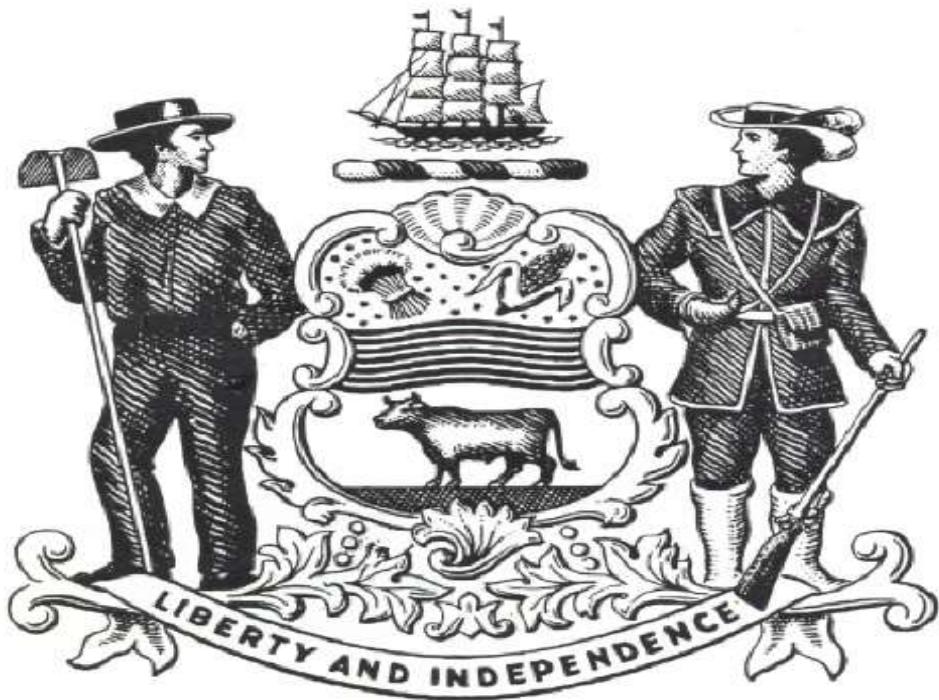

Joint Sunset Committee



Child Protection Accountability Commission

2018 Draft Report

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A NOTE ABOUT THIS DRAFT REPORT

The information provided in this report is taken from the Joint Legislative Oversight and Sunset Committee Performance Review Questionnaire, as it was completed by the agency under review. When appropriate, the Analyst who prepared this report made minor changes to grammar and the organization of information provided in the questionnaire, but no changes were made to the substance of what the agency reported. Any points of consideration which arose in analyzing the questionnaire and compiling this report are addressed in the section titled Additional Research from the Analyst. It is the intent of the Analyst to make any substantive changes which may be required, as the result of findings made through the review processes, in the final version of this report.

The statutes governing and applying to the agency under review are included as Appendices to this Draft Report. They are included only as a reference for Joint Legislative Oversight and Sunset Committee members, and may not be included in the Final Report.

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AGENCY HISTORY

Delaware's Child Protection Accountability Commission ("CPAC" or "Commission") was statutorily created in 1997 as part of a comprehensive strategy, entitled the Child Abuse Prevention Act of 1997, to improve Delaware's child protection system following the tragic death of a four-year-old boy named Bryan Martin. This act made significant changes regarding how Delaware investigates child abuse and neglect and how it fosters a child protection community of cooperation, accountability, and multi-disciplinary collaboration.¹ CPAC's overall statutory mission is to monitor Delaware's child protection system to ensure the health, safety, and well-being of Delaware's abused, neglected, and dependent children.²

When the Commission began its work in 1997, its primary focus was on the caseloads of child protection workers and the resulting turnover and inexperience of workers that compromised child safety. The Commission lobbied hard to establish the caseload standards and career ladders for workers. A partnership with the Department of Services for Children, Youth and Their Families ("DSCYF" or "The Children's Department") resulted in the creation of an overhire pool. The Commission also focused on building partnerships among law enforcement, prosecutors, and the Division of Family Services ("DFS") to improve outcomes for Delaware's children. In February 2000, after the creation of the Office of the Child Advocate ("OCA"), staffing for the Commission was put in place. In 2001, the Commission's membership and statutory duties were expanded to include a focus on well-being of children in the child protection system.

JOINT SUNSET COMMITTEE REVIEW HISTORY

The Joint Legislative Oversight and Sunset Committee ("JLOSC") has never reviewed the Commission.

MISSION, GOALS & OBJECTIVES, AUTHORITY

CPAC's overall statutory mission is to monitor Delaware's child protection system to ensure the health, safety, and well-being of Delaware's abused, neglected, and dependent children.³

CPAC's goals and objectives are as follows:⁴

- (1) Examine and evaluate the policies, procedures, and effectiveness of the child protection system and make recommendations for changes therein, focusing specifically on the respective roles in the child protection system of the Division of Family Services, the Division of Prevention and Behavioral Health Services, the Office of the Attorney General, the Family Court, the medical community, and law-enforcement agencies.
- (2) Recommend changes in the policies and procedures for investigating and overseeing the welfare of abused, neglected, and dependent children.
- (3) Advocate for legislation and make legislative recommendations to the Governor and General Assembly.
- (4) Access, develop, and provide quality training to the Division of Family Services, Deputy Attorneys General, Family Court, law-enforcement officers, the medical community, educators, day-care providers, and others on child protection issues.

¹ See Appendix A for CPAC's governing statute, 16 Del. C. § 901-§ 912 and § 931-§ 935.

² 16 Del. C. § 931(b).

³ 16 Del. C. § 931(b).

⁴ 16 Del. C. § 931(b).

(5) Review and make recommendations concerning the well-being of Delaware's abused, neglected, and dependent children including issues relating to foster care, adoption, mental health services, victim services, education, rehabilitation, substance abuse, and independent living.

(6) Provide the following reports to the Governor:

- a. An annual summary of the Commission's work and recommendations, including work of the Office of the Child Advocate, with copies thereof sent to the General Assembly.
- b. A quarterly written report of the Commission's activities and findings, in the form of minutes, made available also to the General Assembly and the public.

(7) Investigate and review deaths or near deaths of abused or neglected children.

(8) Coordinate with the Child Death Review Commission to provide statistics and other necessary information to the Child Death Review Commission related to the Commission's investigation and review of deaths of abused or neglected children.

(9) Meet annually with the Child Death Review Commission to jointly discuss the public recommendations generated from reviews conducted under §932 of this title. This meeting shall be open to the public.

(10) Adopt rules or regulations for the administration of its duties or this subchapter, as it deems necessary.

With CPAC's assistance, Delaware has continued to refine and improve its interdisciplinary approach to the protection of Delaware's children. The approach, often referred to as the multidisciplinary team ("MDT"), relies on the collaborative intervention of multiple agencies.⁵ An essential participant in the MDT approach has been DSCYF, which is comprised of three service divisions - the Division of Prevention and Behavioral Health Services ("DPBHS"), the Division of Youth Rehabilitative Services ("DYRS"), and DFS. Collectively these divisions are responsible for the provision of services to children who have suffered abuse, neglect, abandonment, delinquency, mental illness, or substance abuse. As the child welfare agency, DFS is responsible for receiving and investigating reports alleging child abuse, neglect, or dependency. These cases are often initiated when a child victim of abuse or neglect is first identified by a professional who interacts routinely with children, including members of the education, medical, or law enforcement communities.

Multidisciplinary collaboration is frequently necessary. For reports that may involve a crime against a child, DFS and law enforcement will investigate jointly. Whenever appropriate, cases will be referred to the Children's Advocacy Center of Delaware ("CAC"), where the MDT often formally convenes to conduct a forensic interview, medical examination, or mental health screening. Death and near death cases are also referred to CPAC for investigation and review. In an effort to ensure system-wide coordination, all cases involving serious physical injury and death or allegations of sexual abuse are also monitored by Delaware's Investigation Coordinator - a function for which CPAC advocated in the wake of the tragic events brought to light in the Bradley case. As a vital member of the MDT, the Criminal Division of the Department of Justice ("DOJ") determines whether there is sufficient evidence to prosecute those responsible for inflicting harm on children. In July 2013, at the recommendation of a joint committee of CPAC and CDRC, the DOJ established the Child Victims Unit. In 2016, the Unit was

⁵ 16 Del. C. §902 provides specific definitions for multidisciplinary investigations. The questionnaire called the multiple agencies "various system partners."

renamed the Special Victims Unit (“SVU”) and expanded to handle all felony level, criminal child abuse cases involving the death or serious physical injury of a child, as well as all sexual abuse cases. The SVU combines expertise from both the Criminal and Family Divisions of the DOJ. The Family Division also provides legal representation to DSCYF in Family Court, and DOJ has designated several attorneys across its Divisions to pursue civil remedies against perpetrators of child abuse, including civil substantiations and licensure proceedings, thereby increasing the chances of protecting children where criminal remedies are either insufficient or unavailable.

Through frequent hearings; Family Court judges are responsible for monitoring the children in the legal custody of DSCYF. These same children are entitled to representation in all judicial proceedings, which OCA is responsible for providing. OCA accomplishes its charge to represent children through the employment of four full-time Deputy Child Advocates (“DCAs”), contract Child Attorneys, a substantial and dedicated pool of volunteer Child Attorneys supervised by a Managing Attorney, and a robust and committed pool of community volunteers that serve as Court Appointed Special Advocates (“CASA”) that are supervised by CASA Coordinators. Children in DSCYF custody also receive extensive care and support from Delaware education, foster care, adoption, and medical communities. Thus, Delaware relies on the collective resources of the Family Court, DOJ, OCA and CASA, as well as the Children’s Department, the service providers, and the community, to provide safety, wellbeing, and permanency for its most vulnerable children.

The Commission has the power and authority to do the following:

- (1) Administer oaths and affirmations to any person related to the death or near death under review.
 - (2) Issue subpoenas to compel the attendance of witnesses whose testimony is related to the death or near death under review.
 - (3) Issue subpoenas to compel the production of records related to the death or near death under review.
- (b) The Commission may delegate its power and authority in subsection (a) of this section to the Child Advocate, who may further delegate the power and authority to any attorney employed by, contracting with, or volunteering for the Office of the Child Advocate.
- (c) A subpoena issued under subsection (a) of this section may be enforced or challenged only in the Family Court.
- (1) All proceedings before the Family Court and all records of such proceedings conducted under this subsection are private.
 - (2) In a proceeding under this subsection (c), the Family Court may impose reasonable restrictions, conditions, or limitations on the access to proceedings and records of proceedings to preserve the confidentiality set forth in § 934 of this title.

COMPOSITION & STAFFING OF THE BOARD

Composition:

The Commission is composed of 24 members.⁶ There is no formal procedure for removal of a member. CPAC has never removed a member; however, there have been changes over the years generated by the appointees.

Compensation:

The members are not compensated for related expenses or the services they provide to the Commission.

Member Trainings:

Each year, Commission members have access to both local and national child welfare training opportunities sponsored by CPAC, which are all voluntary. The Commissioners receive an email at least annually about these opportunities. Local training opportunities include the Protecting Delaware's Children conference for all child welfare professionals and forensic interview training for multidisciplinary team ("MDT") members. MDT members may also apply for partial scholarships to national child welfare conferences. All of these training opportunities are funded by the Children's Justice Act grant and, as such, only one local event can be sponsored each year. CPAC also benefits from regular presentations at its CPAC meetings, which further educate members regarding topics on which CPAC is focused.

Staffing:

The Child Advocate serves as Executive Director of the Commission as one of her statutory duties.⁷ She is hired and fired by the CPAC Executive Committee. Two OCA staff members, OCA Chief Policy Advisor and the OCA Office Manager provide support to CPAC, but also have multiple job duties at OCA. The Child Abuse and Neglect ("CAN") Review Specialist's primary duties are to staff the CAN Panel, and as such, most of her work relates to CPAC. These positions are not Merit, but instead are judicial branch positions.

In addition, OCA utilizes federal funding to contract with a Training Coordinator and Data Analyst to assist with the multiple needs of CPAC and the larger child welfare system monitored by CPAC. OCA utilizes the Casey Family Programs grant to employ two contractors to improve educational outcomes for children involved in the child welfare system.

All positions that assist in staffing CPAC are posted through the judicial branch personnel system and interviewed and hired according to the requirements of the job. There is a judicial branch orientation, but staff are trained for CPAC by other OCA employees.

In addition to the aforementioned opportunities available to Commissioners, the Executive Director and Chief Policy Advisor have the opportunity to attend the national meetings related to the federal Children's Justice Act ("CJA") Grant and Citizen Review Panel. Each meeting is held annually, and attendance at the CJA meeting is a requirement for receiving the grant.

⁶ See Appendix B for Commission member roster.

⁷ 16 Del. C. § 931(c).

Staff Member Name & Title	Responsibilities	Percentage of Time Devoted to Responsibility
Tania Culley, Esq., Executive Director	Oversees CPAC staff and all legislative matters.	25%
Rosalie Morales, Chief Policy Advisor	Shepherds staff and committees to ensure accomplishment of tasks and compliance with the charge assigned by CPAC.	65%
Stepfanie Scollo, Office Manager	Provides administrative support to CPAC.	7%
Angela Birney, Child Abuse and Neglect Review Specialist	Prepares cases for review by the Child Abuse and Neglect (“CAN”) Panel.	65%
Brittany Willard, Data Analyst	Gathers, analyzes and produces reports on the various measurable aspects of the child welfare system.	78%
Jessica Begley, Training Coordinator	Develop and provide a variety of trainings to the MDT and other professionals.	67%

Complaints

CPAC did regularly hold public meetings at the DSCYF Office at Faulkland Road, which has children on its premises. In January 2017, DSCYF determined that a registered sex offender could not attend any public meetings held on its campus. A complaint from a citizen who is a registered sex offender was made. He then showed up to the OCA office and law enforcement had to intervene.

Thereafter, although FOIA does not require public meetings be held in places where sex offenders can attend, staff moved meeting locations to accommodate such attendance. Other than an initial question about access to the new location and prompt resolution of that inquiry, no other complaints have been made.

National Organizations or other Government Entities (that serve as an information clearinghouse or regularly interact with the Board)		
Group or Association Name/Contact Person	Address	Phone Number Fax Number Internet Address
Casey Family Programs	2001 Eighth Avenue, Suite 2700 Seattle, WA 98121	Phone: 206-282-7300 Fax: https://www.casey.org/
Criminal Justice Council	820 N French St # 10, Wilmington, DE 19801	Phone: 302-577-5030 Fax: http://cjc.delaware.gov/

ENACTED LEGISLATION IMPACTING THE COMMISSION

State Legislation

July 2001 – 141st GA – HB 287: Increased the numbers of seats, expanded the responsibilities to include a focus on the well-being of children and provided staffing through OCA.

July 2007 – 144th GA – HB 90: Added the Chair of the Domestic Violence Coordinating Council to CPAC.

July 2010 – 145th GA – SB 304: Allowed the law enforcement at-large members to designate proxies and amend to whom the annual report should be distributed.

July 2014 – 147th GA – SB 230: Updated how Commissioners are appointed and required that one of the law enforcement seats be for the Delaware State Police. It also added several commissioner seats to include the Chair of the Child Death Review Commission, the Investigation Coordinator, a youth who experienced foster care, and a public defender.

September 2015 – 148th GA – HB 136: Transferred responsibility for the reviews of child abuse and neglect deaths and near deaths from the Child Death Review Commission to the Child Protection Accountability Commission.

August 2017 – 149th GA – HB 182: Strengthened confidentiality and protections for those persons appointed by CPAC to conduct the child abuse and neglect death and near death reviews.

August 2017 – 149th GA – SB 102: Requires CPAC, with DFS, to identify and maintain educational programming to be used by each school district and charter school for informing school district and charter school employees, students, and parents, about personal body safety, child abuse, and how to detect and report child abuse.

Federal Legislation

The Commission is designated as Delaware's "citizen review panel" as required under the federal Child Abuse Prevention and Treatment Act ("CAPTA"),⁸ and the "State Task Force" as required under the federal Children's Justice Act ("CJA").⁹

In Fiscal Year 2005, DSCYF, in its Child and Family Services Plan – Annual Progress and Services Report ("APSR"),¹⁰ first designated CPAC to serve as Delaware's citizen review panel ("CRP"). Every year since, CPAC has been designated as the CRP. Federal law requires CPAC to evaluate the extent to which the State is effectively discharging its child protection responsibilities. CPAC does that in a variety of ways, including evaluating policies and procedures and reviewing child fatalities and near fatalities due to abuse or neglect.

⁸ 42 U.S.C. § 5106a(c).

⁹ 42 U.S.C. § 5106c(c).

¹⁰ The 2017 APSR is available at: http://kids.delaware.gov/pdfs_archive/fs/fs-cfsp-apsr-2017.pdf.

In Fiscal Year 2008, CPAC became the CJA State Task Force. CJA provides grants to States to improve the investigation, prosecution and judicial handling of cases of child abuse and neglect, particularly child sexual abuse and exploitation, in a manner that limits additional trauma to the child victim. This also includes the handling of child fatality cases in which child abuse or neglect is suspected, along with some cases of children with disabilities and serious health problems who also are victims of abuse and neglect. To be eligible for CJA funds, states must establish and maintain a multidisciplinary task force (“the State Task Force”). The State Task Force is responsible for making policy and training recommendations to carry out the objectives of the grant, for conducting a comprehensive evaluation every three years of the state's child welfare system, and for making recommendations for improvement of those systems.

PENDING LEGISLATION

At this time, there is no pending legislation that would impact the Commission.

ADMINISTRATIVE PROCEDURES ACT COMPLIANCE

The Commission does not promulgate rules or regulations and has no plans to develop any for CPAC at this time.

FREEDOM OF INFORMATION ACT (“FOIA”) COMPLIANCE

To date, there have been no FOIA requests to the Commission.

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FISCAL INFORMATION

Actual Revenue:

Fiscal Year	Source(s)of Funds	Amount \$\$
FY18 (budgeted)*	Federal Funds (CJA) Federal Funds (CIP) Grant (Casey) Special Funds (PDC)	\$88,978 \$62,400 \$65,000 \$13,319
		TOTAL \$229,697
FY17 (actual)	Federal Funds (CJA) Federal Funds (CIP) Grant (Casey) Special Funds (PDC)	\$88,789 \$70,080 \$65,000 \$20,228
		TOTAL \$244,097
FY16 (actual)	Federal Funds (CJA) Federal Funds (CIP) Grant (Casey) Special Funds (PDC)	\$89,091 \$62,400 \$65,000 \$17,056
		TOTAL \$233,547

- Children’s Justice Act Fund – Grant, \$88,978, no state match, (federal fiscal year).
- Court Improvement Program – Grant, Awarded to Family Court, \$62,400, no state match (federal fiscal year).
- Casey Family Program – Grant, \$65,000, no state match (calendar year).

Actual Expenditures:

Fiscal Year	Source(s)	Amount \$\$
FY18 (budgeted)*	Federal Funds (CJA) Federal Funds (CIP) Federal Funds (Casey) Special Funds (PDC)	\$88,978 \$62,400 \$65,000 \$12,000
		TOTAL \$228,378
FY17 (actual)	Federal Funds (CJA) Federal Funds (CIP) Federal Funds (Casey) Special Funds (PDC)	\$88,789 \$70,080 \$65,000 \$10,465
		TOTAL \$234,334
FY16 (actual)	Federal Funds (CJA) Federal Funds (CIP) Federal Funds (Casey) Special Funds (PDC)	\$89,091 \$62,400 \$65,000 \$5,000
		TOTAL \$221,491

Breakdown of budgeted expenses:

Line Item	Source(s)	Amount of Expenditures
Contractor Fees	Federal Funds (CJA)	\$48,378
MDT Training	Federal Funds (CJA)	\$40,600
Contractor Fees	Federal Funds (CIP)	\$62,400
Subcontractor Services	Federal Funds (Casey)	\$60,000
Project Expenses	Federal Funds (Casey)	\$5,000
Media Campaign	Special Funds (PDC)	\$12,000
		TOTAL \$228,378

ACCOMPLISHMENTS

CPAC's most significant accomplishments are as follows:¹¹

- Championed legislation in the General Assembly in FY04 and FY07 to lower caseload standards for Division of Family Services (“DFS”) case workers and advocated to the Joint Finance Committee to emphasize the urgent need for statutory compliance with DFS caseload standards in FY16.
- Expanded reviews to child abuse or neglect near deaths in FY04 through legislation championed by CPAC.
- Legislated protections for children in foster care under the McKinney-Vento Homeless Education Assistance Act in FY05.
- Endorsed a sixteen-bed group care facility in New Castle County for teens and other difficult to place youth who are not successful in foster home settings (FY06-FY07).
- Advocated for standardized definitions of child abuse, neglect and dependency throughout the Delaware Code in FY07.
- Drafted and lobbied for statutory changes regarding the mixing of delinquent and dependent populations in FY07.
- Brought to fruition basic child abuse and neglect training for Delaware’s citizens in FY07 with Child Abuse and Neglect 101.
- Recommended that Family Court adopt an Adoption and Safe Families Act (“ASFA”) timelines tracking system to ensure compliance with the federal statute, which was implemented in FY08.
- Established the bi-annual Protecting Delaware’s Children Conference in FY08 to provide training to professionals involved in the investigation, prosecution, treatment, and prevention of child abuse.
- Championed HB 104 in the 145th GA in FY08, which created user-friendly chapters in Title 13 of the Delaware Code pertaining to custody and visitation matters between parents and third parties, including the DSCYF.
- Updated and implemented the Memorandum of Understanding between the Department of Education, Local Education Agencies and DSCYF in FY09 and FY14.
- Launched mandatory reporting training for medical professionals in FY09 and other professional audiences in FY10.

¹¹ See Appendix C for the Executive Summary from CPAC’s 2016 and 2017 Annual Report. Full copies of the reports can be found here: https://courts.delaware.gov/childadvocate/cpac/cpac_reports.aspx

- Trained thousands of educators, healthcare providers and members of the public on their statutory child abuse mandatory reporting obligations through onsite and online training since FY09.
- Revised and finalized the MOU for the Multidisciplinary Response to Child Abuse and Neglect in FY09 and completely rewrote it in FY17.
- Championed for SB 113 in the 145th GA in FY10, which extended jurisdiction of the Family Court for children in foster care from age 18 to 21.
- Developed the mandatory reporting media campaign during Child Abuse Prevention and Awareness Month in FY10.
- Established the Protecting Delaware's Children Fund to support statewide child abuse prevention and awareness activities and created a logo, Stop Child Abuse: See the Signs, Make the Call (FY11).
- Created a contractual Training Coordinator in FY11 to provide administrative support for all training activities related to the investigation and prosecution of suspected child abuse and neglect cases.
- Recommended that DSCYF adopt the Structured Decision Making Model of assessment tools developed by the Children's Research Center in FY11.
- Started to examine the educational success of children in foster by conducting a data comparison between youth in foster care and the general population by exploring graduation rates, attendance, special education enrollment, state test scores, number of school and foster home placements, and age of placement (FY11).
- Released recommendations from the CPAC Mental and Behavioral Health Services to Children in and Adopted out of Foster Care Committee, which was responsible for improving outcomes for children in foster care (FY11).
- Created the CPAC Permanency for Adolescents Committee to improve outcomes for adolescents in foster care in FY12.
- Created the CPAC Data Dashboard to measure Delaware's child protection system and use the dashboards to inform system improvement and CPAC initiatives (FY12).
- Authorized a change in grant management for the Children's Justice Act from DFS to OCA on behalf of CPAC in FY12.
- Developed Guidelines for Responding to Teen Dating and Sexual Violence in Delaware Schools in FY12.
- Supported House Substitute 1 for HB 371, which established an Investigation Coordinator position initially within DSCYF, and then at OCA, to monitor, coordinate, and track these cases to ensure a multidisciplinary civil and criminal response system (FY12).
- Championed HB 125, which allows for the reinstatement of parental rights under certain limited conditions where a child remains in DSCYF custody, despite reasonable efforts to secure a permanent plan of adoption (FY13).
- Provided scholarships to national conferences to give multidisciplinary team members access to quality training (FY13).
- Released the Final Report of the Joint Committee on the Investigation and Prosecution of Child Abuse, which included nine recommendations to better protect children from abuse (FY13).
- Advocated for the educational success of children in foster care by recommending revisions to Regulation 505 - High School Graduation Requirements and Diplomas to provide exceptions to graduation requirements for students in DSCYF custody (FY14).

- Developed a Student Information Sheet to support schools in making education decisions for children in foster care and a Frequently Asked Questions sheet on education issues for students in DSCYF custody in (FY14-FY15).
- In the 147th GA, championed SB 99, which involves DSCYF assessments of dependent children placed with non-relatives; HB 251, which clarifies the circumstances under which guardianship may be rescinded; SB 181, which makes several changes to the Child Protection Registry; HB 253, which created the Stop Child Abuse license plate with proceeds going to the Protecting Delaware's Children Fund; and SB 182, which established a check off box for donations to the Protecting Delaware's Children Fund on Delaware's individual income tax returns (FY14).
- Developed a Permanency Options Checklist to help foster parents and other caregivers with understanding the different permanency options (FY14).
- Worked to develop a state plan for younger youth with a permanency plan of APPLA and hosted training programs on permanency options and extended jurisdiction (FY15).
- Transferred the Child Abuse and Neglect Panel from the Child Death Review Commission to CPAC in FY15.
- Collaborated with the Child Death Review Commission to create a Joint Action Plan for the prioritized system recommendations stemming from the reviews of child death and near death cases due to abuse and neglect (FY15-FY16).
- Created the Child Abuse and Neglect Steering Committee to provide oversight for the investigation and review of deaths and near deaths of abused and neglected children in FY16.
- Finalized the Common Elements of Child Torture checklist to help professionals identify potential child torture cases (FY16).
- Developed a strategic plan in collaboration with Casey Family Programs to improve the educational outcomes of children in foster care in FY16 and managed a grant from Casey Family Programs to assist with same.
- In the 148th GA, championed SB 216, which made several procedural changes to how Extended Jurisdiction cases are handled in Family Court; SB 247, which codified federal law requiring normalcy for children experiencing foster care; and HB 248, which relocated the Office of the Investigation Coordinator from the Children's Department to the Office of the Child Advocate.
- Developed the Delaware Multidisciplinary Team Guidelines for Child Abuse Medical Response, a statewide protocol for determining the need for medical evaluations in child abuse cases, in FY17.
- Awarded an application for In-Depth Technical Assistance for Substance Exposed Infants (SEI-IDTA) to the National Center on Substance Abuse and Child Welfare in FY17.
- Created a mobile application to help professionals easily access the MOU for the Multidisciplinary Response to Child Abuse and Neglect (FY17).

CHALLENGES

DFS Caseloads - Caseloads for fully functioning investigation caseworkers have been consistently above standard of 11 for the last several years. DFS treatment caseloads also need to continue to be closely monitored, as 18 cases per worker translates to 50-60 children and their families. Since 2008, CPAC has proposed that treatment caseloads be reduced to 15 and then 12. Currently, the average statewide caseload for fully functioning treatment caseworkers is at 18. CPAC requests that compliance with statutory caseload mandates continue to occur, as required by 29 Del. C. § 9015. Solutions to problems such as entry level pay, mobile workforce, hazard pay, skill sets, and qualifications are complicated. CPAC remains a steadfast partner with DSCYF to achieve long-term sustainable solutions.

Children’s Advocacy Center of Delaware - The CAC has been a long-standing quasi-governmental agency providing a critical service to our abused and neglected children. By providing forensic exams and interviews, children are not re-traumatized and prosecutions of perpetrators are stronger. Each year, this agency is required to spend significant time, energy, and money to advocate for restoration of its funds to carry out governmental functions. Once again in FY17, the CAC budget was cut by \$99,100 or 10% of its budget. Core services to abused and neglected children cannot be delivered with this cut. In the last 7 years, the CAC has seen a spike in its forensic interviews – from 1,159 children to 1,536 in 2016. With implementation of the new MOU for the Multidisciplinary Response to Child Abuse and Neglect and the concurrent training of law enforcement and DFS, an increase in forensic interviews is anticipated.

Department of Justice - In last few years, the Attorney General has established the SVU with the long-term goal to have all child abuse cases statewide handled by this unit. CPAC recommended SVU in May 2013 after it undertook a yearlong review of criminal prosecutions and outcomes in child abuse cases. While SVU has now been established, it is functioning only in New Castle County and is severely understaffed. In the last year, CPAC has seen three cases where previous prosecutions with minimal punishment or no prosecution have resulted in subsequent serious harm to children. DOJ has requested an additional Deputy for SVU, and CPAC requests funding of that position.

Prevent Child Abuse Delaware – In 2016, SB 213 passed and was signed into law despite reservations about CPAC’s ability to financially provide personal body safety programming to 60,000 children in pre-kindergarten through 6th grade. In 2017, SB 102 was introduced; it allows for the programming for children to be delayed 2 years to secure funding. CPAC, together with DFS, is responsible for identifying and maintaining evidence-based (whenever available) personal body safety instruction for these children. Currently, this service is provided to about 10,000 students per year through Prevent Child Abuse Delaware (“PCAD”). PCAD has requested an increase of its grant in aid funding from \$48,580 to \$90,930 to enable it to hire a second staff person to reach another 10,000 students. This is still a far cry from the 60,000 students but it would greatly assist CPAC, DFS, and the schools in exploring a variety of options to eventually meet the statutory mandate.

OPPORTUNITIES FOR IMPROVEMENT

CPAC does not have need for changes to their statute or structure. CPAC will continue its effort to seek financial support for the initiatives noted above: DFS caseloads, Children’s Advocacy Center, Special Victims Unit, and Prevent Child Abuse Delaware.

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ADDITIONAL COMMENT FROM THE COMMITTEE ANALYST

CPAC's efforts have highlighted the need for continued improvement Delaware's child protection system. As noted in the Challenges section, on page 17 of this report, budget cuts have negatively affected the multidisciplinary approach.¹² The Children's Advocacy Center, whose child interviews are so important in cases such as Earl Bradley and Daniel Santucci, will continue to be delayed.¹³ It is unclear if CPAC can assist the CAC through grant opportunities.

CPAC continues to update information by utilizing data analytics to provide up to date information for the child welfare dashboard. An area that has recently gained additional attention is substance-exposed infants. Data provided from the Office of the Investigation Coordinator within OCA highlights increased need for intervention in this area. House Bill 140 was introduced In addition to a Regional Partnership Grant to assist in the development of Plans of Safe Care for infants and their families through the Healthy Outcomes for Parent Engagement (“HOPE”) Model, the Comprehensive Addiction and Recovery Act (“CARA”) made federal funding available to support programs that improve addiction treatment for pregnant and postpartum women. While CPAC has not applied for any CARA grants, it may be another way for CPAC to support its MDT approach in providing care for infants affected by addiction.

Championed by CPAC, House Bill 140, Aiden’s Law, is a non-punitive, public-health oriented bill that seeks to codify certain sections of the federal law known as the Child Abuse Prevention and Treatment Act, as amended by the Comprehensive Addiction and Recovery Act, that requires states to have policies and procedures in place to address the needs of infants born with and identified as being affected by substance abuse, withdrawal symptoms, or Fetal Alcohol Spectrum Disorder, including a requirement that healthcare providers involved in the delivery or care of such infant notify the child protection services system.¹⁴ This bill formalizes a uniform, collaborative response protocol for the development of a Plan of Safe Care for infants with prenatal substance exposure and their affected family or caregivers. HB 140 was reported out of the House Judiciary Committee on May 10, 2017, and assigned to the House Appropriations Committee. An amendment was introduced and placed with the Bill on June 1, 2017. While it is unclear what lies ahead for HB 140, the Committee may wish to discuss it.

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¹² See Appendix C for CPAC's letter to Governor Carney regarding funding priorities.

¹³ See Appendix D for Delaware News Journal coverage.

¹⁴ See Appendix E for HB 140 and HA 1 to HB 140.

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APPENDIX A

TITLE 16

Health and Safety

Regulatory Provisions Concerning Public Health

CHAPTER 9. ABUSE OF CHILDREN

Subchapter III. Child Protection Accountability Commission

§ 931 The Child Protection Accountability Commission.

(a) The Delaware Child Protection Accountability Commission is hereby established. The Commission shall consist of 24 members with the at-large members and the Chair appointed by the Governor. Members of the Commission serving by virtue of position may appoint a designee to serve in their stead. The Commission shall be comprised of the following:

- (1) The Secretary of the Department of Services for Children, Youth and Their Families.
- (2) The Director of the Division of Family Services.
- (3) Two representatives from the Attorney's General Office, appointed by the Attorney General.
- (4) Two members of the Family Court, appointed by the Chief Judge of the Family Court.
- (5) One member of the House of Representatives, appointed by the Speaker of the House.
- (6) One member of the Senate, appointed by the President Pro Tempore of the Senate.
- (7) The Chair of the Child Placement Review Board.
- (8) The Secretary of the Department of Education.
- (9) The Director of the Division of Prevention and Behavioral Health Services.
- (10) The Chair of the Domestic Violence Coordinating Council.

- (11) The Superintendent of the Delaware State Police.
 - (12) The Chair of the Child Death Review Commission.
 - (13) The Investigation Coordinator, as defined in § 902 of this title.
 - (14) One youth or young adult who has experienced foster care in Delaware, appointed by the Secretary of the Department.
 - (15) One representative from the Office of Defense Services, appointed by the Chief Defender.
 - (16) Seven at-large members appointed by the Governor with 1 person from the medical community, 1 person from the Interagency Committee on Adoption who works with youth engaged in the foster care system, 1 person from a law-enforcement agency other than the State Police, and 4 persons from the child protection community. The law-enforcement representative may designate a proxy as needed.
- (b) The Commission is designated as a "citizen review panel" as required under the federal Child Abuse Prevention and Treatment Act, 42 U.S.C. § 5106a(c) and the "state task force" as required under the federal Children's Justice Act, 42 U.S.C. § 5106c(c). The Commission may delegate tasks to its committees, workgroups, and panels as necessary to accomplish its duties. The Commission's purpose is to monitor Delaware's child protection system to best ensure the health, safety, and well-being of Delaware's abused, neglected, and dependent children. To that end, the Commission shall meet on a quarterly basis and shall:
- (1) Examine and evaluate the policies, procedures, and effectiveness of the child protection system and make recommendations for changes therein, focusing specifically on the respective roles in the child protection system of the Division of Family Services, the Division of Prevention and Behavioral Health Services, the Office of the Attorney General, the Family Court, the medical community, and law-enforcement agencies.
 - (2) Recommend changes in the policies and procedures for investigating and overseeing the welfare of abused, neglected, and dependent children.
 - (3) Advocate for legislation and make legislative recommendations to the Governor and General Assembly.

- (4) Access, develop, and provide quality training to the Division of Family Services, Deputy Attorneys General, Family Court, law-enforcement officers, the medical community, educators, day-care providers, and others on child protection issues.
 - (5) Review and make recommendations concerning the well-being of Delaware's abused, neglected, and dependent children including issues relating to foster care, adoption, mental health services, victim services, education, rehabilitation, substance abuse, and independent living.
 - (6) Provide the following reports to the Governor:
 - a. An annual summary of the Commission's work and recommendations, including work of the Office of the Child Advocate, with copies thereof sent to the General Assembly.
 - b. A quarterly written report of the Commission's activities and findings, in the form of minutes, made available also to the General Assembly and the public.
 - (7) Investigate and review deaths or near deaths of abused or neglected children solely for the purposes provided in § 932 of this title.
 - (8) Coordinate with the Child Death Review Commission to provide statistics and other necessary information to the Child Death Review Commission related to the Commission's investigation and review of deaths of abused or neglected children.
 - (9) Meet annually with the Child Death Review Commission to jointly discuss any findings or recommendations released to the public from reviews conducted under § 932 of this title. This meeting shall be open to the public.
 - (10) Adopt rules or regulations for the administration of its duties or this subchapter, as it deems necessary.
- (c) The Child Advocate shall serve as the Executive Director of the Commission, and the Office of the Child Advocate shall provide staff support to the Commission. The Office of the Child Advocate shall assist the Commission in investigating and reviewing the deaths or near deaths of abused or neglected children under § 932 of this title, in addition to performing any other duties assigned by the Commission. The Child Advocate shall hire employees or contract for services as necessary to assist the Commission in performing its duties under this subchapter, within the limitations of funds appropriated by the General Assembly or obtained from other sources.

71 Del. Laws, c. 199, § 6; 70 Del. Laws, c. 186, § 1; 73 Del. Laws, c. 116, §§ 1-3, 5[4]; 76 Del. Laws, c. 97; 77 Del. Laws, c. 327, § 210(a); 77 Del. Laws, c. 383, §§ 1-3; 79 Del. Laws, c. 322, § 1; 80 Del. Laws, c. 26, § 5; 80 Del. Laws, c. 187, § 8; 81 Del. Laws, c. 143, § 1;

§ 932 Investigation and review of the death or near death of an abused or neglected child.

- (a) The Attorney General, the Department of Services for Children, Youth and Their Families, and any other state or local agency with responsibility for investigating child deaths shall report to the Commission any death or near death of a child who is determined to have been abused or neglected within 14 days of that determination.
- (b) The Commission Chair shall appoint a committee to review all investigations under this section and a panel to conduct the investigations under this section. The members of such committee and panel, together with any staff, contractors, or volunteers designated to assist the committee and panel are considered agents of the Commission under § 935 of this title.
- (c) Within 6 months of any report to the Commission under subsection (a) of this section, the Commission shall conclude an investigation and review of the facts and circumstances of the death or near death incident through the committee and panel appointed under subsection (b) of this section. For good cause shown to the Commission, the 6-month period for the completion of an investigation and review under this subsection may be extended to 9 months. If the need for an extension under this subsection is attributable to an ongoing criminal prosecution, an initial review must occur, but a final review of the case may be deferred for a period of up to 6 months following the completion of the prosecution. In cases in which the time for the Commission's complete investigation and review is extended under this subsection, the Commission may issue initial findings or recommendations if it determines that such are necessary under the circumstances.
- (d) No person identified by the Attorney General's office as a potential witness in any criminal prosecution arising from the death or near death of an abused or neglected child shall be questioned, deposed, or interviewed by or for the Commission in connection with its investigation and review of such death or near death until the completion of the prosecution.
- (e) Notwithstanding any requirement of § 931(b) of this title to the contrary, the Commission shall, if necessary, make system-wide findings or recommendations arising from an investigation and review conducted under this section.

- (1) The Commission shall provide its findings or recommendations, if any, to the Governor, the General Assembly, and the public within 20 days of the approval of the findings or recommendations made under this section.
 - (2) All summary information, findings, or recommendations released by the Commission under this subsection shall comply with applicable state and federal confidentiality provisions, including those set forth in § 934 of this title and § 9017(e) of Title 29.
 - (3) Notwithstanding any provision of this subchapter to the contrary, no summary information, finding, or recommendation released by the Commission under this subsection shall specifically identify any individual or nongovernmental agency, organization, or entity.
 - (4) In addition to the Commission's release of findings or recommendations, the Commission may release to the public summary information and findings resulting from reviews of child deaths and near deaths due to abuse and neglect. The Commission may release summary information only upon completion of the prosecution and only if such release complies with paragraph (e)(2) of this section. Such release to the public of summary information does not supplant the obligation of the State to comply with any request for public disclosure of information on child deaths and near deaths due to abuse or neglect made under 42 U.S.C. § 5106a(b).
- (f) Notwithstanding this section or § 931(b)(7) of this title, the Child Death Review Commission may review deaths of abused or neglected children, for good cause shown, as determined by the agreement of the Commission and the Child Death Review Commission.
- (g) For purposes of this subsection, "completion of the prosecution" means the decision to file no information or seek no indictment, conviction or adjudication, acquittal, dismissal of an information or indictment by a court, the conditional dismissal under a program established by Delaware law or a court, or the nolle prosequi of an information or indictment by the Attorney General.

[80 Del. Laws, c. 187, § 9; 81 Del. Laws, c. 143, § 2.](#)

§ 933 Power and authority of investigations and reviews.

- (a) In connection with any investigation and review conducted under § 931(b)(7) of this title, the Commission, by and through its staff, committee, and panel, has power and authority to do all of the following:

- (1) Administer oaths and affirmations to any person related to the death or near death under review.
 - (2) Issue subpoenas to compel the attendance of witnesses whose testimony is related to the death or near death under review.
 - (3) Issue subpoenas to compel the production of records related to the death or near death under review.
- (b) The Commission may delegate its power and authority in subsection (a) of this section to the Child Advocate, who may further delegate the power and authority to any attorney employed by, contracting with, or volunteering for the Office of the Child Advocate.
- (c) A subpoena issued under subsection (a) of this section may be enforced or challenged only in the Family Court.
- (1) All proceedings before the Family Court and all records of such proceedings conducted under this subsection are private.
 - (2) In a proceeding under this subsection (c), the Family Court may impose reasonable restrictions, conditions, or limitations on the access to proceedings and records of proceedings to preserve the confidentiality set forth in § 934 of this title.

80 Del. Laws, c. 187, § 9; 81 Del. Laws, c. 143, § 3.;

§ 934 Confidentiality of records related to investigations and reviews.

- (a) The records of the Commission, committee, panel, and its staff, contractors and volunteers, including original documents and documents produced in the investigation and review process with regard to the facts and circumstances of each death or near death, are confidential and may not be released to any person except as expressly provided by this subchapter. Such records may be used by the Commission, committee, panel, and its staff, contractors and volunteers only in the exercise of the proper functions of the Commission and its staff. Such records, together with the summary information, findings, and recommendations therefrom are not public records, are not available for Court subpoena or subject to discovery, are not admissible into evidence or otherwise in any civil, criminal, administrative, or judicial proceeding, and are not considered binding under claim or issue preclusion doctrines. Except where constitutional provisions require otherwise, statements, records, or information are not subject to any statute or rule that would require those statements, records, or

information to be disclosed in the course of a civil, criminal, or administrative trial, or associated discovery. Aggregate statistical data compiled by the Commission or its staff, however, may be released at the discretion of the Commission or its staff.

(b) No person in attendance at a meeting of the Commission, or any of its committees or panels, is required to testify as to what transpired at such meeting in any forum including any civil, criminal, administrative, or judicial proceeding.

80 Del. Laws, c. 187, § 9; 81 Del. Laws, c. 143, § 4.:

§ 935 Immunity from suit related to investigations and reviews.

(a) Members of the Commission and their agents or employees, including committee and panel members, contractors, and volunteers are not subject to, and are immune from, claims, suits, liability, damages, or any other recourse, civil or criminal, arising from or relating to any act, omission, proceeding, decision, determination, finding, or recommendation made in the performance of their duties under §§ 932 and 933 of this title. For the immunity provided by this subsection to apply, the members of the Commission or their agents or employees must have acted in good faith and without malice in carrying out the responsibilities, authority, duties, powers, and privileges of the offices conferred upon them by this subchapter or by any other provisions of the Delaware law, federal law or regulations, or duly adopted rules and regulations of the Commission. Complainants shall bear the burden of proving malice or a lack of good faith to defeat the immunity provided by this subsection.

(b) No organization, institution, or person furnishing information, data, reports, or records to the Commission or its staff with respect to any subject examined or treated by such organization, institution, or person, by reason of furnishing such information, shall be liable in damages to any person or subject to any other recourse, civil or criminal.

80 Del. Laws, c. 187, § 9; 81 Del. Laws, c. 143, § 5.:

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APPENDIX B**Member Roster**

Name	Professional or Public Member	Position Held	Profession or Occupation	Original Appointment Date
The Honorable Josette Manning	Professional	Secretary of the Department of Services for Children, Youth and Their Families	Secretary	01/23/17
Carla Benson Green	Professional	Director of the Division of Family Services	Director	02/28/17
James Kriner, Esq.	Professional	Two representatives from the Attorney's General Office	Deputy Attorney General	02/03/17
Abigail Layton, Esq.	Professional	Two representatives from the Attorney's General Office	Deputy Attorney General	01/09/17
The Honorable Judge Michael Newell	Professional	Two members of the Family Court	Chief Judge	06/23/15
The Honorable Joelle Hitch	Professional	Two members of the Family Court	Judge	06/19/12
The Honorable Melanie George Smith	Professional	One member of the House of Representatives	Delaware State Representative	02/09/09
The Honorable Margaret Rose Henry	Professional	One member of the Senate	Delaware Senator	07/24/15
Neal Tash	Public	Chair of the Child Placement Review Board	Chair	02/10/16
Susan Haberstroh	Professional	Secretary of the Department of Education	Education	02/02/16
Susan Cycyk	Professional	Director of the Division of Prevention and Behavioral Health Services	Director	02/01/02
Maureen Monagle	Professional	Chair of the Domestic Violence Coordinating Council	Chair	10/26/16

Name	Professional or Public Member	Position Held	Profession or Occupation	Original Appointment Date
Colonel Nathaniel McQueen	Professional	Superintendent of the Delaware State Police	Superintendent	01/31/13
Garrett Colmorgen, M.D.	Professional	Chair of the Child Death Review Commission	Chair	08/27/14
Jennifer Donahue, Esq.	Professional	Investigation Coordinator	Investigation Coordinator	08/27/14
Nicole Magnusson	Public	One youth or young adult who has experienced foster care in Delaware	Communications Assistant	09/05/14
Kathryn Lunger, Esq.	Professional	One representative from the Office of Defense Services	Statewide Director	08/27/14
Vacant	Public	At-large Member - Interagency Committee on Adoption		
Major Robert McLucas	Public	At-large Members - Law Enforcement	Law Enforcement	02/18/13
Randall Williams	Public	At-large Members - Child Protection Community	Chief Executive Officer	09/15/06
Janice Mink	Public	At-large Members - Child Protection Community	CAN Panel Chairperson	03/19/02
Ellen Levin	Public	At-large Members - Child Protection Community	CASA	08/14/10
Allan De Jong, M.D.	Public	At-large Members - Child Protection Community	Medical Director	10/17/97
Ginger Ward	Public	At-large Members - Child Protection Community	CPAC Chairperson	08/31/16

APPENDIX C

CPAC's 2016 Executive Summary to the Annual Report

In Fiscal Year 2016, the Child Protection Accountability Commission (CPAC or the Commission) met quarterly to identify system challenges and advocate for system reform, to evaluate and recommend changes in policy, and to make legislative recommendations. Between quarterly Commission meetings, CPAC's various committees and workgroups were engaged in substantive work, at the direction of the Commission, in a variety of areas, including: the ongoing review of practices followed by various system partners in their response to reports of abuse and neglect; the development of training in best practices for front line professionals who respond to reports of abuse and neglect; the improvement of educational outcomes for children in foster care; various legislative initiatives, including work on extended jurisdiction, normalcy for children experiencing foster care and other statutes; permanency for adolescents; substance exposed infants; mandatory reporting of child abuse; data utilization, and others. CPAC also continued in its service as Delaware's Citizen Review Panel (CRP) and Children's Justice Act (CJA) Task Force. CPAC and the Child Death Review Commission (CDRC) continued their collaborative statutory affiliation through Fiscal Year 2016, meeting jointly on one occasion during the fiscal year.

CPAC accomplished the following in FY16:

- ◊ Trained over 9,700 educators, healthcare providers and members of the public on their statutory, child abuse mandatory reporting obligations through onsite and online training;
- ◊ Advocated to the Joint Finance Committee to emphasize the urgent need for statutory compliance with DFS caseload standards;
- ◊ Established the Child Abuse Medical Response Committee, which is dedicated to increasing the state's child abuse medical experts and developing a statewide protocol for determining the need for medical evaluations in child abuse cases;
- ◊ Created the Child Abuse and Neglect Steering Committee to provide oversight for the investigation and review of deaths and near deaths of abused and neglected children;
- ◊ Recognized as a national leader on responding to cases of child torture and a Delaware Panel was invited to present an advanced workshop at the Institute on Violence, Abuse and Trauma's (IVAT) International Training Summit on Preventing, Assessing & Treating Trauma Across the Lifespan;
- ◊ Developed a strategic plan in collaboration with Casey Family Programs to improve the educational outcomes of children in foster care;
- ◊ Submitted an application for In-Depth Technical Assistance for Substance Exposed Infants (SEI-IDTA) to the National Center on Substance Abuse and Child Welfare;
- ◊ Submitted the CJA Annual Report & Grant Application - Approved by the Administration on Children, Youth and Families on July 8, 2016; and,
- ◊ Celebrated two achievements with long-term CPAC members, Janice Mink and C. Malcolm Cochran, IV, Esquire.

CPAC's Fiscal Year 2016 achievements were realized due to the leadership of its Commissioners, Chair, Executive Director and staff, and to the commitment of the many agency representatives and members of the public who participate with the Commission.

CPAC's 2017 Executive Summary to the Annual Report

In Fiscal Year 2017, the Child Protection Accountability Commission (CPAC or the Commission) met quarterly to identify system challenges and advocate for system reform, to evaluate and recommend changes in policy, and to make legislative recommendations. Between quarterly Commission meetings, CPAC's various committees and workgroups, supported by CPAC staff, were engaged in substantive work, at the direction of the Commission, in a variety of areas, including: the ongoing review of practices followed by various system partners in their response to reports of abuse and neglect; the development of training in best practices for front line professionals who respond to reports of abuse and neglect; the improvement of educational outcomes for children in foster care; various legislative initiatives, including work on school stability, best practices for a multidisciplinary response in child abuse cases and other statutes; permanency for adolescents; substance exposed infants; mandatory reporting of child abuse; data utilization, and others. CPAC also continued in its service as Delaware's Citizen Review Panel (CRP), Children's Justice Act (CJA) Task Force and as a grant recipient from Casey Family Programs. CPAC and the Child Death Review Commission (CDRC) continued their collaborative statutory affiliation through Fiscal Year 2017, meeting jointly on one occasion during the fiscal year.

CPAC accomplished the following in FY17:

- ◊ Trained over 14,500 educators, healthcare providers and members of the public on their statutory, child abuse mandatory reporting obligations through onsite and online training;
- ◊ Advocated to the Joint Finance Committee to request assistance for CPAC's 5 Funding Priorities: infants with prenatal substance exposure, Division of Family Services caseload standards, the Children's Advocacy Center, the Department of Justice Special Victims Unit, and Prevent Child Abuse Delaware's personal safety programs for children;
- ◊ Championed 5 CPAC bills during the last Legislative Session impacting educational outcomes, substance exposed infants and the multidisciplinary response to child abuse investigations;
- ◊ Developed the Delaware Multidisciplinary Team Guidelines for Child Abuse Medical Response, a statewide protocol for determining the need for medical evaluations in child abuse cases;
- ◊ Was selected for In-Depth Technical Assistance for Substance Exposed Infants (SEI-IDTA) from the National Center on Substance Abuse and Child Welfare;
- ◊ Conducted retrospective reviews in 52 death and near death cases of abused and neglected children, which resulted in 157 strengths and 204 findings across six system areas;
- ◊ Utilizing the Compassionate Schools Model, trained over 2,000 educators on trauma and the impact on learning and behavior in various schools across the state to help schools become more trauma-responsive;
- ◊ Through support of Casey Family Programs, developed a Compassionate Schools Start-Up Guide for schools;
- ◊ Finalized revisions to the Memorandum of Understanding for the Multidisciplinary Response to Child Abuse and Neglect and created a mobile application to help professionals easily access the MOU; and,
- ◊ Submitted the CJA Annual Report & Grant Application - Approved by the Administration on Children, Youth and Families on July 10, 2017.

CPAC's Fiscal Year 2017 achievements were realized due to the leadership of its Commissioners, Chair, Executive Director and staff, and to the commitment of the many agency representatives and members of the public who participate with the Commission.

APPENDIX D

Budget cuts can only add to delay for Delaware's child abuse victims

Adam Duvernay, The News Journal

Published 11:23 a.m. ET Nov. 28, 2017



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The backlog of Delaware children waiting to be interviewed to determine if they were victims of child abuse is growing.

That's because the Children's Advocacy Center is short on cash after about \$100,000 was cut from its fiscal 2018 budget. Now, an already small operation with a critical mission is shrinking.

That has left the Center with just five counselors to handle nearly 1,500 cases per year, creating a delay in how soon children can be interviewed – and helped – after a reported case.

The agency has left open a forensic interviewer position, meaning there's one less person qualified to ask questions of abused children.

And Kent and Sussex counties may soon have to share an office as their county locations close and three centers statewide become two.

CAC also will reduce the frequency with which it sees after-hours cases, conducting interviews in the middle of the night only in the most serious cases.

"We've trimmed wherever we can trim, but we can't make up a \$100,000 cut by just trimming around the edges," said Executive Director Randy Williams. "If you're down an interviewer, you can't provide the kind of timely service that you need to for these children."

More: [The front line of child abuse in Delaware](#)

CAC works with the Division of Family Services, law enforcement and the Department of Justice to provide an on-the-record accounting of a child's possible experiences with child abuse, work that's used in the courtroom and the state's family agencies.

Partners are committed to the value the agency provides. But the longer it takes to conduct an interview and ascertain the level of abuse, the more likely a child is to forget details and the longer it could be before they are offered trauma services.



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Allthemoms.com

"The backlog is something the Major Crimes Unit did not see coming," state police spokesman Master Cpl. Mike Austin said in an email. "From an investigative standpoint, forensic interviews weigh heavily on DSP's development of a case to make an arrest."

Delaware has taken child abuse more seriously since the conviction of serial child abuser Earl Bradley, a Lewes doctor convicted in 2011 of raping nearly 100 of his young patients and molesting many more.

Campaigns waged after his conviction calling for increased vigilance, and the number of reported incidents statewide went from 11,222 in 2010 to 20,778 in 2016. Each year, more than 1,100 cases were found credible through state investigations.

Unless Williams can convince the state to reverse his funding trend, he says there will remain only five interviewers working two locations when any of those cases need them.

CAC received 1,586 cases in 2017 and conducted 1,497 interviews.

CAC is staffed by counselors trained to talk to children in their most vulnerable hours, guiding them through interviews designed to get their stories on the record for law enforcement and family services personnel watching on a TV in an adjacent room.

The results of those interviews can determine whether authorities should bring charges.

They talked to the Bradley victims in a marathon of interviews. They were on hand in the middle of the night when a Pike Creek 4-year-old was abducted and raped in April.

Children with parents who beat them are brought here. Suspected neglect and emotional abuse are uncovered during sessions in distraction-free rooms.

The 2018 fiscal year included huge cuts to programs like the Child Advocacy Center. Combined with previous cuts, Williams said state funding for has decreased \$171,000 since 2007. Their state funding for 2018 was \$891,700 out of their total budget of \$1.57 million.

The agency now has only five active forensic interviewers available to debrief suspected child abuse victims, Williams said. There was room to hire one more before the cuts.

Williams said even professionals need time to recover between interviews with child abuse victims, so more than anything it is limited staffing that's creating the backlog.

Delaware State Police report they've only recently noticed interviews stacking up. For example, a call made Nov. 9 to schedule an appointment couldn't be arranged until Dec. 5.

Especially for urgent cases, experts seek to conduct interviews within 24 to 48 hours of the alleged abuse. Some cases which are considered less serious can have longer timelines, and factors like scheduling multiple agencies to be present for an interview also can cause delays. The standard time frame for a non-urgent case is five days.

To save money on expenses, Williams is considering combining the Kent and Sussex offices into a single space, possibly in Milford. Though, that would make it less convenient for parents and authorities to meet, he said.

"It's best to be close to your constituents, but I've got to save some money somewhere," he said.

Williams is in talks with the Department of Justice, state police and other partners about curbing the impacts of their backlog.

"The Delaware Department of Justice works closely with the CAC to support their high quality work despite recent budget cuts; however, we recognize that adequate funding is necessary to maintain these standards longterm," said DOJ spokesman Carl Kanefsky.

Still, Austin said the agency's financial straits won't jeopardize their mutual relationship.

"Comments regarding the relationship between DSP and the CAC speak for themselves," Austin said. "It has been and will continue to be vital to the success of DSP investigations at the major crimes level, gathering of evidence and prosecuting cases."

Contact Adam Duvernay at aduvernay@delawareonline.com or (302) 319-1855 or [@duvlNdelaware](https://twitter.com/duvlNdelaware).

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APPENDIX E



STATE OF DELAWARE

CHILD PROTECTION ACCOUNTABILITY COMMISSION

c/o OFFICE OF THE CHILD ADVOCATE
900 KING STREET, SUITE 210
WILMINGTON, DELAWARE 19801
TELEPHONE: (302) 255-1730
FAX: (302) 577-6831

GINGER WARD

Chair

TANIA M. CULLEY, ESQUIRE

Executive Director

January 12, 2018

Submitted via email

The Honorable John Carney
Governor
820 N. French Street
Wilmington, DE 19801

RE: CPAC Funding Priorities

Governor Carney:

We are writing on behalf of the Child Protection Accountability Commission ("CPAC") to express the Commission's funding priorities for Fiscal Year 2019.

Since its inception in 1997, CPAC has monitored the child welfare system to ensure the protection of children and the critical and necessary funding for the multidisciplinary team responsible for investigating child abuse. Of significant focus have been the average caseloads of DPS investigation and treatment caseworkers. CPAC is beyond grateful to this body for recognizing the statutory caseload requirements and ensuring that positions were allocated last year such that DFS could eventually achieve compliance with the law that serves to provide safety for our most at-risk children. With that said, much work in this area remains to be done to assure the safety of children which will be discussed below.

CPAC understands that you have a most difficult task in front of you to balance competing priorities with limited resources. CPAC's funding priorities, in order of immediate need, are as follows:

1. Infants with Prenatal Substance Exposure (HB140)

CPAC and the Child Death Review Commission have worked tirelessly over the last several years to improve child mortality outcomes for infants exposed to substances prenatally. Aiden's Law, HB140, named in honor of an infant who was prenatally exposed to heroin and subsequently killed by one or both of his addicted parents, codifies protections for this most at-risk population. This bill will require Delaware's birth hospitals to notify DFS in the event of such an infant, and to implement and monitor plans of safe care for every infant who is prenatally exposed to substances to assure service referrals for the affected caregiver(s). DFS anticipates the fiscal impact of the bill will require \$285,000 in contractual dollars. These contractual dollars would provide support for 4 contractual workers statewide (2 NCC/1 K/1 S) to develop and monitor plans of safe care for the lower risk families. It also includes funds for a part-time supervisor and startup training to ensure proper implementation of the contracted program. DFS anticipates this funding will serve 130-150 families per year. While funding was provided in epilogue language in the FY18 budget, CPAC is requesting that this funding be permanently placed in the DSCYF budget. In calendar year 2017, 450 infants were born with prenatal substance exposure. Contractual services will serve a portion of those infants and their families.

2. Division of Family Services – Caseloads/Agency Cuts

As the core of the child welfare system, and the regulator of child safety in our community, the work that frontline DFS caseworkers do cannot be undervalued. The decisions they make and the tools they need to do their jobs – of keeping children safe and alive – must rise to the top of any funding priority list. Likewise, DFS is already beyond lean fiscally. It cannot sustain any further funding cuts. CPAC requests that no cuts to the DFS budget be made. CPAC further requests that compliance with statutory caseload mandates continue to occur as required by 29 Del.C. § 9015. Attached please find the DFS caseloads through September 30th which show the average statewide caseload for fully functioning investigation caseworkers still consistently above standard at 19.3 – with 80% of staff over standard. Since last fall, the number of cases has increased by 25%. In August 2017, two of

the four regional offices were reporting caseload averages of 21.5 and 27.5 – double the statutory standard.

Without the 27 positions last fiscal year, the circumstances would be exponentially more dangerous. Even with new positions, DFS still has approximately 14 frontline worker vacancies with many in the process of being filled. Even once filled, it takes approximately 6 months to be a fully functional worker. With a starting salary of \$30,912, and a special skill set required, filling vacancies has been no easy task – although the hiring freeze has helped immensely in the last month. Under normal circumstances, these positions cannot compete with other entry level jobs and they do not receive a hazard pay differential – for a job that is extremely hazardous. The “overhire” pool continues to be nearly empty despite ongoing recruitment efforts harkening Delaware back to the child abuse fatalities of the late 1990s when the lack of a trained workforce to step into vacancies resulted in a cascade of unfortunate events.

DFS treatment caseloads also need to continue to be closely monitored as 18 cases per worker translates to 50-60 children and their families. Since 2008, CPAC has proposed that treatment caseloads be reduced to 15 and then 12. Currently, the average statewide caseload for fully functioning treatment caseworkers is at 18. However, a closer look at the numbers demonstrates that 48% of the workers are over standard, and that in one region the caseload average is 22.7 with 83% of workers over standard.

CPAC continues to be concerned that the treatment caseloads as presented fail to demonstrate the workloads of caseworkers. For instance, the caseloads due do not take into consideration the following: the number of children on each case; children in DSCYF custody versus children in intact families; children with significant mental and behavioral health needs; and high-risk families, particularly victims of serious physical injury, death and sexual abuse. In addition, eight years after CPAC originally recommended lowering the treatment caseload standard to 12, DFS has seen significant systemic changes as a result of the implementation of the Outcomes Matter Initiative in 2011, which has impacted its policy, procedures and training programs. CPAC has convened a committee to once again study this issue.

In FY17, DFS received over 21,000 reports of child abuse, neglect or dependency, which was a 3% increase over the prior fiscal year and the largest number of reports ever received in a fiscal year by DFS. Resources at the Report Line are needed to handle this call volume. CPAC supports the DSCYF budgetary request of 8 positions for its Report Line.

Caseworkers are overwhelmed and cannot maintain child safety with this increasing volume. In calendar year 2017, we have had more child deaths (13) due to abuse or neglect than the prior two calendar years. Of the children that have died, 5 were infants exposed prenatally to substances and 4 were the result of unsafe sleep practices. Two of those children had an active DFS investigation at the time of death.

CPAC urges that the caseload analysis required under 29 Del. C. § 9015 occur this fiscal year, and that it occur on at least a quarterly basis this next fiscal year to ensure that caseloads do not exceed the statutory standards. CPAC also requests no funding cuts to the Division of Family Services and that this body consider both the starting salaries and lack of hazard pay for these most difficult positions that are directly linked to child safety.

3. Children's Advocacy Center

The CAC of Delaware has been a long-standing quasi-governmental agency providing a critical service to our abused and neglected children. By providing forensic exams and interviews, children are not re-traumatized and prosecutions of perpetrators are stronger. Each year this agency is required to spend significant time, energy and money to advocate for restoration of its funds to carry out governmental functions. Once again last year, the CAC budget was cut by \$99,100 or 10% of its budget. Core services to abused and neglected children cannot be delivered with this cut. In the last 7 years, the CAC has seen a spike in its forensic interviews – from 1,159 children to 1,536 in 2016. With implementation of the new Memorandum of Understanding between all multidisciplinary partners, and the concurrent training of law enforcement and DFS, an increase in forensic interviews is anticipated.

In addition, CPAC would request that the CAC funding be placed in the operating budget, funding eliminated last year be restored and that the

Governor and the Joint Finance Committee explore alternative public/private partnership options for this agency so that it may carry out its governmental work free of these worries. The CAC and its Board have provided OMB with documentation on its services and the impact of the FY18 budget cuts. CPAC urges the restoration of funding for the CAC and consideration of how to long term handle funding for this agency.

4. Department of Justice

In last few years, the Attorney General has established a Special Victims Unit with the long term goal to have all child abuse cases statewide handled by this unit. This Unit was recommended by CPAC in May 2013 after it undertook a yearlong review of criminal prosecutions and outcomes in child abuse cases. While this unit has now been established, it is only functioning in New Castle County and is severely understaffed. In the last few years, CPAC has reviewed three cases where previous prosecutions with minimal punishment or no prosecution have resulted in subsequent serious harm to children. DOJ needs additional Deputies to make this a functional statewide unit where all cases are coordinated and receive the same level of support and oversight, regardless of which county the crime occurs.

5. Prevent Child Abuse Delaware

Last year, Senate Bill 102 passed and was signed into law despite reservations about our ability to financially provide personal body safety programming to 60,000 children in pre-kindergarten through 6th grade. Due to those concerns, a 2-year delay was placed on this portion of the bill to enable CPAC and its partners to figure out how to best deliver this programming to our children. CPAC together with DFS is responsible for identifying and maintaining evidence-based (whenever available) personal body safety instruction for these children. Currently, this service has been provided to about 10,000 students per year through Prevent Child Abuse Delaware (PCAD) at a grant in aid cost of \$48,580. CPAC requests additional funding to enable this programming to be provided to all children. An additional \$42,000 would enable PCAD to hire a second staff person to reach another 10,000 students. This is still a far cry from the 60,000 students but it would greatly assist CPAC, DFS and the

schools in exploring a variety of options to eventually meet the statutory mandate.

On the Commission's behalf, we urge support in fulfilling these funding requests.

Respectfully,



Ginger Ward
CPAC Chair



Tania M. Culley, Esquire
CPAC Executive Director

cc: CPAC Commissioners
General Assembly
Michael Jackson, OMB Director
Michael Morton, Controller General

APPENDIX F



SPONSOR:

Rep. M. Smith & Rep. Briggs King
& Rep. Longhurst & Sen. Henry &
Sen. Lopez & Sen. Townsend

Reps. Baumbach, Heffernan,
Q. Johnson, Miro, Osienski,
Ramone, Viola, Wilson; Sens.
Hocker, Lavelle, Marshall,
Sokola

HOUSE OF REPRESENTATIVES
149th GENERAL ASSEMBLY
HOUSE BILL NO. 140

AN ACT TO AMEND TITLE 16 OF THE DELAWARE CODE RELATING TO INFANTS WITH PRENATAL SUBSTANCE EXPOSURE.

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

Section 1. Amend Title 16 of the Delaware Code by inserting a new chapter to read as follows:

Chapter 9B. Infants with Prenatal Substance Exposure.

§ 901B. Purpose.

The child welfare policy of this State shall serve to advance the best interests and secure the safety and well-being of an infant with prenatal substance exposure, while preserving the family unit whenever the safety of the infant is not jeopardized. To further this policy, this chapter:

(1) Requires that notifications of infants with prenatal substance exposure be made to the Division by the healthcare provider involved in the delivery or care of the infant.

(2) Requires a coordinated, service-integrated response by various agencies in this State's health and child welfare systems to work together to ensure the safety and well-being of infants with prenatal substance exposure by developing, implementing, and monitoring a Plan of Safe Care that addresses the health and substance use treatment needs of the infant and affected family or caregiver.

§ 902B. Definitions.

As used in this chapter:

(1) "Division" is as defined in § 902 of this title.

(2) "Family assessment and services" is as defined in § 902 of this title.

(3) "Healthcare provider" is as defined in § 714 of this title.

(4) "Infant with prenatal substance exposure" means a child not more than 1 year of age who is born with and identified as being affected by substance abuse or withdrawal symptoms or a Fetal Alcohol Spectrum Disorder. The

healthcare provider involved in the delivery or care of the infant shall determine whether the infant is affected by the substance exposure.

(5) “Investigation Coordinator” is as defined in § 902 of this title.

(6) “Internal information system” is as defined in § 902 of this title.

(7) “Plan of Safe Care” or “Plan” means a written or electronic plan to ensure the safety and well-being of an infant with prenatal substance exposure following the release from the care of a healthcare provider by addressing the health and substance use treatment needs of the infant and affected family or caregiver, and monitoring these plans to ensure appropriate referrals are made and services are delivered to the infant and affected family or caregiver. The monitoring of these plans may be time limited based upon the circumstances of each case.

(6) “Substance abuse” means the chronic, habitual, regular, or recurrent use of alcohol, inhalants, or controlled substances as identified in Chapter 47 of this title.

(7) “Withdrawal symptoms” means a group of behavioral and physiological features in the infant that follow the abrupt discontinuation of a drug that has the capability of producing physical dependence. Withdrawal symptoms resulting exclusively from a prescription drug used by the mother or administered to the infant under the care of a prescribing medical professional, in compliance with the directions for the administration of the prescription as directed by the prescribing medical professional, its compliance and administration verified by the healthcare provider involved in the delivery or care of the infant, and no other risk factors to the infant are present, is not included in the definition and does not warrant a notification to the Division under § 903B of this title.

§ 903B. Notification to Division; immunity from liability.

(a) The healthcare provider who is involved in the delivery or care of an infant with prenatal substance exposure shall make a notification to the Division by contacting the Division report line as identified in § 905 of this title.

(b) When two or more persons who are required to make a notification have joint knowledge of an infant with prenatal substance exposure, the telephone notification may be made by one person with joint knowledge who was selected by mutual agreement of those persons involved. The notification must include all persons with joint knowledge of an infant with prenatal substance exposure at the time the notification is made. Any person who has knowledge that the individual who was originally designated to make the notification has failed to do so, shall immediately make a notification.

(c) A notification made under this section is not to be construed to constitute a report of child abuse or neglect under § 903 of this title, unless risk factors are present that would jeopardize the safety and well-being of the infant.

(d) The immunity provisions under § 908 of this title will also apply to this chapter.

§ 904B. Notification information.

(a) Upon receipt of a notification of an infant with prenatal substance exposure, the Division shall enter it into the Division’s internal information system.

(b) Upon receipt of a notification of an infant with prenatal substance exposure, the Division shall notify the office of the Investigation Coordinator of the notification in sufficient detail to permit the Investigation Coordinator to undertake its duties as specified in § 906 of this title.

§ 905B. State response to notifications of infants with prenatal substance exposure.

(a) In implementing the Division's role in protecting the safety and well-being of infants with prenatal substance exposure, upon receipt of a notification under § 903B of this title, the Division shall do all of the following:

(1) Determine if the case requires an investigation or family assessment.

(2) Develop a Plan of Safe Care.

(3) Provide copies of the Plan of Safe Care to all agencies and providers involved in the care or treatment of the infant with prenatal substance exposure and affected family or caregiver.

(4) Implement and monitor the provisions of the Plan of Safe Care.

(b) For any case accepted by the Division for investigation or family assessment, the Division may contract for services to comply with § 906 of this title and § 905B of this chapter.

(c) For cases that are not accepted by the Division for investigation or family assessment, or those cases accepted for family assessment where the report does not involve a multidisciplinary case under § 906(e)(3) of this title, but that still meet the definition of an infant with prenatal substance exposure, the Division shall contract for services to do any of the following:

(1) Protect the safety and well-being of the infant with prenatal substance exposure following release from the care of healthcare providers while preserving the family unit whenever the safety of the infant is not jeopardized.

(2) Develop a Plan of Safe Care.

(3) Provide copies of the Plan of Safe Care to all agencies and providers involved in the care or treatment of the infant with prenatal substance exposure and affected family or caregiver.

(4) Implement and monitor the provisions of the Plan of Safe Care.

(5) Provide a final report to the Division to assist the Division in complying with Section 906B of this Chapter.

(d) For any case referred for contracted services under this chapter, the contractor shall immediately notify the Division if it determines that an investigation is required or is otherwise appropriate under § 906 of this title. The contracted staff who have conducted the assessment may remain involved in the provision of services to the child and family as appropriate.

(e) In implementing the Investigation Coordinator's role in ensuring the safety and well-being of infants with prenatal substance exposure, the Investigation Coordinator, or the Investigation Coordinator's staff, shall have electronic access and the authority to track within the Department's internal information system each notification of an infant with prenatal substance exposure.

§ 906B. Data and reports.

(a) The Division shall document all of the following information in its internal information system for all notifications of infants with prenatal substance exposure under this chapter:

(1) The number of infants identified as being affected by substance abuse, withdrawal symptoms, or Fetal Alcohol Spectrum Disorder.

(2) The number of infants for whom a Plan of Safe Care was developed, implemented and monitored.

(3) The number of infants for whom referrals were made for appropriate services, including services for the affected family or caregiver.

(4) The implementation of such Plans to determine whether and in what manner local entities are providing, in accordance with state requirements, referrals to and delivery of appropriate services for the infant and affected family or caregiver.

(b) The Department of Health and Social Services, the Investigation Coordinator and healthcare providers shall assist the Division in complying with this section.

(c) In addition to any required federal reporting requirements, the Division, with assistance from the Department of Health and Social Services and the Investigation Coordinator, shall provide an annual report to the Child Protection Accountability Commission and Child Death Review Commission summarizing the aggregate data gathered on infants with prenatal substance exposure.

(d) To protect the privacy of the affected family or caregivers, including the infant named in a report, this chapter is subject to the privacy and confidentiality provisions in § 906 and § 909 of this title.

Section 2. This Act shall be known and may be cited as “Aiden’s Law.”

SYNOPSIS

This non-punitive, public-health oriented bill seeks to codify certain sections of the federal law known as the Child Abuse Prevention and Treatment Act (CAPTA), as amended by the Comprehensive Addiction and Recovery Act (CARA), that requires states to have policies and procedures in place to address the needs of infants born with and identified as being affected by substance abuse, withdrawal symptoms, or Fetal Alcohol Spectrum Disorder, including a requirement that healthcare providers involved in the delivery or care of such infant notify the child protection services system. This bill formalizes a uniform, collaborative response protocol for the development of a Plan of Safe Care for infants with prenatal substance exposure and their affected family or caregivers.



SPONSOR: Rep. M. Smith
HOUSE OF REPRESENTATIVES
149th GENERAL ASSEMBLY
HOUSE AMENDMENT NO. 1
TO
HOUSE BILL NO. 140

AMEND House Bill No. 140 by inserting after line 104 the following:

“Section 3. This Act becomes effective 150 days after its enactment into law.”.

SYNOPSIS

This Amendment to HB 140 adds an effective date of 150 days after HB 140 is enacted into law.