

State of New Jersey Child Death Review Legislation

New Jersey Statute § 9:6-8.8-8.91 (1997)

Link: http://www.kaplandivorce.com/code/9_6-8.8.html

(Click the “next” choice at the bottom of the screen for the next section of legislation)

9:6-8.8 Health, safety of child paramount concern.

1. a. The purpose of this act is to provide for the protection of children under 18 years of age who have had serious injury inflicted upon them by other than accidental means. The safety of the children served shall be of paramount concern. It is the intent of this legislation to assure that the lives of innocent children are immediately safeguarded from further injury and possible death and that the legal rights of such children are fully protected.

b. (1) In accordance with the provisions of paragraphs (2), (3), and (4) of this subsection, when determining the reasonable efforts to be made and when making the reasonable efforts, the child's health and safety shall be of paramount concern.

(2) In any case in which the division accepts a child in care or custody, the division shall make reasonable efforts, prior to placement, to preserve the family in order to prevent the need for removing the child from his home. After placement, the division shall make reasonable efforts to make it possible for the child to safely return to his home.

(3) Reasonable efforts to place a child for adoption or with a legal guardian or in an alternative permanent placement may be made concurrently with reasonable efforts to preserve and reunify the child's family.

(4) In any case in which family reunification is not the permanency plan for the child, reasonable efforts shall be made to place the child in a timely manner and to complete the steps necessary to finalize the permanent placement of the child.

9:6-8.81. Funds, solicitation, use

The task force may solicit, receive, disburse and monitor grants and other funds made available from any governmental, public, private, not-for-profit or for-profit agency, including funds made available under any federal or State law, regulation or program.

9:6-8.82. Report

The task force shall present a report of its findings and recommendations to the Governor and the Legislature no later than one year after the organization of the task force.

9:6-8.83 Short title.

This act shall be known as and may be cited as the "Comprehensive Child Abuse Prevention and Treatment Act."

9:6-8.84 Definitions relative to child abuse, neglect.

As used in this act:

"Board" means the Child Fatality and Near Fatality Review Board established under P.L.1997, c.175 (C.9:6-8.83 et al.).

"Child" means any person under the age of 18.

"Commissioner" means the Commissioner of Human Services.

"Division" means the Division of Youth and Family Services in the Department of Human Services.

"Near fatality" means a case in which a child is in serious or critical condition, as certified by a physician.

"Panel" means a citizen review panel as established under P.L.1997, c.175 (C.9:6-8.83 et al.).

"Parent or guardian" means a person defined pursuant to section 1 of P.L.1974, c.119 (C.9:6-8.21) who has the responsibility for the care, custody or control of a child or upon whom there is a legal duty for such care.

" Reasonable efforts" means attempts by an agency authorized by the Division of Youth and Family Services to assist the parents in remedying the circumstances and conditions that led to the placement of the child and in reinforcing the family structure, as defined in section 7 of P.L.1991, c.275 (C.30:4C-15.1).

"Sexual abuse" means contacts or actions between a child and a parent or caretaker for the purpose of sexual stimulation of either that person or another person. Sexual abuse includes:

- a. the employment, use, persuasion, inducement, enticement or coercion of any child to engage in, or assist any other person to engage in, any sexually explicit conduct or simulation of such conduct;
- b. sexual conduct including molestation, prostitution, other forms of sexual exploitation of children or incest; or
- c. sexual penetration and sexual contact as defined in N.J.S.2C:14-1 and a prohibited sexual act as defined in N.J.S.2C:24-4.

"Significant bodily injury" means a temporary loss of the functioning of any bodily member or organ or temporary loss of any one of the five senses.

"Withholding of medically indicated treatment" means the failure to respond to a child's life-threatening conditions by providing treatment, including appropriate nutrition, hydration, and medication which, in the treating physician's reasonable judgment, will most likely be effective in ameliorating or correcting all such conditions.? The term does not include the failure to provide treatment, other than appropriate nutrition, hydration, or medication to a child when, in the treating physician's reasonable medical judgment:

- a. the child is chronically and irreversibly comatose;
- b. the provision of such treatment would merely prolong dying, not be effective in ameliorating or correcting all of the child's life-threatening conditions, or otherwise be futile in terms of the survival of the child; or
- c. the provision of such treatment would be virtually futile in terms of the survival

of the child and the treatment itself under such circumstances would be inhumane. L.1997,c.175,s.2; amended 1999, c.53, s.16.

9:6-8.85 Procedures for responding to reports of medical neglect.

The commissioner shall establish procedures for responding to the reporting of medical neglect, including instances of withholding of medically indicated treatment from disabled children with life-threatening conditions, to provide for: a. coordination and consultation with persons designated by and within appropriate health care facilities, and b. prompt notification by these persons of cases of suspected medical neglect, including withholding of medically indicated treatment from disabled children with life-threatening conditions

9:6-8.86 Pursuit of legal remedies for medical care.

The division may pursue any legal remedies, including the initiation of legal proceedings in a court of competent jurisdiction, as may be necessary to: a. prevent the withholding of medically indicated treatment from disabled children with life-threatening conditions, or b. provide medical care or treatment for a child when such care or treatment is necessary to prevent or remedy serious harm to the child or to prevent the withholding of medically indicated treatment from disabled children with life-threatening conditions.

9:6-8.87 Exception to requirement to provide reasonable efforts to reunify child with parent.

In any case in which the division accepts a child in care or custody, including placement, the division shall not be required to provide reasonable efforts to reunify the child with a parent if an exception to the requirement to provide reasonable efforts has been established in accordance with section 25 of P.L.1999, c.53 (C.30:4C-11.3).

9:6-8.88 Child Fatality and Near Fatality Review Board.

There is established the Child Fatality and Near Fatality Review Board. For the purposes of complying with the provisions of Article V, Section IV, paragraph 1 of the New Jersey Constitution, the board is established within the Department of Human Services, but notwithstanding the establishment, the board shall be independent of any supervision or control by the department or any board or officer thereof.

The purpose of the board is to review fatalities and near fatalities of children in New Jersey in order to identify their causes, their relationship to governmental support systems, and methods of prevention. The board shall describe trends and patterns of child fatalities and near fatalities in New Jersey; identify risk factors and their prevalence in these populations of children; evaluate the responses of governmental systems to children in families who are considered to be at high risk and to offer recommendations for improvement in those responses; characterize high risk groups in terms that are compatible with the development of public policy; improve the sources of data collection by developing protocols for autopsies, death investigations, and complete recording of cause of death on the death certificate; and provide case consultation to individuals or agencies represented by the board.

9:6-8.89 Membership, terms of board members.

a. The board shall consist of 13 members as follows: the Commissioner of Human Services, the Commissioner of Health and Senior Services, the Director of the Division of Youth and Family Services in the Department of Human Services, the Attorney General, the Superintendent of the State Police, or their designees, the State Medical Examiner, and the Chairperson or Executive Director of the New Jersey Task Force on Child Abuse and Neglect, who shall serve ex officio; and six public members appointed by the Governor, one of whom shall be a representative of the New Jersey Prosecutors' Association, one of whom shall be a Law Guardian, one of whom shall be a pediatrician with expertise in child abuse and neglect, one of whom shall be a psychologist with expertise in child abuse and neglect, one of whom shall be a social work educator with experience and expertise in the area of child abuse or a related field and one of whom shall have expertise in substance abuse.

b. The public members of the board shall serve for three-year terms. Of the public members first appointed, three shall serve for a period of two years, and three shall serve for a term of three years. They shall serve without compensation but shall be eligible for reimbursement for necessary and reasonable expenses incurred in the performance of their official duties and within the limits of funds appropriated for this purpose. Vacancies in the membership of the board shall be filled in the same manner as the original appointments were made.

c. The Governor shall appoint a public member to serve as chairperson of the board who shall be responsible for the coordination of all activities of the board and who shall provide the technical assistance needed to execute the duties of the board.

d. The board is entitled to call to its assistance and avail itself of the services of employees of any State, county or municipal department, board, bureau, commission or agency as it may require and as may be available for the purposes of reviewing a case pursuant to the provisions of P.L.1997, c.175 (C.9:6-8.83 et al.).? The board may also seek the advice of experts, such as persons specializing in the fields of pediatric, radiological, neurological, psychiatric, orthopedic and forensic medicine; nursing; psychology; social work; education; law enforcement; family law; substance abuse; child advocacy or other related fields, if the facts of a case warrant additional expertise.

9:6-8.90 Duties of board.

The board shall:

a. Identify the fatalities of children due to unusual circumstances according to the following criteria:

- (1) The cause of death is undetermined;
- (2) Death where substance abuse may have been a contributing factor;
- (3) Homicide, child abuse or neglect;
- (4) Death where child abuse or neglect may have been a contributing factor;
- (5) Malnutrition, dehydration, or medical neglect or failure to thrive;
- (6) Sexual abuse;
- (7) Head trauma, fractures or blunt force trauma without obvious innocent reason such as auto accidents;
- (8) Suffocation or asphyxia;

- (9) Burns without obvious innocent reason such as auto accident or house fire;
and
- (10) Suicide.

b. Identify fatalities and near fatalities among children whose family, currently or within the last 12 months, were receiving services from the division.

9:6-8.91 Determinations of board; composition of team; report.

a. The board shall determine which fatalities shall receive full review. The board may establish local or regional community-based teams to review information regarding children identified by the board. At least one team shall be designated to review information regarding child fatalities due to unusual circumstances. At least one team shall be designated to review child fatalities and near fatalities identified pursuant to subsection b. of section 8 of P.L.1997, c.175 (C.9:6-8.90) as well as child fatalities where information available to the board indicates that child abuse or neglect may have been a contributing factor.

b. Each team shall include, at a minimum, a person experienced in prosecution, a person experienced in local law enforcement investigation, a medical examiner, a public health advocate, a physician, preferably a pediatrician, and a casework supervisor from a division field office. As necessary to perform its functions, each team may add additional members or seek the advice of experts in other fields if the facts of a case warrant additional expertise.

c. Each team shall submit to the board chairperson a report of its findings and recommendations based upon its review of information regarding each child fatality or near fatality.