

CHAPTER 185

AN ACT concerning child abuse, amending P.L.1977, c.102 and supplementing Title 30 of the Revised Statutes.

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

1. Section 1 of P.L.1977, c.102 (C.9:6-8.10a) is amended to read as follows:

C.9:6-8.10a Records of child abuse reports; confidentiality; disclosure.

1. a. All records of child abuse reports made pursuant to section 3 of P.L.1971, c.437 (C.9:6-8.10), all information obtained by the Division of Youth and Family Services in investigating such reports including reports received pursuant to section 20 of P.L.1974, c.119 (C.9:6-8.40), and all reports of findings forwarded to the central registry pursuant to section 4 of P.L.1971, c.437 (C.9:6-8.11) shall be kept confidential and may be disclosed only under the circumstances expressly authorized under subsections b., c., d., e., f. and g. herein. The division shall disclose information only as authorized under subsections b., c., d., e., f. and g. of this section that is relevant to the purpose for which the information is required, provided, however, that nothing may be disclosed which would likely endanger the life, safety, or physical or emotional well-being of a child or the life or safety of any other person or which may compromise the integrity of a division investigation or a civil or criminal investigation or judicial proceeding. If the division denies access to specific information on this basis, the requesting entity may seek disclosure through the Chancery Division of the Superior Court. This section shall not be construed to prohibit disclosure pursuant to paragraphs (2) and (7) of subsection b. of this section.

Nothing in this act shall be construed to permit the disclosure of any information deemed confidential by federal or State law.

b. The division may and upon written request, shall release the records and reports referred to in subsection a., or parts thereof, consistent with the provisions of P.L.1997, c.175 (C.9:6-8.83 et al.) to:

(1) A public or private child protective agency authorized to investigate a report of child abuse or neglect;

(2) A police or other law enforcement agency investigating a report of child abuse or neglect;

(3) A physician who has before him a child whom he reasonably suspects may be abused or neglected or an authorized member of the staff of a duly designated regional child abuse diagnostic and treatment center which is involved with a particular child who is the subject of the request;

(4) A physician, a hospital director or his designate, a police officer or other person authorized to place a child in protective custody when such person has before him a child whom he reasonably suspects may be abused or neglected and requires the information in order to determine whether to place the child in protective custody;

(5) An agency, whether public or private, including any other division or unit in the Department of Human Services, authorized to care for, treat, or supervise a child who is the subject of a child abuse report, or a parent, guardian or other person who is responsible for the child's welfare, or both, when the information is needed in connection with the provision of care, treatment, or supervision to such child or such parent, guardian or other person;

(6) A court or the Office of Administrative Law, upon its finding that access to such records may be necessary for determination of an issue before it, and such records may be disclosed by the court or the Office of Administrative Law in whole or in part to the law guardian, attorney or other appropriate person upon a finding that such further disclosure is necessary for determination of an issue before the court or the Office of Administrative Law;

(7) A grand jury upon its determination that access to such records is necessary in the conduct of its official business;

(8) Any appropriate State legislative committee acting in the course of its official functions, provided, however, that no names or other information identifying persons named in the report shall be made available to the legislative committee unless it is absolutely essential to the legislative purpose;

(9) (Deleted by amendment, P.L.1997, c.175).

(10) A family day care sponsoring organization for the purpose of providing information on

child abuse or neglect allegations involving prospective or current providers or household members pursuant to P.L.1993, c.350 (C.30:5B-25.1 et seq.) and as necessary, for use in administrative appeals related to information obtained through a central registry search;

(11) The Victims of Crime Compensation Board, for the purpose of providing services available pursuant to the "Criminal Injuries Compensation Act of 1971," P.L.1971, c.317 (C.52:4B-1 et seq.) to a child victim who is the subject of such report;

(12) Any person appealing a division service or status action or a substantiated finding of child abuse or neglect and his attorney or authorized lay representative upon a determination by the division or the presiding Administrative Law Judge that such disclosure is necessary for a determination of the issue on appeal;

(13) Any person or entity mandated by statute to consider child abuse or neglect information when conducting a background check or employment-related screening of an individual employed by or seeking employment with an agency or organization providing services to children;

(14) Any person or entity conducting a disciplinary, administrative or judicial proceeding to determine terms of employment or continued employment of an officer, employee, or volunteer with an agency or organization providing services for children. The information may be disclosed in whole or in part to the appellant or other appropriate person only upon a determination by the person or entity conducting the proceeding that the disclosure is necessary to make a determination;

(15) The members of a county multi-disciplinary team, established in accordance with State guidelines, for the purpose of coordinating the activities of agencies handling alleged cases of child abuse and neglect;

(16) A person being evaluated by the division or the court as a potential care-giver to determine whether that person is willing and able to provide the care and support required by the child;

(17) The legal counsel of a child, parent or guardian, whether court-appointed or retained, when information is needed to discuss the case with the division in order to make decisions relating to or concerning the child;

(18) A person who has filed a report of suspected child abuse or neglect for the purpose of providing that person with only the disposition of the investigation;

(19) A parent or legal guardian when the information is needed in a division matter in which that parent or guardian is directly involved. The information may be released only to the extent necessary for the requesting parent or guardian to discuss services or the basis for the division's involvement or to develop, discuss, or implement a case plan for the child;

(20) A federal, State or local government entity, to the extent necessary for such entity to carry out its responsibilities under law to protect children from abuse and neglect;

(21) Citizen review panels designated by the State in compliance with the federal "Child Abuse Prevention and Treatment Act Amendments of 1996," Pub.L.104-235;

(22) The Child Fatality and Near Fatality Review Board established pursuant to P.L.1997, c.175 (C.9:6-8.83 et al.).

Any individual, agency, board, court, grand jury, legislative committee, or other entity which receives from the division the records and reports referred to in subsection a., shall keep such records and reports, or parts thereof, confidential and shall not disclose such records and reports or parts thereof except as authorized by law.

c. The division may share information with a child who is the subject of a child abuse or neglect report, as appropriate to the child's age or condition, to enable the child to understand the basis for the division's involvement and to participate in the development, discussion, or implementation of a case plan for the child.

d. The division may release the records and reports referred to in subsection a. of this section to any person engaged in a bona fide research purpose, provided, however, that no names or other information identifying persons named in the report shall be made available to the researcher unless it is absolutely essential to the research purpose and provided further that the approval of the Director of the Division of Youth and Family Services shall first have been obtained.

e. For incidents determined by the division to be substantiated, the division shall forward to the police or law enforcement agency in whose jurisdiction the child named in the report resides, the identity of persons alleged to have committed child abuse or neglect and of victims of child abuse or neglect, their addresses, the nature of the allegations, and other relevant information, including, but not limited to, prior reports of abuse or neglect and names of siblings obtained by the division during its investigation of a report of child abuse or neglect. The police or law enforcement agency shall keep such information confidential.

f. The division may disclose to the public the findings or information about a case of child abuse or neglect which has resulted in a child fatality or near fatality. Nothing may be disclosed which would likely endanger the life, safety, or physical or emotional well-being of a child or the life or safety of any other person or which may compromise the integrity of a division investigation or a civil or criminal investigation or judicial proceeding. If the division denies access to specific information on this basis, the requesting entity may seek disclosure of the information through the Chancery Division of the Superior Court. No information may be disclosed which is deemed confidential by federal or State law. The name or any other information identifying the person or entity who referred the child to the division shall not be released to the public.

g. The division shall release the records and reports referred to in subsection a. of this section to a unified child care agency contracted with the Department of Human Services pursuant to N.J.A.C.10:15-2.1 for the purpose of providing information on child abuse or neglect allegations involving a prospective approved home provider or any adult household member pursuant to section 2 of P.L.2003, c.185 (C.30:5B-32) to a child's parent when the information is necessary for the parent to make a decision concerning the placement of the child in an appropriate child care arrangement.

The division shall not release any information that would likely endanger the life, safety, or physical or emotional well-being of a child or the life or safety of any other person.

C.30:5B-32 Child abuse record information check for prospective approved home providers.

2. a. A unified child care agency contracted with the Department of Human Services pursuant to N.J.A.C.10:15-2.1, shall request that the Division of Youth and Family Services in the Department of Human Services conduct a child abuse record information check of the division's child abuse records, as promptly as possible, to determine if an incident of child abuse or neglect has been substantiated, pursuant to section 4 of P.L.1971, c.437 (C.9:6-8.11), against:

(1) a prospective approved home provider as defined in N.J.A.C.10:15-1.2 providing child care services under the "New Jersey Cares for Kids Program" established pursuant to N.J.A.C.10:15-5.1, or to a child whose parent is receiving assistance under the Work First New Jersey program established pursuant to P.L.1997, c.38 (C.44:10-55 et seq.) or is employed but continues to receive supportive services pursuant to the provisions of section 5 of P.L.1997, c.13 (C.44:10-38); or

(2) any adult member of the prospective provider's household.

b. The division shall conduct the child abuse record information check only upon receipt of the prospective approved home provider's or any adult household member's written consent to the check. If the person refuses to provide his consent, the unified child care agency shall deny the prospective approved home provider's application to provide child care services.

c. If the division determines that an incident of child abuse or neglect by the prospective approved home provider or any adult member of the household has been substantiated, the division shall release the results of the child abuse record information check to the unified child care agency pursuant to subsection g. of section 1 of P.L.1977, c.102 (C.9:6-8.10a) and the agency shall deny the prospective approved home provider's application to provide child care services.

d. Before denying the prospective approved home provider's application to provide child care services, the unified child care agency shall give notice personally or by certified or registered mail to the last known address of the prospective approved home provider with return receipt requested, of the reasons why the application will be denied. The notice shall afford the prospective approved home provider the opportunity to be heard and to contest the agency's

action. The hearing shall be conducted in accordance with the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

e. If a prospective approved home provider's application to provide child care services is denied, the unified child care agency shall notify the parent of the child who would be eligible to receive such services, personally and in writing, of the reasons why the application was denied and the parent's right to select another provider. The parent shall keep such information confidential and shall not disclose the information except as authorized by law.

C.30:5B-33 Rules, regulations; procedures.

3. Pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), the Commissioner of Human Services shall adopt rules and regulations necessary to effectuate the purposes of this act, including but not limited to:

a. Procedures for a unified child care agency to follow in submitting a request for a child abuse record information check on a prospective approved home provider or any adult member of the prospective provider's household;

b. Implementation of an appeals process to be used in the case of a denial of a prospective approved home provider's application to provide child care services based on a finding of substantiated child abuse or neglect; and

c. Establishment of time limits for conducting a child abuse record information check and providing a unified child care agency with the results of the check.

4. This act shall take effect on the 180th day following enactment, but the Commissioner of Human Services may take such anticipatory administrative action in advance as shall be necessary for the implementation of the act.

Approved September 26, 2003.