



STATE OF DELAWARE

Child Protection Accountability Commission (CPAC)

Fiscal Years 2004 and 2005 Annual Report

Monitoring Delaware's child protection
system to ensure the health, safety and
well-being of Delaware's abused,
neglected and dependent children
16 Del. C. § 912

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ABOUT DELAWARE’S CHILD PROTECTION ACCOUNTABILITY COMMISSION

History and Statutory Mission

Delaware’s Child Protection Accountability Commission (“CPAC” or “the Commission”) was statutorily created in 1997 as part of a comprehensive strategy, entitled the Child Abuse Prevention Act of 1997, to improve Delaware’s child protection system following the tragic death of a four year old boy named Bryan Martin. This act made significant changes regarding how Delaware investigates child abuse and neglect and how it fosters a child protection community of cooperation, accountability and multi-disciplinary collaboration. See 16 Del. C., Ch. 9. (Original bill included in Appendix at Tab “A”). CPAC’s overall statutory mission is to monitor Delaware’s child protection system to ensure the health, safety, and well-being of Delaware’s abused, neglected, and dependent children. 16 Del. C. § 912(b). The statutory duties of the Commission are as follows:

- (1) Examine and evaluate the policies, procedures and effectiveness of the child protection system and make recommendations for changes therein, focusing specifically on the respective roles in the child protection system of the Division of Family Services, the Division of Child Mental Health Services, the Office of the Attorney General, the Family Court, the medical community, and law enforcement agencies;
- (2) Recommend changes in the policies and procedures for investigating and overseeing the welfare of abused, neglected and dependent children;
- (3) Advocate for legislation and make legislative recommendations to the Governor and General Assembly;
- (4) Access, develop and provide quality training to staff of the Division of Family Services, Deputy Attorneys General, Family Court, law enforcement officers, the medical community, educators, day-care providers, and others on child protection issues; and
- (5) Review and make recommendations concerning the well-being of Delaware's abused, neglected and dependent children including, but not limited to, issues relating to foster care, adoption, mental health services, victim services, education, rehabilitation, substance abuse and independent living.

See 16 Del. C. § 912(b) or the Appendix at Tab “B”.

When CPAC began its work in 1997, its primary focus was on the caseloads of child protection workers, and the resulting turnover and inexperience of workers that compromised child safety. The Commission lobbied hard for the caseload standards and career ladders for workers, as well as partnered with the Department of Services for Children, Youth and Their

Families (“Children’s Department” or “DSCYF”) for the creation of an overhire pool. The Commission also focused on building partnerships among law enforcement, prosecutors, and the Division of Family Services (“DFS”) to improve outcomes for Delaware’s children. In February of 2000, after the creation of the Office of the Child Advocate, staffing for the Commission was put in place. In 2001, the Commission’s membership and statutory duties were expanded to include a focus on well-being of children in the child protection system. Finally, in April of 2004, DFS asked CPAC to serve as Delaware’s federally required Citizen Review Panel under the Child Abuse Prevention and Treatment Act. CPAC assumed that responsibility in July of 2004. As such, CPAC now plays an even greater role in reviewing the child protection system’s discharge of its responsibilities to Delaware’s children.

CPAC Membership

CPAC’s statutorily designated Commissioners and the individuals who served on CPAC during Fiscal Years 2004 and 2005 are as follows:

COMMISSIONERS AND DESIGNEES

<u>NAME</u>	<u>TITLE/AGENCY</u>	<u>STATUTORY ROLE</u>
The Honorable Peggy Ableman	Judge, Superior Court	Child Protection Community
Jennifer Barber Ranji, Esquire	CPAC Chair	Child Protection Community
The Honorable Patricia Blevins	Senator	State Senate Designee for Senator McDowell
The Honorable M. Jane Brady	Attorney General	Attorney General's Office
Colonel Aaron Chaffinch	<i>Former</i> Superintendent Division of State Police Community	Law Enforcement
Chief John Cunningham	<i>Former</i> Chief of Police New Castle County Police Department	Law Enforcement Community
Susan Cycyk, M.Ed.	Director Division of Child Mental Health Services	Director of Division of Child Mental Health Services
Allan DeJong, M.D.	Medical Director Children at Risk CARE Program duPont Hospital for Children Medical Community	

The Honorable Cari DeSantis	Secretary Department of Services for Children, Youth and Their Families (“DSCYF”)	Secretary of DSCYF
Major Harry Downes	Division of State Police	Law Enforcement Designee for Colonel Chaffinch and Colonel MacLeish
Mary Lou Edgar	<i>Former</i> Member of Interagency Committee on Adoption	Interagency Committee on Adoption
Peter Feliceangeli, Esquire	Deputy Attorney General Group Leader - Family Services Unit, Attorney General's Office	Attorney General’s Office
Sergeant Randy Fisher	Division of State Police	Law Enforcement Designee for Colonel MacLeish
Carlyse A. Giddins	Director Division of Family Services	Director of the Division of Family Services
Sergeant Phillip Hill	Family Services Unit New Castle County Police Department	Law Enforcement Designee for Chief McAllister
John Humphrey	Executive Director Children's Advocacy Center	Child Protection Community
The Honorable Chandlee Johnson Kuhn	Chief Judge, Family Court	Family Court
Colonel Thomas F. MacLeish	Superintendent Division of State Police Community	Law Enforcement
The Honorable Pamela Maier	State Representative House of Representatives	Member of the House of Representatives

The Honorable Jennifer Mayo	Commissioner Family Court	Family Court
Chief David McAllister	<i>Former</i> Chief of Police New Castle County Police Department Community	Law Enforcement
The Honorable Harris B. McDowell	State Senator State Senate	Member of the Senate
Janice Mink	Co-Chair, Grassroots Citizens for Children	Child Protection Community
Mary Ball Morton	Administrator Office of Case Management DSCYF	Designee for Secretary DeSantis
William Murray	Chair, Child Placement Review Board	Chair of Child Placement Review Board
Julia Pearce	Executive Director Child Placement Review Board	Designee for William Murray
Merrijane Pierce	Member of Interagency Committee on Adoption	Interagency Committee on Adoption
The Honorable Patricia Tate Stewart	Commissioner Family Court	Family Court
Linda C. Wolfe, RN	Education Specialist Department of Education	Secretary Woodruff
The Honorable Valerie Woodruff	Secretary Department of Education	Secretary of the Department of Education

STAFF

Tania M. Culley, Esquire	Child Advocate Office of the Child Advocate	CPAC Executive Director
Wendy Gerlach	Office Manager Office of the Child Advocate	

Lorin Hochman Hurst, Esquire

Deputy Child Advocate
Office of the Child Advocate

M.C. Landis, Esquire

Former Deputy Child Advocate
Office of the Child Advocate

Anne Pedrick, M.S.C.C.

Program Administrator
Office of the Child Advocate

CPAC's Role as Delaware's Citizen Review Panel

According to the 1996 amendments made to the federal Child Abuse Prevention and Treatment Act ("CAPTA"), each State receiving CAPTA funds must establish a Citizen Review Panel. 42 U.S.C. § 5106a(b)(2)(A)(xiv). In 2004, the Department of Services for Children, Youth and their Families designated CPAC as Delaware's Citizen Review Panel. Forty-two U.S.C. § 5106a(c)(4)(A) mandates that as the Citizen Review Panel, CPAC shall, by examining the policies, procedures and practices of State and local agencies, and where appropriate, specific cases, evaluate the extent to which State and local child protection system agencies are effectively discharging their child protection responsibilities in accordance with:

- the State plan under 42 U.S.C.A. § 5106a(b);
- the child protection standards set forth in 42 U.S.C.A. § 5106a(b);
- any other criteria the panel considers important to ensure the protection of children, including --
 - a review of the extent to which the State and local child protective services system is coordinated with the foster care and adoption programs established under part E of title IV of the Social Security Act [42 U.S.C.A. § 670 et. Seq.]; and
 - a review of child fatalities and near fatalities (as defined in 42 U.S.C.A. § 5106a(b)(4)).

The Citizen Review Panel ("CRP") is required to be "comprised of volunteer members who are broadly representative of the community in which such a panel is established, including members who have expertise in the prevention and treatment of child abuse and neglect." 42 U.S.C. § 5106a(c)(2). The CRP must also provide for public outreach and comment in order to assess the impact of current procedures and practices upon children and families in the community and in order to meet its own obligations. 42 U.S.C. § 5106a(c)(4)(C). CPAC's statutory mandate and its initiatives closely parallel the requirements and purpose of CAPTA. Two areas in which CPAC plans to focus in the coming fiscal year are increasing the diversity of the Commission and further improving its public outreach.

Carrying Out CPAC'S Statutory Mission

The task of monitoring Delaware's child protection system is a daunting one. At the close of Fiscal Year 2004, Delaware was actively serving 4,568 children within the Division of Family Services. Of those children, 175 were active with the Division of Child Mental Health Services ("CMH"), 181 were active with the Division of Youth Rehabilitative Services ("YRS"),

and 96 were active with all three Divisions. As of June 30, 2005 (the last day of Fiscal Year 2005), the DFS had open cases with 5,153 children. Of those children, 181 were active with the CMH, 228 were active with the YRS, and 115 were active with all three Divisions.¹

For many of those children and their families, regular services, intervention and monitoring has been provided by the many agencies represented on the Child Protection Accountability Commission – the Attorney General’s Office, the Children’s Advocacy Center, the medical community, the Child Placement Review Board, the Court Appointed Special Advocate Program, the Department of Education and the local districts, the Family Court, law enforcement, the Office of the Child Advocate, private providers and non-profit advocates. As these numbers continue to increase, the partners of Delaware’s child protection system work hard in a multi-disciplinary fashion to meet the needs of Delaware’s ever-challenging youth population.

As an accountability commission, CPAC is charged with gathering and acting on information to ensure all components of the child protection system are meeting the challenges presented by 5,153 children being served by Delaware’s system. This multi-disciplinary system has made great strides since the creation of CPAC in 1997; however, CPAC serves to ensure that those strides continue, as well as to address new issues that arise in this multi-faceted system. CPAC carries out its statutory mission by, among other things:

- Providing a public forum for the sharing of information and concerns about Delaware’s child protection system;
- Examining policies, procedures, statistical data, agency reports and other relevant information regarding the functioning of Delaware’s child protection system;
- Advocating for changes to policies and procedures where appropriate;
- Supporting initiatives of child protection system partners;
- Pursuing legislative initiatives;
- Planning and participating in trainings and other opportunities for multi-disciplinary communication and education;
- Working with system partners to gather additional relevant data illustrating the performance of Delaware’s child protection system, and acting on the information obtained to improve outcomes for children; and
- Reviewing individual cases of child abuse or neglect and issuing recommendations resulting from those reviews.²

This report is a review of CPAC’s activities and initiatives during Fiscal Years 2004 and 2005 as well as a review of the information received from the various child protection system partners to the extent that information shaped CPAC’s areas of focus. While CPAC spent time also receiving agency reports in its monitoring role, those individual agency reports are not contained herein. Instead, they can be found in the quarterly CPAC minutes located at

¹ This data has been obtained from the June 2004 and June 2005 Venn Reports produced by the Department of Services for Children, Youth and Their Families.

² CPAC’s authority to review individual cases of child abuse and neglect is derived from the federal CAPTA statute, 42 U.S.C.A. § 5106a(b)(4).

<http://courts.delaware.gov/childadvocate/cpac>.³ As this report illustrates, CPAC's work during these two years has included re-examining and refining some of its earlier initiatives, adding new components to its system reviews and broadening its focus beyond child safety to include child well-being. CPAC also serves as a tool to educate the public and the various child protection agencies as to the successes and challenges each entity faces in protecting Delaware's children.

CPAC'S SUBCOMMITTEES AND INITIATIVES FOR FISCAL YEARS 2004 AND 2005

CPAC meets on at least a quarterly basis as required by statute. CPAC meetings include a review of CPAC subcommittee activities, receipt of reports from system partners, including statistics and relevant policy changes, and reviews of various issues brought to CPAC's attention by Commissioners or members of the public. Below are the Subcommittees and/or resulting initiatives that CPAC undertook in Fiscal Years 2004 and 2005.

The Adoption and Safe Families Act ("ASFA") Timelines Subcommittee

Throughout Fiscal Year 2004, reports from various CPAC partners indicated that the workload demands on all components of the child protection system were being exacerbated by the full statewide implementation of the Family Court Improvement Project ("CIP"). Piloted in Sussex County Family Court in 2000, the CIP increases system scrutiny of foster care cases, requiring 6-7 Court hearings in the first year after a child enters foster care as well as legal representation for all parties at each hearing.

The CIP program expanded statewide by the Fall of 2002. These changes exponentially increased workload demands on the system. In addition to the workload demands, concerns were raised at CPAC in July of 2004 that timelines for permanency for children may have slowed because of the increased Family Court hearings. Concerns were expressed that children were being placed in pre-adoptive homes but not achieving permanency in a timely manner due to delayed hearings and decisions.

Accordingly, the Commission decided to create the ASFA Timelines Subcommittee to study the issue and provide some long term solutions. The Subcommittee began by identifying variables to track in each foster care case handled by the Delaware Family Court. A spreadsheet was developed providing each case name, file number, birthdates, judge, caseworker, county, and hearing dates for each required hearing. Calculation columns were also created to determine how many hearings were out of compliance with required Family Court Civil Rule time frames.

Volunteers from the Child Placement Review Board, the Office of the Child Advocate, the Division of Family Services and the Family Court then began manually pulling every foster care file in the Court beginning in 2002 and continuing through the present. The information was then entered into the spreadsheet. At the close of Fiscal Year 2005, data for Kent County

³ The Appendix at Tab C includes contact information and website links for all CPAC member agencies represented during Fiscal Years 2004 and 2005.

was complete through 2004. Data for Sussex County was nearly complete through 2004 and data for New Castle County was obtained through August of 2002.

At the same time, the Subcommittee worked with the Family Court and the Division of Family Services to obtain technological support for the development of a permanent shared database to track this information. Teleconferences with Peter Watson of the Organizational Improvement Resource Center, Tom Hay from the Data and Technology Resource Center, and Delores Smith, Administration for Children and Families occurred at the end of Fiscal Year 2005, and the Commission will continue to work towards the development of a permanent database.

During this process, the Subcommittee also discovered that there was some inconsistency in the way orders were being entered into the current Family Court case tracking system. As a result, the Court's case tracking system could not be used to its fullest potential to assist in examining how abuse/neglect cases move through the system. This inconsistency has now been resolved.

As CPAC begins its work in Fiscal Year 2006, the Subcommittee has two goals: to develop a permanent database to track court hearings for children in foster care; and to track the positives and negatives of the system to better achieve permanency for children. It is hoped that the end result will be a resource for further support and grants and improved permanency and well-being for Delaware's foster children.

Caseloads/Workloads Initiatives

Since the inception of the Child Protection Accountability Commission, caseloads, workloads and worker retention have been primary focuses. Maximum caseload standards were codified in Delaware in 1998 by Senate Bill 142 ("SB142") and child protection worker retention strategies were placed in budget epilogue – *see* 29 Del. C. § 9015(b). In the budget epilogue, the Division of Family Services was also given authority to fill up to 15 overhire positions – these positions were in addition to a full staffing complement, and were provided so that the DFS would have a pool of trained workers ready to immediately step into any openings created by turnover.

In Fiscal Year 2002, due to dire economic conditions, a hiring freeze was imposed on all State agencies. By April of 2003, CPAC had become concerned about the caseloads of frontline workers and the availability of overhires to fill vacant frontline positions. The DFS provided CPAC staff with detailed information regarding frontline worker caseloads and the use of overhires. After in-depth review of the data obtained, CPAC learned that 83% of New Castle County DFS investigation workers had caseloads exceeding the maximum set by SB142, with 100% of workers in New Castle County Region 1 ("NCC1") over standard. While investigation caseload standards were set at 14, every investigation worker in the New Castle County Serious Injury/Sexual Abuse Unit was carrying caseloads in excess of 20. DFS had received approval to fill 8 frontline positions, but more vacancies existed. Complicating matters, those new hires would not be fully functional for almost six months after hiring. CPAC was also apprised of the fact that 88% of investigators in NCC1 and 58% of investigators in New Castle County Region 2 ("NCC2") had less than one year of experience with DFS.

Moreover, although the Division of Family Services, and more broadly the Children's Department, had been fully complying with its statutory obligation in providing caseload statistics to the Delaware General Assembly on a quarterly basis, those reports did not reflect that caseloads were being exceeded. This was because the statute in effect at that time required that the caseload calculations be based on the number of caseworker *positions*, regardless of whether or not those positions were actually filled. Therefore, the caseloads provided in the quarterly report appeared lower than they were in reality, because they were based on the erroneous assumption that all positions were filled. As a result, while the calculations under SB142 showed the number of budgeted positions was adequate to manage the DFS caseloads, it did not capture the reality that because of vacancies, there were indeed caseload issues for the remaining fully functioning workers.

Extensive discussions about investigation caseloads, the availability of fully trained workers to step into vacant positions, and the "domino effect" that even one frontline vacancy creates ensued. The Commission also discussed the increased workloads imposed on child protection workers by the Adoption and Safe Families Act, the Court Improvement Project, and the Child Protection Registry. The information regarding caseloads exceeding the statutory maximum and ever-increasing workloads led to a renewed focus on caseloads and how they are tracked and reported. CPAC immediately asked the Governor to lift the hiring freeze for frontline child protection workers and began an ongoing dialogue with the Children's Department, urging that the Children's Department fill all vacancies and overhire positions, and continue to keep the positions filled.

In October 2003, the Children's Department presented information to CPAC on DFS caseloads and expressed its commitment to fill all vacancies and to have sufficiently trained overhires available to step in as new vacancies occurred. Data presented showed that by September 2003, caseloads for fully functioning workers had been reduced to below the statutory standard. This was accomplished by hiring nine frontline workers and by securing assistance with collaterals and other duties from five casual/seasonal workers.

Although steps had been taken to address the caseload problem, in October 2003 CPAC also created a Subcommittee to examine whether the SB142 standards were still appropriate, to discuss short and long-term strategies for caseload/workload management, and to determine which data should be provided by the Children's Department and DFS on a regular basis so that a more accurate view of caseload status would be conveyed going forward. The Caseload/Workload Subcommittee began its work in October 2003 and continued through April of 2004. The result of the Subcommittee's activities was legislation that:

- changed the information to be provided by the Children's Department in its quarterly reports so caseloads are calculated based on the number of fully functioning workers rather than the number of positions;
- clarified the caseload standards and the number of overhires (now termed "trainees");
- moved language regarding DFS overhires, career ladders, and training from vulnerable epilogue language to more secure placement in the statute; and
- formalized CPAC as a recipient of the quarterly caseload reports.

CPAC championed this legislation in the General Assembly as Senate Bill 265. The bill passed and was signed into law on June 29, 2004. A copy of this bill can be found in the Appendix at Tab “D”.

In addition to the work of the Subcommittee, CPAC kept a sharp focus on caseloads and turnover throughout Fiscal Years 2004 and 2005. Throughout this time, DFS continued to struggle with caseloads and worker retention for investigation cases in NCC2 and treatment cases in Kent County. By way of example, during Fiscal Year 2004, 30% of fully functioning NCC2 investigation workers were over standard.⁴ That region also experienced a 67% turnover and movement rate.⁵ In that same region, Fiscal Year 2005 showed 41% of fully functioning investigation workers over standard, and a turnover and movement rate of 94%. Kent County treatment had similar issues. At the same time, DFS hotline reports began to increase, climbing by 200 calls between Fiscal Years 2004 and 2005. Under the provisions of SB265, DFS hired part-time casual/seasonal caseworkers and began diverting cases from those regions in an effort to reduce worker caseloads.

In early 2005, DFS advised CPAC that a directive had been issued in the summer of 2004 that no individual investigation worker should have a caseload in excess of 20 and no individual treatment worker should have a caseload in excess of 26. CPAC members expressed concern with having any worker carrying a caseload of close to 50% above the maximum. CPAC was also made aware of the continuing trend of high treatment caseloads in Kent County resulting in every fully functioning treatment worker operating above standard. DFS committed to reallocating a position within DSCYF to address the issue.

Caseloads and workloads remained a struggle at the close of Fiscal Year 2005, and will be a significant focus for CPAC in Fiscal Year 2006.

Community Notification Subcommittee

In Fiscal Year 2003, CPAC was asked by a few members of the Community Notification Task Force to adopt a Subcommittee that resulted from the Governor’s Task Force 2002 Report on Community Notification of Sex Offenders. CPAC adopted this Subcommittee, which was geared at public awareness and personal safety. During Fiscal Year 2004, Executive Order #49 was signed by the Governor, extending the work of the Task Force to ensure that changes to the Sex Offender Website were completed, including the addition of prevention strategies.

In Fiscal Year 2005, this Subcommittee, in conjunction with the Governor’s Task Force, focused on improving the Sex Offender Website to make it both educational and informative, with the goals of keeping children safe and dispelling myths regarding sexual abuse. In so doing, the Subcommittee looked at what other states had done. Eventually, a final report was submitted to the Governor in March of 2005, with the recommendation of an ongoing permanent committee to raise public awareness. As such, the work of this Subcommittee will continue for the foreseeable future.

⁴These statistics were obtained from the DSCYF Quarterly Reports produced to CPAC.

⁵This percentage reflects not only turnover (workers leaving the employment of DSCYF) but also movement. Movement includes lateral transfers and promotional opportunities within DSCYF.

Educational Needs of Foster Children Subcommittee

In July 2004, in response to increasing awareness in the child protection community of the need for education and child protection to work together for foster children, CPAC created a Subcommittee to look at how Delaware is meeting the educational needs of foster children. The Subcommittee was charged with bringing together education and child protection partners to develop an agenda of issues impacting the education of foster children. The Subcommittee had the daunting task of understanding multiple layers of agency involvement in the educational process and how it all impacts foster children. The Subcommittee initially focused on understanding all of the various players and laws. It reviewed the Educational Surrogate Parent program, the McKinney-Vento Homeless Education Assistance Act (“McKinney-Vento Act”), and Individuals with Disabilities Education Act (“IDEA”), and how each program or act impacts foster children. Those discussions resulted in three initiatives.

First, the Division of Family Services created a liaison for the Educational Surrogate Parent Program (“ESPP”). Each child in the ESPP is a child in foster care and therefore under DFS responsibility. Having a liaison coordinate appointments of Educational Surrogate Parents to foster children resulted in a streamlined, more efficient approach. ESPP and the DFS liaison met outside of the Subcommittee and identified children who were not being appropriately served. The partners then sought solutions and were able to report back to the Subcommittee on the short and long term solutions for Delaware’s foster children, including monthly information exchanges on children served by ESP and increased communication to address barriers to ESP appointments.

Second, the Subcommittee drafted legislation providing that every child in foster care would be considered “homeless” and entitled to the protections of the McKinney-Vento Act. While this was the practice and policy of the Delaware Department of Education and the Division of Family Services, a statutory change ensured that foster children would always be protected and able to attend their school of origin, when that attendance was in their best interest. For more information on this accomplishment, see the Legislative Subcommittee description. To view the bill which was signed into law on July 7, 2005, see Appendix at Tab “E”.

Third, the Subcommittee realized that a multi-disciplinary training for child welfare and education professionals was critical to moving forward on behalf of foster children in the education system. Specifically, the school partners needed training in child welfare, while agencies such as DFS, the Family Court, and the Office of the Child Advocate needed training on the educational process. A comprehensive conference was planned for Fiscal Year 2006 – October 7, 2005. In the true spirit of collaboration, funding for the conference was provided by the Family Court, the Office of the Child Advocate, the Division of Family Services, the Department of Education, Prevent Child Abuse Delaware, the Parent Information Center of Delaware, and the Educational Surrogate Parent Program.

Plans for the conference included a keynote speaker from the American Bar Association Center on Children and the Law as well as two workshop tracks: one to educate child welfare workers on understanding the education system and one to help the educational players

understand the child welfare system. Conference attendees would include foster parents, child advocates and CASAs, educators, child protection workers, child mental health workers, attorneys, and judicial officers.

Family Court Extended Jurisdiction Subcommittee

Following a review of draft legislation and several discussions in Fiscal Year 2004, in July of 2005, CPAC created a Subcommittee to consider the possibility of extending the jurisdiction of Family Court over children in foster care from age 18 to age 21. The Subcommittee first focused on what population of children would be served by extending the Family Court's jurisdiction and how those children would benefit from extending judicial oversight.

The Subcommittee invited partners from the adult community to several of its meetings to learn more about housing, mental health, employment, education and substance abuse services available to youth who are at least 18 years of age. One strategy of the Subcommittee was to explore ways to better connect foster youth to the adult continuum of services prior to their 18th birthday. While meetings with the Department of Labor were productive in better connecting youth with employment opportunities, housing options for foster children nearing adulthood remained bleak. However, as a result of housing discussions with this Subcommittee, the Delaware State Housing Authority submitted a proposal for a \$2.5 million federal foster care transition grant. If obtained, the grant would be available from July 2006 through June 2009 and would help youth develop skills they could use to live on their own as adults. The grant proposal cited CPAC's collaborative effort with the Delaware State Housing Authority in this initiative.

Foster Care Initiatives

Meeting the needs of children in foster care is a daunting task. As is described below, presentations have been made to CPAC on various components of the foster care system and CPAC has questioned the availability of foster care resources to meet the needs of Delaware's most challenging youth. CPAC has supported financial initiatives to increase foster care resources in Delaware and has a Subcommittee on Foster Care that addresses various foster care needs as they arise.

Services and Training for Foster Families

In Fiscal Year 2004, the CPAC Foster Care Subcommittee focused its efforts on getting foster parents the tools they need to provide stable placements for foster children. Building on the previous DSCYF efforts in this area, and capitalizing on the momentum created by the release of the Blueprint for Excellence in the Delivery of Child Protective Services (available online at <http://courts.delaware.gov/childadvocate/publications>) produced by community and government advocates, the Subcommittee worked closely with the Division of Family Services and the Division of Child Mental Health Services to provide foster parent training on Delaware's child mental health services. A six hour curriculum was designed and offered to foster parents, whose response was overwhelming. With input from DFS, the Division of Child Mental Health Services subsequently provided four in-service trainings per year to foster parents. In addition,

DSCYF provided foster parents with a booklet authored by Laurie M. Flynn, Executive Director of the National Alliance for the Mentally Ill. The booklet entitled Mental Health Services for Children in Foster Care was intended to educate foster parents about the role they play in recognizing the need for and accessing mental health services.

The Foster Care Subcommittee also participated in and supported initiatives from the Division of Child Mental Health Services and the Division of Family Services such as Positive Behavior Intervention: In-Home Mental Health Services for Foster Care. The program's goal was to provide services to 56 children in the first year directly in the home in partnership with the foster families. Additionally, the Subcommittee reviewed the lack of mental health services for child crime victims and they kept apprised of the efforts of the Children's Advocacy Center and the Attorney General's Office to address the problem.

In Fiscal Year 2005, CPAC received a presentation on the "foster care clusters" recommendation generated from the Governor's Task Force Report, How Foster Care Can Work for Delaware's Children (online at <http://courts.delaware.gov/chiladvocate/publications>). Prevent Child Abuse Delaware described the initial difficulties in encouraging foster parents to participate in the clusters by attending meetings. Through work with foster families, the goal shifted to how best to support foster parents and reduce the isolation they feel in the system. Cluster leaders began regularly participating as did foster care coordinators with the common goal of supporting foster families. Clusters began having social activities together, in addition to the meetings, and began providing respite and babysitting services to each other.

Adequacy of Placement Resources

During Fiscal Year 2004, CPAC and the Foster Care Subcommittee were apprised of a Children's Department initiative to train over 1000 people on a "System of Care." In Fiscal Year 2004, CPAC was also apprised of two new DSCYF policies, Policy 201 and Policy 209. Policy 201 established that when more than one division of the Children's Department is involved with a child, the Division of Family Services worker will be the lead worker with primary case management responsibility. Policy 209 required DFS to secure appropriate placements for delinquent children who are being held in restrictive settings (detention centers, out of state mental health and delinquency placements) solely due to the lack of a home to which they could return. CPAC expressed great concern about the added burden on DFS and the availability of appropriate in-state placements and resources for these children. The Children's Department committed to shared resources between DFS and YRS. While new foster care contract proposals were withdrawn in Fiscal Year 2004, DFS committed to reassessing its resource needs for foster children.

By the close of Fiscal Year 2004, an increase in the number of children in foster care placements was noted – from 747 in August of 2003 to 778 in August of 2004. A significant increase was seen in June of 2004. The increase was deemed partially attributable to DSCYF Policy 209. The policy resulted in DFS receiving custody of children whose parents refused to take them home from delinquency hearings or simply did not appear for delinquency hearings. It also resulted in DFS receiving custody of children stepping down from residential and in-patient mental health and delinquency placements and for whom no parent was able to provide

placement. Inadequate placement resources continued to exist for these children. The General Assembly increased the budget for foster care by \$500,000 for Fiscal Year 2005.

In October of 2004, CPAC was informed that two group homes for adolescent foster children in New Castle County would be closed by the end of the year. Many CPAC members expressed concern about the young people living in those facilities as the closures left no group care placements in New Castle County. DFS reported that of the 9 children needing placement, two were due to return home and treatment foster homes were being sought for the rest. In addition, DFS would issue new Requests for Proposal (“RFP”) within a month to contract for all levels of foster care, including group homes, as outlined in the Governor’s Task Force Report. DFS hoped to have the new contracts in place by the spring. DFS reported that their short-term solution to the lack of placement resources was to pull current foster care providers together to address the crisis through pooled resources and innovative approaches. CPAC expressed concern with the increased number of children in foster care, the decreasing resources and the adequacy of compensation for foster care providers. CPAC staff attended the foster care provider meeting, reviewed the RFP and worked with DFS regarding the replacement of the 9 children in the group home.

In January of 2005, CPAC learned that all children who were disrupted by the group home closure had been placed. Also, as of April 1, 2005, the new foster care contracts had been awarded. \$8.4 million had been allocated with a focus on contracts for specialized and treatment foster homes, as well as group home facilities. Foster care capacity was slightly increased from 199-219 spaces. CPAC will continue to review the adequacy of placements with the additional resources in Fiscal Year 2006.

Runaway Youth

In March of 2005, the DSCYF Resource Committee for Runaway Youth issued its report and recommendations on continuous challenges of youth with risky and runaway behaviors. The report, entitled Resource Needs for Youth with Runaway Behaviors, can be found at <http://courts.delaware.gov/childadvocate/publications>. That Committee, convened by DSCYF, met monthly from August of 2004 until March of 2005 and studied young women with multiple runaway episodes. The report concluded that there was no one solution to address the behaviors and no clear evidence that a residential facility was required for them. Rather, a continuum of services was the best approach. Eight recommendations were made and shared with CPAC. It was hoped that those recommendations coupled with several other initiatives, including the Delaware Girls Initiative, would result in more comprehensive services to address the needs of these challenging youth.

Holistic Services Team

Finally, during Fiscal Year 2005, CPAC heard concerns from Commissioners and staff regarding the Department's newly created Holistic Services Team (“HST”) and asked for an update regarding same from DSCYF. As presented by DSCYF, the intent of HST was to bring a “System of Care” approach to children involved in multiple divisions of the Children’s Department. Specifically, the HST was to provide one worker to act on behalf of all three

divisions: the Division of Family Services, the Division of Child Mental Health Services, and the Division of Youth Rehabilitative Services. The DSCYF program was a pilot under constant evaluation for improved outcome measures for this challenging youth population. Certain criteria were required for placement with HST, but the common thread was that the child had been in multiple Children's Department placements (whether those be foster care, mental health and/or delinquency). The HST served 31 identified children and 52 associated children from 2003 to 2005. Caseload standards were initially set at no more than 15 identified clients per treatment worker, but that number was lowered due to the resulting workload issues. If workload was counted by child and not case, each worker was carrying 28 children.

The Children's Department acknowledged that HST faced many challenges, including the need for a worker who was an expert in all three divisions and working within a computer system that created barriers to efficient workload management. HST cases are extremely difficult cases because often parents are not involved and the children are hard to stabilize in placements due to their behaviors. Much time was also spent in Family Court addressing the custody and delinquency issues each child encountered. The Division of Child Mental Health Services agreed to keep CPAC apprised on how this initiative is progressing in Fiscal Year 2006.

Interagency Committee on Adoption

The Interagency Committee on Adoption is a committee outside of CPAC comprised of government representatives and private providers who serve the Delaware adoption community. A member of this committee is statutorily appointed to CPAC. In July of 2003, the Interagency Committee on Adoption created a "Best Interests Subcommittee" and asked to have the opportunity to apprise CPAC on its work to improve the system's focus on the best interests of abused and neglected children. Some of the initial expectations from the Best Interests group included making adoption plans for older kids, timely permanency plans, better support for birth families that are working to achieve goals, closer community attention to the emotional needs of children, protection of birth parents, defining what "Best Interests" means in Delaware, and looking at best interests as equal to other grounds in a termination of parental rights action.

In Fiscal Year 2005, the Subcommittee narrowed its focus to modification of the best interests statute (13 Del. C. § 722) to include consideration of non-parental involvement in children's lives. Draft legislation was forwarded to the CPAC Legislative Subcommittee. After considerable discussion, CPAC decided that the proposed changes to the best interests statute were a part of a bigger need to overhaul how dependency/neglect cases are codified in Delaware statute. As a result, CPAC commissioned a Legislative Working Group charged with the task of overhauling the child abuse, neglect and dependency definitions as well as statutorily defining the process for obtaining custody of a dependent and/or neglected child and the rights and responsibilities of same.

Legislative Activities/Initiatives

In addition to its regular quarterly meetings, CPAC has an annual meeting devoted entirely to legislation. In some cases, CPAC has legislation of its own, drafted as a result of the work of its Subcommittees. In addition, CPAC reviews every bill introduced in the Delaware

General Assembly that affects child protection and determines whether to take a position and, if so, what action to take. CPAC is careful to keep its statutory mission in mind while reviewing bills – to monitor Delaware’s child protection system to best ensure the health, safety and well-being of Delaware’s abused, neglected and dependent children.

During Fiscal Years 2004 and 2005, CPAC made improvements to how it tracked and monitored legislation. First, CPAC designed a format for tracking legislation which is updated and followed throughout the legislative session. The report is divided into five parts: potential legislation, proposed legislation, newly introduced legislation, pending legislation and signed legislation. This enables CPAC to quickly review bills and to stay apprised of CPAC’s position on various legislative initiatives. Second, CPAC modified its bylaws to enable quick Commission response to changes in pending legislation that occur between meetings. Typically, these circumstances occur during the month of June as new bills are quickly introduced and acted upon and/or previously introduced bills are modified. A copy of the CPAC bylaws can be found in the Appendix at Tab “E”.

Fiscal Year 2004 Legislative Activities

In Fiscal Year 2004, CPAC had two significant pieces of legislation which passed and were signed into law in July of 2005. The first bill further delineated caseload, supervisory and overhire (“trainee”) standards for the Division of Family Services. A copy of this bill can be found in the Appendix at Tab “D”. For a detailed discussion of the history of this bill, and the subsequent monitoring of caseload standards by CPAC, please see the section on Caseloads/Workloads found on page 11.

The second bill expanded the responsibilities of the Child Death and Stillbirth Commission to include expedited and final reviews of near death cases due to child abuse and/or neglect. The intent of the bill was to enable child protection partners to promptly review near death child abuse and neglect cases and submit timely recommendations for change to help prevent future child abuse and neglect. The bill also provided funding for three staff positions for the Child Death and Stillbirth Commission and expanded its name to include near death reviews. A copy of this bill can be found in the Appendix at Tab “G”. For a detailed discussion of the history of this bill, and the subsequent work of CPAC on near death reviews, please see the section on Near Deaths found on page 21.

During Fiscal Year 2004, CPAC reviewed 6 bills which were introduced by the 142nd General Assembly (<http://www.legis.state.de.us>). Of the bills reviewed, it voted to support 4 bills and oppose 2. The supported bills included an incorporation of the federal McKinney-Vento Act into state law (SB271), protections for child witnesses in civil proceedings (HB401), consideration of criminal backgrounds in determining best interests (HB78) and authorization to Child Placement Review Board to have increased flexibility with scholarship monies to assist youth aging out of foster care (HB235). CPAC opposed two bills (SB224 and HB395) which both sought to exempt private schools that provided pre-school programs from childcare licensing regulations. The four bills CPAC supported passed. The two bills CPAC opposed were not acted upon by the General Assembly.

CPAC also discussed pursuing two proposed legislative initiatives. The two initiatives addressed extending jurisdiction for foster children and creating *de facto* custody for non-parents. After much discussion, CPAC created the Family Court Extended Jurisdiction Subcommittee to address the first initiative. For a detailed discussion of this initiative, please see section on Family Court Extended Jurisdiction found on page 15. The *de facto* custody proposal was addressed by CPAC in Fiscal Year 2005 with the creation of the Legislative Working Group.

Fiscal Year 2005 Legislative Activities

In Fiscal Year 2005, CPAC championed one piece of legislation. This bill, which became law on July 7, 2005, codified that foster children would be considered “homeless” for purposes of the McKinney-Vento Homeless Education Assistance Act. This bill enabled a child who entered foster care to remain in his or her school of origin for the remainder of the school year where it was in the child’s best interest to do so. A copy of this bill can be found in the Appendix at Tab “E”. For a more detailed discussion of the history of this bill, please see the section on Educational Needs of Foster Children found on page 14.

During Fiscal Year 2005, CPAC reviewed 6 bills which were introduced by the 143rd General Assembly (<http://www.legis.state.de.us>). Of these 6 bills, CPAC voted to support 4 bills and oppose 2. The supported bills included a procedure to involuntarily civilly commit sexually violent people (SB43), increasing purchase of care rates for subsidized child care to increase the quality of child care (SB78), requiring all private school employees to submit to criminal background checks (SB99), and requiring Child Protection Registry checks for persons working at the State’s Family Visitation Centers (SB120). CPAC opposed two bills pertaining to registration of sex offenders. (HB117 and SB23). Instead, CPAC recommended that the issues be addressed by the Governor’s Community Notification Task Force. Only SB120 passed the General Assembly, although increased purchase of care funding was provided. All remaining bills are still pending for Fiscal Year 2006.

CPAC also discussed pursuing two proposed legislative initiatives. The first addressed expanding the scope of Delaware’s best interest statute. This initiative was coupled with the prior year’s *de facto* custody initiative and a CPAC recommendation for consistency in child abuse, neglect and dependency definitions (see recommendations from CPAC Near Death Review of John Davis, Jr. in Appendix at Tab “H”) to form a Legislative Working Group tasked with overhauling Delaware’s custody laws involving abused, neglected and dependent children. For a complete history on the best interests initiative, please see the section on Interagency Committee on Adoption found on page 18. An update on the work of the Legislative Working Group will be provided in the Fiscal Year 2006 report.

The second legislative initiative was a result of the CPAC Near Death Review of John Davis Jr. Three of the recommendations from that review addressed future state statutory authority for CPAC to conduct case reviews, public disclosure of child abuse and neglect death and near death cases, and the addition of another law enforcement representative on CPAC. The Commission voted to not move forward with this legislation at this time, and instead to: (1) complete the next two near death reviews and track compliance and/or complications that result to determine the need for legislation regarding CPAC conducting near death case reviews; (2)

ask the Legislative Subcommittee to review Delaware laws on public disclosure in comparison to the federal CAPTA requirements and determine if statutory changes are needed; and (3) reach out to the targeted law enforcement agency to gauge their interest in participating on CPAC prior to any legislative initiative. These issues will be dealt with in Fiscal Year 2006.

Mental Health Assessments for Foster Children Subcommittee

In July of 2004, CPAC created a Subcommittee to consider the need for mental health assessments for all foster children upon entry into foster care. Assessments were deemed important to increase stability in foster care placements as well to appropriately address separation and attachment issues suffered by foster children. The Subcommittee consisted of foster parents, foster home coordinators, DFS, CMH, the Attorney General's Office and advocates.

By January of 2005, the Division of Child Mental Health Services had initiated a \$200,000 budget request to implement the Arizona model of assessments for foster children, providing a mental health assessment within 24 hours of a child entering foster care and again one month later. Statistics indicated that approximately 60% of foster children were in need of more intense mental health services than they were receiving, but only 14% of foster children were currently being served by CMH (up from 10% in Fiscal Year 2003 and up from 5% two years prior). CPAC spoke at the Joint Finance Committee hearings in support of this important initiative. If funded, it was hoped that the system would be up and running by the Fall of 2005. Funding for this important initiative was ultimately provided by the General Assembly.

The Subcommittee then began to focus on the number of foster care children receiving mental health services and what services they were receiving as well as how to improve transitions of children from child mental health services to adult mental health services. Progress on those initiatives will continue in Fiscal Year 2006.

Near Death Initiatives

Since its inception, CPAC has discussed and recognized the value of comprehensive, systemwide reviews of child deaths due to abuse and/or neglect. CPAC's concerns and advocacy in this area resulted in legislation mandating expedited reviews of child abuse/neglect deaths by the Child Death Review Commission, commencing in 2002. In October of 2003, as a result of several child abuse *near* deaths which had been brought to CPAC's attention, CPAC created the Near Death Subcommittee to explore the feasibility of Delaware fulfilling the CAPTA mandate to review abuse and/or neglect "near fatality" cases.

Under CAPTA, near death reviews are to be conducted if it is believed that the reviews would be helpful in reviewing system performance. Given Delaware's small size, there are few child abuse/neglect deaths, and therefore there is limited opportunity to review the system's performance in specific cases. The Subcommittee therefore concluded that given the language of CAPTA, such reviews should occur. The issue then became how and where to conduct the reviews. The Child Death Review Commission ("CDRC") became a logical commission for the reviews; however it had no staff and had up to that point functioned using volunteer efforts and

staff work contributed by the Children's Department, the Department of Health and Social Services and the Office of the Child Advocate. The Subcommittee reviewed the current work being done for CDRC and concluded that at least three staff persons were needed to enable the Child Death Review Commission to do its current work as well as handle the increased responsibility of expedited near death reviews. Members of CDRC were invited to participate in the work of the Subcommittee.

As a result of the Subcommittee's work, in April of 2004 legislation was drafted to add child near death cases where the near death is the result of child abuse or neglect to the types of cases to be reviewed by the CDRC. The CDRC supported the proposed legislation contingent upon a fiscal note to fund three positions to staff the CDRC. The proposed legislation also placed the Chair of CPAC on CDRC and required at least an annual meeting between the CDRC and CPAC to ensure collaboration on these reviews and that recommendations from the reviews were implemented. A fiscal note and staff positions were attached to the bill, entitled Senate Bill 279. ("SB279"). Despite the tight fiscal climate of Fiscal Year 2004, the bill was passed and the positions were funded. A copy of the bill is included in the Appendix at Tab "G". The CDRC Executive Director was hired in November of 2004, and the first joint meeting between the commissions was scheduled for September of 2005.

In October of 2004, CPAC members again raised the issue of the three near death cases that inspired SB279 and which, under the new law, could not be reviewed by CDRC because they had occurred before the effective date of the legislation. CPAC concluded that as the Citizen Review Panel for the State of Delaware, it would be appropriate for CPAC to undertake the task of reviewing these three near death cases using the root cause analysis methodology. Therefore, in December of 2004, the CPAC Near Death Subcommittee began the laborious task of reviewing the near death abuse case of John Davis, Jr.

The review of the Davis case included the collection of records from numerous child protection providers and governmental agencies, as well as interviews of witnesses and policy administrators. Each Subcommittee member spent 45 hours in meetings and interviews, as well as countless hours gathering and reviewing materials. The expertise of the Subcommittee significantly enabled the process.

Upon completion of the draft report, which included both facts and recommendations and used pseudonyms to protect the family, individual workers and non-governmental agencies, it was circulated to CPAC members for editing and comment. A public meeting dedicated to final review and editing of the report was held in April of 2005. Forty-seven recommendations for system improvement were made, several of which had been made in prior death reviews. The recommendations were broken down into broad categories representative of the statutory obligations of CPAC. The categories were as follows: Child Abuse/Neglect Reports; Division of Family Services; Family Court; Law Enforcement; Legal; Multi-Disciplinary Coordination and Collaboration; Multi-Disciplinary Training; Multi-Disciplinary Use of Child Welfare History in Decision Making; and Office of the Attorney General. The report was accepted and released to the public in May of 2005. Recommendations from the report can be found in the Appendix at Tab "H". The full report from this review may be found at <http://courts.delaware.gov/childadvocate/publications>.

In addition to establishing the Near Death Subcommittee, CPAC also requested information from the Children's Department regarding their Root Cause Analyses ("RCAs"). The RCA process was adopted by the Children's Department as a way to internally review critical incidents, defined to include, among other things, the loss of life of any child who is active or has been active within 12 months preceding his or her death with the DSCYF. RCAs are conducted primarily by representatives of the Children's Department and result in a "lessons learned" document that summarizes system issues and recommendations. Twenty-five RCAs had been conducted by the DSCYF in the three years prior to the discussion. CPAC requested that the Children's Department share the lessons learned documents from the RCAs to assist CPAC in identifying needed system improvements, but the DSCYF determined that it was unable to provide the documents due to confidentiality concerns.

Fiscal Year 2006 will bring implementation of the recommendations, the Near Death Subcommittee's review of the other two near death cases, and a determination by CPAC of which specific cases to review going forward.

Training Initiatives

The CPAC Training Subcommittee joined the Abuse Intervention Committee Training Consortium ("Consortium") in Fiscal Year 2003. The purpose of the Consortium was to ensure that child protection training monies, resources and time were used in the most efficient fashion to train Delaware's child protection community. The Consortium focused on the non-duplication of trainings and on identifying system issues that needed to be addressed in a training forum. In July of 2003, CPAC learned that the First Annual Conference of the Consortium, held in April of 2003, was a success. Entitled Putting the Pieces Together: Working Together for Delaware's Children and Families, it was held at Dover Downs Conference Center and included training by the American Prosecutors Research Institute. Partners in the training included the Attorney General's Office, the Children's Advocacy Center, the Family Court, the Office of the Child Advocate and Prevent Child Abuse Delaware.

Beginning in Fiscal Year 2004, the Consortium developed a baseline curriculum and target audience for future trainings. A website was established through Prevent Child Abuse Delaware to coordinate training dates and avoid duplication of efforts. The Consortium also helped to develop a standardized curriculum on the basics of child abuse and neglect that could be used in initial trainings within various agencies. The Consortium also hoped to encourage more cross-training, especially with prosecutors, law enforcement and the Division of Family Services.

In June of 2004, the Consortium held its Second Annual Conference entitled The Effects of Violence on Children: Abuse, Bullying and Domestic Violence. The keynote speaker was Dr. James Garbarino, author of over 20 books, including Lost Boys.

In Fiscal Year 2005, the Consortium surveyed the child welfare community on Delaware's child protection training needs. After obtaining that information, the Consortium decided to offer small, targeted trainings. These trainings included Shaken Baby Syndrome: Medical and Investigative Aspects, Vicarious Trauma of First Responders, and Developmental Aspects of Child Sexual Abuse. The Consortium also established a website to track trainings –

<http://www.detraining.org>. The information on the website is submitted by child protection partners.

In addition to the work of the Consortium, the CPAC Educational Needs of Foster Children Subcommittee began work on a conference entitled Education & Child Welfare: Building Partnerships for Delaware's At-Risk Children. The conference, funded primarily by CPAC members, was slated for Fiscal Year 2006 and anticipated attendance of at least 300 people. For more information, see the section on the Educational Needs of Foster Children found on page 14.

MISCELLANEOUS INITIATIVES

Data Collection

In order to review system performance, it is critical that data be available to the various system partners and to the Commission. Historically, CPAC has received data from DFS, as well as from other system partners such as the Office of the Child Advocate ("OCA") and the Children's Advocacy Center ("CAC"). Over the past two years, in addition to modifying reports from DFS, CPAC has requested and received data from additional system partners, including the Attorney General's Office - Civil Division, the Division of Child Mental Health Services, and the New Castle County Police Department. One of the goals of the timelines subcommittee, noted below, will be for Family Court to be able to provide regular statistics on progress of cases in the system in addition to child protection caseloads for judicial officers. CPAC will also attempt to gather more data in the law enforcement and DOJ prosecution areas. Pertinent data was helpful in determining support for budget initiatives that included additional judges for Family Court and an additional deputy for the OCA. CPAC supported these initiatives with letters and/or testimony during the budget hearings, and both became part of the State's Fiscal Year 2006 budget.

Child Abuse Hotline Reports

Throughout Fiscal Year 2005, CPAC Members became increasingly concerned about the education of the community on the requirements for reporting child abuse and/or neglect as well as the criteria used to establish what reports were accepted by the DFS hotline. The Commission requested and DFS provided a presentation on the hotline. Information provided included a historical overview, training received by hotline workers, hotline operations and how intake workers are to determine whether a report meets the criteria for an investigation to be opened.

The Commission raised concerns regarding rejected reports where a child had not yet disclosed abuse, and how documentation is kept on rejected reports. CPAC will continue to explore these issues in Fiscal Year 2006.

APPENDIX
TAB A
139th General Assembly – Senate Bill 170
The Child Protection Act of 1997

DELAWARE STATE SENATE

139TH GENERAL ASSEMBLY

SENATE BILL NO.170

AN ACT TO AMEND TITLES 10, 11, 16, 18 AND 29 RELATING TO THE DEPARTMENT OF SERVICES FOR CHILDREN YOUTH AND THEIR FAMILIES AND THE PROTECTION OF CHILDREN FROM ABUSE OR NEGLECT.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. This Act shall be known as the Child Abuse Prevention Act of 1997.

Section 2. Amend § 901, Title 16, Delaware Code by deleting the first paragraph thereof and inserting in lieu thereof the following:

"It is the intent of the General Assembly that the primary purpose of the child welfare policy of this State shall be to ensure the best interest of the child and to that end it is the purpose of this chapter to provide for comprehensive protective services for abused and neglected children by mandating that reports of such abuse or neglect be made to the appropriate authorities and by requiring the child protection system to seek and promote the safety of children who are the subject of such reports of abuse or neglect by conducting investigations or family assessments and providing necessary services."

Section 3. Amend § 902, Title 16, Delaware Code by deleting said section in its entirety and inserting in lieu thereof the following:

"§ 902. **Definitions.**

As used in this chapter, the following terms mean:

- (1) '**Abuse**' shall mean any physical injury to a child, by those responsible for the care, custody, and control of the child, through unjustified force as defined in 11 Del. C. § 468(1)(c), emotional abuse, torture, criminally negligent treatment, sexual abuse, exploitation, maltreatment, or mistreatment;
- (2) '**Central registry**' shall mean an information system or registry of information about persons the Division has found cause to believe, or a court has substantiated through court adjudication, have committed child abuse or neglect. The Division may maintain any other reports of abuse or neglect received by the Division for the purposes of future reference;
- (3) '**Child**' shall mean any person who has not reached his or her eighteenth birthday;
- (4) '**Director**' shall mean the director of the Division of Family Services of the Department of Services for Children, Youth and Their Families;
- (5) '**Division**' shall mean the Division of Family Services of the Division of Family Services of the Department of Services for Children, Youth and Their Families;

(6) **'Family assessment and services'** shall mean a case management approach by the Division of Family Services that provides for a prompt assessment of a child and the child's family and the circumstances of the reported incident (including the known history of the child and/or the alleged perpetrator), when there has been a report to the Division that the child was a victim of abuse, neglect, or at risk of maltreatment by a person responsible for that child's care, custody, or control. Family assessment and services can be used in conjunction with the Investigation approach defined in subsection (7) of this section but may not supplant it in circumstances which require an investigation. The family assessment response shall focus on the integrity and preservation of the family and shall assess the status of the child and the family in terms of the risk of abuse and neglect and, if necessary, plan and provide for the provision of community-based services to reduce the risk and to otherwise support the family.

(7) **'Investigation'** shall mean the collection of evidence in response to a report of abuse, neglect, or risk of maltreatment by a person responsible for that child's care, custody, or control in order to determine if a child has been abused, neglected, or is at risk of maltreatment. The Division shall develop protocols for its investigations that focus on ensuring the well-being and safety of the child. The Division may conduct an investigation in response to any report of abuse, neglect, or risk of maltreatment but shall conduct an investigation as enumerated under § 906 (b) (3) of this chapter.

(8) **'Neglect'** shall mean the failure to provide, by those responsible for the care, custody, and control of the child, the proper or necessary: education as required by law; nutrition; or medical, surgical, or any other care necessary for the child's well-being. No person responsible for the care, custody, and control of a child who, in good faith, is under treatment solely by spiritual means through prayer in accordance with the tenets and practices of a recognized church or religious denomination by a duly authorized practitioner thereof shall for that reason alone be considered to have a neglected child for the purpose of this chapter;

(9) **'Report'** shall mean the communication of an allegation of child abuse or neglect to the Division pursuant to § 903 or § 905 of this chapter;

(10) **'Those responsible for the care, custody, and control of the child'** shall include, but not be limited to, the parents or guardian of the child, other members of the child's household, adults within the household who have responsibility for the child's well-being, persons who have temporary responsibility for the child's well being, or a custodian as that term is defined by 10 Del. C. § 901(b)."

Section 4. Amend § 905, Title 16, Delaware Code by deleting said section in its entirety and inserting in lieu thereof the following:

"§ 905. Telephone reports and central registry.

(a) The Division shall establish and maintain a 24 hour state-wide toll free telephone report line operating at all times and capable of receiving reports of alleged abuse and neglect pursuant to § 904 of this chapter or from the public at large.

(b) The Division shall maintain a central registry information system. This information system shall have the ability to receive and retain reports of abuse and neglect state-wide. The information system shall maintain the results of all investigations, family assessments and services, and other relevant information. Reports unsubstantiated may be kept by the Division in its discretion.

(c) Although reports may be made anonymously, the Division shall in all cases, after obtaining relevant information regarding alleged abuse or neglect, request the name and address of any person making a report.

(d) Upon receipt of a report, the Division shall immediately communicate such report to its appropriate Division staff, after a check has been made with the information system to determine whether previous reports have been made regarding actual or suspected abuse or neglect of the subject child, or any reports regarding any siblings, family members or the alleged perpetrator, and such information as may be contained from such previous reports. Such relevant information as may be contained in the information system shall be also forwarded to the appropriate Division staff."

Section 5. Amend § § 906, 907, 908 and 909 Title 16, Delaware Code by deleting said sections in their entirety and inserting in lieu thereof the following:

"§ 906. State response to reports of abuse or neglect.

(a). The child protection system shall seek to promote the safety of children and the integrity and preservation of their families by conducting investigations and/or family assessments in response to reports of child abuse or neglect. The system shall endeavor to coordinate community resources and provide assistance or services to children and families identified to be at risk, and to prevent and remedy child abuse and neglect.

(b). In implementing the child protection system, the Division shall:

(1) Receive and maintain reports pursuant to the provisions of §§ 903 and 905 of this chapter;

(2) Forward reports to the appropriate Division staff who shall determine, through the use of protocols developed by the Division, whether an investigation or the family assessment and services approach should be used to respond to the allegation. The protocols for making this determination shall be developed by the Division and shall give priority to ensuring the well-being and safety of the child;

(3) The Division may investigate any report, but shall conduct an investigation involving all reports, which if true, would constitute violations against a child by those responsible for the care, custody, and control of the child pursuant to any of the following provisions of Title 11 of the Delaware Code: §603, §604, §611, §612, §613, §621, §625, §626, §627, §631, §632, §633, §634, § 635, §636, §645, §763, §765, §766, §766, §767, §768, §769, §770, §771, §772, §773, §774, §775, §776, § 777, §778, §779, §780, §782, §783, §783A, §791, §1100, §1101, § 1102, §1106, §1107, §1108, §1109, §1110, §1111, and §1259 or an attempt to commit any such crimes;

(4) Division staff shall contact the appropriate law enforcement agency upon receipt of any report requiring an investigation under this section and shall provide such agency with a detailed description of the report received. The appropriate law enforcement agency shall assist the Division in the investigation or provide the Division, within a reasonable time, an explanation detailing the reasons why it is unable to assist. Notwithstanding any provision of the Delaware Code to the contrary, to the extent the law enforcement agency with jurisdiction over the case is unable to assist, the Division may request that the Delaware State Police exercise jurisdiction over the case and upon such request the Delaware State Police may exercise such jurisdiction;

(5) The Division shall have authority to secure a medical examination of a child, without the consent of those responsible for the care, custody, and control of the child, if the child has been reported to be a victim of abuse or neglect provided that such case is classified as an investigation pursuant to § 906(b)3 of this chapter and the Director or the Director's designee gives prior authorization for such examination;

(6) The investigation shall include, but need not be limited to, the nature, extent, and cause of the abuse or neglect, collection of evidence, the identity of the alleged perpetrator, the names and condition of other children and adults in the home, the home environment, the relationship of the

subject child to the parents or other persons responsible for the child's care, any indication of incidents of physical violence against any other household or family member, background checks on all adults in the home, and the gathering of other pertinent information;

(7) In the family assessment and services approach, assess service needs of the family from information gathered from the family and other sources. The Division shall identify and provide services for families where it is determined that the child is at risk of abuse or neglect. The Division shall document its attempt to provide voluntary services and the reasons these services are important to reduce the risk of future abuse or neglect. If the family refuses to accept or avoids the proffered services, the Division may refer the case for investigation or terminate services;

(8) Commence an immediate investigation if at any time during the family assessment and services approach the Division determines that an investigation as delineated in subsection (3) of this section is required or is otherwise appropriate. The Division staff who have conducted the assessment may remain involved in the provision of services to the child and family;

(9) Conduct a family assessment and services approach on reports initially referred for an investigation, if it is determined that a complete investigation is not required. The reason for the termination of the investigative process shall be documented;

(10) Assist the child and family in obtaining services, if at any time during the investigation it is determined that the child or any member of the family needs services;

(11) Identify local services and assist with access to those services for children and families where there is risk of abuse or neglect;

(12) Update the information system at regular intervals during the course of the investigation. At the conclusion of the investigation or family assessment, the information system shall be updated to include a case finding ;

(13) When a written report is made by a person required to report under § 903 of this chapter, the Division shall contact the person who made such report within forty-eight hours of the receipt of the report in order to ensure that full information has been received and to obtain any additional information or medical records, or both, which may be pertinent;

(14) Upon completion of an investigation or family assessment and services approach, if the Division suspects that the report was made maliciously or for the purpose of harassment, the Division shall refer the report and any evidence of malice or harassment to the appropriate law enforcement agency;

(15) Multidisciplinary services shall be used whenever possible in conducting the investigation or family assessment and services approach, including the services of law enforcement agencies, the medical community, and other agencies, both public and private. The Division and the Attorney General's Office shall cooperate with law enforcement agencies and the Family Court to develop training programs to increase the ability of Division personnel, court personnel, and law enforcement officers to investigate suspected cases of abuse and neglect;

(16) A person required to report under § 903 of this chapter to the Division shall be informed by the Division of the person's right to obtain information concerning the disposition of the report. Such person shall receive, from the local office, if requested, information on the general disposition of the report at the conclusion of the investigation.

(17) In any judicial proceeding involving the custody of child, the fact that a report has been made pursuant to § 903 or § 905 of this chapter shall not be admissible unless offered by the Division as a party or as a friend of the Court or if the Division is a party. However, nothing herein shall prohibit the introduction of evidence from independent sources to support the

allegations that may have caused a report to have been made;

(18) To protect the privacy of the family and the child named in a report, the Division shall establish guidelines concerning the disclosure of information concerning the abuse and neglect involving a child. The Division may require persons to make written requests for access to records maintained by the Division. The Division may only release information to persons who have a legitimate public safety need for such information and such information shall be used only for the purpose for which the information is released.

(c) In the event that a criminal prosecution for abuse or neglect is initiated by the Department of Justice against a person employed by or associated with a facility or organization required to be licensed or whose staff personnel are required to be licensed under Delaware law whose primary concern is that of child welfare and care, the Attorney General shall notify such employer within 48 hours:

(1) Upon the return of an indictment charging such person with having committed at least 1 felony offense involving an allegation of child sexual abuse; or

(2) Upon an adjudication of guilt of such person for any misdemeanor or violation, when such offense involved sexual abuse, in any degree, of a child under age 18.

Any violations of this subsection shall be dealt with administratively by the Attorney General and the penalty provisions of § 913 of this Title shall not apply hereto.

(d). In the event that a criminal prosecution for abuse or neglect is initiated by the Department of Justice pursuant to a report under this chapter and incarceration of the person who is the subject of the report is ordered by the Court, the Attorney General's Office shall keep the Division informed of actions taken by the courts which result in the release of any such individual; provided that the Attorney General's Office is represented at such a hearing.

§ 907. Temporary emergency protective custody.

(A) A police officer or a physician who reasonably suspects that a child is in imminent danger of suffering serious physical harm or a threat to life as a result of abuse or neglect and such person reasonably suspects the harm or threat to life may occur before the Family Court could issue a temporary protective custody order, the police officer or physician may take or retain temporary emergency protective custody of the child without the consent of the child's parents, guardian, or others legally responsible for his or her care.

(B) Any person taking a child into temporary emergency protective custody under this section shall immediately notify the Division, in the county in which the child is located, of his or her actions and make a reasonable attempt to advise the parents, guardians, or others legally responsible for the child's care. Such person shall file, as soon as practicable but no later than twelve hours thereafter, a written statement with the Division which sets forth the identity of the child and the facts and circumstances which gave such person reasonable cause to believe that there was imminent danger of serious physical harm or threat to the life of the child. Upon notification that a child has been taken into temporary emergency protective custody, the Division shall immediately respond in accordance with § 906 of this chapter to secure the safety of the child which may include ex-parte custody relief from the Family Court if appropriate.

(C) Temporary emergency protective custody for purposes of this section shall not exceed twenty-four hours and shall cease upon the Division's response pursuant to paragraph (B).

(D) For the purposes of this section, temporary emergency protective custody shall mean temporary placement within a hospital, medical facility, or such other suitable placement; provided, however, that an abused or neglected child may not be detained in temporary custody in a secure detention facility. In no event shall an employee of the Division exercise custody

under this section.

§ 908. Immunity from liability.

Any person, official, or institution making a report pursuant to this chapter, taking photographs and/or the making of examinations pursuant to an investigation, performing a medical examination without the consent of those responsible for the care, custody, and control of the child pursuant to § 905(5) of this chapter, removing or retaining a child pursuant to § 907 of this chapter, or cooperating with the Division, a law enforcement agency or the Family Court, in any of the activities authorized pursuant to § 905, shall have immunity from any liability, civil or criminal, which otherwise might result by reason of such actions. Any such person, official, or institution shall have the same immunity with respect to participation in any judicial proceeding resulting from the report: provided, however, that any person, official or institution who is shown by clear and convincing evidence to have intentionally filed a false report or acted in bad faith shall not have immunity from any liability, civil or criminal.

§ 909. Privileged communication not recognized.

No legally recognized privilege, except that between attorney and client, shall apply to situations involving known or suspected child abuse, neglect, exploitation or abandonment and shall not constitute grounds for failure to report as required by § 903 of this chapter or to give or accept evidence in any judicial proceeding relating to child abuse or neglect."

Section 6. Amend Chapter 9, Title 16, Delaware Code by inserting as new § 910, § 911, § 912 and § 913 the following:

" § 910. Court orders to compel.

The Division shall have the authority to request from the Family Court an order to obtain access to a child or children and the residence of such children in furtherance of an investigation pursuant to 16 Del. C. § 906(b)(3) of a report of abuse, neglect, or risk of maltreatment where those responsible for the care, custody, and control of the child are not cooperating with the investigation. The Family Court shall have the authority to issue such orders based on probable cause and may enforce non-compliance of such an order pursuant to 10 Del.C. § 925(3).

§ 911. Training and information.

(1) The Division shall, on a continuing basis, undertake and maintain programs to inform all persons required to report abuse or neglect pursuant to § 903 of this chapter and the public of the nature, problem, and extent of abuse and neglect, and of the remedial and therapeutic services available to children and their families and to encourage self-reporting and the voluntary acceptance of such services.

(2) The Division shall conduct ongoing training programs to advance the purpose of this section.

(3) The Division shall continuously publicize the existence of the 24 hour report-line to those required to report abuse or neglect pursuant to § 903 of this chapter of their responsibilities and to the public the existence of the 24 hour statewide toll-free telephone number to receive reports of abuse or neglect.

§ 912. The Child Protection Accountability Commission.

(a) The Delaware Child Protection Accountability Commission is hereby established. The Commission shall consist of 12 members with the at-large members and the Chair appointed by the Governor, shall be staffed by the Division and shall be comprised of the following:

(1) 3 Division members, one of whom shall be the Director;

(2) 2 representatives from the Attorney's General Office,

(3) 2 members of the Family Court to be designated by the Chief Judge;

(4) 5 at large members with 1 person from medical community, 2 persons from law enforcement

agencies, and 2 persons from the private child services community.

(b) It shall be the purpose of this commission to monitor Delaware's child protection response system so that responses to cases of abuse and neglect are timely and effective so as to best ensure the health and safety of children subject to abuse. To that end, the commission shall meet on a quarterly basis and shall:

(1) Examine policies and procedures and evaluate the effectiveness of the child protection system, specifically the respective roles of the Division, the Attorney General's Office, the Family Court, the medical community and law enforcement agencies;

(2) Formulate guidelines based on objective criteria to be used in determining temporary custody issues pursuant to an investigation of abuse or neglect;

(3) Review and make recommendations concerning investigative procedures and emergency responses pursuant to this chapter;

(4) Make legislative recommendations to the Governor and General Assembly; and

(5) Access, develop and provide quality training to Division staff, Deputy Attorneys General, law enforcement officers, the medical community and Family Court personnel on the various standards, criteria and investigative technology used in these cases.

§ 913. Penalty for violation.

Whoever knowingly violates § 903 this chapter shall be fined no more than \$ 1,000 or shall be imprisoned not more than 15 days or both."

Section 7. Amend § 9001(a), Title 29, Delaware Code by deleting after the words "do so;" and before the words "the State" the word "that" and by inserting in lieu thereof the word "while".

Section 8. Amend § 9001(a), Title 29, Delaware Code by inserting a comma after the word "unit" and by deleting the words "whenever feasible" as they appear before the words "protect and safeguard".

Section 9. Amend § 9001(b), Title 29, Delaware Code by deleting the words "within the least restrictive environment possible" and inserting after the words "involvement of their family" the words "but shall make the best interests of the child its priority;"

Section 10. Amend § 9003(3)(b), Title 29, Delaware Code by deleting the word "that" after the word "however" and inserting in lieu thereof the following:

"the Division's highest priority in cases of abuse and neglect where an investigation is required pursuant to 16 Del.C. § 906 shall be the health and safety of the child and"

Section 11. Amend Chapter 90, Title 29, Delaware Code by renumbering current § 9016, § 9017, and § 9018 as § 9018, § 9019, and § 9020 respectively and by inserting as new § 9016 and new § 9017 the following:

"§ 9016. Appointment of special investigators; powers and duties.

(a) The Secretary may appoint up to 3 qualified persons to be special investigators for the Division of Family Services. Such investigators shall hold office at the pleasure of the Secretary. Any person appointed pursuant to this section shall have a minimum of 10 years experience as a 'police officer,' as that term is defined in 11 Del.C. § 1911(a), significant investigatory experience while working as a police officer, shall be in good standing with the previous or present law enforcement agency where such person is or was employed and such other qualifications deemed appropriate by the Secretary.

(b) Special investigators appointed under this section may conduct investigations of child abuse, neglect, or risk of maltreatment anywhere in this State as directed by the Director of the Division of Family Services and shall have the power to make arrests and serve writs anywhere in this State. Special investigators shall have statewide powers as enumerated under 11 Del.C. § 1911

and such other powers as conferred by law on police officers, sheriffs, constables, and other law enforcement personnel. To the extent possible, special investigators pursuant to this section shall consult with the police agency of jurisdiction prior to making an arrest and shall do so in all cases after making any such arrest.

The salary of special investigators shall be fixed by the Secretary within the appropriations made to the Department.

(d) Special investigators will assist in the training of other Division staff."

Section 12. Amend § 8502(3)(b), Title 11, Delaware Code by deleting the word "and" after the word "Correction;" and deleting the "." after the word "services" and by inserting in lieu thereof "; and" and inserting as new § 8502(3)(b)8. the following:

"8. The Division of Family Services."

Section 13. Amend § 8502(6), Title 11, Delaware Code by inserting after the word "police officer," and before the words "the Attorney General" the words "special investigators pursuant to 29 Del.C. § 9016,"

Section 14. Amend § 1009(a), Title 10, Delaware Code, by inserting after the word "neglected" the words "abused as those terms are defined by 16 Del.C. § 902(1)," and by inserting at the end of § 1009(a) the following:

" In declaring a child to be dependent, neglected, or abused pursuant to this section, the Court shall give priority to ensuring the well-being and safety of the child."

Section 15. Amend Chapter 85, Title 11 Delaware Code by inserting as new § 8563 the following:

"8563. Child Abuse Registry Check.

(a) Definitions.

(1) 'Person seeking employment' means any person applying for any employment that affords direct access to children receiving care at a child care facility or a person applying for a license to operate a child care facility.

(2) 'Child Care Facility' means any child care facility which is required to be licensed by the Department of Services for Children, Youth and their Families.

(3) 'Direct Access' means the opportunity to have personal contact with children receiving care during the course of one's assigned duties.

(b) No employer who operates a child care facility shall hire any person seeking employment without requesting and receiving a Child Abuse Registry check for such person. For such purposes of this subsection, the Child Abuse Registry check shall relate to substantiated cases of child abuse or neglect. The results shall be obtained from the Child Abuse Registry, as established by 16 Del. C. § 905.

(c) Any employer who is required to request a Child Abuse Registry check under this section shall obtain a statement signed by the person seeking employment wherein the person authorizes a full release for the employer to obtain the information provided pursuant to such a check.

(d) Notwithstanding the provisions of this section, when exigent circumstances exist which require an employer to fill a position in order to maintain the required level of service, the employer may hire a person seeking employment on a conditional basis after the employer has requested a Child Abuse Registry check. The employment of the person pursuant to this subsection shall be conditional and contingent upon the receipt of the Child Abuse Registry check by the employer. Any person hired pursuant to this subsection shall be informed in writing, and shall acknowledge in writing, that his or her employment is conditional, and contingent upon receipt of the Child Abuse Registry check.

(e) The Department of Services for Children, Youth, and Their Families shall promulgate regulations giving guidance for a procedure to notify employers of any substantiated matters indicated in the Child Abuse Registry check.

(f) Any employer who hires a person seeking employment without requesting and receiving a Child Abuse Registry check for such person shall be subject to a civil penalty of not less than \$1,000.00 nor more than \$5,000.00 for each violation."

Section 16. Amend Chapter 33, Title 18, Delaware Code by inserting as new § 3339 the following:

"§ 3339. Child abuse or neglect - Individual Coverage.

No individual policy, contract, or certificate issued thereunder, of health insurance which provides medical coverage for a child and which (1) covers a child who resides in this State, or (2) is delivered or issued for delivery within the State, shall limit medical insurance coverage for any child referred by the Division of Family Services or law enforcement agency for suspected child abuse or neglect; including requiring referral by a primary physician."

Section 17. Amend Chapter 35, Title 18, Delaware Code by inserting as new § 3556 the following:

"§ 3556. Child abuse or neglect - Group Coverage.

No group or blanket policy, contract, or certificate issued thereunder, of health insurance which provides medical coverage for a child and which (1) covers a child who resides in this State, or (2) is delivered or issued for delivery within the State shall limit medical insurance coverage for any child referred by the Division of Family Services or law enforcement agency for suspected child abuse or neglect; including requiring referral by a primary physician."

SYNOPSIS

This legislation represents the most sweeping changes in Delaware's Child Protection Services System since its inception. The overriding goal of this legislation is to make clear that child safety is the primary focus of Delaware's response to child abuse and neglect. In so doing, the legislation clearly establishes the best interest of the child as the child welfare policy for the State of Delaware.

Consistent with this objective, the bill sets up two different state responses to reports of abuse or neglect. The first type of response, for the most serious cases, is an evidentiary, fact finding *Investigation* where the State's paramount concern is the safety of the child. In cases where the investigation uncovers behavior that, if true, would constitute criminal child abuse or neglect, the division must refer the case to law enforcement for a co-investigation. If criminal child abuse can be proven, a referral for prosecution will be made. In non-criminal investigations, no law enforcement referral is required, but the same division procedures will be followed. A determination will be made as to whether abuse or neglect occurred and the division will provide appropriate services, including removing the child from the home when necessary. The second type of response, for less serious cases, is a *Family Assessment*. The Family Assessment determines the family's need for services and helps preserve the family as a unit.

The legislation also creates three Special Investigator positions within DFS. The investigators will be required to have at least 10 years experience in law enforcement and have significant experience in criminal investigations. The legislation grants these Special Investigators full state-wide arrest authority. The investigators will be used on some of DFS's more difficult cases and will provide in-house training to DFS staff on investigation and interview techniques.

The bill provides police officers and physicians statutory authority to invoke temporary emergency protective custody in situations where a child is in imminent danger of serious physical harm and the officer or physician has reason to believe the harm will be caused before the Family Court could take action. The legislation requires immediate reporting when such custody is invoked.

To help streamline investigations, the bill gives the Family Court, at the request of DFS, the authority to issue orders to compel cooperation during an investigation and allows DFS to authorize a medical exam of a child, without consent of the child's parent, in cases where the report of abuse or neglect, if true, would constitute criminal conduct. The legislation grants DFS access to DELJIS for the purpose of conducting criminal background checks for investigations.

The bill further requires medical insurance policies to cover a medical examination performed pursuant to a DFS or law enforcement referral in cases where the agency suspects abuse or neglect and also requires employers or owners of child care facilities to have DFS check its child abuse registry information system for reports of abuse or neglect against a prospective employee prior to hiring.

Finally, the legislation codifies current policy establishing a 24 hour, 7 days a week, state-wide telephone report-line for reports of abuse or neglect. The system is connected with a central registry information system which stores all such reports, investigative follow up, and dispositions.

Author: Sen. Sharp

**APPENDIX
TAB B
CPAC STATUTE**

TITLE 16 Health and Safety

PART II Regulatory Provisions Concerning Public Health

CHAPTER 9. ABUSE OF CHILDREN

**Subchapter I. Reports and Investigations of Abuse and Neglect; Child
Protection Accountability Commission**

§ 912. The Child Protection Accountability Commission.

(a) The Delaware Child Protection Accountability Commission is hereby established. The Commission shall consist of 19 members with the at-large members and the Chair appointed by the Governor, shall be staffed by the Office of the Child Advocate and shall be comprised of the following:

(1) The Secretary of Services for Children, Youth and Their Families, or the Secretary's designee;

(2) The Director of the Division of Family Services, or the Director's designee;

(3) Two representatives from the Attorney's General Office, designated by the Attorney General;

(4) Two members of the Family Court, designated by the Chief Judge;

(5) One member of the House of Representatives, designated by the Speaker of the House;

(6) One member of the Senate, designated by the President Pro Tempore of the Senate;

(7) The Chair of the Child Placement Review Board, or the Chair's designee;

(8) The Secretary of the Department of Education, or the Secretary's designee;

(9) The Director of Child Mental Health Services, or the Director's designee;

(10) Eight at-large members with 1 person from the medical community, 1 person from the Interagency Committee on Adoption who works with youth engaged in the foster care system, 2 persons from law enforcement agencies and 4 persons from the child protection community.

(b) The Child Advocate shall serve as the Executive Director of the Commission to effectuate its purposes pursuant to Chapter 90A of Title 29. It shall be the purpose of the

Commission to monitor Delaware's child protection system to best ensure the health, safety and well-being of Delaware's abused, neglected and dependent children. To that end, the Commission shall meet on a quarterly basis and shall:

(1) Examine and evaluate the policies, procedures and effectiveness of the child protection system and make recommendations for changes therein, focusing specifically on the respective roles in the child protection system of the Division of Family Services, the Division of Child Mental Health Services, the Office of the Attorney General, the Family Court, the medical community, and law enforcement agencies;

(2) Recommend changes in the policies and procedures for investigating and overseeing the welfare of abused, neglected and dependent children;

(3) Advocate for legislation and make legislative recommendations to the Governor and General Assembly;

(4) Access, develop and provide quality training to staff of the Division of Family Services, Deputy Attorneys General, Family Court, law enforcement officers, the medical community, educators, day-care providers, and others on child protection issues;

(5) Review and make recommendations concerning the well-being of Delaware's abused, neglected and dependent children including, but not limited to, issues relating to foster care, adoption, mental health services, victim services, education, rehabilitation, substance abuse and independent living; and

(6) Provide the following reports to the Governor:

a. An annual summary of the Commission's work and recommendations, including work of the Office of the Child Advocate, with copies thereof sent to the Governor's Advisory Council for Children, Youth and Their Families for their consideration and comment; and

b. A quarterly written report of the Commission's activities and findings with copies thereof distributed to the Chairpersons of the House of Representatives Committee on Health and Human Development and the Senate Committee on Children, Youth and Their Families. (71 Del. Laws, c. 199, § 6; 70 Del. Laws, c. 186, § 1; 73 Del. Laws, c. 116, §§ 1-3, 5-4.)

**APPENDIX
TAB C
CONTACT INFORMATION FOR CPAC MEMBER AGENICES
FOR FISCAL YEARS 2004 AND 2005**

ATTORNEY GENERAL’S OFFICE

CPAC Representatives: The Honorable M. Jane Brady, Attorney General
Peter Feliceangeli, Esquire, Deputy Attorney General,
Group Leader – Family Services

Contact Information: Attorney General’s Office
820 N. French Street, 6th Floor
Wilmington, DE 19801
(302)577-8400
www.state.de.us/attgen

CHILD PLACEMENT REVIEW BOARD

CPAC Representative: William Murray, Chair

CPAC Designee: Julia Pearce, Executive Director

Contact Information: Child Placement Review Board
820 N. French Street, 1st Floor
Wilmington, DE 19801
(302)577-8750

CHILDREN’S ADVOCACY CENTER

CPAC Representative: John Humphrey, Executive Director

Contact Information: Children’s Advocacy Center
duPont Hospital for Children
1600 Rockland Road
Wilmington, DE 19803
(302)651-4566
www.cacofde.org

DEPARTMENT OF EDUCATION

CPAC Representative: The Honorable Valerie Woodruff
Secretary, Department of Education

CPAC Designee: Linda Wolfe, R.N., Education Specialist

Contact Information: Department of Education
Townsend Building
401 Federal Street
Dover, DE 19901
(302)739-4601
www.doe.k12.de.us

DEPARTMENT OF SERVICES FOR CHILDREN, YOUTH AND THEIR FAMILIES

CPAC Representative: The Honorable Cari DeSantis
Secretary
Department of Services for Children, Youth & Their Families

CPAC Designee: Mary Ball Morton, Administrator
Office of Case Management
Department of Services for Children, Youth & Their Families

Contact Information: Department of Services for Children, Youth & Their Families
1825 Faulkland Road
Wilmington, DE 19805
(302)633-2500
www.state.de.us/kids

DIVISION OF CHILD MENTAL HEALTH SERVICES

CPAC Representative: Susan Cycyk, M.Ed.
Director, Division of Child Mental Health Services
Department of Services for Children, Youth & Their Families

Contact Information: Division of Child Mental Health Services
1825 Faulkland Road
Wilmington, DE 19805
(302)633-2571
www.state.de.us/kids/cmhs

DIVISION OF FAMILY SERVICES

CPAC Representative: Carlyse Giddins
Director, Division of Family Services
Department of Services for Children, Youth &
Their Families

Contact Information: Division of Family Services
1825 Faulkland Road
Wilmington, DE 19805
(302)633-2605
www.state.de.us/kids/fs

FAMILY COURT/CASA

CPAC Representatives: The Honorable Chandlee Johnson Kuhn
Chief Judge
The Honorable Jennifer Mayo
Commissioner
The Honorable Patricia Tate Stewart
Commissioner

Contact Information: Family Court
500 North King Street
Wilmington, DE 19801
(302)255-0300
www.courts.delaware.gov/courts/Family%20Court

LAW ENFORCEMENT

CPAC Representatives: Colonel Aaron Chaffinch (former)
Superintendent, Division of State Police

Colonel Thomas MacLeish (current)
Superintendent, Division of State Police

Chief John Cunningham (former)
Chief of Police, New Castle County Police Dept.

Chief David MacAllister (current)
Chief of Police, New Castle County Police Dept.

CPAC Designees: Major Harry Downes (former)
Division of State Police

Sergeant Randy Fisher (current)
Division of State Police

Sergeant Renee Taschner (former)
New Castle County Police Department

Sergeant Phillip Hill (current)
New Castle County Police Department

Contact Information:

Delaware Division of State Police
P. O. Box 430
Dover, DE 19903
(302)739-5901
www.state.de.us/dsp

New Castle County Police Department
3601 S. DuPont Highway
New Castle, DE 19720
(302)395-8110
<http://www.co.new-castle.de.us/publicsafety>

OFFICE OF THE CHILD ADVOCATE

CPAC Executive Director: Tania M. Culley, Esquire
Child Advocate

Contact Information:

Office of the Child Advocate
900 King Street
Wilmington, DE 19801
(302)255-1730
<http://courts.delaware.gov/childadvocate>

**APPENDIX
TAB D
SENATE BILL 265 – CASELOAD STANDARDS**

**DELAWARE STATE SENATE
142ND GENERAL ASSEMBLY
SENATE BILL NO. 265**

AN ACT TO AMEND TITLE 29 OF THE DELAWARE CODE RELATING TO THE
DEPARTMENT OF SERVICES FOR CHILDREN, YOUTH AND THEIR FAMILIES.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend Title 29, Section 9015 of the Delaware Code by redesignating subsection “(c)” as subsection “(e)”, and further by striking subsection (b) in its entirety and by substituting in lieu thereof the following:

“(b) Each fiscal year, pursuant to established methodology, the Secretary and the State Budget Office shall review projections on the number of child abuse and neglect cases and the number of child care facilities to be licensed and monitored for the next fiscal year. Based on these projections, the General Assembly shall fund, subject to a specific appropriation, funds and positions for the next fiscal year, beginning each July 1, to the Division of Family Services to provide:

- (1) An adequate number of child protection investigation workers so that regional caseloads do not exceed 14 cases per fully functioning worker;
- (2) An adequate number of child protection treatment workers so that regional caseloads do not exceed 18 cases per fully functioning worker;
- (3) An adequate number of Family Service Supervisors so that there is one supervisor for every five workers;
- (4) An adequate number of training positions, but not less than 15, to ensure that fully trained staff are always available to fill vacancies;
- (5) An adequate number of licensing specialists for child care centers and family child care homes so that caseloads do not exceed 150 per specialist; and
- (6) An adequate number of licensing specialists for 24-hour residential child care facilities so that caseloads do not exceed 30 per specialist;
- (7) An adequate number of licensing supervisors so that there is one supervisor for every five workers.

In the event that regional caseloads exceed the above set standards during any fiscal year, the Budget Office shall, to the extent monies are available, authorize

the use of casual seasonal positions as a temporary mechanism to ensure that caseloads remain within Delaware standards. Fully functioning workers are workers that are employed and working full-time, and do not include workers on extended medical leave, trainees who have not completed training or workers with restricted caseloads.

(c) In order to ensure the standards set forth in subsection (b) are maintained, the Secretary shall submit a quarterly report to the Governor, the Controller General and the Budget Director, with copies to the Chairpersons of the House of Representatives Committee on Health and Human Development, the Senate Committee on Children, Youth and Their Families, and the Child Protection Accountability Commission that details the above information both statewide and on a regional basis.

(d) For the purpose of retaining and attracting experienced investigation and treatment workers in the Division of Family Services, the Division may competitively recruit for Family Crisis Therapists in their investigation and treatment units. Current Division employees who successfully apply for these positions shall have their position reclassified to Family Crisis Therapist. Such reclassifications or reclassifications of vacant positions to Family Crisis Therapist shall be effective upon the approval of the State Personnel Director, Budget Director and Controller General. The Division is authorized to transfer positions between budget units in order to adjust its complement to ensure the correct number of fully functioning employees are in each functional unit of the Division. The Division shall submit a quarterly report to the Budget Director and the Controller General detailing any adjustments to the complement, the number of Family Crisis Therapists hired and retention statistics.”

SYNOPSIS

This Bill clarifies investigation and treatment caseload standards for the Division of Family Services. It also moves budgetary epilogue language on career ladders and trainee positions to statute.

Author: Senator McDowell

**APPENDIX
TAB E
HOUSE BILL 279 - MCKINNEY-VENTO ACT**

DELAWARE STATE SENATE
143RD GENERAL ASSEMBLY
HOUSE BILL NO. 279

AN ACT TO AMEND TITLE 14 OF THE DELAWARE CODE RELATING TO PUBLIC SCHOOL ATTENDANCE OF FOSTER CHILDREN.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend Title 14, § 202(c) of the Delaware Code by adding a new sentence at the end thereof as follows:

“For the purpose of this Section and provisions of the McKinney-Vento Homeless Education Assistance Improvement Act, the words ‘awaiting foster care placement’ include all children in foster care.”.

Section 2. Amend Title 14, § 202(e)(3) of the Delaware Code by striking the second sentence and inserting the following in lieu thereof:

“Children in the care and custody of the Department of Services for Children, Youth and Their Families who are in foster care shall attend school in accordance with the McKinney-Vento Homeless Education Assistance Improvement Act [42 U.S.C. § 11431 to § 11435].”. SYNOPSIS

This Bill confirms the practices and procedures of the Department of Education and the Department of Services for Children, Youth and Their Families that all foster children are within the provisions and protections of the federal McKinney-Vento Homeless Education Assistance Improvement Act, which allocates funds to the States for the education of homeless children and youths.

Author: Rep. Maier

APPENDIX TAB F CPAC BYLAWS

**AS AMENDED
3/29/04**

ARTICLE I

General Provisions

Section 1.1. Legislative Authority. Pursuant to 16 Del. C. § 912, the Child Protection Accountability Commission was established to monitor Delaware's child protection system to ensure the health, safety and well being of Delaware's abused, neglected and dependent children. These bylaws are hereby established to effectuate the legislative purposes.

Section 1.2 Objectives. Pursuant to 16 Del. C. § 912(b), the objectives of the Commission include the following:

1. examine and evaluate the policies, procedures and effectiveness of the child protection system and make recommendations for changes therein, focusing specifically on the respective roles in the child protection system of the Division of Family Services, the Division of Child Mental Health Services, the Office of the Attorney General, the Family Court, the medical community and law enforcement agencies;
2. recommend changes in the policies and procedures for investigating and overseeing the welfare of abused, neglected and dependent children;
3. advocate for legislation and make legislative recommendations to the Governor and General Assembly;
4. access, develop and provide quality training to staff of the Division of Family Services, Deputy Attorneys General, Family Court, law enforcement officers, the medical community, educators, day-care providers, and others on child protection issues;
5. review and make recommendations concerning the well being of Delaware's abused, neglected and dependent children including, but not limited to issues relating to foster care, adoption, mental health services, victim services, education, rehabilitation, substance abuse and independent living.

Section 1.3 Definitions. As used in these bylaws, the following terms mean:

- (a) "Commission" shall mean the Child Protection Accountability Commission.
- (b) "Child protection community" shall mean members of agencies, non-profit organizations, advocacy groups or other community organizations or individuals responsible for or interested in child protection.
- (c) "Chair" shall mean the Chairperson of the Child Protection Accountability Commission.

ARTICLE II Membership

Section 2.1 Members. Pursuant to 16 Del. C. § 912(a), the Commission shall be comprised of 19 members to include: the Secretary of Services for Children, Youth and Their Families, or his or her designee; the Director of the Division of Family Services, or his or her designee; two representatives from the Attorney General's Office, designated by the Attorney General; two members of the Family Court, designated by the Chief Judge; one member each of the House of Representatives and Senate; the Chair of the Child Placement Review Board, or his or her designee; the Secretary of the Department of Education, or his or her designee; the Director of Child Mental Health Services, or his or her designee; and eight at-large members representing one person from the medical community, one person from the Interagency Council on Adoption, two people from law enforcement agencies and four people from the child protection community. The Governor shall appoint a Chair of the Commission from this membership.

Section 2.2 Selection of At-Large Members. Pursuant to 16 Del. C. § 912 (a), the at-large members of the Commission are appointed by the Governor. When a vacancy occurs in the at-large membership, the Chair shall solicit from the Commission suggested replacements and shall forward those recommendations to the Governor.

Section 2.3 Executive Director. Pursuant to 16 Del. C. § 912(b) and 29 Del. C. § 9001A, the Child Advocate shall serve as the Executive Director of the Commission and shall be responsible for effectuating the purposes of the Commission. The Executive Director shall not be a voting member of the Commission.

ARTICLE III

Practices and Procedures

Section 3.1 Freedom of Information Act. All meetings of the Commission or any subcommittees will be conducted in compliance with the Freedom of Information Act, 29 Del. C., Ch. 100.

ARTICLE IV

Meetings

Section 4.1 Statutorily Required Meetings. Meetings shall be conducted, at a minimum, quarterly pursuant to 16 Del. C. § 912(b).

Section 4.2 Annual Legislative Meeting. The Commission shall convene a meeting each May to review any pending or proposed legislation pertaining to child protection issues. After reviewing any child protection related legislation, the Commission may vote to either support or oppose said legislation or to take no position, if appropriate. Should substantive legislative amendments arise or if new legislation is introduced pertaining to child protection issues following the annual legislative meeting, the Chair may convene an emergency meeting of the Legislative Subcommittee, as referenced in Section 5.2 *infra*, in compliance with the Freedom of Information Act. All other Commission members will be notified via the most expeditious means possible. The Legislative Subcommittee and any other members of the Commission present may vote to either support or oppose the legislation, or to take no position if appropriate. This vote shall be the position of the Commission.

Section 4.3 Special Meetings. Either the Chair or ten members of the Commission by written notice to the Chair, can call a special meeting for any purpose within the scope of the Commission's objectives.

Section 4.4 Quorum. Quorum shall constitute a majority of the entire membership or their designated proxies. At the time of the drafting of these bylaws, 10 members constitutes quorum.

Section 4.5 Attendance. A Commission member may identify a proxy to represent him/her at a Commission meeting. Any member sending a proxy must notify the Chair in writing prior to the meeting. The proxy shall have the same voting privileges as the absent member.

Section 4.6 Voting.

- (a) A quorum must be present in order for any vote to be taken.
- (b) Any action of the Commission shall be by a simple majority vote of the entire membership.
- (c) All individual votes shall be recorded pursuant to 29 Del. C. § 10004(f).

Section 4.7 Staff. The Office of the Child Advocate shall provide administrative support to the Commission for meetings, including providing notice of meetings to Commission members, keeping minutes of the meetings and other administrative functions.

ARTICLE V

Committees

Section 5.1 Executive Committee. This Committee shall be comprised of the Chair; the Chief Judge of the Family Court or his or her designee; the Secretary of the Department of Services for Children, Youth and Their Families, or his or her designee; and the Attorney General or his or her designee. In addition, the Chair shall choose two persons from the at-large membership, at least one of which shall be from the child protection community. The sole function of the Executive Committee shall be to hire, supervise and terminate the Executive Director of the Commission. Meetings of the Executive Committee shall take place in executive session and shall be closed to the public pursuant to 29 Del. C. § 10004. The Chair or three members of the Executive Committee may call a meeting of the Executive Committee.

Section 5.2 Standing Committees. In furtherance of the statutory duties of the Commission, several standing committees are hereby established unless dissolved or modified by the Commission:

- (a) Training. This committee shall be responsible for ensuring the training needs of the child protection system are being met.
- (b) Reporting. This committee shall be responsible for reviewing and making recommendations related to the policies and procedures for investigating and overseeing the welfare of abused, neglected and dependent children.
- (c) Best Interests; Foster Care. These committees shall be responsible for reviewing and making recommendations concerning the well being of Delaware's abused, neglected and dependent children.
- (d) Legislative. This committee shall be responsible for reviewing proposed legislation related to child protection and making recommendations to the full Commission for action by that body.
- (e) Public Awareness. This committee shall be responsible for increasing public awareness of the issue of child sexual abuse by providing education about prevention, identification and reporting of child sexual abuse and for increasing awareness of the resources available for treatment.

(f) Bylaws. This committee shall be responsible for drafting and amending the bylaws of the Commission.

Section 5.3 Special Committees. Special Committees may be established and appointed from time to time by the Commission or the Chair with the concurrence of the Commission. Special Committees shall continue unless dissolved or modified by the Chair.

ARTICLE VI

Reports

Section 6.1 Annual Report. An annual summary of the Commission's work and recommendations shall be sent to the Governor and members of the General Assembly. This report may be made as part of the Office of the Child Advocate's annual report.

Section 6.2 Quarterly Reports. Pursuant to 16 Del. C. § 912(b)(6)b., a quarterly written report of the Commission's activities and findings shall be distributed to the Chairpersons of the House of Representatives Committee on Health and Human Development and the Senate Committee on Children, Youth and Their Families. This report may be made by referring the appropriate individuals to the minutes of the Commission's quarterly meetings available online at the Office of the Child Advocate's website, currently found at: <http://courts.delaware.gov/childadvocate>

ARTICLE VII

Adopting and Amending Commission Bylaws

Section 7.1 Adopting Bylaws. These bylaws shall be adopted upon a motion duly made and seconded and voted upon pursuant to the voting procedures found at Section 4.6.

Section 7.2 Amending Bylaws. Should any member of the Commission wish to change any provision of these bylaws, a request should be made to the Chair to refer the matter to the Bylaws Committee, which shall review the proposed change and make a recommendation to the Commission. Any amendment to the bylaws shall be made by an affirmative by the Commission pursuant to the voting procedures found at Section 4.6.

APPENDIX
TAB G
SENATE BILL 279 – NEAR DEATH REVIEWS

DELAWARE STATE SENATE
142ND GENERAL ASSEMBLY
SENATE BILL NO. 279

AN ACT TO AMEND TITLE 31 OF THE DELAWARE CODE RELATING TO CHILD NEAR DEATHS.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

WHEREAS, Delaware is a community which values the life, health and safety of each and every child;

WHEREAS, the Child Death Review Commission is statutorily charged with investigating and reviewing the facts and circumstances of all deaths of children under the age of 18 in an effort to safeguard the health and safety of all of Delaware's children;

WHEREAS, the Child Death Review Commission is committed to preventing each and every death of a child in this State where possible;

WHEREAS, in exchange for federal monies, the Child Abuse Prevention and Treatment Act ("CAPTA") requires a body to ensure that Delaware is meeting its child protection responsibilities;

WHEREAS, that body in Delaware is the Child Protection Accountability Commission;

WHEREAS, the Child Protection Accountability Commission is statutorily charged with and committed to evaluating the extent to which State and local authorities are effectively discharging their child protection responsibilities in accordance with federal law;

WHEREAS, prior reviews of the deaths of children due to abuse and/or neglect have resulted in valuable changes in Delaware's systems and procedures designed to protect children; and

WHEREAS, it is desirable to create a formal procedure that will result in the prompt review of near deaths by abuse and/or neglect while still protecting the confidentiality rights of the individuals involved in the investigation; and

WHEREAS, pursuant to CAPTA, the Child Protection Accountability Commission has determined that the reviews of near deaths due to abuse and/or neglect will significantly assist in evaluating the extent to which State and local agencies are effectively discharging their child protection responsibilities in accordance with federal law; and

WHEREAS, in furtherance of its commitment to prevent child deaths, the Child Death Review Commission, supports these reviews;

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend Title 31, Section 301 of the Delaware Code by adding new subsections (6) and (7) as follows:

“(6) ‘Abuse’ is as defined in §902(1) of Title 16;

(7) ‘Near Death’ means a child in serious or critical condition as a result of child abuse or neglect as certified by a physician;”

Section 2. Amend Title 31, Chapter 3, Subchapter II of Delaware Code by deleting the title of Subchapter II and replacing in lieu thereof the following:

“Subchapter II. Child Death, Near Death and Still Birth Commission.”

Section 3. Amend Title 31, Section 320 of the Delaware Code by striking it in its entirety and inserting the following in lieu thereof:

“§320. Declaration of legislative intent.

The General Assembly hereby declares that the health and safety of the children of the State will be safeguarded if deaths of children under the age of 18, near deaths of abused and/or neglected children, and stillbirths occurring after at least 27 weeks of gestation are reviewed, in order to provide recommendations to alleviate those practices or conditions which impact the mortality of children.

This subchapter establishes the Child Death, Near Death and Stillbirth Commission. For the purposes of this subchapter, ‘Commission’ means the Child Death, Near Death and Stillbirth Commission. Stillbirths occurring after at least 27 weeks of gestation shall not include stillbirths which occur as a result of an elective medical procedure.”

Section 4. Amend Title 31, Section 321(a) of the Delaware Code by inserting the phrase “the Chair of Child Protection Accountability Commission,” after the phrase “Title 29,”.

Section 5. Amend Title 31, Section 321(a) of the Delaware Code by striking the last sentence and inserting the following in lieu thereof:

“The Commission shall be staffed, and its staff shall include an Executive Director. The General Assembly may annually appropriate such sums as it may deem necessary for the payment of the salary of the Executive Director and the staff, and for the payment of actual expenses incurred by the Commission.”

Section 6. Amend Title 31, Section 321(c) of the Delaware Code by inserting the following at the end of that subsection:

“The Commission shall meet at least annually with the Child Protection Accountability Commission to jointly discuss the public recommendations generated from reviews conducted pursuant to §323(e) of this subchapter. This meeting shall be open to the public.”

Section 7. Amend Title 31, Section 321(d) of the Delaware Code by inserting following sentence after the first sentence:

“One of the panels shall be designated to review cases pursuant to § 323(e) of this subchapter. However, for good cause shown to the Commission, any panel may investigate and review any death, near death or stillbirth entitled to review by the Commission.”

Section 8. Amend Title 31, Section 323(a) by inserting the phrase “and near deaths” after the word “deaths” and before the word “of” in the first sentence, and further by inserting the phrase “and Child Protection Accountability Commission and” after the phrase “General Assembly” as found in the third and fourth sentences.

Section 9. Amend Title 31, Section 323(c)(2) by inserting the phrase “or near death” after the word “death” and before the word “under”.

Section 10. Amend Title 31, Section 323(e) by inserting the phrase “or near death” after the word “death” and before the word “of” in the first and second sentences, by striking the word “deceased” in the first sentence, and further by inserting the following as the last sentence:

“For good cause shown to the Commission, completion of an investigation and review under this subsection may be extended from three to six months.”

Section 11. Amend Title 31, Section 323(f) by inserting the phrase “or near death” after the word “death”.

Section 12. Amend Title 31, Section 324(a) by inserting the phrase “or near death” after the word “death” in the first sentence.

Section 13. The provisions of this Act shall be applicable to child near deaths occurring subsequent to July 1, 2004. Execution of these provisions shall not occur until staffing of the Commission is in place.

SYNOPSIS

This Bill creates a procedure by which the Child Death Review Commission will perform expedited reviews of all children who nearly die from abuse and/or neglect. The expedited review is to provide meaningful, prompt, system wide recommendations in an effort to prevent future deaths, to improve services to children and to ensure compliance with the Federal requirements that the State is effectively discharging its child protection responsibilities. These recommendations will be shared and acted upon in conjunction with the Child Protection Accountability Commission in an effort to further its statutory mandate of evaluating the effectiveness of Delaware’s child protection system.

Author: Senator Cook

APPENDIX TAB H

RECOMMENDATIONS FROM THE CPAC NEAR DEATH REVIEW OF JOHN DAVIS JR.

DIVISION OF FAMILY SERVICES - 16 Del.C. § 912(b)(1)

1. The Division should immediately fill all 15 over hire (“trainee”) positions and keep those positions filled pursuant to 29 Del. C. § 9015(b)(4) so that fully trained staff are always available to fill vacancies. While the Department has indicated that filling the over hire positions will not alleviate the high caseloads that they experience on a regular basis, the Subcommittee believes that a commitment to use of the over hire positions will assist in providing the needed resources when dealing with positions of high turnover and burnout.
2. DFS should consider weighted caseload distribution, so that cases with a chronic risk of recurring abuse and/or neglect – i.e., families with a long child protection history with multiple children -- are counted differently than a less complex and time-consuming case, resulting in a more balanced workload.
3. DFS should seriously consider opening cases in the name of a child, and assigning workloads by children, not by family or parent.
4. Caseloads must be at or below the standard set for each worker. If not, CPAC should be alerted.
5. DFS should commence a comprehensive work-study analysis to identify barriers to quality social work and provide short and long-term solutions for a manageable workload for DFS social workers.
6. DFS workers need to be closely monitored to ensure that they are adequately performing their job. Mistakes, poor judgment, lack of knowledge and differing philosophies by workers can cost children their lives. Supervisors who cannot adequately monitor and supervise their subordinates’ work should not be in the role of a supervisor.
7. DFS Management should perform reviews of other cases handled by investigation worker #1 and treatment worker #2 to ensure that decisions were not and are not being made that leave children at grave risk of abuse, neglect and possibly death.
8. In the short term, DFS should reiterate the importance of the current risk assessment tool and ensure that workers are using it. Clearly there is a disconnect for some between policy and practice regarding the Risk Assessment Tool. Policy states this tool is

important and should be used by workers in decision-making, yet one worker and supervisor say it is useless and largely ignored.

9. DFS should require an actual meeting, not a diligent attempt to make one, to occur within the DFS investigation guidelines. After one contact is missed and the time deadline for making the contact has passed, a plan should be developed by the DFS regional administrator for ensuring that prompt contact with the family and children is made. If statutory changes are needed to provide workers with additional tools to compel parents whose cases are opened with DFS to cooperate, that issue should be brought to light. Most important, workers must recognize that a parent's failure to meet with DFS may be a warning sign that the parent is attempting to conceal abuse by evading authorities.
10. Case plans and services should focus on the risk factors set out in the investigation risk assessment tool. While other issues crop up in these cases, resulting in additional or different services, workers must not lose sight of the issues that required initial DFS involvement.
11. Risk assessment should continue to occur during the treatment process, and treatment workers should be thoroughly trained on same, including the protocol for serious injury reports.

FAMILY COURT - 16 Del.C. § 912(b)(1)

1. Family Court and DFS should implement policies and procedures similar to those employed by law enforcement to ensure prompt and consistent notification to DFS of children seen by Family Court who are at-risk in intrafamilial relationships. While the Judiciary is designing a new computer system called COTS ("Courts Organized To Serve"), there is an immediate need for DFS and Family Court to enter into discussions about how to achieve a better notification system regarding at-risk children seen by the Family Court but unknown to DFS. This should include a review of all matters brought before Family Court such as custody petitions, PFAs ("Protection from Abuse"), visitation matters, and delinquency proceedings, which should trigger notification to DFS and other child welfare systems.
2. Family Court Commissioners and Judges, as statutorily mandated reporters, should notify DFS on all PFA petitions and "no contact orders" in which children are involved.
3. Family Court and the Children's Dept. should develop a policy or procedure similar to the procedure between police and DFS regarding the referral of civil and criminal domestic violence incidents that result in Court orders where children are involved.
4. All related files on a "family" should be presented to judicial officers when making civil determinations regarding children. Long term, the subcommittee recommends that this particular issue be incorporated into the new COTS computer system, enabling a full and complete picture of a family to be provided to the judicial officer to enable them to make the best possible decision on behalf of a child that first and foremost protects their safety.

LAW ENFORCEMENT AGENCIES - 16 Del.C. § 912(b)(1)

1. Wilmington Police Department (WPD) must have supervisors and officers who are fully trained in investigating child abuse/neglect cases and committed to working and communicating with all members of the child welfare system. If Wilmington Police Department is unable to investigate a child abuse and/or neglect matter, they should invoke 16 Del. C. § 906(b)(3), permitting the Delaware State Police to assist in such cases. This is critical not just for the intrafamilial cases where DFS is involved, but also for the countless City of Wilmington children subjected to extrafamilial abuse and/or neglect whose sole government agency protector is the WPD.
2. WPD should review Title 16, Ch. 9 and the Memorandum of Understanding, to ensure compliance by all of its employees, including but not limited to using the proper domestic violence incident reports, and keeping DFS regularly apprised of the status and findings of its investigation. 16 Del. C. § 906(b) (4).

LEGAL/LEGISLATIVE - 16 Del.C. § 912(b)(3)

1. 16 Del. C. § 912 should be modified to include statutory authority for CPAC to conduct future reviews of child welfare cases, including a provision for subpoena power in conducting reviews, and in cases of death or near death of the child, public distribution of any resulting reports.
2. Delaware law should be modified to comply with the CAPTA requirement for disclosure of findings and information in death and near death cases due to abuse and/or neglect, regardless of reviews
3. Increasing prison time and scrutinizing plea agreements for abuse that results in the near death of a child should be explored. The plea agreement and jail sentence for this horrific crime committed against John Davis, Jr. was grossly insufficient. The punishment should fit the crime.
4. The statutory definitions of neglect should be reviewed and standardized, and should incorporate history as a basis for a finding of abuse or neglect. The current definitions and accompanying case law derived therefrom have cultivated incident-based findings that do not adequately consider the relevance of history in determining risk to children.
5. A representative of the Wilmington Police Department needs to be added as a member of CPAC. The CPAC statute currently requires the appointment by the Governor of two law enforcement representatives. The New Castle County Police Department and the Delaware State Police have been critical participants in the Commission and this review. However, it is equally critical that a representative of the Wilmington Police Department be added to the Commission.
6. The hearsay exception (Title II, 2513) should be re-evaluated. The Commission suggests a collaborative effort to evaluate the statute among the Department of Justice, the

Department of Services for Children, Youth, and Their Families, the Office of the Child Advocate, and an independent advocate for Children.

MULTI-DISCIPLINARY COORDINATION AND COLLOBORATION - 16 Del.C. § 912(b)(1) and (2)

1. Immediately finalize the proposed updated MOU between law enforcement, DFS, the Children's Advocacy Center and the DOJ. This review and revision process should include how staff will work together in the field to address child welfare cases. If there are legal issues as to what information can and cannot be shared among these agencies, those issues should be clearly defined so that all of the partner agencies understand any limitations on information sharing.
2. A process should be developed for interagency meetings to review and discuss particularly complex cases-- a system similar to the CAC's Case Review Team meetings, where agencies update each other on open and pending cases. This process must focus on the civil as well as the criminal components of the case. This process greatly minimizes the chances of cases falling through the cracks.
3. Multidisciplinary protocols must be established to address breakdowns in intra-agency and interagency communication. Front line personnel should be made aware of liaisons, contacts, etc. in their own agency and in other agencies that can facilitate communication breakdowns.
4. Law Enforcement as well as other disciplines should consult with child abuse/neglect medical experts when investigating a possible child abuse/neglect case.

MULTI-DISCIPLINARY REPORTING AND INVESTIGATION OF CHILD ABUSE AND NEGLECT - 16 Del.C. § 912(b)(2)

1. DFS should review its research on nationwide risk assessments and consider modifying or replacing its current structured decision-making tool at the hotline and during the investigation process. In the short term, protocols for acceptance of a case by the report line should be reviewed and improved to consider history. Specifically, a compilation of risk factors such as low birth weight, previous DFS history, HIV positive, drug positive at birth, fetal alcohol syndrome, criminal history etc., should trigger an automatic acceptance of a case. Such tools and protocols will help to standardize DFS responses to reports of child abuse and/or neglect.
2. Training regarding the reporting of abuse and neglect as required by 16 Del. C. § 911 (a) and (b) should be implemented, with an annual training schedule being developed and widely distributed to the broader child welfare community and the public. Wide publication of the child abuse report line to the public and child welfare professionals should occur immediately as required by 16 Del. C. § 911(c).

3. The Wilmington Police Department, Family Court and the local hospitals should ensure that their employees are aware of the mandatory reporting laws for suspected child abuse and/or neglect and the penalties for failure to report. 16 Del. C. §§ 903 and 914. With respect to the Wilmington Police Department, they should also review and ensure employee compliance with the reporting requirements under the Memorandum of Understanding between Law Enforcement, the DSCYF and the Department of Justice (“MOU”).
4. DFS should take steps to ensure that hotline and investigative staff request complete information on all parents, parties, and members of the child’s household, and that FACTS checks on those individuals are completed and the results clearly conveyed to others within the Division, as required by 16 Del. C. § 905(d).
5. The Division of Public Health should document problems they encounter with clients and meet periodically with DFS to get clarification on what to report to the hotline and the best way to report concerns to DFS.
6. Reports made by professionals should be given the highest degree of deference and accepted in all cases unless good cause exists for rejecting the report. Reporters should be contacted immediately by the investigation worker (16 Del. C. § 906(b)(13)) and provided with the outcome of the decision and/or the investigation. 16 Del. C. § 906(b)(16).
7. In conjunction with giving the highest degree of deference to reports made by professionals, including the Division of Public Health, the High Risk Infant Protocol should be reviewed, and all parties should make a renewed commitment to its use to ensure the safety of high-risk newborns.
8. DFS should automatically accept for investigation all hotline reports on a newborn when a parent has lost custody of previous children due to abuse and/or neglect even without a new allegation of abuse or neglect to give the new baby the same protections that the other children have received.

MULTI-DISCIPLINARY TRAINING - 16 Del.C. § 912(b)(4)

1. All CPAC members should make a renewed commitment to pooled resources and training to ensure annual comprehensive, multi-disciplinary training on child abuse and/or neglect. Training should use the recommendations in this report and specifically focus on the various components of the child welfare system and how critical multi-disciplinary collaboration is to ensuring the safety of children. Immediate training issues shall include:
 - a. Reporting of child abuse and/or neglect;
 - b. Detecting child abuse and/or neglect;
 - c. DFS hotline responses to reports of child abuse and/or neglect;
 - d. Communication between DOJ, law enforcement, and DFS on the civil and criminal aspects of a case, and the inclusion of Family Court for communication regarding policies and procedures;

- e. Child welfare and domestic violence;
- f. Importance of child welfare history; and
- g. Investigative techniques to address cases where there is more than one suspected perpetrator.

MULTI-DISCIPLINARY USE OF CHILD WELFARE HISTORY IN DECISION MAKING - 16 Del.C. § 912(b)(1) and (2)

1. DFS must once again re-evaluate the adequacy of its training regarding the use of history in making decisions on removal and placement of children. This case should be used in future trainings. Quality control measures should be used to ensure that history is being taken into consideration in all casework.
2. DFS must evaluate its policies to clarify *how* history should be used by caseworkers.
3. DFS caseworkers should be trained that history, especially abuse history, does not depend upon charging decisions or legal classifications of conduct.
4. The importance of history should be incorporated into multi-disciplinary child welfare training.
5. DFS continues to operate an “incident based” belief system for removal of a child from his or her home. Documented patterns of abuse or neglect may warrant removal even in the absence of a single serious incident”.
6. Incorporate into the current system a flag for workers to check DELJIS as part of their casework. To the extent, workers do not have DELJIS access must be expanded. It is disturbing to hear that treatment worker #2 did not know whether or not she even had access to DELJIS to check the history of their clients. DELJIS information is critical in making safety and treatment decisions regarding children.

OFFICE OF THE ATTORNEY GENERAL - 16 Del.C. § 912(b)(1)

1. Implement a Department of Justice case tracking system to ensure that cases do not fall through the cracks when personnel are reassigned from their unit or charges are filed at different levels. This system should apply to both the civil and criminal Divisions of DOJ and be fully accessible by both.
2. Criminal case outcomes involving child victims or an open DFS case should be transmitted to DFS workers. This may require some type of liaison to assist in tracking such cases and facilitating communication between DOJ, DFS, law enforcement, Children’s Advocacy Center and Family Court.
3. DOJ should review 16 Del. C., Ch. 9, and the 1998 Memorandum of Understanding requiring multi-disciplinary collaboration between state agencies involved in child protection and apply those principles to the DOJ internally.