

A GUIDE TO UNDERSTANDING THE CHILD PROTECTION REGISTRY



Over the years many changes have been made to the laws regarding child abuse and neglect within the State of Delaware. Most of these changes were brought about due to federal or state legislation, such as the Child Abuse Prevention Act of 1997. However, throughout the history of these laws there has always been a requirement that the Division of Family Services (DFS) maintain a confidential record of each case of child abuse and neglect on an internal information system. The manner in which these records are maintained, though, has changed. On February 1, 2003, a new law was passed that established the Child Protection Registry.

• **What is the Child Protection Registry?**

The Child Protection Registry contains the names of individuals who have been substantiated for incidents of abuse or neglect since August 1, 1994. The primary purpose of the Child Protection Registry is to protect children and to insure the safety of children in child care, health care, and public educational facilities.

• **What the Child Protection Registry is not—**

The Child Protection Registry does not include individuals substantiated for dependency, parent and child conflict, adolescent problems, or cases opened for risk of child abuse and neglect. This registry is not available through the Internet and is not the same as the Sex Offender Registry maintained by the Delaware State Police, State Bureau of Identification.

• **Who has access to Child Protection Registry information?**

The Division of Family Services, Criminal History Unit in the Office of Childcare Licensing, responds to requests from employers in childcare, health care, and public schools wishing to obtain a Child Protection Registry background check for all prospective employees. These requests can only be granted with the written consent of the individual whom they are seeking information about. In addition, this information is considered when an individual applies for employment with the Department of Services for Children, Youth, and Their Families, and in determining eligibility to become a foster or adoptive parent. The only other entities with access to this information are law enforcement agencies and the Department of Justice.

• **How do you get on the Child Protection Registry?**

Upon completion of an investigation of child abuse and neglect by DFS, there are three ways an individual can be placed on the registry: 1) by not requesting a substantiation hearing in Family Court, 2) by order of Family Court after a substantiation hearing has been held, and 3) by plea or conviction of a criminal offense based on the same incident of abuse or neglect investigated by DFS.



- **What is a Limited Purpose Hearing?**

If the Division of Family Services determines from its investigation that it intends to enter a person on the Child Protection Registry as a result of a conviction on Levels II, III, or IV, the Division shall send a Notice of Substantiation to the person informing them of the substantiation and notifying them of the right to file a Petition for Limited Purpose Hearing in Family Court within 30 days of the Notice of Substantiation. The petition must explain why the conviction is not based on the same incident of abuse or neglect investigated by the Division.

Consider this...

Many agencies that you may already be familiar with maintain similar confidential internal information systems regarding their consumers. Examples include the Internal Revenue Service and the Social Security Administration.

- **How is child abuse and neglect defined?**

According to Title 10, Subsection 901 of the Delaware Code, child abuse and neglect are defined as follows:

“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.

“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.

A **child** means any person who has not reached his or her 18th birthday.

• **Will a person be on the Child Protection Registry forever?**

There are four different levels on the Child Protection Registry that relate to physical abuse, sexual abuse, and neglect. Except for Child Protection Registry Level I, a person who is substantiated for an incident of abuse or neglect shall be placed and remain on the Registry as follows:

Level I –

- *Did you know that not sending your child to school as required by law is considered educational neglect?*

These cases do not appear on the registry. However, your name and other case information will remain a part of the Division's internal information system.

Examples include educational neglect*, mild to moderate emotional neglect, mild to moderate emotional abuse, and mild physical neglect.

* Educational neglect means that a parent or caretaker has failed to follow through with a Court-ordered activity after a conviction in Court for "Failure to Send Child to School."

If an individual is convicted of any of the following crimes when based on the same incident of abuse or neglect, he or she shall be deemed to present a low risk of future harm to children and shall be placed on Level I of the Child Protection Registry: *violation of compulsory school attendance requirements or truancy.*

Level II –

- *Did you know when your child witnesses an incident of domestic violence it is considered emotional neglect?*

When an individual is substantiated on Level II, his or her name will remain on the Registry for three years.

Neglect considered Level II includes some things many parents are not aware of such as leaving a child between the ages of 12 and 17 years alone for an extended period of time and a lack of supervision for children ages 7 to 11 years. Locking a child in or out of a space when they are between the ages of 12 and 17 is considered Level II as well. Moderate physical neglect is also placed on Level II.

Examples of physical abuse that would be on Level II are bruises, cuts, and lacerations not requiring intervention by a medical professional.

Severe emotional abuse (such as ridiculing, shunning, and isolating a child) and neglect is also placed on this level.

If an individual is convicted of the following crimes when based on the same incident of abuse and neglect, he or she shall be deemed to present a moderate risk of future harm to children and shall be placed on Level II of the Child Protection Registry: *interference with custody.*

Consider this...

The following are some things to think about before leaving a child alone:

1. Consider the child: How mature is the child? How comfortable is the child with the situation? What has the child done in the past to show you he or she is able to take on this responsibility?
2. Consider the child's knowledge and ability: Does the child know how and when to contact emergency help? Is the child able to prepare food for him or herself? Are there hazards to the child in the environment such as accessible knives, power tools, a stove or an oven?
3. Consider the situation: Where will the child be when left alone? How long is the child to be alone?

Level III –

- *Did you know that if you are capable of caring for your child and you refuse, you could be placed on the Registry for abandonment?*

Individuals placed on Level III remain on the Registry for seven years.

Substantiations of abandonment of children ages 13 to 17 years old, leaving a child ages 7 to 11 years alone, lack of supervision for children ages 6 and younger and locking in or out of children ages 7 to 11 are all considered grounds for placement at Level III of the Registry.

This level accounts for more extreme forms of physical abuse such as bizarre treatment, bruises, cuts, & lacerations requiring intervention by a medical professional, and dislocations or sprains. In addition, all substantiated cases of abuse involving a child under the age of six months are included at this level, regardless of the need for medical treatment beyond a medical examination. Verbal innuendos (inappropriate sexualized statements to a child by a parent/ caretaker intended to entice or alarm) also can place individuals at Level III. Malnutrition, non-organic failure to thrive*, non-life-threatening medical neglect, and serious physical neglect are also on this level.

If an individual is convicted of any of the following crimes when based on the same incident of abuse and neglect, he or she shall be deemed to present a high risk of future harm to children and shall be placed on the Child Protection Registry at Level III: *offensive touching, sexual harassment, menacing, reckless endangering in the second degree, assault in the third degree, terroristic threatening, unlawful imprisonment in the second degree, unlawful administration of drugs or controlled substances, abandonment of a child, indecent exposure in the first/second degree, misdemeanor endangering the welfare of a child, or child abuse in the third degree.*

Consider this...

Discipline is an opportunity to teach children and role model positive behaviors. When picking a form of discipline keep in mind that it should be developmentally appropriate, based on the age of the child, and consistent. Some examples might include time-outs for younger children or removal of privileges for older children.

*Non-organic failure to thrive means a lack of appropriate physical and emotional development that threatens the well being of the child. It can be permanently damaging to the child without being life threatening.

Level IV –

- *Did you know that you can be charged with felony endangering the welfare of a child when a child riding in your car is injured while you are driving under the influence (DUI)? This is also considered neglect and can place you on Level IV of the Registry.*

A designation of Level IV is reserved for the most severe cases of physical abuse, sexual abuse, and neglect. Individuals placed on this level remain on the Registry permanently.

Examples of physical abuse at this level include blunt force trauma, bone fractures, puncture or stab wounds, head trauma, internal injuries, “shaken baby” injuries, burns or scalds, suffocation, poisoning, and death.

Sexual abuse assigned to Level IV means any sexual contact, sexual intercourse, or sexual penetration, as those terms are defined in the Delaware Criminal Code, between a parent or caretaker and a child. Also included at this level are incidents of exploitation, pornography, and other forms of sexual abuse. Exploitation can include non-sexual acts such as instructing a child to steal, deal drugs, or even drive a car without a license.

Level IV neglect is designated as abandonment of children ages 0 to 12 years of age, leaving a child ages 6 years or younger alone, and locking in or out a child ages 0 to 6 years old. Life threatening medical neglect of a child is also placed on Level IV of the registry.

If an individual is convicted of any of the following crimes when based on the same incident of abuse or neglect he or she shall be deemed to present the highest risk of future harm to children and shall be placed on the Child Protection Registry at Level IV: *vehicular assault, vehicular homicide, criminally negligent homicide, assault in the first or second degree, murder, manslaughter, murder by abuse or neglect, incest, rape, unlawful sexual contact, sexual extortion, sexual solicitation of a child, bestiality, continuous sexual abuse of a child, possession of child pornography, unlawfully dealing in child pornography, felony endangering the welfare of a child, dangerous crime against a child, kidnapping, coercion, dealing in children, unlawful dealing with a child, sexual exploitation of a child, promoting suicide, reckless endangering in the third degree, unlawful imprisonment in the first degree, child abuse in the first/second degree, felony sex offender unlawful sexual conduct against a child, felony sexual abuse of a child by a person in a position of trust in the first/second degree, or trafficking of persons and involuntary servitude.*

Frequently Asked Questions about the Child Protection Registry...

- **How do I know if my name is on the Child Protection Registry?**

The case worker assigned to investigate a case will send a Notice of Intent to Substantiate for Abuse and Neglect and Enter on Child Protection Registry letter informing the person that the Division intends to substantiate them for an incident of abuse or neglect. The letter will specify the Child Protection Level and the consequences. In addition, individuals convicted of the previously mentioned crimes related to incidents of abuse and neglect investigated by DFS will also be placed on the Registry at the corresponding level.

- **Can an individual have her or his name removed from the Child Protection Registry?**

Removal from the Registry means only that your name may no longer be reported to child care, health care, and public schools upon their request for a Child Protection Registry check. Your name and other case information will remain as a part of the Division's internal information system and will be reported in response to inquiries related to application for employment in the Department of Services for Children, Youth, and Their Families, foster and adoptive parent decisions, child care licensing decisions, reporting pursuant to Section 309 of Title 31, or any other purpose set forth in 906 (e) of Title 16. There are three ways to have your name removed from the Registry:

1. Automatic Removal

A person who is entered on the Child Protection Registry at Child Protection Level II or Level III will be automatically removed from the Registry after the required years have been completed for that level, provided the person has not been substantiated for another incident of abuse or neglect while on the Registry.

2. Early Removal

A person who is entered on the Child Protection Registry at Child Protection Level II or Level III, may file a Petition for Removal in Family Court prior to the expiration of the time designated for the Level.

The Family Court shall have the discretion to remove the person from the Child Protection Registry. In making this determination, the Court shall consider all relevant factors, including:

- (1) The nature and circumstances of the original substantiated incident;
- (2) Any substantiated incidents of abuse or neglect while on the Registry;

- (3) The criminal history of the person, including whether the person's criminal record of arrest or conviction of the incident leading to placement on the Registry was expunged;
- (4) Compliance with the terms of probation, if applicable;
- (5) The risk, if any, the registrant poses to the victim, the community and to other potential victim;
- (6) The impact of registration and employer notification on the victim, community and other potential victims;
- (7) The rehabilitation, if any, of the person, or successful completion of a program of evaluation and treatment including any court-ordered or division-recommended case plan; and
- (8) The adverse impact of registration on the person and the rehabilitative process, including the impact on employment opportunities.

3. Removal for Entry on the Child Protection Registry as a Child

A person who was entered on the Child Protection Registry at any level as a child, may, at any time after his or her eighteenth birthday, file a *Petition for Removal from Child Protection Registry For One Entered as a Juvenile* in the Family Court. The Family Court shall have the discretion to remove the person from the Registry. In making this determination, the Court shall consider all relevant factors, including Numbers 1-8 under Early Removal (Number 2 above).

• What if an individual has had more than one case substantiated against her or him?

If an individual is substantiated for abuse or neglect while on the Registry, the imposed conditions for each incident must be completed one after the other, with the conditions for the most restrictive Child Protection Level or Levels being completed before those for the less restrictive Level or Levels.

• What if substantiations are on different Child Protection Levels?

A person who has partially completed a Level when assigned to a more restrictive Level is given credit for the partial completion when he or she has completed the conditions for the more restrictive Level or Levels.

Important Delaware Numbers:

If you need to talk to someone, call

CONTACT Lifeline: 1(800) 262-9800

24/7 Crisis Helpline, Sexual Assault Counseling, Online Support

Help Me Grow: 211

For young children, links families to appropriate health or community-based programs

Prevent Child Abuse Delaware: 1(866) 925-7223

Training and public awareness to prevent and treat child abuse and neglect

If you need a referral, call

Delaware Helpline: 1(800) 464-4357

Information and referral service that connects you to state services and provides you with assistance for problems, concerns, and issues in your life

To report child abuse, call

Child Abuse Report Line 24/7 1(800) 292-9582

Delaware Division of Family Services

Online reporting is also available.

To report elder abuse, call

Delaware Adult Protective Services 1(800) 223-9074

Delaware Division of Services for Aging and Adults with Physical Disabilities

E-mail: DelawareADRC@state.de.us

To get help about domestic violence, call

Domestic Violence Hotline 24/7 NCC: (302) 762-6110

KC and SC: 1 (800) 874-2070

Child, Inc. – bilingual staff available

Peoples Place 24/7 KC and SC: (302) 422-8058

Abriendo Puertos SC: (302) 745-9874 24/7 Spanish speaking

To report animal cruelty, call

Delaware SPCA

New Castle County Chapter: (302) 998-2281

Sussex County Chapter: (302) 856-6361

Online reporting is also available

STOP

CHILD

ABUSE

SEE THE SIGNS,
MAKE THE CALL.

800-292-9582

iseethesigns.org

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



Division of Family Services

Mission Statement

To promote the safety and well-being of children and their families through prevention, protection, and permanency.

Vision Statement

Our Children.
Our Future.
Our Responsibility.

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