

ASSEMBLY, No. 3209

STATE OF NEW JERSEY 219th LEGISLATURE

INTRODUCED FEBRUARY 25, 2020

Sponsored by:

Assemblyman RONALD S. DANCER

District 12 (Burlington, Middlesex, Monmouth and Ocean)

SYNOPSIS

Clarifies manner of public disclosure of findings or information about child abuse or neglect cases resulting in child fatalities or near fatalities.

CURRENT VERSION OF TEXT

As introduced.



1 **AN ACT** concerning the findings or information about certain child
2 abuse or neglect cases and amending P.L.1977, c.102.

3

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

6

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

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

30 Nothing in P.L.1977, c.102 (C.9:6-8.10a et seq.) shall be
31 construed to permit the disclosure of any information deemed
32 confidential by federal or State law.

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

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

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

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

EXPLANATION – Matter enclosed in bold-faced brackets **[thus]** in the above bill is
not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

- 1 (4) A physician, a hospital director or his designate, a police
2 officer, or other person authorized to place a child in protective
3 custody when such person has before him a child whom he
4 reasonably suspects may be abused or neglected and requires the
5 information in order to determine whether to place the child in
6 protective custody;
- 7 (5) An agency, whether public or private, including any division
8 or unit in the Department of Human Services or the Department of
9 Children and Families, authorized to care for, treat, assess, evaluate,
10 or supervise a child who is the subject of a child abuse report, or a
11 parent, guardian, resource family parent, or other person who is
12 responsible for the child's welfare, or both, when the information is
13 needed in connection with the provision of care, treatment,
14 assessment, evaluation, or supervision to such child or such parent,
15 guardian, resource family parent, or other person and the provision
16 of information is in the best interests of the child as determined by
17 the Division of Child Protection and Permanency;
- 18 (6) A court or the Office of Administrative Law, upon its
19 finding that access to such records may be necessary for
20 determination of an issue before it, and such records may be
21 disclosed by the court or the Office of Administrative Law in whole
22 or in part to the law guardian, attorney, or other appropriate person
23 upon a finding that such further disclosure is necessary for
24 determination of an issue before the court or the Office of
25 Administrative Law;
- 26 (7) A grand jury upon its determination that access to such
27 records is necessary in the conduct of its official business;
- 28 (8) Any appropriate State legislative committee acting in the
29 course of its official functions, provided, however, that no names or
30 other information identifying persons named in the report shall be
31 made available to the legislative committee unless it is absolutely
32 essential to the legislative purpose;
- 33 (9) (Deleted by amendment, P.L.1997, c.175).
- 34 (10) A family day care sponsoring organization for the purpose
35 of providing information on child abuse or neglect allegations
36 involving prospective or current providers or household members
37 pursuant to P.L.1993, c.350 (C.30:5B-25.1 et seq.) and as
38 necessary, for use in administrative appeals related to information
39 obtained through a child abuse registry search;
- 40 (11) The Victims of Crime Compensation Board, for the
41 purpose of providing services available pursuant to the "Criminal
42 Injuries Compensation Act of 1971," P.L.1971, c.317 (C.52:4B-1 et
43 seq.) to a child victim who is the subject of such report;
- 44 (12) Any person appealing a department service or status action
45 or a substantiated finding of child abuse or neglect and his attorney
46 or authorized lay representative upon a determination by the

1 department or the presiding Administrative Law Judge that such
2 disclosure is necessary for a determination of the issue on appeal;

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

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

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

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

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

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

30 (19) A parent, resource family parent, or legal guardian when
31 the information is needed in a department matter in which that
32 parent, resource family parent, or legal guardian is directly
33 involved. The information may be released only to the extent
34 necessary for the requesting parent, resource family parent, or legal
35 guardian to discuss services or the basis for the department's
36 involvement or to develop, discuss, or implement a case plan for the
37 child;

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

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

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

46 (23) Members of a family team or other case planning group
47 formed by the Division of Child Protection and Permanency and

1 established in accordance with regulations adopted by the
2 Commissioner of Children and Families for the purpose of
3 addressing the child's safety, permanency, or well-being, when the
4 provision of such information is in the best interests of the child as
5 determined by the Division of Child Protection and Permanency.

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

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

18 d. The department may release the records and reports referred
19 to in subsection a. of this section to any person engaged in a bona
20 fide research purpose, provided, however, that no names or other
21 information identifying persons named in the report shall be made
22 available to the researcher unless it is absolutely essential to the
23 research purpose and provided further that the approval of the
24 Commissioner of Children and Families or his designee shall first
25 have been obtained.

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

36 f. The department **[may]** shall disclose to the public the
37 findings or information about a case of child abuse or neglect which
38 has resulted in a child fatality or near fatality in a form and manner,
39 as prescribed by State and federal regulations, that shall not
40 jeopardize or result in the loss of federal funds. Nothing may be
41 disclosed which would likely endanger the life, safety, or physical
42 or emotional well-being of a child or the life or safety of any other
43 person or which may compromise the integrity of a department
44 investigation or a civil or criminal investigation or judicial
45 proceeding. If the department denies access to specific information
46 on this basis, the requesting entity may seek disclosure of the
47 information through the Chancery Division of the Superior Court.

1 No information may be disclosed which is deemed confidential by
2 federal or State law. The name or any other information identifying
3 the person or entity who referred the child to the department shall
4 not be released to the public.

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

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

17 (cf: P.L.2012, c.16, s.22)

18
19 2. This act shall take effect immediately.
20
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22 STATEMENT

23
24 This bill clarifies the procedure for the release of information
25 about child abuse or neglect cases resulting in child fatalities or
26 near fatalities. Specifically, the bill mandates the public disclosure
27 of the findings or information about a case of child abuse or neglect
28 which has resulted in a child fatality or near fatality in a form and
29 manner, as prescribed by State and federal regulations, that would
30 not jeopardize or result in the loss of federal funds.

31 Under regulations established pursuant to the federal "Child
32 Abuse and Prevention Treatment Act" (CAPTA)
33 (42 U.S.C.5101 et seq.), states are required to provide for the public
34 disclosure of findings or information about a child abuse or neglect
35 case resulting in a child fatality or near fatality.

36 States are required to develop procedures for the release of
37 information that includes, but is not limited to: the cause of, and
38 circumstances regarding, the fatality or near fatality; the age and
39 gender of the child; information describing any previous reports of
40 child abuse or neglect investigations and the results of such
41 investigations; and the services provided and actions taken by the
42 State, on behalf of the child, that are pertinent to the abuse or
43 neglect that led to the fatality or near fatality.

44 State policies must also ensure compliance with other relevant
45 federal confidentiality laws, and allow for exceptions to the release
46 of information under certain circumstances (to protect the safety

1 and well-being of the child or when releasing information that
2 jeopardizes a criminal investigation).

3 Recently, the federal regulations governing public disclosure
4 under CAPTA were updated. Consequently, the State of New
5 Jersey is in the process of developing new regulations that would
6 comply with the updates to the federal regulations. This bill would
7 clarify the current procedure in light of these changes.