

LAWS OF DELAWARE  
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CHAPTER 144  
149th GENERAL ASSEMBLY  
FORMERLY  
HOUSE BILL NO. 181

AN ACT TO AMEND TITLE 16 OF THE DELAWARE CODE RELATING TO RESPONSES TO CHILD ABUSE AND NEGLECT.

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

Section 1. Amend § 901, Title 16 of the Delaware Code by making deletions as shown by strikethrough and insertions as shown by underline as follows:

§ 901. Purpose.

The child welfare policy of this State shall serve to advance the best interests and secure the safety of the child, while preserving the family unit whenever the safety of the child is not jeopardized. The child welfare policy of this State extends to all child victims, whether victims of intrafamilial or extrafamilial child abuse and neglect. To that end this chapter, among other things, does all of the following:

(1) Provides for comprehensive, multidisciplinary investigative and protective services for abused and neglected children.

(2) Mandates that reports of child abuse or neglect be made to the appropriate authorities.

(3) Requires various agencies in Delaware's child protection system to work together to ensure the safety of children who are the subject of reports of abuse or neglect by conducting coordinated multidisciplinary investigations where required, judicial proceedings and family assessments, and by providing necessary services.

(4) Provides for the protection of children in facilities or organizations primarily concerned with child welfare and care that are required to be licensed under Delaware law by requiring the Delaware Department of Justice to notify any such facility where an employee of, or other person associated with, the facility has been charged with or convicted of an offense involving child sexual abuse.

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

§ 902. Definitions.

As used in this chapter:

(1) "Abuse" or "abused child" means as defined in § 901 of Title 10.

(2) "Baby" means a child not more than 14 days old, except that for hospitals and their employees and volunteers, "baby" means a child reasonably believed to be not more than 14 days old.

(3) "Child" means any person who has not reached that person's own eighteenth birthday.

(4) "Child Protection Registry" or "Registry" means a collection of information as described in subchapter II of this chapter about persons who have been substantiated for abuse or neglect as provided in subchapter II of this chapter or who were substantiated between August 1, 1994, and February 1, 2003.

(5) "Child welfare proceeding" means any Family Court proceeding and subsequent appeal therefrom involving custody, visitation, guardianship, termination of parental rights, adoption or other related petitions that involve a dependent, neglected or abused child or a child at risk of same as determined by the Family Court.

(6) "Children's advocacy center" means a child forensic interviewing center that employs best practices by applying and adhering to nationally recognized standards, and assists in the response to multidisciplinary cases.

(7) "Conviction" or "convicted" means entry of a plea of guilty or nolo contendere, regardless of whether the plea was subsequently discharged or dismissed under the first offenders domestic violence diversion program pursuant to § 1024 of Title 10, or under the first offenders controlled substances diversion program pursuant to § 4767 of this title, or of a Robinson plea, or of a probation before judgment discharge without judgment of conviction notwithstanding the provisions of § 4218(g) of Title 11, or a finding of guilt after trial, or a finding of not guilty after trial as a result of the defense of mental disease or defect pursuant to Title 11, or adjudication of delinquency for conduct which if committed by an adult, would constitute a crime; or "conviction" or "convicted" under similar proceedings of another state, territory or jurisdiction.

(8) "Death" means the loss of life of a child.

(9) "Department" means the Department of Services for Children, Youth and Their Families.

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

(11) "Division" means the Division of Family Services of the Department of Services for Children, Youth and Their Families.

(12) "Extrafamilial child abuse or neglect" means child abuse or neglect committed by an individual who is not a member of the child's family or household, but does not include institutional child abuse or neglect.

(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 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) 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.

(14) "Good faith" shall be presumed in the absence of evidence of malice or wilful misconduct.

(15) "Human trafficking" means as defined in § 787 of Title 11.

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

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

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

(19) "Investigation" means the collection of evidence in response to a report of abuse, neglect, or risk of maltreatment 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 shall develop protocols for its investigations that focus on ensuring the well-being and safety of the child. The Division 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) "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) "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) "Multidisciplinary team" means a combination of the following entities as required by law to investigate or monitor multidisciplinary cases: the Division, 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) "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) "Near death" means a child in serious or critical condition as a result of child abuse or neglect as certified by a physician.

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

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

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

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

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

(30) "Special Investigator" means a Division 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) "Substantiation" means a finding by a preponderance of the evidence that abuse or neglect has occurred.

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

Section 3. Amend § 903, Title 16 of the Delaware Code by making deletions as shown by strikethrough and insertions as shown by underline as follows:

§ 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, 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 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 shall make information on the general disposition of the report available through the Division report line to any person required to report under this section.

Section 4. Amend § 904, Title 16 of the Delaware Code by making deletions as shown by strikethrough and insertions as shown by underline as follows:

§ 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. 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 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.

(c) When two or more persons who are required to report under § 903 of this title have joint knowledge of a known or suspected instance of child abuse or neglect, the telephone report may be made by one person with joint knowledge who was selected by mutual agreement of those persons involved. The report must include all persons with joint knowledge of the known or suspected instance of child abuse or neglect at the time the report is made. Any person who has knowledge that the individual who was originally designated to report has failed to do so shall immediately make the report required under § 903 of this title.

Section 5. Amend § 905, Title 16 of the Delaware Code by making deletions as shown by strikethrough and insertions as shown by underline as follows:

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

(a) The Division 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.

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

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

(d) Upon receipt of a report on any multidisciplinary case, the Division 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 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 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 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 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 6. Amend § 906, Title 16 of the Delaware Code by making deletions as shown by strikethrough 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. 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 shall be conducted in a comprehensive, integrated, multidisciplinary manner that does all of the following:

(1) Provides civil and criminal protections to the child and the community.

(2) Encourages the use of collaborative decision-making and case management to reduce the number of times a child is interviewed and examined to minimize further trauma to the child.

(3) Provides safety and treatment for a child and his or her family by coordinating a therapeutic services system.

(4) Requires a multidisciplinary team response for all multidisciplinary cases. The State, with assistance from the Child Protection Accountability Commission, shall implement a Memorandum of Understanding among agencies and entities to ensure implementation of the multidisciplinary response to such cases.

(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.

b. Monitor each 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, 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 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 to the Department of Justice and the Child Protection Accountability Commission under § 932(a) of this title and every case involving the death of a child to the 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 to the Division. Reports to CPAC may not disclose the identities of the child, alleged perpetrators, or others involved in the case or cases.

f. Participate as a member of the multidisciplinary team for cases outlined in paragraph(c)(1)b. of this section, and keep the team regularly apprised of the status and findings of the Investigation Coordinator.

(2) All information and records received, prepared, or maintained by the Investigation Coordinator, or the Investigation Coordinator's staff, are confidential and exempt from the provisions of the Freedom of Information Act,

Chapter 100 of Title 29. However, the disclosure of case specific data and information to the multidisciplinary team is authorized to ensure a comprehensive, integrated, multidisciplinary response to child abuse cases.

(3) The Investigation Coordinator, and the Investigation Coordinator's staff, as state employees, are entitled to immunity in accordance with § 4001 of Title 10.

(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 as required by § 903 of this title.

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

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

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

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

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

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

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

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

(1) Receive and maintain reports pursuant to the provisions of §§ 903 and 905 of this title.

(2) Forward reports to the appropriate Division staff, who shall determine, through the use of protocols developed by the Division, 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 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 may investigate any other report.

(4) [Repealed.]

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

(6) Ensure that all cases involving allegations of child abuse or neglect 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; 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 is authorized to transport the child to the medical examination. Medical examinations under this paragraph are covered under § 3557 of Title 18.

(8) At a minimum, investigate the nature, extent, and cause of the abuse or neglect; collect evidence; identify the alleged perpetrator; determine the names and condition of other children and adults in the home; assess the home environment, the relationship of the subject child to the parents or other persons responsible for the child's care, and any

indication of incidents of physical violence against any other household or family member; perform background checks on all adults in the home; and gather other pertinent information.

(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 shall identify and provide for services for families where it is determined that the child is at risk of abuse or neglect. The Division 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 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 determines that an investigation as delineated in paragraph (e)(3) of this section is required or is otherwise appropriate. The Division staff who have conducted the assessment may remain involved in the provision of services to the child and family.

(11) Conduct a family assessment and services approach on reports initially referred for an investigation, if it is determined that a complete investigation is not required. The reason for the termination of the investigative process must be documented.

(12) Assist the child and family in obtaining services, if at any time during the investigation it is determined that the child or any member of the family needs services.

(13) Identify local services and ongoing medical needs, and assist with access to those services for children and families where there is risk of abuse or neglect.

(14) Update the internal information system at regular intervals during the course of the investigation. At the conclusion of the investigation, the internal information system must be updated to include a case finding;

[Repealed.]

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

[Repealed.]

[Repealed].

[Repealed].

[Repealed.]

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

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

(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 pursuant to § 903 of this title.

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

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

(4) Ensure that all cases involving allegations of child abuse or neglect 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.

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

(g)(1) If a criminal prosecution for child sexual abuse or exploitation or human trafficking of a child is initiated by the Department of Justice against a person employed by or associated with a facility or organization required to be licensed or whose staff personnel are required to be licensed under Delaware law whose primary concern is that of child welfare and care, the Department of Justice shall notify such employer within 48 hours.

(2) Any violations of this subsection shall be dealt with administratively by the Attorney General and the penalty provisions of § 914 of this title shall not apply hereto.

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

Section 7. Amend § 907, Title 16 of the Delaware Code by making deletions as shown by strikethrough and insertions as shown by underline as follows:

§ 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, 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, 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 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 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 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 exercise custody under this section.

Section 8. Amend § 908, Title 16 of the Delaware Code by making deletions as shown by strikethrough and insertions as shown by underline as follows:

§ 908. Immunity from liability, and special reimbursement to hospitals for expenses related to certain babies.

(a) Any person participating in good faith in the making of a report or notifying police officers pursuant to this chapter; assisting in a multidisciplinary case as required by § 906(b)(4) of this title; performing a medical examination without the consent of those responsible for the care, custody, and control of a child pursuant to § 906(e) of this title; or exercising emergency protective custody in compliance with § 907 of this title has immunity from any liability, civil or criminal, that might otherwise exist, and such immunity extends to participation in any judicial proceeding resulting from the above actions taken in good faith. This section does not limit the liability of any health care provider for personal injury claims due to medical negligence that occurs as a result of any examination performed pursuant to this chapter.

(b) A hospital, hospital employee or hospital volunteer which accepts temporary emergency protective custody of a baby pursuant to § 907A of this title is absolutely immune from civil and administrative liability for any act of commission or omission in connection with the acceptance of that temporary emergency protective custody or the provision of care for the baby when left

at the hospital while said baby is in the hospital's temporary emergency protective custody except for negligence or intentional acts. If a hospital accepts temporary emergency protective custody of a baby pursuant to § 907A of this title, the State shall reimburse the hospital for eligible, medically necessary costs under the Medicaid Fee for Service Program.

Section 9. Amend § 909, Title 16 of the Delaware Code by making deletions as shown by strikethrough and insertions as shown by underline as follows:

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

(a) No legally recognized privilege, except that between attorney and client and that between priest and penitent in a sacramental confession, applies to situations involving known or suspected child abuse, neglect, exploitation, or abandonment and does not constitute grounds for failure to report as required by § 903 of this title or to give or accept evidence in any judicial proceeding relating to child abuse or neglect.

(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 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 shall establish guidelines concerning the disclosure of information concerning the abuse and neglect involving a child. The Division may require persons to make written requests for access to records maintained by the Division. The Division 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.

Approved August 30, 2017