

CHAPTER 319
FORMERLY
SENATE BILL NO. 241
AS AMENDED BY
SENATE 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 deletions as shown by strike through and insertions as shown by underline as follows:

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

(c) The Board shall consist of no fewer than 50 members which shall include at least 26 New Castle County members, 12 Kent County members, and 12 Sussex County members, all of whom ~~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 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 Chairperson of the Board shall be appointed by and serve at the pleasure of the Governor.

(2) There shall be an Executive Committee of the Board which shall consist of 11 members and shall include the following:

i. ~~The~~ Chair of the Board who will serve as Chair;

ii. ~~5~~ Five board members elected by the Board for a 3-year term ~~elected by the Board~~, and;

~~i-iii. 5~~ Five additional members appointed by the Governor ~~and serve for at the pleasure of the Governor 3 year terms~~.

(3) 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.

~~(3) Members of the Board shall be appointed by the Governor for terms of up to 3 years.~~

§ 3804 Qualifications of board members.

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

(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.~~ consistent with the specifications of § 309(a) of Title 31.

§ 3805 Powers and duties of the Board.

The Board has the power and duty to:

(7) Administer the federal Education and Training Vouchers (ETV) in partnership with the Division of Family Services, according to the established Memorandum of Understanding.

§ 3807. Meetings of the Executive Committee and Board.

The Board as a whole shall meet at least once a year and shall annually elect 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) 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;~~

(9) Prepare and approve a written annual report ~~concerning resources, policies, procedures, and statutes which affect the goal of~~ that discusses relevant issues affecting 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 Delaware, and the General Assembly, as well as other interested parties. This report may be distributed electronically.

§ 3809 Duties of the Executive Director.

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

(3) ~~Reviewing and analyzing~~ Ensuring reports are submitted by the placement agency on the status of every child for whom an administrative review is required;

(4) Ensuring the collection of necessary data and statistics and preparing reports to provide sufficient information to the Board so that the Board can advocate effectively on behalf 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) Working 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.~~

§ 3810 Administrative review: Purposes.

The administrative review process monitors children in out-of-home placements for the purpose of ensuring services, as well as the safety, well-being and best interest of those children are being addressed in accordance with federal and state laws and regulations. The review process is to specifically address the following:

(1) Efforts to achieve permanency for the child in a timely manner;

(2) Services are identified and provided that are necessary to achieve the permanency for the child;

(3) The appropriateness of the child's current placement;

(4) The child's health, safety, and well-being;

(5) Efforts to maintain connections with siblings, birth parents, and other people who are significant to the child;

(6) If or when additional advocacy action is necessary by the Executive Committee.

The purposes of administrative review are:

~~(1) To determine if a plan has been developed for a child which adheres to the appropriate policy, maintains the child's safety and best interest as paramount concerns, has been appropriately implemented and complied with, and specifies a projected date for when the child can be safely returned home or maintained in an alternate permanent home;~~

~~(2) To assess the efforts of the placement agency and/or contract agency to achieve permanence for the child. The~~

~~assessment must include, but is not limited to, an assessment of the child's safety, best interest, stability of placement,~~

~~and other special needs;~~

~~(3) To assess if the current placement of a child is appropriate and in the child's best interest;~~
~~(4) To encourage and advocate for permanency for children;~~
~~(5) To encourage and advocate for stability in a child's life;~~
~~(6) To collect information from the placement agency, contract agency and other individuals or organizations involved with a child for the purpose of data collection and advocacy on behalf of the child;~~
~~(7) To submit a written findings and recommendations report regarding the plan and status of a child to the placement and/or contract agency, Family Court, parents, legal guardians, guardian ad litem or Court Appointed Special Advocate (CASA) that will assist in the decision-making processes regarding the child and carry out the purposes of paragraphs (1) through (5) of this section;~~
~~(8) To distribute the recommendations portion of the findings and recommendations report as determined by the Executive Committee. The Executive Committee may consult with the placement agency in this determination.~~

§ 3813 Administrative review: Documents required for the review.

~~(b) The permanent placement plan for a child must include, but is not limited to:~~

~~(1) A description of the type of home or institution in which the child is presently placed, including a discussion of the safety and appropriateness of the placement;~~

~~(2) The identification of specific goals for the responsible placement or contract agency and for the child and/or the child's family which need to be accomplished in order to alleviate or mitigate the causes necessitating placement of the child;~~

~~(3) The identification of specific services to be provided and of the requirements on the placement agency, parents or legal guardian, foster parents or contract agency and/or child to achieve the desired outcome;~~

~~(4) The projected date by which the child may be safely returned home or maintained in an alternate permanent home;~~

~~(5) A permanent placement goal;~~

~~(6) The date and signature by each necessary person accepting the plan or an explanation for the lack of a signature.~~

~~(e)~~(b) A placement agency must provide the Board with information requested by the Board for a review, so long as providing the information requested does not violate federal or state law. The Executive Committee may petition the Family Court for a hearing if a placement agency fails to provide requested ~~and~~ or required information.

§ 3814 Administrative review: Procedures.

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

~~(1) The safety and best interests of the child under review;~~

~~(2) The goal of the permanent placement plan;~~

~~(3) Services to the child and others involved;~~

~~(4) For children in the care or custody of DFS, the placement of siblings;~~

~~(5) Length of time spent in out of home placements;~~

~~(6) Number of placements;~~

~~(7) The child's wishes, where appropriate;~~

~~(8) Efforts made by all involved to fulfill the case plan;~~

~~(9) The opportunity for parents, legal guardians and siblings to visit regularly with the child; and~~

~~(10) Obstacles which hinder or prevent attainment of the placement goal.~~

(a) The Executive Committee of the Board shall develop and enact policies and procedures that:

(1) Ensure the accurate identification of children to be reviewed;

(2) Ensure notice of the review is issued in accordance with this statute;

(3) Outline the procedures to be followed to prepare for, conduct, and issue Findings and Recommendations following a review.

§ 3815. Administrative review: Findings and recommendations report.

(a) Following the review, a report shall be prepared in accordance with the policy and procedures established by the Executive Committee and distributed in accordance with this statute. The report may address, but is not limited to, the following:

(1) The child's health, safety, and wellbeing;

(2) Efforts to maintain connections with siblings, birth parents, and other people who are significant to the child;

(3) Assessment of the child's current placement;

(4) Efforts to achieve permanency;

(5) Assessment of the services necessary to achieve permanency;

(6) Barriers and/or concerns that impede the achievement of permanency;

(b) A ~~Review Panel~~The Child Placement Review Board 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 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.

~~(b) A findings and recommendations report must offer recommendations regarding:~~

~~(1) The appropriateness of the case plan and the length of time determined to be necessary to achieve the identified goal with consideration of the best interest and safety of the child;~~

~~(2) The safety and appropriateness of the child's current placement in meeting the child's needs;~~

~~(3) The appropriateness and timely provision of the services necessary for the identified goal;~~

~~(4) Whether further advocacy by the Board is necessary and appropriate.~~

~~(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 Panel~~Child Placement Review Board 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.~~

(f) The Findings and Recommendations report ~~A report by the Review 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.

The ~~A~~Findings and ~~R~~Recommendations report may be received as evidence by the Court and may be considered by the eCourt along with other evidence.

~~§ 3823 Continuation of service by present Foster Care Review Board members.~~

~~Each member of the present Foster Care Review Board may elect to serve out the term for which the member was appointed. The present chairperson of the Foster Care Review Board may elect to continue to serve as the chairperson of the Child Placement Review Board until a new chairperson is appointed pursuant to § 3803(e)(1) of this title.~~

Approved July 19, 2016