

CHAPTER 284
FORMERLY
HOUSE BILL NO. 228
AS AMENDED BY
HOUSE AMENDMENT NO. 1 AS AMENDED BY HOUSE AMENDMENT NO. 1 TO HOUSE AMENDMENT
NO. 1

AN ACT TO AMEND TITLE 31 OF THE DELAWARE CODE RELATING TO THE CHILD PLACEMENT REVIEW ACT.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend Chapter 38, Title 31 of the Delaware Code by making insertions as shown by underline and deletions as shown by strike through as follows:

~~§ 3801 Purpose.~~

~~Establishing an independent voluntary, citizen organization whose mission is to advocate on behalf of Delaware's children in out of home placements and to identify and periodically review children in the care and custody of a placement agency is in the best interests of the health and welfare of all citizens of Delaware. The purposes of this chapter are to provide a citizen based independent monitoring of Delaware children in the care and custody of a placement agency to ensure that they receive continuing efforts to obtain permanent homes; adequate provision for their stability, health, and safety; and ongoing care addressing their physical, mental, and emotional needs; and to advocate as necessary for the paramount concerns of best interest and safety for the children.~~

§ 3801. Objectives.

The primary objective of the Child Placement Review Board is to provide a citizen-based independent monitoring of Delaware children in the care and custody of a placement agency to ensure that children achieve permanency. In meeting its objectives the Board shall conduct reviews of children in out of home placements; advocate for the timely establishment of permanency; advise the legislature; prepare an annual report concerning resources, policies, procedures and statues which affect the goal of permanency for children.

§ 3802 Definitions.

As used in this chapter, unless the context clearly indicates otherwise:

(1) "Administrative review" means an administrative review as codified in 42 U.S.C. §§ 671(a)(16), 675(5)(A)-(G) and 675(6) that includes:

- a. The periodic review of a child's placement conducted by a panel of appointed persons (~~Review Committee~~) (Review Panel) to evaluate all plans for care and other needs of the child;
- b. ~~The Review Committee's~~ The Review Panel's recommendations to the court, to the Division of Family Services, and/or to the Division of Youth Rehabilitative Services through the distribution of the ~~Committee's Panel's~~ findings and recommendations report; and
- c. The continued advocacy for the needs and safety of the child as identified and determined necessary.

(2) "Board" means the Child Placement Review Board.

(3) "Child" means any child in the custody or care of the Division of Family Services or a child in the custody or care of the Division of Youth Rehabilitative Services who is in an alternative placement or in out-of-home care, but who is not in a detention or incarceration facility.

(4) "Contract agency" means a private organization, agency or institution with which a placement agency contracts for residential and/or case-management services for a child.

(5) "Elected Executive Committee Member" means a member of the executive committee who has been elected by a quorum of the Child Placement Review Board at the annual meeting.

~~(5)~~ (6) "Placement agency" means the Division of Family Services (DFS) and/or the Division of Youth Rehabilitative Services (YRS) of the Department of Services for Children, Youth and Their Families.

(7) "Private Sector" means an agency or organization that is an entity that is not a government agency. "Private Sector" also excludes any Contract Agency as defined in § 3802(4) of this chapter.

(8) "Review Panel" means a group of Board members that meet with the review coordinators periodically to complete the duties listed in subsection (1)a., b. and c. of this section.

§ 3803 Child Placement Review Board: composition; terms; appointment; removal; vacancies.

(a) The Delaware Child Placement Review Board (the Board) is hereby established. For administrative purposes, the Board is within the Administrative Office of the Courts.

(b) The Board shall conduct administrative reviews for every child. A review must be conducted no less frequently than once during the first 12 months after a child's initial custody or care placement, and no less frequently than annually thereafter until the child exits custody or care placement. For the purpose of conducting administrative reviews, ~~the Board may divide its general membership into Review Committees with not less than 3 members on each committee~~ each County membership may be divided into Review Panels with not less than 3 members on each Panel.

(c) The Board ~~must~~ shall consist of no fewer than ~~56~~ 50 members; 26 New Castle County members, 12 Kent County members, and 12 Sussex County members, who shall be appointed by the Governor for a term of up to 3 years in order to continue a staggered basis of membership. A Board member must be a resident of the county in which the member is appointed to serve Delaware for at least 1 year immediately preceding the appointment and must continue to be a resident of Delaware while serving as a member of the Board. ~~However, a member may continue to serve until a successor is appointed.~~

~~(1) The Governor shall designate 1 board member as chairperson of the Board to serve at the Governor's pleasure and shall designate 5 board members as members of the Executive Committee of the Board. When appointing Executive Committee members, preference must be given to current Board members and to former Board or Foster Care Review Board members. An appointment under this paragraph is for 3 years. The chairperson of the Board is also the chairperson of the Executive Committee, as well as a member of the Committee on Dispositional Guidelines for Juveniles pursuant to § 1008(b)(11) of Title 10. The Chairperson of the Board shall be appointed by and serve at the pleasure of the governor. There shall be an Executive Committee of the Board which shall consist of 11 members and shall include the Chair of the Board, 5 Board members elected for a three-year term elected by the Board, and 5 additional members appointed by the governor and serve at the pleasure of the governor.~~

~~(2) The Chairperson of the Board is by virtue of the position a member of the Committee on Dispositional Guidelines for Juveniles pursuant to § 1008(b)(11) of Title 10.~~

~~(2) (3) The Governor shall appoint no fewer than 50 board members as general members. Upon the advice of the chairperson, the Governor may increase or decrease the number of general board members, but may never decrease the general membership below 50 members. The term of a general board member's appointment may not exceed 3 years. A board member may be reappointed without limitation. Members of the Board shall be appointed by the governor for terms of up to 3 years.~~

~~(3) When a membership vacancy occurs, the Governor shall appoint a replacement member to serve the unexpired term only.~~

~~(4) The Governor may remove a board member for misfeasance, malfeasance, or cause. A member who misses 3 consecutive Panel meetings may be considered to have resigned.~~

§ 3804 Qualifications of Board members.

(a) A board member must be a citizen of Delaware who has demonstrated an interest in children and their welfare through community service or professional experience or who possesses a background in law, sociology, psychology, psychiatry, education, theology, social work, medicine or related fields.

(b) A person employed by a placement agency, contract agency or the Family Court of this State may not be appointed to the Board.

(c) Discrimination is prohibited in the board member appointment procedure on the basis of gender, marital status, disability, religion, creed, sex, age, race, color, national origin or ethnicity ~~is prohibited~~.

(d) All persons who apply for board membership shall consent to a criminal background review, both Delaware and National, and a Child Protection Registry Review. § 3807. Meetings of the Executive Committee and Board.

The Executive Committee shall meet at least 6 times each year. The Board as a whole shall meet at least once a year and shall annually elect ~~its officers from among its members~~ the Executive Committee members.

(1) The Executive Committee shall meet at least 6 times each year.

(2) Election of the 5 Executive Committee members shall take place at the annual meeting.

(3) In order to elect the 5 Executive Committee members 51% of the 50 member board must be present at the annual meeting.

§ 3808. Duties of the Executive Committee.

The Executive Committee has the authority and duty to:

(1) Elect its officers;

~~(2)~~ (2) Monitor and evaluate the effectiveness of the Board's child placement review program. To ensure a comprehensive monitoring and evaluation effort, the Executive Committee shall solicit comments, at a minimum, from the biological parents and family members, foster parents, the child, attorney guardian ad litem, the Court Appointed Special Advocate, contract agencies and placement agencies;

~~(3)~~ (3) Determine what information is necessary for reviewing and monitoring a child's placement and advise the placement agency of the information that is necessary for reviewing and monitoring a child's placement;

~~(4)~~ (4) Review and analyze reports prepared by the Executive Director. The Executive Committee may advise the Executive Director on report preparation;

~~(5)~~ (5) Identify the need for child advocacy programs that are determined to be in the best interest of the child welfare system;

~~(6)~~ (6) Employ, supervise and evaluate the Executive Director of the Board, who serves as chief administrator to implement and administer the provisions of this chapter;

~~(7)~~ (7) Advise the Executive Director on the establishment of training for the Board and provide periodic in-service training for the Board;

~~(8)~~ (8) Review the Executive Director's annual budget request and other applications for funds from any source;

~~(9)~~ (9) ~~Prepare and approve a written annual report that includes an analysis of the effectiveness of this chapter and recommendations to the Governor, the Chief Justice of the Supreme Court of the State, and the General Assembly concerning resources, policies, procedures and statutes which affect the goal of permanency for children.~~ Prepare and approve a written annual report concerning resources, policies, procedures, and statutes which affect the goal of permanency for children. This report will be submitted to the Governor, the Secretary of the Department of Services for Children, Youth and their Families, the Chief Justice of the Supreme Court of the State of Delaware, and the General Assembly, as well as other interested parties.

§ 3809. Duties of the Executive Director.

Under the direction of the Executive Committee, the Executive Director's duties include, but are not limited to:

~~(6) Monitoring and advising~~ Advising the Executive Committee on the changes, when changes occur which relate to progress and development of advocacy programs and of new initiatives designed to improve the lives of children;

(7) Representing and advocating for the views and the opinions of the Board, as approved by the Executive Committee. The Executive Director shall work with appropriate organizations, agencies and individuals towards the goal of achieving permanency for the child and promoting that the safety and best interests of the child is the paramount concern in the provision of services to the child;

(8) Ensuring the accurate preparation and distribution of findings and recommendations reports pursuant to § 3810 (7) and (8) of this ~~title~~ chapter.

§ 3810. Administrative review: Purposes.

The purposes of administrative review are:

(4) To encourage and advocate for permanency for a child children through reunification with his or her parents or parents or guardian or guardians through the initiation of termination of parental rights proceedings and adoption, as appropriate, or through placement in another planned permanent living arrangement;

(5) To encourage and advocate for stability in a child's life through quality placements and fewer changes in placement;

§ 3811. Administrative Review: General responsibilities of the Review Committee.

For purposes of administrative review, the Review ~~Committee~~ Panel shall:

(1) Determine the Panel's Presiding Officer;

(~~2~~) (2) Disseminate information about the rights and responsibilities of biological parents, foster parents and other interested persons regarding a child;

(~~3~~) (3) Make recommendations to the Executive Committee regarding policies and procedures used by state agencies in the provision of services to children;

(~~4~~) (4) Comply with the requirements set forth in the federal Adoption and Safe Families Act of 1997, §§ 475(5)(B), 427(a)(2)(B) (42 U.S.C. §§ 675(5)(B), 627(a)(2)(B) as amended) [*sic*], which requires periodic review of case plans for all children eligible for and receiving funding under the act;

(~~5~~) (5) Submit a written report following an administrative review stating the findings and recommendations of the Review ~~Committee~~ Panel pursuant to § 3815 of this ~~title~~ chapter;

(~~6~~) (6) Refer the findings and recommendations report of an administrative review to the Board's staff for distribution in accordance with § 3810(7) and (8) of this ~~title~~ chapter;

(~~7~~) (7) Forward to the Executive Committee those cases where the Review ~~Committee~~ Panel recommends that further advocacy action for a child is necessary.

§ 3814. Administrative review: Procedures.

(a) Administrative review procedures for a Review ~~Committee~~ Panel must include, but are not limited to, consideration and evaluation of the following:

(e) Placement agencies, the child's parents, legal guardians or the guardian ad litem or CASA for the child, and/or their attorneys, and board staff may be present throughout the review unless the Review ~~Committee~~ Panel reasonably believes that a safety issue exists. Other participants with notice to provide information at the review and anyone else deemed by the ~~Committee~~ Panel as necessary to the review process may be present throughout all or part of the review at the discretion of the Review ~~Committee~~ Panel.

(f) A child of appropriate age and mental capacity who requests a private interview with the Review ~~Committee~~ Panel may be interviewed privately at the ~~Committee's~~ Panel's discretion.

(g) An administrative review is not subject to the provisions of § 10004 of Title 29. Information compiled by the Board staff for the purpose of conducting administrative reviews and all other documents relating to the reviews are exempt from the provisions of 29 Del.C. Ch. 100.

(h) Case and review records of the Board are exempt from the provisions of Chapter 100 of Title 29.

§ 3815. Administrative review: Findings and recommendations report.

(a) A Review ~~Committee~~ Panel shall submit a written findings and recommendations report of its administrative review to the placement agency and/or contract agency, to the child's parents ~~or~~ and legal guardians, or to the child's guardian ad litem or CASA within 15 days of the review. If a case is referred to the Executive Committee for review before the report is distributed, then the report must be submitted within 15 days following the Executive Committee's review.

(c) Upon the receipt of a findings and recommendations report, a placement agency shall, within 10 working days, notify the Board in writing of the agency's agreement or disagreement with the Review ~~Committee's~~ Panel's recommendations.

(d) Upon the receipt of a findings and recommendations report, a person, other than a placement agency, who disagrees with the report may, within 10 working days, submit to the Board in writing a statement of no more

than 2 pages in length stating ~~their~~the person's disagreement with the Review ~~Committee's~~Panel's recommendations.

(e) The findings and recommendations report and any response to the report pursuant to subsections (c) and (d) of this section must be submitted by the Review ~~Committee~~Panel to the Family Court and must be made a part of the child's Family Court file within 7 working days after the 10-day response period has ended. The Court shall review the report and consider the recommendations in it. A report by the Review ~~Committee~~Panel submitted to the Court pursuant to this subsection is a communication authorized by law and is not an ex parte communication with a judge or commissioner. A findings and recommendations report may be received as evidence and may be considered by a court along with other evidence.

Approved July 01, 2014