

CHAPTER 95  
FORMERLY  
SENATE BILL NO. 56  
AS AMENDED BY  
SENATE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 16 RELATING TO ABUSE OF CHILDREN.

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

Section 1. Amend Chapter 9, of Title 16 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 910 Court orders to compel

(a) Whenever an investigation has been opened with the Division pursuant to § 906 of this title for potential abuse or neglect of a child, the Division shall have the authority to petition for ~~request~~ an order from the Family Court:

(1) To obtain access to the child, or children, and the residence of child, or children; or  
(2) To compel the appearance of a person at an office of the Division in furtherance of the investigation; or

(3) To compel compliance with a treatment plan previously agreed to by a child's parent or guardian, if non-compliance with the plan endangers a child's safety; or

(4) To compel completion of a substance abuse or mental health evaluation by the parent or guardian or completion of a developmental health screening for the child or children.

~~(b) The Family Court shall issue such an order upon the showing of "need" by the Division and shall enforce noncompliance with such an order pursuant to § 925(3) of Title 10. Formal notice of a request under this section shall be provided to the respondent prior to the filing of the request with the Family Court provided that orders pursuant to this section may be granted on an ex parte basis if the child, or children, at issue are at risk of imminent physical danger. The Family Court shall consider all requests pursuant to this section within 2 business days of the request being made.~~

~~(b) For purposes of this section, "need" shall mean:~~

Division establishing by a preponderance of evidence that it provided written notice of its intent to file the petition and:

(1) For petitions requesting relief under subsections (a)(1), (a)(2), or (a)(3):

~~(i)~~ (i) That the Division has in good faith attempted on at least 2 separate prior occasions, at least 1 of which was by written communication sent by certified mail, return receipt requested, to contact the person in question without success; or

~~(ii)~~ (ii) That a child is in actual danger ~~or there is an imminent risk of danger~~ physical injury due to the Division's inability to communicate with the person or see the child or the child's residence;

(2) For petitions requesting relief under subsection (a)(4), the investigation has revealed that substance abuse, mental health conditions, or developmental delays may be factors placing the child at risk of abuse or neglect.

(c) The Family Court shall enforce noncompliance with such an order pursuant to § 925(3) of Title 10.

(d) Petitions filed pursuant to this section may be granted on an ex parte basis if a child is at risk of imminent physical danger, provided that the Family Court shall consider all requests pursuant to subsections (a)(1), (a)(2) and (a)(3) within two (2) business days of the request being made. The Family Court shall consider all petitions filed under subsection (a)(4) within ten (10) business days of the filing.

(e) For petitions filed under subsection (a)(4) of this section against any parent or guardian who is indigent, that indigent parent or guardian shall have the right to request a Court-appointed attorney authorized to practice law in this State to represent the parent or guardian at no cost to that parent or guardian.

Approved July 15, 2015