



SPONSOR: Sen. Gay & Rep. Griffith
Sens. Hansen, Sokola; Rep. Brady

DELAWARE STATE SENATE
151st GENERAL ASSEMBLY

SENATE BILL NO. 153

AN ACT TO AMEND TITLE 16 OF THE DELAWARE CODE RELATING TO THE DEPARTMENT OF SERVICES FOR CHILDREN, YOUTH AND THEIR FAMILIES.

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

Section 1. 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 and by redesignating accordingly:

§ 902. Definitions.

As used in this chapter:

(10) "Director" means the Director of the Division of Family Services or the Director of the Division of Management Support Services of the Department of Services for Children, Youth and Their Families.

(13) "Family assessment and services" means a case management approach by the Division of Family Services that provides for a prompt assessment of a child and the child's family and the circumstances of the reported incident, including the known history of the child or the alleged perpetrator, when there has been a report to the ~~Division~~ Department that the child was a victim of abuse or neglect, or at risk of maltreatment by a person responsible for that child's care, custody or control. Family assessment and services shall be used in conjunction with the investigation approach defined in paragraph ~~(19)~~ (20) of this section but may not supplant it in circumstances which require an investigation. The family assessment response shall focus on the integrity and preservation of the family and shall assess the status of the child and the family in terms of the risk of abuse and neglect and, if necessary, plan and provide for the provision of community-based services to reduce the risk and to otherwise support the family.

(16) "Institutional Abuse Investigation Unit" means the unit within the Department that investigates allegations of institutional child abuse and neglect.

~~(16)~~ (17) "Institutional child abuse or neglect" means as defined in § 901 of Title 10.

~~(17)~~ (18) "Internal information system" means ~~a~~ the Department's system of maintaining information related to all reports of abuse, neglect, investigations, family assessments, services and other relevant information.

~~(18)~~ (19) "Intrafamilial child abuse or neglect" means as defined in § 901 of Title 10.

(19) (20) "Investigation" means the collection of evidence in response to a report of abuse, neglect, or risk of maltreatment of a child by a person responsible for that child's care, custody or control in order to determine if a child has been abused, neglected, or is at risk of maltreatment. The ~~Division~~ Department shall develop protocols for its investigations that focus on ensuring the well-being and safety of the child. The ~~Division~~ Department may conduct an investigation in response to any report of abuse, neglect, or risk of maltreatment but shall conduct an investigation as enumerated under § 906(e)(3) of this title.

(20) (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 from inception to final criminal and civil disposition.

(21) (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, 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.

(22) (23) "Multidisciplinary team" means a combination of the following entities as required by law to investigate or monitor multidisciplinary cases: the ~~Division~~, Department's Institutional Abuse Investigation Unit, the appropriate law-enforcement agency, the Department of Justice, and the Investigation Coordinator. "Multidisciplinary team" may also include others deemed necessary for an effective multidisciplinary response, such as medical personnel, the Division of Forensic Science, a children's advocacy center, the Division of Prevention and Behavioral Health Services, mental health experts, and the child's attorney.

(23) (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, from inception to final criminal and civil disposition.

(24) (25) "Near death" means a child in serious or critical condition as a result of child abuse or neglect as certified by a physician.

(25) (26) "Neglect" means as defined in § 901 of Title 10.

(26) (27) "Physical injury" means as defined in § 1100 of Title 11.

(27) (28) "Report" means the communication of an allegation of child abuse or neglect to the ~~Division~~ Department pursuant to § 903 or § 905 of this title.

(28) (29) "Serious physical injury" means as defined in § 1100 of Title 11.

(29) (30) "Sexual abuse" means as defined in § 901 of Title 10.

(30) (31) "Special Investigator" means a ~~Division~~ Department employee, appointed by the Secretary, who performs abuse and neglect investigations and possesses additional qualifications and authority as defined by § 9016 of Title 29.

(31) (32) "Substantiation" means a finding by a preponderance of the evidence that abuse or neglect has occurred.

(32) (33) "Those responsible for the care, custody and control of the child" or "care, custody and control" means as defined in § 901 of Title 10.
§ 903. Reports required.

(a) Any person, agency, organization or entity who knows or in good faith suspects child abuse or neglect shall make a report in accordance with § 904 of this title. For purposes of this section, "person" shall include, but shall not be limited to, any physician, any other person in the healing arts including any person licensed to render services in medicine, osteopathy or dentistry, any intern, resident, nurse, school employee, social worker, psychologist, medical examiner, hospital, health-care institution, the Medical Society of Delaware or law-enforcement agency. In addition to and not in lieu of reporting to the ~~Division of Family Services~~ Department, any such person may also give oral or written notification of said knowledge or suspicion to any police officer who is in the presence of such person for the purpose of rendering assistance to the child in question or investigating the cause of the child's injuries or condition.

(b) The ~~Division~~ Department shall inform any person required to report under this section of the person's right to obtain information concerning the disposition of the report. The ~~Division~~ Department shall make information on the general disposition of the report available through the ~~Division~~ Department report line to any person required to report under this section.

§ 904. Nature and content of report; to whom made.

(a) Any report of child abuse or neglect required to be made under this chapter must be made by contacting the Child Abuse and Neglect Report Line for the Department of Services for Children, Youth and Their Families. An immediate oral report must be made by telephone or otherwise. Reports and the contents thereof including a written report, if requested, must be made in accordance with the rules and regulations of the ~~Division, or in accordance with the rules and regulations adopted by the Division~~ Department. An individual with knowledge of child abuse or neglect or knowledge that leads to a good faith suspicion of child abuse or neglect may not rely on another individual who has less direct knowledge to call the aforementioned report line.

(b) When a written report is made by a person required to report under § 903 of this title, the ~~Division~~ Department shall contact the person who made such report within 48 hours of the receipt of the report in order to ensure that full information has been received and to obtain any additional information, including medical records, which may be relevant to the contents of the report.

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

(a) The ~~Division~~ Department shall establish and maintain a 24-hour statewide toll-free telephone report line operating at all times and capable of receiving all reports of alleged abuse and neglect of a child.

(b) The ~~Division~~ Department shall maintain a Child Protection Registry and an internal information system. The ~~Division~~ Department shall keep unsubstantiated reports in the internal information system.

(c) Every report of child abuse or neglect made to the ~~Division~~ Department shall be entered in the ~~Division's~~ Department's internal information system.

(d) Upon receipt of a report on any multidisciplinary case, the ~~Division~~ Department shall notify the appropriate law-enforcement agency and shall provide a detailed description of the report received. Notwithstanding any provision of the Delaware Code to the contrary, to the extent the law-enforcement agency with primary jurisdiction over the case is unable to assist, the primary law-enforcement agency may request another law-enforcement agency with jurisdiction to exercise such jurisdiction. Upon request, the other law-enforcement agency may exercise such jurisdiction.

(e) Although reports may be made anonymously, the ~~Division~~ Department shall in all cases, after obtaining relevant information regarding alleged abuse or neglect, request the name and address of any person making a report.

(f) Upon receipt of a report, the ~~Division~~ Department shall immediately communicate such report to its appropriate ~~Division~~ staff, after a check has been made with the internal information system to determine whether previous reports have been made regarding actual or suspected abuse or neglect of the subject child, or any reports regarding any siblings, family members, or the alleged perpetrator, and such information as may be contained from such previous reports. Such relevant information as may be contained in the internal information system must also be forwarded to the appropriate ~~Division~~ Department staff.

(g) Upon receipt of a report of death, serious physical injury or sexual abuse, or any other report requested by the Investigation Coordinator, the ~~Division~~ 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.

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

(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:

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 to the ~~Division~~ 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 to the ~~Division~~ Department as required by § 903 of this title.

(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 ~~Division's~~ Department's statutory duties to promptly assess child safety. Absent good cause, children ages 3 through 12, and all suspected child victims of human trafficking, must be interviewed in a children's advocacy center.

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

(2) Forward reports to the appropriate ~~Division~~ Department staff, who shall determine, through the use of protocols developed by the ~~Division~~ Department, whether an investigation or the family assessment and services approach should be used to respond to the allegation. The protocols for making this determination shall be developed by the ~~Division~~ Department and shall give priority to ensuring the well-being and safety of the child.

(3) Conduct an investigation on a multidisciplinary case that involves intrafamilial or institutional child abuse or neglect, 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 ~~Division~~ Department may investigate any other report.

(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; 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 ~~Division~~ Department is authorized to transport the

child to the medical examination. Medical examinations under this paragraph are covered under § 3557 of Title 18.

(9) In the family assessment and services approach, assess service needs of the family from information gathered from the family and other sources. The ~~Division~~ Department shall identify and provide for services for families where it is determined that the child is at risk of abuse or neglect. The ~~Division~~ Department shall document its attempt to provide voluntary services and the reasons these services are important to reduce the risk of future abuse or neglect. If the family refuses to accept or avoids the proffered services, the ~~Division~~ Department may refer the case for investigation or terminate services.

(10) Commence an immediate investigation if at any time during the family assessment and services approach the ~~Division~~ Department determines that an investigation as delineated in paragraph (e)(3) of this section is required or is otherwise appropriate. The ~~Division~~ Department staff who have conducted the assessment may remain involved in the provision of services to the child and family.

(16) Upon completion of an investigation or family assessment and services approach, if the ~~Division~~ Department suspects that the report was made maliciously or for the purpose of harassment, the ~~Division~~ Department shall refer the report and any evidence of malice or harassment to the appropriate law-enforcement agency.

(21) Upon the receipt of a report concerning allegations of abuse or neglect against a person known by the ~~Division~~ 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 ~~Division~~ Department is notified of that is not included in § 8735 of Title 29, the ~~Division~~ 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 ~~Division's~~ 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, 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:

(1) Report every case of child abuse or neglect to the ~~Division~~ Department pursuant to § 903 of this title.

(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 ~~Division~~ Department informed of actions taken by the courts which result in the release of any such individual.

§ 907. Temporary emergency protective custody.

(a) A police officer, nurse practitioner, or a physician who reasonably suspects that a child is in imminent danger of suffering serious physical harm or a threat to life as a result of abuse or neglect and who reasonably suspects the harm or threat to life may occur before the Family Court can issue a temporary protective custody order may take or retain temporary emergency protective custody of the child without the consent of the child's parents, guardian, or others legally responsible for the child's care.

(b) Any person taking a child into temporary emergency protective custody under this section shall immediately notify the ~~Division~~ Department, in the county in which the child is located, of the person's actions and make a reasonable attempt to advise the parents, guardians, or others legally responsible for the child's care. In notifying the ~~Division~~ Department, such person shall set forth the identity of the child and the facts and circumstances which gave such person reasonable cause to believe that there was imminent danger of serious physical harm or threat to the life of the child. Upon notification that a child has been taken into temporary emergency protective custody, the ~~Division~~ Department shall immediately respond in accordance with § 906 of this title to secure the safety of the child which may include ex parte custody relief from the Family Court if appropriate.

(c) Temporary emergency protective custody for purposes of this section may not exceed 4 hours and must cease upon the ~~Division's~~ Department's response pursuant to subsection (b) of this section.

(d) For the purposes of this section, "temporary emergency protective custody" means temporary placement within a hospital, medical facility, or such other suitable placement; provided, however, that an abused or neglected child may not be detained in temporary custody in a secure detention facility.

(e) A ~~Division~~ Department investigator conducting an investigation pursuant to § 906 of this title has the same authority as that granted to a police officer, nurse practitioner, or physician in subsection (a) of this section, subject to all the same conditions as those listed in subsections (a) through (d) of this section, provided that the child in question is located at a school, day care facility, or child care facility at the time that the authority is initially exercised. In no other case may an employee of the ~~Division~~ Department exercise custody under this section.

§907A. Safe Arms for Babies.

(g) Any hospital taking a baby into temporary emergency protective custody pursuant to this section shall immediately notify the ~~Division~~ Department and the State Police of its actions. The ~~Division~~ Department shall obtain ex parte custody and physically appear at the hospital within 4 hours of notification under this subsection unless there are

exigent circumstances. Immediately after being notified of the surrender, the State Police shall submit an inquiry to the Delaware Missing Children Information Clearinghouse.

(h) The ~~Division~~ Department shall notify the community that a baby has been abandoned and taken into temporary emergency protective custody by publishing notice to that effect in a newspaper of statewide circulation. The notice must be published at least 3 times over a 3-week period immediately following the surrender of the baby unless the ~~Division~~ Department has relinquished custody. The notice, at a minimum, shall contain the place, date and time where the baby was surrendered, the baby's sex, race, approximate age, identifying marks, any other information the ~~Division~~ Department deems necessary for the baby's identification, and a statement that such abandonment shall be:

(1) The surrendering person's irrevocable consent to the termination of all parental rights, if any, of such person on the ground of abandonment; and

(2) The surrendering person's irrevocable waiver of any right to notice of or opportunity to participate in any termination of parental rights proceeding involving such child, unless such surrendering person manifests an intent to exercise parental rights and responsibilities within 30 days of such abandonment.

(i) When the person who surrenders a baby pursuant to this section manifests a desire to remain anonymous, the ~~Division~~ Department shall neither initiate nor conduct an investigation to determine the identity of such person, and no court shall order such an investigation unless there is good cause to suspect child abuse or neglect other than the act of surrendering such baby.

§ 909. Privileged communication not recognized; judicial proceedings; disclosure of information.

(b) In any judicial proceeding involving the custody of a child, the fact that a report has been made pursuant to § 903 or § 905 of this title is not be admissible unless offered by the ~~Division~~ Department as a party or as a friend of the court. However, this subsection does not prohibit the introduction of evidence from independent sources to support the allegations that may have caused a report to have been made.

(c) To protect the privacy of the family and the child named in a report, the ~~Division~~ Department shall establish guidelines concerning the disclosure of information concerning the abuse and neglect involving a child. The ~~Division~~ Department may require persons to make written requests for access to records maintained by the ~~Division~~ Department. The ~~Division~~ Department may only release information to persons who have a legitimate public safety need for such information or a need based on the health and safety of a child subject to abuse, neglect or the risk of maltreatment, and such information may be used only for the purpose for which the information is released.

§ 910. Court orders to compel.

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

(1) To obtain access to the child, or children, and the residence of child, or children; or

(2) To compel the appearance of a person at an office of the ~~Division~~ Department in furtherance of the investigation; or

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

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

(b) The Family Court shall issue such an order upon the ~~Division~~ Department establishing by a preponderance of evidence that it provided written notice of its intent to file the petition and:

(1) For petitions requesting relief under paragraph (a)(1), (a)(2), or (a)(3) of this section:

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

b. That a child is in actual danger or there is an imminent risk of danger due to the ~~Division's~~ Department's inability to communicate with the person or see the child or the child's residence;

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

§ 911. Training and information.

(a) The ~~Division~~ Department shall, on a continuing basis, undertake and maintain programs to inform all persons required to report abuse or neglect pursuant to § 903 of this title and the public of the nature, problem and extent of abuse and neglect, and of the remedial and therapeutic services available to children and their families and to encourage self-reporting and the voluntary acceptance of such services.

(b) The ~~Division~~ Department shall conduct ongoing training programs to advance the purpose of this section.

(c) The ~~Division~~ Department shall continuously publicize the existence of the 24-hour report-line to those required to report abuse or neglect pursuant to § 903 of this title of their responsibilities and to the public the existence of the 24-hour statewide toll-free telephone number to receive reports of abuse or neglect.

§ 921. Child Protection Registry; purpose.

The ~~Division~~ Department shall maintain a Child Protection Registry which contains information about persons who have been substantiated for abuse or neglect as provided in this subchapter or who were substantiated between August 1, 1994, and February 1, 2003. The primary purpose of the Child Protection Registry is to protect children and to ensure the safety of children in child care, health care and public educational facilities. This subchapter must be liberally construed so that these purposes may be realized.

§ 922. Entry on the Child Protection Registry.

The Child Protection Registry must indicate “substantiated for abuse” or “substantiated for neglect” and the Child Protection Level as designated in § 923 of this subchapter for any person who:

(1) Based on the same incident of abuse or neglect on which the substantiation proceeding is premised, has been convicted of any criminal offense set out in § 923 of this subchapter or any offense specified in the laws of another state, the United States or any territory of the United States which is the same as or equivalent to any of the offenses set out in § 923 of this ~~title~~; title.

(2) Has been found by the Family Court, in a child welfare proceeding brought by the ~~Division~~ Department or in which the ~~Division~~ Department is a party, by a preponderance of the evidence to have abused or neglected a ~~child~~; child.

(3) Fails to make a timely written request for a hearing as provided in § 924(a)(2) of this title after being given notice by the ~~Division~~ Department of its intent to substantiate the person for abuse or neglect and enter the person on the ~~Registry~~; Registry.

(4) Is entered on the Registry by order of the Family Court in a proceeding on a Petition for Substantiation as described in § 925 or § 925A of this ~~title~~; or title.

(5) Was substantiated for abuse or neglect between August 1, 1994, and February 1, 2003.

§ 923. Child Protection Levels.

(a) A person who has been substantiated for abuse or neglect pursuant to this subchapter must be entered on the Child Protection Registry. The ~~Division~~ Department shall develop regulations that assess the risk of future harm to children from acts of abuse or neglect and designate Child Protection Levels.

§ 924. Notice of Intent to Substantiate; process.

(a) In response to a report where abuse or neglect of a child is alleged, as required by § 906 of this title, the ~~Division~~ Department's Division of Family Services shall conduct an investigation into the facts and circumstances of the

alleged abuse or ~~neglect as required by § 906 of this title~~ neglect, and the Department's Institutional Abuse Investigation Unit shall conduct an investigation of an allegation of institutional abuse or neglect of a child.

(1) If the ~~Division~~ Department determines from its investigation not to substantiate the person for abuse or neglect, the person may not be entered on the Child Protection Registry for that reported incident. The ~~Division~~ Department shall indicate in its internal information system that the incident is unsubstantiated, and so notify the person in writing. The ~~Division~~ Department shall develop regulations for classifying unsubstantiated cases in its internal information system.

(2) If the ~~Division~~ Department determines from its investigation that it intends to substantiate the person for abuse or neglect and enter an adult person on the Child Protection Registry, it shall give written notice to the person by certified mail, return receipt requested, at that person's last known address. The written notice must:

- a. Briefly describe the alleged incident of abuse or ~~neglect~~; neglect.
- b. Advise the person that the ~~Division~~ Department intends to substantiate the allegations and enter the person on the Child Protection Registry for the incident of abuse or neglect at a designated Child Protection ~~Level~~; Level.
- c. State the consequences of being entered on the Registry at the designated level, including whether the person will be reported as substantiated for abuse or neglect in response to a Child Protection Registry check made pursuant to Chapter 85 of Title 11 or Chapter 3 of Title 31; 31.
- d. Inform the person of that person's own right to request a hearing in the Family Court before the person is entered on the Child Protection ~~Registry~~; Registry.
- e. Further advise that the person will be entered on the Registry for the incident at the designated Child Protection Level unless, within 30 days of the date of mailing of the notice, the person responds to the ~~Division~~ Department in writing, requesting a hearing in the Family Court on the ~~Division's~~ Department's intent to substantiate the person for abuse or neglect and enter the person on the ~~Registry~~; Registry.
- f. Contain a written form for the person to return to the ~~Division~~ Department to request a hearing.

(3) If the ~~Division~~ Department determines from its investigation that it intends to substantiate a child and enter the child on the Child Protection Registry, it shall give written notice to the child and the child's parent, guardian, and legal custodian by certified mail, return receipt requested, at the child's last known address. The written notice must:

a. Briefly describe the alleged incident of abuse or ~~neglect~~; neglect.

b. Advise the child that the ~~Division~~ Department intends to substantiate the allegations and enter the child on the Child Protection Registry for the incident of abuse or neglect at a designated Child Protection ~~Level~~; Level.

c. State the consequences of being entered on the Registry at the designated level, including whether the child will be reported as substantiated for abuse or neglect in response to a Child Protection Registry check made pursuant to Chapter 85 of Title 11 or Chapter 3 of Title ~~34~~; 31.

d. Inform the child that a hearing will be held in the Family Court before the child is entered on the Child Protection Registry.

e. Provide notice to the child's guardian ad litem or attorney if the child is in DSCYF custody.

(4) If the ~~Division~~ Department determines from its investigation that it intends to enter a person on the Child Protection Registry as a result of a conviction of an enumerated offense set forth in § 923 of this title, the ~~Division~~ Department shall send a Notice of Substantiation to the person informing them of the substantiation and notifying them of the right to file a Petition for Limited Purpose Hearing. The Petition for Limited Purpose Hearing shall be filed by the person in Family Court within 30 days of the Notice of Substantiation, shall include a copy of the Notice of Substantiation, and shall set forth why the person alleges the conviction does not meet the requirements set forth in § 922(1) of this title. A Limited Purpose Hearing shall be limited to determining whether the conviction meets the requirements of § 922(1) of this title. If a Petition for Limited Purpose Hearing is not filed within 30 days of the Notice of Substantiation, the person shall remain automatically placed on the registry pursuant to § 922(1) of this title.

(c) The ~~Division~~ Department shall file a Petition for Substantiation before any child is entered on the Child Protection Registry, regardless of the written request of the child.

§ 925. Petition for Substantiation.

(a) If a person responds to the ~~Division~~ Department and requests a hearing in the Family Court before being entered on the Registry, as provided in § 924 of this title, the ~~Division~~ Department shall, unless the automatic stay provisions of § 927 of this title apply, file in the Family Court no later than 45 days after receipt of the written request, or in the case of a child, no later than 45 days after the notice of intent to substantiate was sent to the child, a Petition for Substantiation which requests that the Court substantiate the abuse or neglect and enter the person on the Child Protection Registry at a Child Protection Level designated by the Court.

(c) The Family Court may, upon motion by the ~~Division~~ Department or sua sponte, enter an order that places the person on the Registry at a designated Child Protection Level pending a final order on the Petition for Substantiation.

§ 925A. Grounds for substantiation.

(d) If the Family Court finds that the person has not committed an act of abuse or neglect based on the same incident as alleged in the Notice of Intent to Substantiate, the person may not be entered on the Registry for that incident, and the ~~Division~~ Department shall indicate in its internal information system that the incident is unsubstantiated.

(e) If a child welfare proceeding is pending in which the ~~Division~~ Department has requested a finding of abuse or neglect against a party and entry on the Registry for the same incident, the Family Court shall decide the issues of substantiation and entry on the Registry as provided in § 926 of this title without the necessity of a response to the notice of intent to substantiate or a separate Petition for Substantiation.

(f) If the ~~Division~~ Department fails to file a Petition for Substantiation within 45 days of receipt of a person's written request for a hearing as provided in § 924 of this title and a child welfare proceeding based on the same incident of abuse or neglect is not pending, the person may not be entered on the Child Protection Registry for the incident of abuse or neglect indicated in the notice of intent to substantiate.

§ 926. Finding of abuse or neglect in child welfare proceeding; binding effect.

In every child welfare proceeding brought by the ~~Division~~ Department or in which the ~~Division~~ Department is a party and in which the ~~Division~~ Department has requested a finding of abuse or neglect and entry on the Registry, the Family Court shall make findings pursuant to § 925A of this title. The findings of the Family Court are final and binding, and work as issue or claim preclusion for the same incident of abuse or neglect in substantiation proceedings.

§ 927. Automatic stay of substantiation proceedings.

(c) Upon conclusion of a criminal or delinquency proceeding involving the same allegations or facts as those alleged in the incident of abuse or neglect, if the accused is acquitted of the charge or the charge is dismissed and the ~~Division~~ Department intends to pursue substantiation, the acquittal or dismissal does not automatically work as issue or claim preclusion against a civil finding of abuse or neglect, nor does it prevent the taking of evidence, notwithstanding any other law to the contrary.

§ 928. Persons entered on the Registry between August 1, 1994, and February 1, 2003.

(a) The ~~Division~~ Department shall review each case substantiated for abuse or neglect that was placed on the Central Registry (also known as the Central Child Abuse Registry, the Child Abuse Registry and the Central Abuse Registry) between August 1, 1994, and February 1, 2003, and designate each case to a Child Protection Level in accordance with the regulations developed pursuant to § 923 of this title.

(b) A person who has been entered on the Child Protection Registry for the time prescribed in the designated Child Protection Level for the person's incident of abuse or neglect must be automatically removed from the Child Protection Registry, provided that the person has not been substantiated for an incident of abuse or neglect while on the Child Protection Registry. The ~~Division~~ Department shall notify the person of the removal.

(c) The ~~Division~~ Department shall notify a person who does not qualify for automatic removal from the Child Protection Registry of the Child Protection Level to which the person has been designated and of the consequences of designation to that level, including whether the person will be reported as substantiated for abuse or neglect in a Child Protection Registry check pursuant to Chapter 85 of Title 11 or Chapter 3 of Title 31.

§ 929. Removal of name from the Child Protection Registry.

(d) A Petition for Removal from the Registry must be filed in the Family Court in the county in which the substantiation occurred. A copy of the petition must be served on the ~~Division~~ Department, which may file an objection or answer to the petition within 30 days after being served. In every case, the ~~Division~~ Department shall inform the Court whether or not the person applying for removal has been substantiated for abuse or neglect while on the Child Protection Registry. The Family Court may, in its discretion, dispose of a Petition for Removal without a hearing.

(e) Removal from the Child Protection Registry means only that the person's name has been removed from the Registry and may no longer be reported to employers pursuant to Chapter 85 of Title 11 or Chapter 3 of Title 31. Notwithstanding removal from the Registry, the person's name and other case information remains in the ~~Division's~~ Department's internal information system as substantiated for all other purposes, including, but not limited to, the ~~Division's~~ Department's use of the information for historical, treatment and investigative purposes, child-care licensing decisions, foster and adoptive parent decisions, reporting to law-enforcement authorities, or any other purpose set forth in § 906(e) of this title.

SYNOPSIS

This Act updates statutes relating to the Department of Services for Children, Youth and Their Families. It adds "Institutional Abuse Investigation Unit" to the definitions within the existing statute. In addition, it updates references in certain sections of the laws to reflect whether the Department of Services for Children, Youth and Their Families, or a unit or division within that Department, is responsible for certain duties as described in the Delaware Code. It also makes technical corrections to conform existing law to the standards of the Delaware Legislative Drafting Manual.

Author: Senator Gay