

**CHAPTER 129A****CHILD PROTECTIVE SERVICE INVESTIGATIONS  
AND DETERMINATIONS OF ABUSE AND  
NEGLECT****Authority**

N.J.S.A. 9:6-8.15.

**Source and Effective Date**R.2000 d.394, effective September 6, 2000.  
See: 32 N.J.R. 1362(a), 32 N.J.R. 3571(a).**Executive Order No. 66(1978) Expiration Date**

Chapter 129A, Child Protective Service Investigations and Determinations of Abuse and Neglect, expires on September 6, 2005.

**Chapter Historical Note**

Chapter 129A, Child Protective Service Investigations and Determinations of Abuse and Neglect, was adopted as R.1995 d.510, effective September 18, 1995. See: 26 N.J.R. 3700(a), 27 N.J.R. 3609(a), 27 N.J.R. 3956(b).

Subchapter 4, Expunction of Records, was adopted as R.1999 d.243, effective August 2, 1999. See: 30 N.J.R. 3913(a), 31 N.J.R. 2211(b).

Pursuant to Executive Order No. 66(1978), Chapter 129A, Child Protective Service Investigations and Determinations of Abuse and Neglect, was readopted as R.2000 d.394, effective September 6, 2000. See: Source and Effective Date. See, also, section annotations.

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**SUBCHAPTER 1. GENERAL PROVISIONS****10:129A-1.1 Authority**

The Division of Youth and Family Services, Department of Human Services, is authorized under N.J.S.A. 9:6-8.11 and 30:4C-11 and 12 to investigate allegations of child abuse and neglect and to determine whether a child has been abused or neglected.

**10:129A-1.2 Purpose**

The purpose of this chapter is to establish rules for the Division's child protective service investigations and decision-making regarding the findings resulting from investigations, and to specify and ensure the rights of persons named as perpetrators, parents, children, caregivers, temporary caregivers, institutional caregivers, and referral sources.

Amended by R.2000 d.394, effective October 2, 2000.  
See: 32 N.J.R. 1362(a), 32 N.J.R. 3571(a).

Substituted "caregivers" for "caretakers" throughout.

**10:129A-1.3 Scope**

The provisions of this chapter shall apply to each child who has been alleged to be abused or neglected, each child at risk of abuse or neglect, or each child who may be at risk of harm or injury due to treatment of medical conditions by spiritual means alone, their parents, caregivers, temporary caregivers, institutional caregivers, persons named as perpetrators of child abuse or neglect, referral sources, the police and the Division.

Amended by R.1999 d.243, effective August 2, 1999.  
See: 30 N.J.R. 3913(a), 31 N.J.R. 2211(b).

Inserted a reference to the police.

Amended by R.2000 d.394, effective October 2, 2000.  
See: 32 N.J.R. 1362(a), 32 N.J.R. 3571(a).

Substituted "caregivers" for "caretakers" throughout.

**10:129A-1.4 Definitions**

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

"Caregiver" means a foster parent, adoptive parent, or other person who has assumed full time physical custody of a child, but does not include an institutional caregiver or temporary caregiver as defined below.

"Department" means the New Jersey Department of Human Services.

“Division” means the Division of Youth and Family Services, New Jersey Department of Human Services.

“Expunction” or “expunge” means the destruction, erasure and complete eradication of a record.

“Finding” means the official determination by the Division of the results of a child protective service investigation.

“Institution” means any facility, public or private, in-state, which provides children with out-of-home care, supervision or maintenance. The term institution includes, but is not limited to, a correctional facility, detention facility, treatment facility, public or private day school, residential school, shelter, hospital, camp, day care center that is licensed or should be licensed, foster homes, group homes and registered family day care homes.

“Institutional caregiver” means a teacher, employee or volunteer, whether compensated or uncompensated, of an institution or day school who is responsible for the child’s welfare and any other staff person of an institution, regardless of whether or not the person is responsible for the care or supervision of the child. Institutional caregiver also includes the chief administrator responsible for the operation of an institution or facility.

“Investigation” or “child protective service investigation” means the activity of gathering all information relevant to making a determination as to whether child abuse or neglect occurred.

“Office manager” means a Division employee charged with the direction of a field office of the Division.

“Perpetrator” means a person who has been determined by the Division to have inflicted or allowed to be inflicted child abuse or neglect.

“Police” means the law enforcement agency responsible for keeping the peace in a given community. The term encompasses local police departments, State police troops for communities that do not have local police protection, and military police for communities located on military installations or on Federal land.

“Protective custody” means the taking of a child into custody by a physician, director of a hospital or his or her designee pursuant to N.J.S.A. 9:6-8.16.

“Record” means the file in which the Division maintains information regarding Division intervention with a child. “Record” means both the computer file and the corresponding paper file, unless otherwise noted. “Record” includes both child welfare information and protective service information, as defined in N.J.A.C. 10:133-1.3, including information gathered from and provided by referral sources and collateral sources.

“Temporary caregiver” means a person who has assumed temporary care, custody, or control of a child but does not include an institutional caregiver or caregiver as defined above nor a police officer acting in an official capacity.

“Unfounded referral report” means a written Division report in which a Division representative has documented that the Division’s investigation of a child protective service referral resulted in a finding determination of unfounded on all counts, as defined in N.J.A.C. 10:129A-3.3(a)3.

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

1. The child is chronically and irreversibly comatose;
2. The provision of such treatment would merely prolong dying, not be effective in ameliorating or correcting all of the child’s life-threatening conditions, or otherwise be futile in terms of the survival of the child; or
3. The provision of such treatment would be virtually futile in terms of the survival of the child and the treatment itself under such circumstances would be inhumane.

Amended by R.1999 d.243, effective August 2, 1999.  
See: 30 N.J.R. 3913(a), 31 N.J.R. 2211(b).

Inserted “Expunction” or “expunge”, “Police”, “Record”, “Unfounded referral report”, and “Withholding of medically indicated treatment”.

Amended by R.2000 d.394, effective October 2, 2000.  
See: 32 N.J.R. 1362(a), 32 N.J.R. 3571(a).

Substituted “caregiver” for “caretaker” throughout.

## SUBCHAPTER 2. CHILD PROTECTIVE SERVICE INVESTIGATION

### 10:129A-2.1 Situations requiring investigations

(a) A Division representative will be assigned to and shall investigate each referral presenting reasonable cause to believe that a child may be an abused or neglected child and each referral stating that a child has been taken into protective custody.

(b) Each referral in which the harm alleged to a child is the result of treatment for a medical condition by spiritual means alone through prayer in accordance with the tenets and practices of a recognized church or religious denomination shall be handled by the Division in accordance with this chapter and N.J.A.C. 10:133A and 10:133C.