A law regarding the abuse of children became effective on June 28, 1976. The law defined child abuse and neglect and described the responsibilities of the child protective agency receiving the reports. The statute was amended almost in its entirety by the Child Abuse Prevention Act of 1997 which became effective on July 17, 1997. Additional statutory revisions have been made since 1997.


(1) Abuse” or “abused child” means that a person:
   (a) causes or inflicts sexual abuse on a child; or
   (b) has care, custody, or control of a child, and
       causes or inflicts
       a. physical injury through unjustified force as defined in § 468 of Title 11;
       b. emotional abuse;
       c. torture;
       d. exploitation; or
       e. maltreatment or mistreatment.

(2) “Neglect” or “neglected child” means that a person:
   (a) is responsible for the care, custody, and/or control of the child; and
   (b) has the ability and financial means to provide for the care of the child; and
       a. fails to provide the necessary care with regard to: food, clothing, shelter, education, health, medical or other care necessary for the child’s emotional, physical, or mental health or safety and general well-being; or
b. chronically and severely abuses alcohol or a controlled substance, is not active in treatment for such abuse, and the abuse threatens the child’s ability to receive care necessary for his or her safety and general well-being, or
c. fails to provide necessary supervision appropriate for a child when the child is unable to care for his or her own basic needs or safety, after considering such factors as the child’s age, mental ability, physical condition, the length of the caretaker’s absence, and the context of the child’s environment.

(8) “Dependency” or “Dependent child” means that a person:
(a) is responsible for the care, custody, and/or control of the child; and
(b) does not have the ability and/or financial means to provide for the care of the child; and
a. Fails to provide necessary care with regard to: food, clothing, shelter, education, health care, medical care or other care necessary for the child’s emotional, physical or mental health, or safety and general well-being: or
b. the child is living in a non related home on an extended basis without the consent and approval of the Department of Services for Children, Youth, and their Families or any agency or court licensed or authorized to place children in a non related home: or
c. the child has been placed with a licensed agency which certifies it cannot complete a suitable adoption plan.

In making a finding of dependency under this Section, consideration may be given to dependency, neglect or abuse history of any party.
16 Del. C., § 903. Reports required,

Any person, agency, organization or entity who knows or in good faith suspects child abuse or neglect shall make a report in accordance with § 904 of this title. For purposes of this section, “person” shall include, but shall not be limited to, any physician, any other person in the healing arts including any person licensed to render services in medicine, osteopathy or dentistry, any intern, resident, nurse, school employee, social worker, psychologist, medical examiner, hospital, health care institution, the Medical Society of Delaware or law-enforcement agency. In addition to and not in lieu of reporting to the Division of Family Services, any such person may also give oral or written notification of said knowledge or suspicion to any police officer who is in the presence of such person for the purpose of rendering assistance to the child in question or investigating the cause of the child’s injuries or condition.

Professional reporters are often referred to as mandated reporters, although all citizens of Delaware are required to report child abuse and neglect.

16 Del. C., § 904. Nature and content of report; to whom made.

Any report of child abuse or neglect required to be made under this chapter shall be made to the Department of Services for Children, Youth and Their Families. An immediate oral report shall be made by telephone or otherwise. Reports and the contents thereof including a written report, if requested, shall be made in accordance with the rules and regulations of the Division, or in accordance with the rules and regulations adopted by the Division.
(a) Anyone participating in good faith in the making of a report or notifying police officers pursuant to this chapter, performing a medical examination without the consent of those responsible for the care, custody and control of a child pursuant to § 906(b)(5) of this title, or exercising emergency protective custody in compliance with § 907 of this title, shall have immunity from any liability, civil or criminal, that might otherwise exist, and such immunity shall extend to participation in any judicial proceeding resulting from the above actions taken in good faith. This section shall not limit the liability of any health care provider for personal injury claims due to medical negligence that occurs as a result of any examination performed pursuant to § 906(b)(3) of this title.

(b) A hospital, hospital employee or hospital volunteer which accepts temporary emergency protective custody of a baby pursuant to § 907A of this title is absolutely immune from civil and administrative liability for any act of commission or omission in connection with the acceptance of that temporary emergency protective custody or the provision of care for the baby when left at the hospital while said baby is in the hospital’s temporary emergency protective custody except for negligence or intentional acts. If a hospital accepts temporary emergency protective custody of a baby pursuant to § 907A (Safe Arms for Babies) of this title, the State shall reimburse the hospital for eligible, medically necessary costs under the Medicaid Fee for Service Program.

16 Del. C., § 914. Penalty for violation.

(a) Whoever violates § 903 of this title shall be liable for a civil penalty not to exceed $10,000 for the first violation, and not to exceed $50,000 for any subsequent violation.

(b) In any action brought under this section, if the court finds a violation, the court may award costs and attorneys’ fees.
Now is the time to report!

• Stop current child abuse
• Prevent future child abuse and neglect
• Ensure the safety of a child – it’s everyone’s business
• Protect young children who cannot protect themselves
• Promote optimal functioning of the family
• Act quickly and do not rely on someone else to make the report

*It’s the Division of Family Services’ responsibility to investigate allegations of child abuse and neglect!*

**Making a Report**

If you suspect a child under the age of 18 is being abused or neglected or is at risk for abuse or neglect, you should make a report to the Division of Family Services by calling 1-800-292-9582. The phones are answered 24 hours a day, 365 days a year by Division of Family Services’ staff.

**Information needed**

When you call in a report, you will need to have certain information:

• Name, age (date of birth if possible), gender of the child and other family members and the names of the parents/caretakers if available

• Address, phone numbers, and/or directions to the family’s home or location of the child

• Description of the suspected abuse or neglect

• Current condition of the child
• Any other pertinent information which may assist us in determining abuse or neglect

When making a report you will not have to give your name. However, if you do give your name it will allow the caseworker to call you for further information about the family.

**Institutional Abuse**

The Division also investigates child abuse and neglect which occurs in child care facilities. Child care facilities include: transitional living programs, residential child care, foster homes, licensed child day care facilities, emergency shelters for children, correctional and detention facilities, day treatment programs, all facilities in which a reported incident involves a child/children in the custody of the Department of Services For Children, Youth and Their Families, and all facilities which are operated by the Department. There are specialized Division of Family Services staff who investigate institutional abuse reports. License-exempt child care facilities (preschools, schools, hospitals or church operated baby-sitting/Sunday schools) are investigated by the police, but a report should be made to 1-800-292-9582.

**Next Steps**

Once a report is received, the report line worker will review the facts of the case with a supervisor. If a decision is made not to investigate, you will be contacted by report line staff if you leave contact information.
The report will be accepted if the problems identified suggest a child is abused, neglected, dependent or is at risk of being abused, neglected or dependent.

The Division of Family Services utilizes a risk assessment tool to analyze the information in the report. Some information such as the young age of a child (0 - 6 years old), parental drug and alcohol abuse or evidence of current injury will show an increased risk to the child and require a quicker response time.

When a case is accepted for investigation, a caseworker will contact the parents or caretakers, the children, professionals, family members and/or friends who can help assess the family situation. The Division of Family Services also conducts a criminal background check on all household members above the age of 12.

Once the investigation is completed, the caseworker with the supervisor will determine if the family is in need of treatment services.

Confidentiality

The Division of Family Services adheres to all Federal laws and regulations governing access and release of confidential records. It is the policy of the Division of Family Services not to divulge the name of the person who reports a family to the agency without the reporter’s consent or as required by law enforcement, the Department of Justice or Court.
The Division of Family Services works collaboratively with other agencies to identify, assess and treat families. We have formal agreements known as Memoranda of Understanding (MOU) with:

- All statewide police agencies
- The Department of Justice
- Children’s Advocacy Center of DE
- The Division of Public Health
- The Department of Education
  - Local Education Agencies and Charter Schools
- The Department of Correction
- The Dover Air Force Base Family Advocacy Center
- The Delaware State Housing Authority
- The Division of Child Support Enforcement
- The Division of Developmental Disabilities Services
- The Justice of the Peace Court
Memoranda of Understanding describe specific reporting procedures, protocol for interaction between agencies, criteria for sharing of information, problem resolution and designate liaisons for each agency.

We also have collaborative relationships with the Family Visitation Centers throughout Delaware. Family Visitation Centers provide a safe, neutral place for monitored exchange of children for off-site visitation and supervised on-site visitation in families with a history of domestic violence.

Each member of the professional team serving families or children, has the responsibility to report suspected cases of child abuse or neglect. The Division of Family Services has the responsibility to investigate and determine whether abuse or neglect has actually occurred or if the child is at risk for abuse or neglect.

Some professionals have distinct responsibilities in protecting children as highlighted below:

**Child Care Staff**

Child care staff have several points of contact with the Division of Family Services. All child care facilities in the State of Delaware are licensed by the Office of Child Care Licensing.
Facilities are required to meet standards defined in *Delacare: Requirements for Residential Child Care Facilities and Day Treatment Programs*.

Child care staff also are a source of information for Division of Family Services’ staff. Child care providers see many children on a regular basis. They are able to observe a child’s appearance and behavior. In addition, they have knowledge about the interaction between a child and parent. Child care providers are a critical source of information about children who have not yet entered school.

After a family is reported for child abuse and neglect, child care providers may be part of a plan to help a family. The Division of Family Services makes referrals to child care facilities to provide a safe and stimulating environment for children. In addition, child care staff are often called upon to discuss a child’s progress.

**Law Enforcement**

*Joint Investigation:* Police officers are mandated to do joint investigation if certain crimes may have been committed as specified in 16 Del.C. § 906 (3).

*Temporary Emergency Protective Custody:* Title 16 Del.C. § 907 of the *Delaware Code* empowers police officers to take temporary emergency protective custody of children they suspect are in imminent danger of suffering serious physical harm or threat to life as a result of abuse or neglect. The police must immediately make a report to the Division of Family Services since the temporary emergency custody shall not exceed four hours.
Physicians

Medical personnel provide expertise in the identification of abuse or neglect. The Division of Family Services also relies on the medical community to confirm abuse or neglect during the course of an investigation.

Medical Examination: The Child Abuse Prevention Act of 1997 gives the Division of Family Services the 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.” These examinations are to be paid for by all insurance companies operating in the State of Delaware (18 Del.C. § 3340).

Temporary Emergency Protective Custody: Title 16 Del.C. § 907 of the Delaware Code empowers physicians to take temporary emergency protective custody of children they suspect are in imminent danger of suffering serious physical harm or threat to life as a result of abuse or neglect. Physicians must immediately make a report to the Division of Family Services since the temporary emergency custody shall not exceed four hours.
School Personnel

Educators are often a great source of information about the children we serve. Educators not only see children almost daily, they also provide a support system and role model for children. In addition, educators are able to identify, by their performance in school, children who may be having problems. Behavior and appearance are key indicators of the situation at home. Educators can provide the Division of Family Services with valuable information to help these children.

Educators can continue to help after a report has been made. Since they will most likely continue to see the child, they can report any new incidents of abuse or neglect. They also can be a support to the child and help a caseworker with services that the school may be able to provide.

The Children’s Advocacy Center of Delaware (CAC)

A Children’s Advocacy Center is a comprehensive, child-focused program based in a facility that allows law enforcement, child protection professionals, prosecutors, and the mental health and medical communities to work together when intervening in child abuse cases. The main goal of all CACs is to make sure that children are not further victimized by duplicative and unnecessary interviews. That is accomplished by utilizing trained forensic interviewers.
Physical Indicators

- Injuries that are unexplainable or do not have a reasonable explanation may be a result of child abuse. Injuries may include bruises or welts on the face, torso, buttocks, thighs or back. The marks may be in the shape of an object and may be in various stages of healing.

- Fractures/dislocations that are unexplained and involve facial structure, skull, bones around joints or spiral fractures may be child abuse.

- Burns on the palms of the hand, soles of the feet, buttocks or back that may reflect a pattern of cigarette, cigar, electrical appliance, rope or immersion burns may be child abuse.

- Cuts, bite marks, pinch marks, bald patches, retinal hemorrhaging, and abdominal injuries may also be indicators of child abuse.

Behavioral Indicators

- Overly shy, avoids contact with adults

- Afraid to go home/or requests to stay at school or child care

- Reports injuries by parents

- Cries excessively or sits and stares
• Gives unbelievable explanations for injuries

• Requests or feels deserving of punishments or suggests harsh punishments for other children.

**High Risk Children**

• Children who are disabled or have special needs are at a higher risk for abuse due to the increased stress on the caregiver.

• Children aged 0-6 are at a higher risk for abuse due to the increased level of care needed and the lack of relief for the parent through school or child care options.

• Parents who are abusing substances often have little patience. They may be impulsive and possibly experience mood swings which may put their children at higher risk for abuse.

• Children living in a home in which domestic violence is present are at an increased risk for abuse. The abuser in the home may accidentally hurt one of the children while attacking the victim of domestic violence. The abuser may decide to hurt a child in the home as a means of punishing or hurting the victim. Or, the victim of domestic violence may abuse the children due to the stress they are under from the abuser.
Abusive Head Trauma

Usually in Abusive Head Trauma (formerly Shaken Baby Syndrome), there are no skull fractures or external signs of injuries. The baby often seems fine until he/she goes into sudden respiratory arrest or seizures.

The amount and severity of shaking necessary to cause death is always intentional and abusive. These injuries are caused by a person shaking an infant violently and over a period of time. Infants typically start to show symptoms of the injuries within minutes of the abuse. The injuries from shaken baby syndrome result in fatalities in 20% to 25% of the cases and most survivors suffer brain damage. This type of abuse is most often seen in children under 18 months because infants less than one year old lack muscle control and their heads are heavier than their body. In a study of fatal cases of Abusive Head Trauma, the majority of perpetrators were men who became furious over a baby’s crying and assaulted the child out of frustration and rage.
Neglect is characterized by the chronic failure of a caregiver to provide for a child’s physical needs, such as medical, educational, supervision and basic needs of shelter, food, clothing or protection.

**Physical Indicators**

- Height and weight significantly below normal age levels
- Inappropriate or chronically dirty clothing
- Poor hygiene, body odor, lice, scaly skin
- Lack of medical or dental care
- Untreated illness or injury
- Lack of shelter, heat, water or sanitary living conditions
- Unsupervised child or abandoned child, (Delaware policy is that children aged 12 or over can be left unsupervised if the child is able to care for his/her own safety needs)

**Behavior Indicators**

- Falling asleep in school
- Poor school attendance or chronic tardiness
- Chronic hunger, begging for/stealing food
- Running away from home
- Repeated acts of vandalism
• Reports that there is no one to care for them or reports there is a lack of heat, water, electricity in the home

• Assumes adult responsibilities

High Risk Children

• Disabled children may be at increased risk for neglect because of their special needs. Physically disabled children may need additional help from a caregiver and this help may be withheld or the child may be ignored by a caregiver who is not able to deal with the child’s additional needs. Mentally disabled children or developmentally delayed children may be at increased risk for neglect because of their additional needs for help.

• Children aged 0-6 are at increased risk for neglect due to their need for additional care. Children at this age also are in need of help with many tasks throughout the day. This level of supervision and constant need can stress a parent to the point of not caring for the child properly or attending to his/her needs.

• Parents who are abusing alcohol or other drugs may not be aware of the needs a child has, therefore they neglect to provide for the child. Caregivers may not be aware of their actions or inactions and allow things to go undone, such as
paying bills, clothing, bathing or feeding a child. If a caregiver is unable to identify his/her own needs, the child’s needs will rarely be met.

- Caregivers who are victims of domestic violence are often unable to care for their child’s needs. They may be physically unable to care for a child due to injuries or they may be emotionally unable to deal with day-to-day life due to the abuse they are enduring. Children living in domestic violence situations simply may be neglected as a result of the victim’s abuse or as a part of the abuser’s violence.

**Failure to Thrive**

Failure to thrive is characterized by the lower-than-normal physical, emotional or developmental growth of a child. These children usually fall below the 3rd percentile on a normal growth chart. Failure to thrive may result from a medical condition, environmental conditions such as neglect or disturbed parenting; or a combination of medical and environmental factors. Failure to thrive can be life threatening and the child needs to be assessed by medical personnel.
Emotional abuse is characterized by a caregiver chronically belittling, humiliating and ridiculing the child. Emotional neglect is also a form of abuse and is defined as the consistent failure of the caregiver.

**Physical Indicators**

- Eating disorders
- Sleep disturbances
- Wetting/soiling by school age
- Speech disorders
- Failure to thrive
- Developmental lags
- Ulcers, severe allergies or asthma

**Behavioral Indicators**

- Poor peer relationships
- Habit disorders, such as biting, rocking, head banging, thumb sucking (in an older child)
- Behavior extremes, overly compliant/demanding, withdrawn/aggressive
- Self-destructive behavior, oblivious to hazards and risks
- Chronic academic underachievement
High Risk Children

• Children who are disabled may be at increased risk of emotional abuse or neglect due to their own behavior or physical needs which cause increased stress in a caregiver. Children who have any type of disability may frustrate a parent which could lead to emotional abuse when that parent is incapable of addressing a child’s special needs.

• Children aged 0-6 may be at a higher risk for emotional abuse or neglect due to the increased need for support during these formative years. These children are often demanding and in need of extra attention as they learn to care for some of their own needs such as feeding themselves and toileting. Because of the lack of a support network, parents may be overwhelmed and the result could be child emotional abuse or neglect.

• Parents who are currently abusing alcohol or other drugs may also have difficulty meeting their child’s emotional needs. These parents may be trying to deal with their own problems or simply be unable, because of their substance abuse, to cope with any of their child’s needs.

• Caregivers who are experiencing domestic violence may not be able to tend to a child’s emotional needs. Victims of domestic violence may be wrapped up in their own problems and unable to give a child the support he/she needs or may use the same type of emotional abuse toward the child that they are experiencing from their abuser.
Sexual abuse is the exploitation of a child for the sexual gratification of another person. Sexual abuse may include intercourse, sodomy, oral genitalia stimulation, verbal stimulation, exhibitionism, voyeurism, fondling, child pornography or prostitution. Sexual abuse that occurs within a family is called incest. The family member can be a parent, grandparent, sibling, cousin or any other relative. The Division of Family Services handles cases of sexual abuse that occur within the family. Police are often involved in these cases and also handle those in which the sexual abuse occurs outside the family. It is important to recognize symptoms of sexual abuse as early as possible so that physical evidence may be collected.

**Physical Indicators**

- Complaints of pain or irritation of the genitals
- Sexually transmitted diseases
- Pregnancy
- Frequent unexplained sore throats, yeast or urinary tract infections

**Behavioral Indicators**

- Excessive masturbation
- Sexual knowledge beyond a child’s developmental level
- Depression, suicide attempts
- Chronic runaways
- Avoidance of certain adults or places
- Decline in school performance
- Drug/alcohol abuse
Other Relevant Statutes in the Delaware Code

Title 10:
§ 901. Definitions.

(3) “Care, custody and control” or those responsible for care custody and control” shall mean a person or persons in a position of trust, authority, supervision or control over a child. It may include:

(a) a parent, guardian, or custodian;

(b) other members of the child’s family or household, meaning persons living together permanently or temporarily without regard to whether they are related to each other and without regard to the length of time or continuity of such residence, and it may include persons who previously lived in the household such as paramours of a member of the child’s household;

(c) any person who, regardless of whether a member of the child’s household, is defined as family or relatives in this section or as an adult individual defined in § 1009(b)(3)a of Title 10 of the Delaware Code;

(d) persons temporarily responsible for the child’s well-being or care such as a healthcare provider, aide, teacher, instructor, coach, sitter, day care or child care provider, or any other person having regular direct contact with children through affiliation with a school, church, or religious institution, health care facility, athletic or charitable organization or any other organization whether such a person is compensated or acting as a volunteer; or

(e) any person who has assumed control of or responsibility for the child.

For the purpose of investigation of child abuse, dependency or neglect, the Department of Services for Children and Their Families (DSCYF) may investigate any allegation of child abuse, dependency or neglect committed by persons identified herein, but shall only be responsible for the investigation of intrafamilial and institutional child abuse, dependency or neglect. Where the DSCYF is not responsible for the investigation of such child abuse or neglect, it shall immediately refer such report to the appropriate police authorities or child protective services agencies within or without the State.
Other Relevant Statutes in the Delaware Code

Title 11:

§ 468. Justification -- Use of force by persons with special responsibility for care, discipline or safety of others.

(1) c. The force shall not be justified if it includes, but is not limited to, any of the following: Throwing the child, kicking, burning, cutting, striking with a closed fist, interfering with breathing, use of or threatened use of a deadly weapon, prolonged deprivation of sustenance or medication, or doing any other act that is likely to cause or does cause physical injury, disfigurement, mental distress, unnecessary degradation or substantial risk of serious physical injury or death;

§ 612. Assault in the second degree; class D felony.

(10) A person who is 18 years of age or older and who recklessly or intentionally causes physical injury to another person who has not yet reached the age of 6 years. In any prosecution of a parent, guardian, foster parent, legal custodian or other person similarly responsible for the general care and supervision of a child victim pursuant to this paragraph, the State shall be required to prove beyond a reasonable doubt the absence of any justification offered by § 468(1) of this title. In any prosecution of a teacher or school administrator pursuant to this paragraph, the State shall be required to prove beyond a reasonable doubt the absence of any justification offered by § 468(2) of this title;

§ 771. Rape in the third degree; class B felony. (Sexual Predator Act of 1996)

(a) A person is guilty of rape in the third degree when the person:

(1) Intentionally engages in sexual intercourse with another person, and the victim has not reached that victim’s sixteenth birthday and the person is at least
Other Relevant Statutes in the Delaware Code

10 years older than the victim, or the victim has not yet reached that victim’s fourteenth birthday and the person has reached that person’s nineteenth birthday and is not otherwise subject to prosecution pursuant to § 772 or § 773 of this title;

§ 778. Sexual abuse of a child by a person in a position of trust, authority or supervision in the first degree; penalties.

This statute was amended on June 30, 2010 to clarify who is in a position of trust, authority or supervision over a child and to enhance the penalties for committing such offenses. The provisions of the present criminal code concerning rape and unlawful sexual conduct that contain “position of trust” were also consolidated as a single crime known as “sexual abuse of a child by a person in a position of trust, authority or supervision.”

A person in the position of trust, authority, or supervision is any person who assumes responsibility, whether temporarily or permanently, for the care or supervision of a child or children.

§ 1102. Endangering the welfare of a child; class E or G felony.

(4) The person commits any violent felony, or reckless endangering second degree, assault third degree, terroristic threatening, or unlawful imprisonment second degree against a victim, knowing that such felony or misdemeanor was witnessed, either by sight or sound, by a child less than 18 years of age who is a member of the person’s family or the victim’s family.

5) The person commits the offense of Driving Under the Influence as set forth in § 4177 of Title 21, or the offense of Operating a Vessel or Boat Under the Influence as set forth in § 2302 of Title 23, and during the commission of the offense knowingly permits a child less than 18 years of age to be a passenger in or on such vehicle, vessel or boat.
Title 14:

§ 4123. Child abuse detection; reporting training.

(a) Each public school shall ensure that each full-time teacher receives 1 hour of training every year in detection and reporting of child abuse. This training, and all materials used in such training, shall be prepared by the Division of Family Services.

Title 16:

§ 907A. Safe Arms for Babies

Safe Arms for Babies is a law that allows a parent to go to any Delaware hospital emergency department and leave their newborn (14 days old or younger) with any emergency department staff or volunteer. This law provides immunity from criminal prosecution for abandonment provided the baby is alive, unharmed and brought into a hospital emergency department.
Child Death

A child’s death is an extremely difficult experience for everyone involved. When a child dies, an investigation takes place on many different levels. Law Enforcement, the Medical Examiner’s Office and sometimes the Division of Family Services are involved in investigating a child’s death. Delaware also has statewide multidisciplinary Child Death, Near Death, and Stillbirth Review Panels that conduct reviews to determine if there are system, policy or legislative changes which could be made to prevent future deaths.

Child deaths may be investigated by members of the professional team. Police are searching for any criminal violations. The Medical Examiner assists in the criminal investigation as well as determining the cause of death. If child abuse or neglect is suspected, the Division of Family Services becomes involved to ensure the safety of other children in the home and to provide services as needed.

In Delaware most child deaths occur during the first year of life.

To report child abuse and neglect, call

1-800-292-9582  24 hours a day

State of Delaware
The Department of Services
for Children, Youth, and
Their Families

Delaware Youth and Family Center
1825 Faulkland Road • Wilmington, Delaware 19805

Division of Family Services Offices:
Beech Street- (302) 577-3824
University Plaza- (302) 451-2800
Kent County- (302) 739-4800
Sussex County- (302) 856-5460

Web Site: http://www.kids.delaware.gov