

CHAPTER 129

CHILD PROTECTION INVESTIGATIONS

Authority

N.J.S.A. 9:6-8.15, 9:6-8.36a, 9:6-8.106, and 30:4C-4(h).

Source and Effective Date

R.2012 d.015, effective December 13, 2011.
See: 42 N.J.R. 3034(a), 44 N.J.R. 263(a).

Chapter Expiration Date

Chapter 129, Child Protection Investigations, expires December 13, 2018.

Chapter Historical Note

Chapter 129, Child Abuse and Neglect Cases, was adopted as R.1979 d.400, effective October 11, 1979. See: 11 N.J.R. 74(a), 11 N.J.R. 559(b).

Pursuant to Executive Order No. 66(1978), Chapter 129, Child Abuse and Neglect Cases, was readopted as R.1984 d.489, effective October 1, 1984. See: 16 N.J.R. 2224(a), 16 N.J.R. 3033(a).

Subchapter 2, Child Abuse Prevention and Treatment Act of 1974 Requirements, was adopted as R.1985 d.373, effective July 15, 1985. See: 17 N.J.R. 885(a), 17 N.J.R. 1766(b).

Pursuant to Executive Order No. 66(1978), Chapter 129, Child Abuse and Neglect Cases, was readopted as R.1990 d.389, effective July 13, 1990. See: 22 N.J.R. 1535(a), 22 N.J.R. 2320(a).

Pursuant to Executive Order No. 66(1978), Chapter 129, Child Abuse and Neglect Cases, was readopted as R.1995 d.362, effective June 12, 1995. See: 27 N.J.R. 1125(a), 27 N.J.R. 2616(c).

Subchapter 2, Child Abuse Prevention and Treatment Act Requirements, was repealed by R.1999 d.238, effective August 2, 1999. See: 30 N.J.R. 3912(a), 31 N.J.R. 2211(a).

Pursuant to Executive Order No. 66(1978), Chapter 129, Child Abuse and Neglect Cases, was readopted as R.2000 d.253, effective May 23, 2000. See: 32 N.J.R. 439(a), 32 N.J.R. 2241(a).

Chapter 129, Child Abuse and Neglect Cases, was readopted as R.2005 d.441, effective November 18, 2005. As a part of R.2005 d.441, Chapter 129, Child Abuse and Neglect Cases, was renamed Child Protection Investigations; Subchapter 1, Policy Concerning the Referral and Investigation of Child Abuse and Neglect Cases, was renamed General Provisions; and Subchapter 2, Child Protection Investigation Process, Subchapter 4, Services and Removal During Investigation, Subchapter 5, Findings and Documentation, and Subchapter 6, Expunctions, were adopted as new rules, effective December 19, 2005. See: 37 N.J.R. 2132(a), 37 N.J.R. 5004(b).

In accordance with N.J.S.A. 52:14B-5.1b, Chapter 129, Child Protection Investigations, was scheduled to expire on May 17, 2013. See: 43 N.J.R. 1203(a).

Chapter 129, Child Protection Investigations, was readopted as R.2012 d.015, effective December 13, 2011. As a part of R.2012, d.015, Subchapter 2 was recodified in part to new Subchapter 3; new Subchapter 3 was named Child Protection Investigation Process for Local Office Investigations; Subchapter 4, Child Protection Investigation Process for the Institutional Abuse Investigation Unit, was adopted as new rules; former Subchapter 3, Specialized Assessment and Investigation, was recodified as Subchapter 5; former Subchapter 4, Services and Removal During Investigation, was recodified as Subchapter 6; former Subchapter 5, Findings and Documentation, was recodified as Subchapter 7; and former Subchapter 6, Expunctions, was recodified as

Subchapter 8, effective February 6, 2012. See: Source and Effective Date. See, also, section annotations.

Cross References

See N.J.A.C. 10:91-5.9, Blind and visually impaired services suspected child abuse or neglect reporting.

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SUBCHAPTER 1. GENERAL PROVISIONS

10:129-1.1 Purpose and objectives

(a) The purpose of this chapter is to:

1. Describe how the Department conducts a child protection investigation;
2. Explain the requirements of a child protective investigator in performing an investigation; and
3. Explain what an alleged child victim, caregiver, or parent or guardian may expect during the course of a child protection investigation.

(b) The objectives of this chapter are to:

1. Define when an investigation is required;
2. Identify each allegation of abuse or neglect that constitutes a report;
3. Establish the time frame for initiating an investigation;
4. Identify the evidence needed to support a finding;
5. Define the requirements for starting and completing an investigation conducted by local office staff or Institutional Abuse Investigation Unit staff, including a safety assessment and risk assessment;
6. Define Department actions permitted in performing investigations;
7. Define each circumstance requiring referral of a report to a medical or other professional, law enforcement officer or prosecutor for specialized assessment;
8. Set forth guidelines by which Department caseworkers may easily identify cases that must be referred to prosecutors;
9. Establish procedures for such referrals to prosecutors;
10. Establish a system through which a Department caseworker may assist prosecutors in determining which cases should be investigated for criminal prosecution and in identifying cases in which criminal investigation or prosecution would be detrimental to the child's best interests;

11. Establish a framework for liaison and improved communication and cooperation between the Department's local offices and the prosecutors' offices in order to further the mutual goals of protecting the child and proper law enforcement;

12. Identify the requirements for accessing law enforcement assistance;

13. Establish a requirement for providing services to an alleged child victim or his or her family members;

14. Identify the standards for removing an alleged child victim from his or her home;

15. Specify standards for documentation and notification of an investigation finding as well as other notification given at the end of an investigation; and

16. Specify standards for the expunction of a record.

Amended by R.2005 d.441, effective December 19, 2005.

See: 37 N.J.R. 2132(a), 37 N.J.R.5004(b).

Rewrote the section.

Amended by R.2012 d.015, effective February 6, 2012.

See: 42 N.J.R. 3034(a), 44 N.J.R. 263(a).

In (a)2, deleted "both" preceding "an", "initial and a formal" following "an"; deleted (b)5; recodified (b)6 through (b)17 as (b)5 through (b)16; rewrote (b)5; and in (b)8, substituted "Department" for "Division".

Case Notes

Close working relationship between the Division of Youth and Family Services and county prosecutor's office made DYFS caseworker "law enforcement officer," for purposes of Miranda when conducting custodial interview of defendant charged with sexually assaulting his daughters. State v. Helewa, 223 N.J.Super. 40, 537 A.2d 1328 (A.D.1988).

10:129-1.2 Scope

(a) The provisions of this chapter apply to the following persons involved in a child protection investigation:

1. Each child and his or her family and each household member;
2. Each child at risk of abuse or neglect;
3. Each parent or guardian of such a child;
4. Each caregiver or paramour, including a temporary or an institutional caregiver;
5. Each person named as an alleged perpetrator of abuse or neglect;
6. Each reporter;
7. The Public Defender when acting as the Department's agent; and
8. Each Department representative.

(b) The provisions of this chapter as effective April 1, 2013, shall apply to investigations commenced or reopened by the Division of Child Protection and Permanency on or