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HOUSE OF REPRESENTATIVES  
152nd GENERAL ASSEMBLY

HOUSE BILL NO. 170

AN ACT TO AMEND TITLE 11, TITLE 16, AND TITLE 29 OF THE DELAWARE CODE RELATING TO HUMAN  
TRAFFICKING OF CHILDREN.

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

Section 1. Amend § 787, Title 11 of the Delaware Code by making deletions as shown by strike through and  
insertions as shown by underline as follows and by redesignating accordingly:

§ 787. Trafficking an individual, forced labor and sexual servitude; class D felony; class C felony; class B felony;  
class A felony.

(k)(3) The Council shall do all of the following:

h. Receive quarterly updates and annual reports from the Child Protection Accountability Commission on  
its efforts regarding suspected human trafficking of a child.

Section 2. Amend § 902, Title 16 of the Delaware Code by making deletions as shown by strike through and  
insertions as shown by underline as follows:

§ 902. Definitions.

As used in this chapter:

(21) "Investigation Coordinator" means an attorney licensed to practice law in this State employed by the  
Office of the Child Advocate, who is authorized to independently track each reported case of alleged child abuse or  
neglect within the Department's internal information system and who is responsible for monitoring each reported case  
involving ~~the death of, serious physical injury to, or allegations of sexual abuse of a child~~ the death, serious physical  
injury, sexual abuse, or suspected human trafficking of a child from inception to final criminal and civil disposition.

(22) "Multidisciplinary case" means a comprehensive investigation by the multidisciplinary team for any  
child abuse or neglect report involving death, serious physical injury, physical injury, suspected human trafficking of a  
child, torture or sexual abuse, which if true, would constitute a criminal violation against a child, or an attempt to  
commit any such crime, even if no crime is ever charged.

(24) "Multidisciplinary tracking system" means an electronic system which the Investigation Coordinator  
utilizes to track and monitor each case involving ~~the death of, or serious injury to, a child, or allegations of sexual~~

~~abuse of a child, death, serious physical injury, sexual abuse, or suspected human trafficking of a child~~ from inception to final criminal and civil disposition.

Section 3. Amend § 905, Title 16 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 905. Telephone reports, Child Protection Registry and information.

(g) Upon receipt of a report of ~~death, serious physical injury or sexual abuse,~~ death, serious physical injury, sexual abuse, suspected human trafficking of a child, or any other report requested by the Investigation Coordinator, the Department shall notify the Investigation Coordinator of the report, in sufficient detail to permit the Investigation Coordinator to undertake the Investigation Coordinator's duties, as specified in § 906 of this title.

Section 4. Amend § 906, 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.

(a) The State's child protection system shall seek to promote the safety of children and the integrity and preservation of their families by conducting investigations or family assessments in response to reports of child abuse or ~~neglect.~~ neglect, including suspected human trafficking of a child. The system shall endeavor to coordinate community resources and provide assistance or services to children and families identified to be at risk, and to prevent and remedy child abuse and neglect.

(b) It is the policy of this State that the investigation and disposition of cases involving child abuse or ~~neglect~~ neglect, including suspected human trafficking of a child, shall be conducted in a comprehensive, integrated, multidisciplinary manner that does all of the following:

(c)(1) In implementing the Investigation Coordinator's role in the child protection system, the Investigation Coordinator, or the Investigation Coordinator's staff, shall do all of the following:

a. Have electronic access and the authority to track within the Department's internal information system each reported case of alleged child abuse or neglect or suspected human trafficking of a child.

b. Monitor each case involving the ~~death of, serious physical injury to, or allegations of sexual abuse of a child~~ death, serious physical injury, sexual abuse, or suspected human trafficking of a child from inception to final criminal and civil disposition, and provide information as requested on the status of each case to the Division, the Department, the Delaware Department of Justice, a children's advocacy center, and the Office of Child Advocate.

c. Within 5 business days of the receipt of a report concerning allegations of child abuse or neglect or suspected human trafficking of a child by a person known to be licensed or certified by a Delaware agency or professional regulatory organization, forward a report of such allegations to the appropriate Delaware agency or professional regulatory organization.

d. Report every case involving the death or near death of a child due to abuse or neglect or suspected human trafficking to the Department of Justice and the Child Protection Accountability Commission under § 932(a) and 932A(a) of this title and every case involving the death of a child to the Maternal and Child Death Review Commission.

e. Provide information to the Child Protection Accountability Commission (CPAC), as requested by CPAC, regarding the status, trends, and outcomes of any case or cases of child abuse or neglect that are reported or suspected human trafficking to the Department. Reports to CPAC may not disclose the identities of the child, alleged perpetrators, or others involved in the case or cases.

(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 or suspected human trafficking of a child to the Department as required by § 903 of this title.

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

(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,~~ 12 must be interviewed in a children's advocacy center.

(e) In implementing the Department's role in the child protection system, the Department shall do all of the following:

(3) Conduct an investigation on a multidisciplinary case that involves intrafamilial or institutional child abuse or neglect, suspected human trafficking of a child, or death of a child 3 years of age or less that appears to be sudden, unexpected, and unexplained. The Department may investigate any other report.

(5) Ensure that every case involving the death or near death of a child due to abuse or neglect or suspected human trafficking of a child is reported to the Child Protection Accountability Commission and every case involving the death of a child to the Maternal and Child Death Review Commission.

(6) Ensure that all cases involving allegations of child abuse or neglect or suspected human trafficking of a child by a person known to be licensed or certified by a Delaware agency or professional regulatory organization, have been reported to the appropriate Delaware agency or professional regulatory organization and the Investigation Coordinator in accordance with the provisions of this section.

(7) Have authority to secure a medical examination of a child, and any siblings or other children in the child's household without the consent of those responsible for the care, custody, and control of the child, if the child has been

reported to be a victim of abuse or neglect or suspected human trafficking; provided, that such case is classified as an investigation pursuant to paragraph (e)(3) of this section and the Director or the Director's designee gives prior authorization for such examination upon finding that such examination is necessary to protect the health and safety of the child. If such a medical examination is authorized under this section, the Department is authorized to transport the child to the medical examination. Medical examinations under this paragraph are covered under § 3557 of Title 18.

(21) Upon the receipt of a report concerning allegations of abuse or neglect or suspected human trafficking of a child against a person known by the Department to be licensed by any of the boards listed in § 8735 of Title 29, forward reports to the Division of Professional Regulation. For any entity the Department is notified of that is not included in § 8735 of Title 29, the Department shall forward a report of such allegations to the appropriate Delaware agency or professional regulatory organization.

(22) 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,~~ 12 shall be interviewed in a children's advocacy center.

(f) In implementing the Department of Justice's role in the child protection system, it shall do all of the following:

(2) Ensure that every case involving the death or near death of a child due to abuse or neglect or suspected human trafficking of a child, is reported to the Child Protection Accountability Commission and every case involving the death of a child to the Maternal and Child Death Review Commission.

(4) Ensure that all cases involving allegations of child abuse or neglect or suspected human trafficking of a child by a person known to be licensed or certified by a Delaware agency or professional regulatory organization, have been reported to the appropriate Delaware agency or professional regulatory organization and the Investigation Coordinator in accordance with provisions of this section.

(h) If a criminal prosecution for abuse or neglect is initiated by the Department of Justice pursuant to a report under this chapter and incarceration of the person who is the subject of the report is ordered by the court, the Department of Justice shall keep the Department and the Investigation Coordinator informed of actions taken by the courts which result in the release of any such individual.

Section 5. Amend § 931, Title 16 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows and by redesignating accordingly:

§ 931. The Child Protection Accountability Commission.

(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:

(7) Investigate and review deaths or near deaths of abused or neglected children ~~solely~~ and suspected human trafficking of children for the purposes provided in § 932 and § 932A of this title.

(9) Meet ~~annually~~ biennially with the Maternal and Child Death Review Commission to jointly discuss any findings or recommendations released to the public from reviews conducted under § 932 of this title and § 323 of Title 31. This meeting shall be open to the public.

(10) Provide quarterly updates and annual reports to the Delaware Anti-Trafficking Action Council on its efforts regarding suspected human trafficking of a child.

(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~~ and suspected human trafficking of children under § 932 and § 932A of this title, and in administering scholarship funds, 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.

Section 6. Amend Chapter 9, Title 16 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 932A. Investigation and review of suspected child victims of human trafficking.

(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 victims of human trafficking shall report to the Commission, through the Office of the Child Advocate, a child who is suspected to be a victim of human trafficking.

(b) The Commission Chair shall appoint a committee to review each investigation under this section, which may be the same committee appointed under § 932 of this title, and a panel to conduct investigations on suspected child victims of human trafficking. The members of the committee and panel, together with staff, contractors, or volunteers designated to assist the committee and oversight team are considered agents of the Commission under § 935 of this title.

(c) Within 3 months of a report to the Commission under subsection (a) of this section, the panel appointed under subsection (b) of this section shall commence a review of the facts and circumstances of the suspected human trafficking of a child. Absent good cause, the review must conclude within 12 months.

(d) Notwithstanding a 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, the Director and Librarian of the Division of Research of Legislative Council, and the public within 20 days of the approval of the findings or recommendations made under this section.

(2) Summary information, a finding, or a recommendation released by the Commission under this subsection must comply with applicable state and federal confidentiality provisions, including those under § 934 of this title and § 9017(c) of Title 29.

(3) Notwithstanding a provision of this subchapter to the contrary, summary information, a finding, or a recommendation that the Commission releases under this subsection may not specifically identify an 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 suspected human trafficking of children. The Commission may release summary information only upon completion of the prosecution and only if the release complies with paragraph (d)(2) of this section.

(e) For purposes of this section, "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.

Section 7. Amend § 933, Title 16 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 933. Power and authority of investigations and reviews.

(a) In connection with any investigation and review conducted under § 931(b)(7) and (b)(8) of this title, the Commission, by and through its ~~staff, committee, and panel~~, committees, panels, staff, contractors, or volunteers, 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 or suspected human trafficking of a child under review.

(2) Issue subpoenas to compel the attendance of witnesses whose testimony is related to the death or near death or suspected human trafficking of a child under review.

(3) Issue subpoenas to compel the production of records related to the death or near death or suspected human trafficking of a child under review.

(4) Identify findings and strengths impacting the multidisciplinary investigation, and provide best practices, guidance, and support to the multidisciplinary team performing its duties under this chapter.

Section 8. Amend § 934, Title 16 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 934. Confidentiality of records related to investigations and reviews.

(a) The records of the Commission, ~~committee, panel, and its staff, contractors and volunteers, or its committees,~~ panels, staff, contractors, or 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 or suspected human trafficking of a child, 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, or its committees, panels, staff,~~ contractors, or 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.

Section 9. Amend § 935, Title 16 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 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~~ §§ 932, 932A, 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.

Section 10. Amend § 9005A, Title 29 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 9005A. Duties of the Child Advocate.

The Child Advocate shall perform the following duties:

214 (13) Provide staff support to the Commission, including assisting the Commission, its committees, and panels  
215 in investigating and reviewing the deaths or near deaths of abused or neglected children and suspected human  
216 trafficking of children, and in administering scholarship funds.

217 (14) Hire employees or contract for services as necessary to assist the Commission, its committees, and panels  
218 in investigating and reviewing the deaths or near deaths of abused or neglected children and suspected human  
219 trafficking of children, and performing its other duties under subchapter III, Chapter 9 of Title 16, within the  
220 limitations of funds appropriated by the General Assembly or obtained from other sources.

#### SYNOPSIS

This Act does all of the following regarding suspected human trafficking of children:

1. Ensures the sharing of information between the Child Protection Accountability Commission (CPAC) and the Delaware Anti-Trafficking Action Council.
2. Expressly requires a multidisciplinary response to these cases, similar to child deaths and serious physical injury.
3. Even though human trafficking of children is child abuse, specifically delineates it throughout the child abuse multidisciplinary investigative response.
4. Codifies a review panel and oversight committee within CPAC for these cases, with the same authority, subpoena power, and immunities provided to the system that reviews child abuse deaths and near deaths.
5. Establishes that the Office of the Child Advocate will staff the review panel and oversight committee.

This Act also makes minor technical corrections to conform existing law to the standards of the Delaware Legislative Drafting Manual.