

CHAPTER 281

AN ACT concerning children, amending P.L.1974, c.119 and P.L.2010, c.5.

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

1. Section 1 of P.L.1974, c.119 (C.9:6-8.21) is amended to read as follows:

C.9:6-8.21 Definitions.

1. As used in P.L.1974, c.119 (C.9:6-8.21 et seq.), unless the specific context indicates otherwise:

- a. "Parent or guardian" means any natural parent, adoptive parent, resource family parent, stepparent, paramour of a parent, or any person, who has assumed responsibility for the care, custody, or control of a child or upon whom there is a legal duty for such care. Parent or guardian includes a teacher, employee, or volunteer, whether compensated or uncompensated, of an institution who is responsible for the child's welfare and any other staff person of an institution regardless of whether or not the person is responsible for the care or supervision of the child. Parent or guardian also includes a teaching staff member or other employee, whether compensated or uncompensated, of a day school as defined in section 1 of P.L.1974, c.119 (C.9:6-8.21).

- b. "Child" means (1) any person less than 18 years of age alleged to have been abused or neglected, or (2) any person less than 21 years of age alleged to have been abused or neglected as defined in this section, or subject to exploitation as defined in section 8 of P.L.2017, c.238 (C.30:6D-74), by a teacher, employee, contractor, or volunteer, whether compensated or uncompensated, of an institution responsible for the care or supervision of that person, as regulated by the Department of Children and Families, including employees of day schools as defined in this section.

- c. "Abused or neglected child" means a child as defined in this section whose parent or guardian, as herein defined, (1) inflicts or allows to be inflicted upon such child physical injury by other than accidental means which causes or creates a substantial risk of death, or serious or protracted disfigurement, or protracted impairment of physical or emotional health or protracted loss or impairment of the function of any bodily organ; (2) creates or allows to be created a substantial or ongoing risk of physical injury to such child by other than accidental means which would be likely to cause death or serious or protracted disfigurement, or protracted loss or impairment of the function of any bodily organ; (3) commits or allows to be committed an act of sexual abuse against the child; (4) or a child whose physical, mental, or emotional condition has been impaired or is in imminent danger of becoming impaired as the result of the failure of his parent or guardian, as herein defined, to exercise a minimum degree of care (a) in supplying the child with adequate food, clothing, shelter, education, medical or surgical care though financially able to do so or though offered financial or other reasonable means to do so, or (b) in providing the child with proper supervision or guardianship, by unreasonably inflicting or allowing to be inflicted harm, or substantial risk thereof, including the infliction of excessive corporal punishment; or by any other acts of a similarly serious nature requiring the aid of the court; (5) or a child who has been willfully abandoned by his parent or guardian, as herein defined; (6) or a child upon whom excessive physical restraint has been used under circumstances which do not indicate that the child's behavior is harmful to himself, others, or property; (7) or a child who is in an institution and (a) has been placed there inappropriately for a continued period of time with the knowledge that the placement has resulted or may continue to result in harm to the child's mental or physical well-being or (b)

who has been willfully isolated from ordinary social contact under circumstances which indicate emotional or social deprivation.

A child shall not be considered abused or neglected pursuant to paragraph (7) of subsection c. of this section if the acts or omissions described therein occur in a day school as defined in this section.

No child who in good faith is under treatment by spiritual means alone through prayer in accordance with the tenets and practices of a recognized church or religious denomination by a duly accredited practitioner thereof shall for this reason alone be considered to be abused or neglected.

d. "Law guardian" means an attorney admitted to the practice of law in this State, regularly employed by the Office of the Public Defender or appointed by the court, and designated under P.L.1974, c.119 to represent minors in alleged cases of child abuse or neglect and in termination of parental rights proceedings.

e. "Attorney" means an attorney admitted to the practice of law in this State who shall be privately retained; or, in the instance of an indigent parent or guardian, an attorney from the Office of the Public Defender or an attorney appointed by the court who shall be appointed in order to avoid conflict between the interests of the child and the parent or guardian in regard to representation.

f. "Division" means the Division of Child Protection and Permanency in the Department of Children and Families unless otherwise specified.

g. "Institution" means a public or private facility in the State which provides children with out-of-home care, supervision, or maintenance. Institution includes, but is not limited to, a correctional facility, detention facility, treatment facility, day care center, residential school, shelter, and hospital.

h. "Day school" means a public or private school which provides general or special educational services to day students in grades kindergarten through 12. Day school does not include a residential facility, whether public or private, which provides care on a 24-hour basis.

2. Section 2 of P.L.2010, c.5 (C.30:6D-74) is amended to read as follows:

C.30:6D-74 Definitions relative to individuals with developmental disabilities.

2. As used in P.L.2010, c.5 (C.30:6D-73 et seq.):

"Abuse" means wrongfully inflicting or allowing to be inflicted physical abuse, sexual abuse, or verbal or psychological abuse or mistreatment by a caregiver upon an individual with a developmental disability.

"Caregiver" means a person who receives State funding, directly or indirectly, in whole or in part, to provide services or supports, or both, to an individual with a developmental disability; except that "caregiver" shall not include an immediate family member of an individual with a developmental disability.

"Central registry" means the Central Registry of Offenders Against Individuals with Developmental Disabilities established pursuant to P.L.2010, c.5 (C.30:6D-73 et seq.).

"Commissioner" means the Commissioner of Human Services.

"Department" means the Department of Human Services.

"Developmental disability" means the same as that term is defined by section 3 of P.L.1977, c.82 (C.30:6D-3).

"Exploitation" means the act or process of a caregiver using an individual with a developmental disability or his resources for another person's profit or advantage.

"Intimate parts" means the following body parts of a person: sexual organs, genital area, anal area, inner thigh, groin, buttock, or breast.

"Lewdness" means the exposing of the genitals for the purpose of arousing or gratifying the sexual desire of a caregiver or an individual with a developmental disability, or any flagrantly lewd and offensive act which the caregiver knows or reasonably expects is likely to be observed by an individual with a developmental disability.

"Neglect" shall consist of any of the following acts by a caregiver on an individual with a developmental disability: willfully failing to provide proper and sufficient food, clothing, maintenance, medical care, or a clean and proper home; or failing to do or permit to be done any act necessary for the well-being of an individual with a developmental disability.

"Physical abuse" means a physical act directed at an individual with a developmental disability by a caregiver of a type that causes one or more of the following: pain, injury, anguish, or suffering. Such acts include, but are not limited to, the individual with a developmental disability being kicked, pinched, bitten, punched, slapped, hit, pushed, dragged, or struck with a thrown or held object.

"Program" means any program that is licensed or funded by the department for the purpose of providing services to individuals with developmental disabilities. "Program" includes, but is not limited to, a day program or a community-based residential program, as those terms are defined by section 1 of P.L.2017, c.238 (C.30:6D-9.1).

"Sexual abuse" means an act or attempted act of lewdness, sexual contact, or sexual penetration between a caregiver and an individual with a developmental disability. Any form of sexual contact or activity between a caregiver and an individual with a developmental disability, absent marriage, domestic partnership, or civil union, is sexual abuse, regardless of whether the individual with a developmental disability gives consent or the caregiver is on or off duty.

"Sexual contact" means an intentional touching by a caregiver or individual with a developmental disability, either directly or through clothing, of the intimate parts of the individual with a developmental disability or the caregiver for the purpose of sexually arousing or sexually gratifying the caregiver. Sexual contact of the caregiver with himself must be in view of the individual with a developmental disability whom the caregiver knows to be present.

"Sexual penetration" means vaginal intercourse, cunnilingus, fellatio, or anal intercourse between a caregiver and an individual with a developmental disability or insertion of the hand, finger, or object into the anus or vagina, either by the caregiver or upon the caregiver's instruction.

"Verbal or psychological abuse or mistreatment" means any verbal or non-verbal act or omission by a caregiver that inflicts one or more of the following: emotional harm; mental distress; or invocation of fear, humiliation, intimidation, or degradation to an individual with a developmental disability. Examples include, but are not limited to: bullying; ignoring need; verbal assault; use of racial or ethnic slurs; or intimidating gestures, such as shaking a fist at an individual with a developmental disability.

3. Section 3 of P.L.2010, c.5 (C.30:6D-75) is amended to read as follows:

C.30:6D-75 Report of abuse required.

3. a. (1) A case manager or case manager's supervisor in the department, a person employed or volunteering in a program, facility, community care residence, or living arrangement licensed or funded by the department, a person conducting a site visit pursuant to section 2 of P.L.2017, c.238 (C.30:6D-9.2), or a person providing community-based services with indirect State funding from the department to a person with a developmental disability, as applicable, having reasonable cause to believe that an individual with a developmental disability has been

subjected to abuse, neglect, or exploitation by a caregiver, shall report the same immediately to the department by telephone or otherwise.

(2) A report made pursuant to paragraph (1) of this subsection, where possible, shall contain: (a) the name and address of the individual with a developmental disability, as well as the name and address of the caregiver responsible for the care, custody, or control of the individual with a developmental disability, and the guardian, or other person having custody and control of the individual; and (b) if known, the condition of the individual with a developmental disability, the nature and possible extent of the individual's injuries, maltreatment, abuse, neglect, or exploitation, including any evidence of previous injuries, maltreatment, abuse, neglect, or exploitation, and any other information that the person believes may be helpful with respect to the injuries, maltreatment, abuse, neglect, or exploitation of the individual with a developmental disability and the identity of the alleged offender.

b. Within the department, the commissioner shall:

- (1) maintain a unit to receive and prioritize reports that are filed pursuant to this section;
- (2) provide for verification of the unit's prioritization of the reports by sending an employee or case manager to the appropriate location within 48 hours to verify the level of severity of the report, as provided by section 4 of P.L.2017, c.238 (C.30:6D-9.4);
- (3) initiate appropriate responses through timely and appropriate investigative activities;
- (4) alert appropriate staff; and
- (5) ensure that findings are reported in a uniform and timely manner.

c. (1) A person employed or volunteering in a program, facility, community care residence, or living arrangement licensed or funded by the department, or a person providing community-based services with indirect State funding from the department to a person with a developmental disability, as applicable, who fails to report an act of abuse, neglect, or exploitation against an individual with a developmental disability while having reasonable cause to believe that such an act has been committed, is a disorderly person.

(2) A case manager or case manager's supervisor in the department who fails to report an act of abuse, neglect, or exploitation of an individual with a developmental disability while having reasonable cause to believe that such an act has been committed, shall be guilty of a crime of the fourth degree, unless the abuse, neglect, or exploitation results in the death of an individual with a developmental disability, in which case the case manager or case manager's supervisor shall be guilty of a crime of the third degree.

d. In addition to any penalty imposed pursuant to this section, a person who fails to comply with reporting obligations under this section shall be subject to a civil penalty imposed by the department in the amount of \$350 for each day that the abuse, neglect, or exploitation was not reported, payable to the "Residential Facility Quality of Care Improvement Fund" established pursuant to section 3 of P.L.2025, c.280 (C.30:1-15.6).

e. A case manager or case manager's supervisor, or a caregiver suspected of abuse, neglect, or exploitation of an individual with a developmental disability, who is charged with failure to report an act of abuse, neglect, or exploitation of an individual with a developmental disability while having reasonable cause to believe that such an act has been committed, shall be temporarily reassigned to duties that do not involve contact with individuals with developmental disabilities or other vulnerable populations, and shall be terminated from employment if convicted.

In the case of a case manager or case manager's supervisor, or of a caregiver suspected of abuse, neglect, or exploitation who is employed by the department, the case manager, supervisor, or caregiver shall retain any available right of review by the Civil Service Commission.

4. Section 4 of P.L.2010, c.5 (C.30:6D-76) is amended to read as follows:

C.30:6D-76 Actions by department after receiving reports.

4. a. Upon receipt of a report pursuant to section 3 of P.L.2010, c.5 (C.30:6D-75), the department shall designate an entity, as established by the commissioner, that shall immediately take such action as shall be necessary to ensure the safety of the individual with a developmental disability and to that end may request appropriate assistance from local and State law enforcement officials or contact Adult Protective Services to provide assistance in accordance with the provisions of P.L.1993, c.249 (C.52:27D-406 et seq.). The guardian of the individual with a developmental disability shall also be authorized to request appropriate assistance from local and State law enforcement officials.

b. (1) The commissioner shall adopt rules and regulations necessary to provide for an investigation of a reported incident and subsequent substantiation or non-substantiation of an allegation of abuse, neglect, or exploitation of an individual with a developmental disability by a caregiver, which shall include:

(a) maintaining an Office of Investigations to investigate serious unusual incidents, as defined by applicable rules and regulations, in facilities or programs licensed, contracted, or regulated by the department and to investigate incidents that occur in State developmental centers;

(b) providing the guardian of the individual with prior notice of the commencement of an investigation under this section, and providing an opportunity for the guardian, as appropriate, to submit information to facilitate an investigation, except that, if there is no guardian, a family member of the individual may submit information, unless the individual has expressly prohibited the family member from doing so; and

(c) providing that a guardian of an individual with a developmental disability, upon request, may be permitted to attend the investigative interview of the individual the guardian represents and to terminate the interview of the individual the guardian represents, unless the attendance or termination would impede the investigation.

(2) During its investigation of an allegation of abuse, neglect, or exploitation of an individual with a developmental disability by a caregiver, the Office of Investigations shall make a good faith effort to notify the caregiver of the possibility of the caregiver's inclusion on the registry, and give the caregiver an opportunity to respond to the department concerning the allegation.

c. The Office of Investigations, the department, or other investigating entity shall forward to the commissioner, or the commissioner's designee, a substantiated incident of abuse, neglect, or exploitation of an individual with a developmental disability for inclusion of an offending caregiver on the central registry. The Office of Investigations, the department, or other investigating entity shall also forward to the commissioner, or the commissioner's designee, all unsubstantiated incidents of abuse, neglect, or exploitation of an individual with a developmental disability. As soon as possible, and no later than 14 days after receipt of the incident of abuse, neglect, or exploitation, the commissioner or the commissioner's designee shall review the incident. The offending caregiver of a substantiated incident shall be included on the central registry as expeditiously as possible. The Office of Investigations shall retain a record of all unsubstantiated incidents.

d. Upon the initiation of an investigation, the department shall: (1) ensure that any communication concerning the alleged abuse, neglect, or exploitation of an individual with a developmental disability between a caregiver, case manager of the caregiver, the case manager's supervisor, or a person at the appropriate Community Services Office of the Division of Developmental Disabilities is identified, safeguarded from loss or destruction, and

maintained in a secure location; and (2) contact the Office of the Attorney General, which shall determine whether to participate in the investigation.

e. (1) No later than 30 days after an investigation under this section is concluded, the Office of Investigations shall issue a written report of the investigation that includes the conclusions of the office, the rationale for the conclusions, and a detailed summary of any communication secured pursuant to subsection d. of this section. The report shall also include an assessment of the role of any case manager of a caregiver or the case manager's supervisor, if applicable, in the allegation of abuse, neglect, or exploitation, and a recommendation about whether any civil or criminal action should be brought against the case manager or supervisor. The report shall be made part of the record for review in any civil or criminal proceeding that may ensue.

(2) A written summary of the investigation, as provided for in paragraph (3) of this subsection, shall be provided to the guardian of the individual with a developmental disability who is the subject of the alleged abuse, neglect, or exploitation; however, the actual records and reports of an investigation shall also be provided to a guardian or other person who is responsible for the welfare of the individual with a developmental disability if the information is needed in connection with the provision of care, treatment, assessment, evaluation, or supervision to the individual and the provision of information is in the best interests of the individual with a developmental disability, as determined by the Division of Developmental Disabilities.

(3) The written summary of an investigation of an alleged incident of abuse, neglect, or exploitation shall include, but need not be limited to:

(a) the name of the individual with a developmental disability who is the subject of the alleged abuse, neglect, or exploitation;

(b) the date of the incident, or the date the incident was reported if the incident date is unknown;

(c) whether the incident is an allegation of abuse, neglect, or exploitation;

(d) the incident number;

(e) a summary of the allegation of abuse, neglect, or exploitation;

(f) a finding that the incident is substantiated or unsubstantiated;

(g) the rationale for the finding and, if the incident is substantiated, a description of the action or inaction that precipitated the finding;

(h) if known at the time of issuing the summary, whether or not criminal charges against the alleged offending caregiver are pending; and

(i) whether remedial action was taken.

(4) If there is no guardian of the individual with a developmental disability who is the subject of the alleged abuse, neglect, or exploitation, the written summary described in paragraph (3) of this subsection shall be provided to a family member of the individual who requests such summary, unless the individual has expressly prohibited the family member from receiving such summary.

f. A licensed provider in another state shall be permitted access to the central registry.

g. (Deleted by amendment, P.L.2025, c.281)

h. The department, the Office of Investigations, the Institutional Abuse Investigation Unit, and any other investigative entity may share, with and among each other, investigative records involving an individual with a developmental disability who is the subject of an investigation of an incident of abuse, neglect, or exploitation pursuant to section 3 of P.L.2010, c.5 (C.30:6D-75) or an investigation of child abuse or neglect pursuant to section 4 of P.L.1971, c.437 (C.9:6-8.11).

5. The Departments of Children and Families and Human Services shall promulgate rules and regulations in accordance with the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) as are necessary to effectuate the provisions of this act.

6. This act shall take effect on the first day of the twelfth month next following the date of enactment.

Approved January 18, 2026.