

ASSEMBLY COMMITTEE SUBSTITUTE FOR  
ASSEMBLY, Nos. 698, 703, 1389 and 1390

STATE OF NEW JERSEY

ADOPTED MARCH 25, 1996

Sponsored by Assemblymen ZISA, DeSOPO, PASCARELL,  
ROONEY and Assemblywoman WEINBERG

1 AN ACT concerning child abuse and neglect, amending P.L.1977,  
2 c.102 and 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 sections 1 through 7 of 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 Child Death and Critical Incident Review  
12 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  
30 1 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

**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 for such care.

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

9

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

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

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

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

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

40 f. The board is entitled to call to its assistance and avail itself of  
41 the services of employees of any State, county or municipal  
42 department, board, bureau, commission or agency as it may require  
43 and as may be available to it for the purposes of reviewing a case  
44 pursuant to the provisions of P.L. , c. (C. )(pending before the  
45 Legislature as this bill). The board may also seek the advice of  
46 individuals specializing in the fields of pediatric and forensic medicine,

1 nursing, psychiatry, psychology, social work, education, law  
2 enforcement, family law, child advocacy or other related fields, when  
3 the facts of a case warrant the additional expertise.

4  
5 3. (New section) The board shall:

6 a. Investigate any situation involving children currently or  
7 formerly under the supervision of the division who:

8 (1) are or were the subject of a critical incident resulting in death;

9 (2) are or were the subject of a critical incident not resulting in  
10 death, but whose circumstances have been identified by the board as  
11 raising issues that could result in recommendations for policy,  
12 legislative or regulatory changes in departmental or divisional  
13 procedures; or

14 (3) have died and whose deaths were not due to an act of child  
15 abuse or neglect, but who died under circumstances that have been  
16 identified by the board as raising issues which could result in  
17 recommendations for policy, legislative or regulatory changes in  
18 departmental or divisional procedures.

19 b. Receive and investigate complaints about the division, in  
20 accordance with the provisions of section 5 of P.L. , c.  
21 (C. )(pending before the Legislature as this bill).

22 c. Examine ways to achieve better coordination and collaboration  
23 among State and local agencies to ensure maximum effectiveness in  
24 the prevention of the death or serious injury of children under the  
25 State's care.

26 d. Submit an annual report to the Governor and the Legislature  
27 which includes the number of cases reviewed, a summary of the  
28 circumstances surrounding each case, the outcome of each internal  
29 review and the follow-up action taken by the board concerning each  
30 case. The report shall also include any recommendations the board  
31 deems appropriate to further the State's ability to protect the interests  
32 of the children under the supervision of the division.

33  
34 4. (New section) a. The board shall establish and implement  
35 procedures for conducting a review of cases involving children subject  
36 to its review pursuant to subsection a. of section 3 of P.L. , c.  
37 (C. )(pending before the Legislature as this bill).

38 b. Within 10 days of receiving information concerning a critical  
39 incident or death, the director of the division shall submit a brief  
40 written report and a copy of the case materials to each member of the  
41 board. Upon receipt of the report, the board shall conduct a prompt  
42 and thorough review of the case.

43 c. The review shall be completed no later than 30 days after the  
44 receipt of the report. When the review is completed, the board shall  
45 prepare written findings and recommended actions and submit them to  
46 the Commissioner of Human Services.

1 d. Any individual involved in the case shall be promptly notified  
2 that a review is being conducted and shall also be notified of the  
3 recommendation for action being made by the board.

4  
5 5. (New section) a. The board shall establish and implement  
6 procedures for eliciting, receiving, processing, responding to,  
7 conducting and resolving complaints against the division from  
8 children, parents, guardians, relatives or interested citizens, public  
9 officials, or government agencies.

10 b. Upon receiving a complaint, the board shall conduct a prompt  
11 and thorough investigation. Within 24 hours of receipt of the report,  
12 the chairperson of the board shall notify the Commissioner of Human  
13 Services that the report has been received.

14 c. When the investigation is completed, the board shall prepare  
15 written findings and recommended actions and submit them to the  
16 Commissioner of Human Services.

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

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

21 f. The board need not investigate a complaint when it determines  
22 that:

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

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

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

29 (4) The matter complained of is not within the investigatory  
30 authority of the board.

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

33  
34 6. (New section) The board shall maintain a central registry of all  
35 complaints, investigations, internal reviews, findings and recommended  
36 actions. No information received and compiled in this registry shall be  
37 construed as a public record.

38  
39 7. (New section) The board shall adopt rules and regulations  
40 pursuant to the "Administrative Procedure Act," P.L.1968, c.410  
41 (C.52:14B-1 et seq.) concerning the operation of the board and other  
42 matters that may be necessary to effectuate the purposes of this act.

43  
44 8. Section 1 of P.L.1977, c.102 (C.9:6-8.10a) is amended to read  
45 as follows:

46 1. a. All records of child abuse reports made pursuant to section

1 3 of P.L.1971, c.437 (C.9:6-8.10), all information obtained by the  
2 Division of Youth and Family Services in investigating such reports  
3 including reports received pursuant to section 20 of P.L.1974, c.119  
4 (C.9:6-8.40), all reports of reviews conducted by the Child Death and  
5 Critical Incident Review Board pursuant to section 4 of P.L. , c.   
6 (C. ) (pending before the Legislature as this bill), and all reports  
7 of findings forwarded to the central registry pursuant to section 4 of  
8 P.L.1971, c.437 (C.9:6-8.11) shall be kept confidential and [may ]  
9 shall, upon written request, be disclosed only under the circumstances  
10 expressly authorized under subsection b. or subsections c. and d.  
11 herein.

12 b. The division [may] shall, upon written request, release the  
13 records and reports referred to in subsection a., or parts thereof, to:

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

16 2) A police or other law enforcement agency investigating a report  
17 of child abuse or neglect;

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

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

25 (5) An agency authorized to care for, treat, or supervise a child  
26 who is the subject of a child abuse report, or a parent, guardian or  
27 other person who is responsible for the child's welfare, or both, when  
28 the information is needed in connection with the provision of care,  
29 treatment, or supervision to such child or such parent, guardian or  
30 other person;

31 (6) A court or the Office of Administrative Law, upon its finding  
32 that access to such records may be necessary for determination of an  
33 issue before [the court] it, and such records may be disclosed by the  
34 court or the Office of Administrative Law in whole or in part to the  
35 law guardian, attorney or other appropriate person upon a finding that  
36 such further disclosure is necessary for determination of an issue  
37 before the court or the Office of Administrative Law;

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

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

45 (9) [Any person engaged in a bona fide research purpose,  
46 provided, however, that no names or other information identifying

1 persons named in the report shall be made available to the researcher  
2 unless it is absolutely essential to the research purpose and provided  
3 further that the approval of the director of the Division of Youth and  
4 Family Services shall first have been obtained;](deleted by amendment,  
5 P.L. , c. )

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

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

16 (12) Any person appealing a division service or status action or a  
17 substantiated finding of child abuse or neglect and his attorney or  
18 authorized lay representative upon a determination by the division or  
19 the presiding Administrative Law Judge that such disclosure is  
20 necessary for a determination of the issue on appeal;

21 (13) Any person or entity mandated by statute to consider child  
22 abuse or neglect information when conducting a background check or  
23 employment-related screening of an individual employed by or seeking  
24 employment with an agency or organization providing services to  
25 children;

26 (14) Any person or entity conducting a disciplinary, administrative  
27 or judicial proceeding to determine terms of employment or continued  
28 employment of an officer, employee, or volunteer with an agency or  
29 organization providing services to children. The information may be  
30 disclosed in whole or in part to the appellant or other appropriate  
31 person only upon a determination by the person or entity conducting  
32 the proceeding that the disclosure is necessary to make a  
33 determination;

34 (15) A county or local governmental entity or any agent of the  
35 entity, including, but not limited to, a chief executive officer of a  
36 municipality or township, with a need for the information in order to  
37 carry out its responsibilities under the law to protect children from  
38 abuse and neglect.

39 Any individual, agency, board, court, grand jury or legislative  
40 committee which receives from the division the records and reports  
41 referred to in subsection a., shall keep such records and reports, or  
42 parts thereof, confidential.

43 c. The Child Death and Critical Incident Review Board may  
44 release its report of a review conducted pursuant to section 4 of  
45 P.L. , c. (C. ) (pending before the Legislature as this bill), or  
46 parts thereof, to a parent or guardian of a child who is the subject of

1 an internal review for the purpose of providing information on the  
2 circumstances which led to the review and have been identified by the  
3 board as raising issues which could result in recommendations for  
4 policy, legislative or regulatory changes in departmental or divisional  
5 procedures.

6 A parent or guardian or legislative committee who receives a  
7 report from the board may release its contents, or parts thereof, to the  
8 public only if it can be determined that the disclosure is needed to  
9 identify problems in policy, regulatory, departmental or divisional  
10 procedures relating to the critical incident or death of the child who is  
11 the subject of such report. The individual shall have immunity from  
12 any liability, civil or criminal, that may otherwise be incurred or  
13 imposed provided that no names or other identifying information  
14 contained in the report are made public.

15 d. The identity of persons alleged to have committed child abuse  
16 or neglect and victims of child abuse or neglect, their addresses, the  
17 nature of the allegations, the disposition of the cases and other  
18 relevant information, including, but not limited to, prior reports of  
19 abuse or neglect and names of siblings, obtained by the division during  
20 its investigation of a report of child abuse or neglect shall be  
21 forwarded to the police or law enforcement agency in whose  
22 jurisdiction the child named in the report resides. The police or law  
23 enforcement agency shall keep such information confidential.

24 e. The division may release the records and reports referred to in  
25 subsection a. of this section to any person engaged in a bona fide  
26 research purpose, provided, however, that no names or other  
27 information identifying persons named in the report shall be made  
28 available to the researcher unless it is absolutely essential to the  
29 research purpose and provided further that the approval of the  
30 Director of the Division of Youth and Family Services shall first have  
31 been obtained.

32 (cf. P.L.1995, c.135, s.9)

33  
34 9. This act shall take effect immediately.

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38  
39 Establishes a Child Death and Critical Incident Review Board; allows  
40 certain individuals or entities access to records of child abuse reports.