

CHAPTER 129

CHILD PROTECTION INVESTIGATIONS

Authority

N.J.S.A. 9:6-8.15, 9:6-8.36a, 9:6-8.106, 30:1-12 and 30:4C-4(h).

Source and Effective Date

R.2005 d.441, effective November 18, 2005.
See: 37 N.J.R. 2132(a), 37 N.J.R. 5004(b).

Chapter Expiration Date

In accordance with N.J.S.A. 52:14B-5.1c, Chapter 129, Child Protection Investigations, expires on May 17, 2011. See: 42 N.J.R. 3034(a).

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Subchapter 2, Child Abuse Prevention and Treatment Act Requirements, was repealed by R.1999 d.238, effective August 2, 1999.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: 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 both an initial and a formal 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 an initial investigation, including safety assessment and risk assessment;
6. Define the requirements for starting and completing a formal investigation;
7. Define Department actions permitted in performing investigations;
8. Define each circumstance requiring referral of a report to a medical or other professional, law enforcement officer or prosecutor for specialized assessment;
9. Set forth guidelines by which Division caseworkers may easily identify cases that must be referred to prosecutors;
10. Establish procedures for such referrals to prosecutors;
11. 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;
12. 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;
13. Identify the requirements for accessing law enforcement assistance;
14. Establish a requirement for providing services to an alleged child victim or his or her family members;
15. Identify the standards for removing an alleged child victim from his or her home;
16. Specify standards for documentation and notification of an investigation finding as well as other notification given at the end of an investigation; and
17. 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.

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 cus-

tomial 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;
2. Each child at risk of abuse or neglect;
3. Each parent or guardian of such a child;
4. Each caregiver, 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.

New Rule, R.2005 d.441, effective December 19, 2005.
See: 37 N.J.R. 2132(a), 37 N.J.R. 5004(b).

Former N.J.A.C. 10:129-1.2, General policy, was recodified as N.J.A.C. 10:129-1.4.

10:129-1.3 Definitions

The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise:

"Abused or neglected child" means a child:

1. Less than 18 years of age:
 - i. Whose parent or guardian inflicts, or allows to be inflicted upon such child, physical injury by other than accidental means, which causes or creates a substantial risk of death, or serious or protracted disfigurement, or protracted impairment of physical or emotional health or protracted loss or impairment of the function of any bodily organ;
 - ii. Whose parent or guardian creates or allows to be created a substantial or ongoing risk of physical injury to such child by other than accidental means which would be likely to cause death or serious or protracted disfigurement, or protracted loss or impairment of the function of any bodily organ;
 - iii. Whose parent or guardian commits or allows to be committed an act of sexual abuse against the child;
 - iv. Whose physical, mental, or emotional condition has been impaired or is in imminent danger of becoming impaired as the result of the failure of his or her parent or guardian to exercise a minimum degree of care: