a concussion; human bites
3 puncturing the skin or wounds requiring extensive suturing; extensive
4 burns; bodily injury resulting in gastrointestinal or genital-urinary
5 symptoms; injury to the mouth, teeth or gums; eye injury causing
6 multiple hematoma; choking injury leaving marks; and any injury
7 requiring hospitalization.

8
9 2. (New section) a. There is established the Child Death and
10 Critical Incident Review Board. For purposes of complying with
11 Article V, Section IV, paragraph 1 of the New Jersey Constitution, the
12 board is allocated within the Department of Human Services, but
13 notwithstanding the allocation, the board shall be independent of any
14 supervision or control by the department or any board or officer
15 thereof.

16 b. The board shall consist of six members as follows: the
17 Commissioners of Human Services and Health, the Director of the
18 Division of Youth and Family Services, or their designees, who shall
19 serve ex-officio; and three public members, one of whom shall be a
20 pediatrician or medical examiner, one of whom shall be an attorney
21 specializing in family law, and one of whom shall be a foster parent
22 who has had a child placed in his home by the division within the last
23 12 months. The public members shall be appointed by the Governor
24 with the advice and consent of the Senate.

25 c. Vacancies in the membership of the board shall be filled in the
26 same manner as the original appointments were made. The public
27 members of the board shall serve without compensation but shall be
28 eligible for reimbursement for necessary and reasonable expenses
29 incurred in the performance of their official duties and within the limits
30 of funds appropriated for this purpose.

31 d. The board shall elect a chairperson from among its members
32 who shall be responsible for the coordination of all activities of the
33 board and who shall provide the technical assistance needed to execute
34 the duties of the board.

35 e. The board may employ professional, stenographic and cleric
36 assistants that are required for the proper conduct of the board,
37 subject to the provisions of Title 11A of the New Jersey Statutes.

38 f. The board is entitled to call to its assistance and avail itself of the
39 services of employees of any State, county or municipal department,
40 board, bureau, commission or agency as it may require and as may be
41 available to it for the purposes of reviewing a case pursuant to the
42 provisions of this act. The board may also seek the advice of
43 individuals specializing in the fields of pediatric and forensic medicine,
44 nursing, psychiatry, psychology, social work, education, law
45 enforcement, family law, child advocacy or other related fields, when
46 the facts of a case warrant the additional expertise.

- 1 3. (New section) The board shall:
- 2 a. Investigate any situation involving children currently or formerly
- 3 under the supervision of the division who:
- 4 (1) are or were the subject of a critical incident resulting in death;
- 5 (2) are or were the subject of a critical incident not resulting in
- 6 death, but whose circumstances have been identified by the board as
- 7 raising issues that could result in recommendations for policy,
- 8 legislative or regulatory changes in departmental or divisional
- 9 procedures; or
- 10 (3) have died and whose deaths were not due to an act of child
- 11 abuse or neglect, but who died under circumstances that have been
- 12 identified by the board as raising issues which could result in
- 13 recommendations for policy, legislative or regulatory changes in
- 14 departmental or divisional procedures.
- 15 b. Receive and investigate complaints about the division, in
- 16 accordance with the provisions of section 5 of this act.
- 17 c. Examine ways to achieve better coordination and collaboration
- 18 among State and local agencies to ensure maximum effectiveness in
- 19 the prevention of the death or serious injury of children under the
- 20 State's care.
- 21 d. Submit an annual report to the Governor and the Legislature
- 22 which includes the number of cases reviewed, a summary of the
- 23 circumstances surrounding each case, the outcome of each internal
- 24 review and the follow-up action taken by the board concerning each
- 25 case. The report shall also include any recommendations the board
- 26 deems appropriate to further the State's ability to protect the interests
- 27 of the children under the supervision of the division.
- 28
- 29 4. (New section) a. The board shall establish and implement
- 30 procedures for conducting a review of cases involving children subject
- 31 to its review pursuant to subsection a. of section 3 of this act.
- 32 b. Within 10 days of receiving information concerning a critical
- 33 incident or death, the director of the division shall submit a brief
- 34 written report and a copy of the case materials to each member of the
- 35 board. Upon receipt of the report, the board shall conduct a prompt
- 36 and thorough review of the case.
- 37 c. The review shall be completed no later than 30 days after the
- 38 receipt of the report. When the review is completed, the board shall
- 39 prepare written findings and recommended actions and submit them to
- 40 the Commissioner of Human Services.
- 41 d. Any individual involved in the case shall be promptly notified
- 42 that a review is being conducted and shall also be notified of the
- 43 recommended action being taken by the board.
- 44
- 45 5. (New section) a. The board shall establish and implement
- 46 procedures for eliciting, receiving, processing, responding to,

1 conducting and resolving complaints against the division from
2 children, parents, guardians, relatives or interested citizens, public
3 officials, or government agencies.

4 b. Upon receiving a complaint, the board shall conduct a prompt
5 and thorough investigation. Within 24 hours of receipt of the report,
6 the chairperson of the board shall notify the Commissioner of Human
7 Services that the report has been received.

8 c. When the investigation is completed, the board shall prepare
9 written findings and recommended actions and submit them to the
10 Commissioner of Human Services.

11 d. The person or agency who filed the complaint shall be promptly
12 notified that action is being taken.

13 e. Acting on a complaint or on its own initiative, the board may
14 investigate any act, practice, policy or procedure of the division.

15 f. The board need not investigate a complaint when it determines
16 that:

17 (1) The complaint is trivial, frivolous, vexatious or not made in
18 good faith;

19 (2) The complaint has been delayed too long to justify an
20 investigation at the present time;

21 (3) The resources available to the board, considering the board's
22 established priorities, are insufficient for an adequate investigation; or

23 (4) The matter complained of is not within the investigatory
24 authority of the board.

25 g. The board shall maintain a toll-free telephone number for the
26 filing of complaints.

27

28 6. (New section) The board shall maintain a central registry of all
29 complaints, investigations, internal reviews, findings and recommended
30 actions. No information received and compiled in this registry shall be
31 construed as a public record.

32

33 7. (New section) The Commissioner of Human Services shall adopt
34 rules and regulations pursuant to the "Administrative Procedure Act,"
35 P.L.1968, c.410 (C.52:14B-1 et seq.) concerning the operation of the
36 board and other matters that may be necessary to effectuate the
37 purposes of this act.

38

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

41 1. a. All records of child abuse reports made pursuant to section
42 3 of P.L.1971, c.437 (C.9:6-8.10), all information obtained by the
43 Division of Youth and Family Services in investigating such reports
44 including reports received pursuant to section 20 of P.L.1974, c.119
45 (C.9:6-8.40), all reports of reviews conducted by the Child Death and
46 Critical Incident Review Board pursuant to section 4 of P.L. , c.

1 (C. _____) (now pending before the Legislature as this bill), and all
2 reports of findings forwarded to the central registry pursuant to
3 section 4 of P.L.1971, c.437 (C.9:6-8.11) shall be kept confidential
4 and may be disclosed only under the circumstances expressly
5 authorized under subsection b. or subsection c. herein.

6 b. The division may release the records and reports referred to in
7 subsection a., or parts thereof, to:

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

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

12 (3) A physician who has before him a child whom he reasonably
13 suspects may be abused or neglected;

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

19 (5) An agency authorized to care for, treat, or supervise a child
20 who is the subject of a child abuse report, or a parent, guardian or
21 other person who is responsible for the child's welfare, or both, when
22 the information is needed in connection with the provision of care,
23 treatment, or supervision to such child or such parent, guardian or
24 other person;

25 (6) A court, upon its finding that access to such records may be
26 necessary for determination of an issue before the court, and such
27 records may be disclosed by the court in whole or in part to the law
28 guardian, attorney or other appropriate person upon a finding that
29 such further disclosure is necessary for determination of an issue
30 before the court;

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

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

38 (9) Any person engaged in a bona fide research purpose, provided,
39 however, that no names or other information identifying persons
40 named in the report shall be made available to the researcher unless it
41 is absolutely essential to the research purpose and provided further
42 that the approval of the director of the Division of Youth and Family
43 Services shall first have been obtained;

44 (10) A family day care sponsoring organization for the purpose of
45 providing information on child abuse or neglect allegations involving
46 prospective or current providers or household members pursuant to

1 P.L.1993, c.350 (C.30:5B-25.1 et al.) and as necessary, for use in
2 administrative appeals related to information obtained through a
3 central registry search.

4 Any individual, agency, court, grand jury or legislative committee
5 which receives from the division the records and reports referred to in
6 subsection a., shall keep such records and reports, or parts thereof,
7 confidential.

8 c. The Child Death and Critical Incident Review Board may release
9 the reports of a review conducted pursuant to section 4 of P.L. _____,
10 c. _____ (C. _____) (now pending before the Legislature as this bill), or
11 parts thereof, to a parent or guardian of a child who is the subject of
12 an internal review for the purpose of providing information on the
13 circumstances which led to the review and have been identified by the
14 board as raising issues which could result in recommendations for
15 policy, legislative or regulatory changes in departmental or divisional
16 procedures.

17 A parent or guardian or legislative committee who receives a report
18 from the board may release its contents, or parts thereof, to the public
19 only if it can be determined that the disclosure is needed to identify
20 problems in policy, regulatory, departmental or divisional procedures
21 relating to the critical incident or death of the child who is the subject
22 of such report. The individual shall have immunity from any liability,
23 civil or criminal, that may otherwise be incurred or imposed provided
24 that no names or other identifying information contained in the report
25 be made public.

26 (cf: P.L.1993, c.350, s.5)

27
28 9. This act shall take effect immediately.

29
30
31 STATEMENT

32
33 This bill establishes a Child Death and Critical Incident Review
34 Board in, but not of the Department of Human Services. The board
35 would investigate any situation involving children currently or
36 formerly under the supervision of the Division of Youth and Family
37 Services who:

- 38 1. are or were the subject of a critical incident, resulting in death;
39 2. are or were the subject of a critical incident, not resulting in
40 death but whose circumstances have been identified by the board as
41 raising issues that could result in recommendations for policy,
42 legislative or regulatory changes in departmental or divisional
43 procedures; or
44 3. have died and whose deaths were not due to an act of child
45 abuse or neglect, but who died under circumstances that have been
46 identified by the board as raising issues which could result in

1 recommendations for policy, legislative or regulatory changes in
2 departmental or divisional procedures.

3 The board would also be required to receive and investigate
4 complaints about the division; examine ways to achieve better
5 coordination and collaboration among State and local agencies to
6 ensure maximum effectiveness in the prevention of the death and
7 serious injury of children under the State's care; and submit an annual
8 report to the Governor and the Legislature on the number of cases
9 reviewed, a summary of the circumstances surrounding each case, the
10 outcome of each internal review and the follow-up action taken by the
11 board concerning each case.

12 The bill also amends section 1 of P.L.1977, c.102 (C.9:6:10a) to
13 require that all reports of the board's reviews be kept confidential,
14 except that the board may release a report to the parents or guardian
15 of a child who is the subject of a review. The provisions of the bill
16 would also allow a parent or guardian to release the contents of the
17 report to the public if it is determined that the disclosure is necessary
18 to identify needed policy, regulatory or legislative changes in
19 departmental or divisional procedures. The bill specifies, however,
20 that no identifying information contained in the report be made public.

21

22

23

24

25 Establishes a Child Death and Critical Incident Review Board in DHS.