

LAWS OF DELAWARE
VOLUME 83
CHAPTER 461
151st GENERAL ASSEMBLY
FORMERLY
HOUSE BILL NO. 417

AN ACT TO AMEND TITLES 10, 13, 16 AND 29 OF THE DELAWARE CODE RELATING TO ENFORCEMENT OF FAMILY COURT CUSTODY ORDERS.

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

Section 1. Amend Chapter 9 of Title 10 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 925. General jurisdiction.

The Court and each Judge shall have authority to:

(15) In any civil action where jurisdiction is otherwise conferred upon the Family Court, it may enter such orders against any party to the action as the principles of equity appear to require. When a Family Court order, excluding stipulations, relates to the awarding of custody, a police officer has the authority to enter private property to enforce such order when such order requests the assistance of a police officer.

§ 1031. Disposition.

In any civil action within the jurisdiction of this Court and upon the petition of a person properly before it, the Court may:

(1) Award the custody or possession of a child to any party to the action, establish visitation rights, and, in a proper case, order payment of support for the ~~child~~; child. A police officer may enter private property to take physical custody of a child to enforce the Court's custody order when such order requests the assistance of a police officer.

Section 2. Amend Chapter 7 of Title 13 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 727. Custody.

(b) Any custody order entered by the Court may include the following provisions:

(1) Granting temporary joint or sole custody for a period of time not to exceed 6 months in duration to give the parents the opportunity of demonstrating to the satisfaction of the Court their ability and willingness to cooperate with the custodial arrangement ordered. Following a timely review of this temporary order by the Court either at the end of this temporary period or sooner upon the application of any party to the proceeding, the Court shall have the authority to continue or modify the temporary order on a permanent basis.

(2) Counseling of the parents, and their child if appropriate, by a public or private agency approved by the Court to help the parents develop the necessary skills to deal effectively with the major as well as daily decisions involving their child under the custodial arrangement ordered, to continue until such time as the Court is advised in writing by the agency that such counseling is no longer required. Counseling expenses may be assessed by the Court as a cost of the proceeding.

(c) Any custody order entered by the Court shall include a contact schedule by the child with both parents which shall control absent parental modification by written agreement.

(d) Any custody order entered when 1 or both parents is a member of the armed forces, including the National Guard, and is being deployed, shall be an interim order, modifiable upon the return of the Armed Forces member to the United States or termination of service.

(e) A police officer may enter private property to take physical custody of a child to enforce the Court's custody order when such order requests the assistance of a police officer.

Section 3. Amend Chapter 19 of Title 13 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 1940. Warrant to take physical custody of child.

(a) Upon the filing of a petition seeking enforcement of a child custody determination, the petitioner may file a verified application for the issuance of a warrant to take physical custody of the child if the child is imminently likely to suffer serious physical harm or be removed from this State.

(b) If the court, upon the testimony of the petitioner or other witness, finds that the child is imminently likely to suffer serious physical harm or be removed from this State, it may issue a warrant to take physical custody of the child. The petition

must be heard on the next judicial day after the warrant is executed unless that date is impossible. In that event, the court shall hold the hearing on the first judicial day possible. The application for the warrant must include the statements required by § 1937(b) of this title.

(c) A warrant to take physical custody of a child must:

(1) Recite the facts upon which a conclusion of imminent serious physical harm or removal from the jurisdiction is based;

(2) Direct law-enforcement officers to take physical custody of the child immediately;

(3) Provide for the placement of the child pending final relief.

(d) The respondent must be served with the petition, warrant and order immediately after the child is taken into physical custody.

(e) A warrant to take physical custody of a child is enforceable throughout this State.

(f) A law enforcement officer has the authority to enter private property to enforce a warrant to take physical custody of a child.

~~(g)~~ (g) The court may impose conditions upon placement of a child to ensure the appearance of the child and the child's custodian.

Section 4. Amend Chapter 25 of Title 13 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 2512A. Enforcement of DSCYF custody order.

A law enforcement officer may enter private property to take physical custody of a child for the purpose of enforcing a court order granting DSCYF custody of the child when such order requests the assistance of a law enforcement officer.

Section 5. Amend Title 16 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 906. State response to reports of abuse or neglect.

(d) In implementing law-enforcement's role in the child protection system, the law-enforcement agency investigating a report of child abuse or neglect shall do all of the following:

(1) Report every case of child abuse or neglect to the Department as required by § 903 of this title.

(2) Provide information as necessary to the Investigation Coordinator to permit case tracking, monitoring, and reporting by the Investigation Coordinator.

(3) Notify the Department of Justice upon receipt of a report of death or serious physical injury of a child.

(4) Notify the multidisciplinary team as to whether it will be exercising jurisdiction in the case, or will be requesting another law-enforcement agency with jurisdiction to exercise such jurisdiction. Upon request, the other law-enforcement agency may exercise such jurisdiction.

(5) Promptly conduct a criminal investigation for any multidisciplinary case.

(6) Coordinate with the multidisciplinary team to secure forensic interviews and medical examinations, where applicable, and to conduct interviews while considering the criminal investigation together with the Department's statutory duties to promptly assess child safety. Absent good cause, children ages 3 through 12, and all suspected child victims of human trafficking, must be interviewed in a children's advocacy center.

(7) Participate as a member of the multidisciplinary team, and keep the team regularly apprised of the status and findings of its investigation.

(8) Comply with the reporting requirements to the Board of Medical Licensure and Discipline under § 1730(b)(2) and § 1731A of Title 24, and to further report to the Board within 30 days of the closure of a criminal investigation or the arrest of a person who is licensed to practice medicine under Chapter 17, Title 24.

(9) Have the authority to enter private property to take physical custody of a child for the purpose of enforcing a Family Court order awarding custody of the child to the Department. Law enforcement shall have this authority even if not investigating a report of child abuse or neglect of the child.

Section 6. Amend Title 29 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 9016. Appointment of special investigators; powers and duties.

(a) The Secretary may appoint qualified persons to be special investigators for the Department. Such investigators shall hold office at the pleasure of the Secretary. Any person appointed pursuant to this section shall have a minimum of 10 years experience as a “police officer,” as that term is defined in § 1911(a) of Title 11, significant investigatory experience while working as a police officer, shall be in good standing with the previous or present law-enforcement agency where such person is or was employed, and shall have such other qualifications deemed appropriate by the Secretary.

(b) Special investigators appointed under this section may conduct investigations of child abuse, neglect, or risk of maltreatment anywhere in this State as directed by the Secretary or the Secretary’s designee and shall have the power to make arrests and serve writs anywhere in this State. Special investigators shall have statewide powers as enumerated under § 1911 of Title 11 and such other powers as conferred by law on police officers, constables and other law-enforcement personnel.

(c) ~~Notwithstanding the above, special~~ Special investigators under this section shall ~~not~~ have the authority to take custody of a child ~~unless~~ pursuant to an order from the Family Court or in conjunction with the law-enforcement agency charged with jurisdiction over the case. Special investigators may enter private property while taking custody of a child under this section. To the extent possible, special investigators under this section shall consult with the police agency of jurisdiction and the Secretary or Secretary’s designee before making an arrest and shall do so in all cases after making any such arrest.

(e) ~~(d)~~ The salary of special investigators shall be fixed by the Secretary within the appropriations made to the Department.

~~(d)~~ (e) Special investigators will assist in the training of other Division staff.

Approved October 14, 2022