

§4004. Authorizations

1. General. The department may take appropriate action, consistent with available funding, that will help prevent child abuse and neglect and achieve the goals of section 4003 and subchapter XI-A, including:

A. Developing and providing services which:

(1) Support and reinforce parental care of children;

(2) Supplement that care; and

(3) When necessary, substitute for parental care of children; [PL 1979, c. 733, §18 (NEW).]

B. Encouraging the voluntary use of these and other services by families and children who may need them; [PL 1979, c. 733, §18 (NEW).]

C. Cooperating and coordinating with other agencies, facilities or persons providing related services to families and children throughout the period of time the department is involved with a family and child; [PL 2021, c. 110, §1 (AMD).]

D. Establishing and maintaining a Child Protective Services Contingency Fund, which is a nonlapsing fund, to provide temporary assistance to families to help them provide proper care for their children; [PL 2023, c. 447, §1 (AMD).]

E. Establishing a child death and serious injury review panel for reviewing deaths and serious injuries to children. The panel consists of the following members: the Chief Medical Examiner, a pediatrician, a public health nurse, forensic and community mental health clinicians, law enforcement officers, departmental child welfare staff, district attorneys, criminal or civil assistant attorneys general and the ombudsman pursuant to section 4087-A or a designee of the ombudsman.

The purpose of the panel is to recommend to state and local agencies methods of improving the child protection system, including modifications of statutes, rules, policies and procedures. Beginning January 1, 2023 and every 2 years thereafter, the department shall submit a report to the joint standing committee of the Legislature having jurisdiction over health and human services matters.

The panel shall submit a report to the joint standing committee of the Legislature having jurisdiction over health and human services matters at least every 3 months. The panel may submit a combined report with the child welfare advisory panel established in section 4010-D or any judicial branch task force or panel with a focus on the child welfare system or child protective proceedings. Any presentation of the report to the committee must be presented by the citizen members of the panels to the extent possible. Each quarterly report must contain, at a minimum, the following:

(1) A summary of generalized and anonymized observations in the prior 3-month period regarding efforts by the Office of Child and Family Services to improve the child welfare system;

(2) A summary of the collaboration between the child welfare advisory panel and the child death and serious injury review panel as well as any judicial branch task force or panel with a focus on the child welfare system or child protective proceedings; and

(3) Any recommendations on how to further protect the State's children through department policy and rulemaking and through legislation; [PL 2023, c. 261, §1 (AMD).]

F. Investigating suspicious child deaths. An investigation under this paragraph is subject to and may not interfere with the authority and responsibility of the Attorney General to investigate and prosecute homicides pursuant to Title 5, section 200-A; and [PL 2017, c. 473, §2 (AMD).]

G. Requesting and receiving confidential criminal history record information, as defined by Title 16, section 703, subsection 2, from the Department of Public Safety and public criminal history record information, as defined by Title 16, section 703, subsection 8. [PL 2017, c. 473, §3 (NEW).]

[PL 2023, c. 261, §1 (AMD); PL 2023, c. 447, §1 (AMD).]

2. Duties. The department shall act to protect abused and neglected children and children in circumstances that present a substantial risk of abuse and neglect, to prevent further abuse and neglect, to enhance the welfare of these children and their families and to preserve family life wherever possible. The department shall:

A. Receive reports of abuse and neglect and suspicious child deaths; [PL 2007, c. 586, §5 (AMD).]

B. Promptly investigate all abuse and neglect cases and suspicious child deaths coming to its attention or, in the case of out-of-home abuse and neglect investigations, the department shall act in accordance with subchapter 18; [PL 2023, c. 248, §2 (AMD).]

B-1. Establish and maintain a policy that requires, to the greatest extent possible under applicable federal and state confidentiality laws, that caseworkers receive information throughout the period of time the department is involved with a family and child directly from any agencies, facilities or persons involved with or providing services to the family and child in order to:

(1) Coordinate adequate access to resources for a family and child; and

(2) Inform the ongoing risk and safety assessment of the child; [PL 2021, c. 110, §2 (NEW).]

C. [PL 2009, c. 558, §1 (RP).]

C-1. Determine in each case investigated under paragraph B whether or not a child has been harmed and the degree of harm or threatened harm by a person responsible for the care of that child by deciding whether allegations are unsubstantiated, indicated or substantiated. Each allegation must be considered separately and may result in a combination of findings.

The department shall adopt rules that define "unsubstantiated," "indicated" and "substantiated" findings for the purposes of this paragraph and that specify an individual's rights to appeal the department's findings. Rules adopted pursuant to this paragraph are routine technical rules as defined by Title 5, chapter 375, subchapter 2-A; [PL 2009, c. 558, §2 (NEW).]

D. [PL 2001, c. 559, Pt. CC, §1 (RP).]

E. If, after investigation, the department does not file a petition under section 4032 but does open a case to provide services to the family to alleviate child abuse and neglect in the home, assign a caseworker, who shall:

(1) Provide information about rehabilitation and other services that may be available to assist the family; and

(2) Develop with the family a written child and family plan.

The child and family plan must identify the problems in the family and the services needed to address those problems; must describe responsibilities for completing the services, including, but not limited to, payment for services, transportation and child care services and responsibilities for seeking out and participating in services; and must state the names, addresses and telephone numbers of any relatives or family friends known to the department or parent to be available as resources to the family.

The child and family plan must be reviewed every 6 months, or sooner if requested by the family or the department; [PL 2007, c. 586, §7 (AMD).]

F. File a petition under section 4032 if, after investigation, the department determines that a child is in immediate risk of serious harm or in jeopardy as defined in this chapter; [PL 2023, c. 518, §1 (AMD).]

G. In the case of a suspicious child death, determine:

- (1) Whether abuse or neglect was a cause or factor contributing to the child's death; and
- (2) The degree of threatened harm to any other child for whom the person or persons responsible for the deceased child may be responsible now or in the future; and [PL 2023, c. 518, §2 (AMD).]

H. If an allegation of abuse or neglect against a parent or legal guardian of the child is investigated, collect information concerning the military status of the parent or legal guardian who is the subject of the allegation and share information about the allegation with the appropriate military authorities. [PL 2023, c. 518, §3 (NEW).]

[PL 2023, c. 518, §§1-3 (AMD).]

3. Objection of parent. Except as specifically authorized by law, a person may not take charge of a child over the objection of the child's parent or custodian.

[RR 2021, c. 2, Pt. B, §179 (COR).]

SECTION HISTORY

PL 1979, c. 733, §18 (NEW). PL 1987, c. 744, §§1,2 (AMD). PL 1991, c. 824, §§A44,45 (AMD). PL 1993, c. 294, §§1,2 (AMD). PL 2001, c. 11, §4 (AMD). PL 2001, c. 559, §CC1 (AMD). PL 2007, c. 586, §§2-9 (AMD). PL 2009, c. 558, §§1, 2 (AMD). PL 2017, c. 473, §§1-3 (AMD). PL 2021, c. 110, §§1, 2 (AMD). PL 2021, c. 550, §1 (AMD). RR 2021, c. 2, Pt. A, §64 (COR). RR 2021, c. 2, Pt. B, §179 (COR). PL 2023, c. 248, §2 (AMD). PL 2023, c. 261, §1 (AMD). PL 2023, c. 447, §1 (AMD). PL 2023, c. 518, §§1-3 (AMD).

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