SYNOPSIS
Establishes three categories for investigative findings of allegations of child abuse or neglect, and requires DCF to track and report certain unfounded cases that subsequently are substantiated.

CURRENT VERSION OF TEXT
As reported by the Senate Health, Human Services, and Senior Citizens Committee on June 13, 2011, with amendments.
AN ACT concerning child abuse or neglect [and], supplementing Chapter 6 of Title 9 of the Revised Statutes, and amending P.L.1977, c.102.

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

1. For purposes of investigating an allegation of child abuse or neglect, the Division of Youth and Family Services in the Department of Children and Families shall determine if the allegation is “substantiated,” “not substantiated,” or “unfounded.”

As used in this section:

“Not substantiated” means the available information obtained during the investigation of an allegation of child abuse or neglect, as evaluated by a child protective investigator, provides some indication of a finding that a child has been harmed or placed at substantial risk of harm by a parent or guardian, but does not indicate the child is an abused or neglected child as defined in section 2 of P.L.1971, c.437 (C.9:6-8.9).

“Substantiated” means the available information obtained during the investigation of an allegation of child abuse or neglect, as evaluated by a child protective investigator, indicates a finding by a preponderance of the evidence that a child has been harmed or placed at substantial risk of harm by a parent or guardian, and the child is an abused or neglected child as defined in section 2 of P.L.1971, c.437 (C.9:6-8.9).

“Unfounded” means the available information obtained during the investigation of an allegation of child abuse or neglect, as evaluated by a child protective investigator, indicates a finding [by a preponderance of the evidence that a child has not been harmed or placed at substantial risk of harm by a parent or guardian, or the parent or guardian was not involved in harming or placing the child at substantial risk of harm, and the child is not an abused or neglected child as defined in section 2 of P.L.1971, c.437 (C.9:6-8.9)] that there is no risk to the safety or welfare of the child.

2. Section 1 of P.L.1977, c.102 (C.9:6-8.10a) is amended to read as follows:

1. a. All records of child abuse reports made pursuant to section 3 of P.L.1971, c.437 (C.9:6-8.10), all information obtained by the Department of Children and Families in investigating such reports including reports received pursuant to section 20 of P.L.1974, c.119 (C.9:6-8.40), and all reports of findings forwarded to the child abuse registry pursuant to section 4 of P.L.1971, c.437

EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.
Matter enclosed in superscript numerals has been adopted as follows:
• Senate SHH committee amendments adopted June 13, 2011.
(C.9:6-8.11) shall be kept confidential and may be disclosed only under the circumstances expressly authorized under subsections b., c., d., e., f., g., and h. herein. The department shall disclose information only as authorized under subsections b., c., d., e., f., g., and h. of this section that is relevant to the purpose for which the information is required, provided, however, that nothing may be disclosed which would likely endanger the life, safety, or physical or emotional well-being of a child or the life or safety of any other person or which may compromise the integrity of a department investigation or a civil or criminal investigation or judicial proceeding. If the department denies access to specific information on this basis, the requesting entity may seek disclosure through the Chancery Division of the Superior Court. This section shall not be construed to prohibit disclosure pursuant to paragraphs (2) and (7) of subsection b. of this section.

Nothing in this act shall be construed to permit the disclosure of any information deemed confidential by federal or State law.

b. The department may and upon written request, shall release the records and reports referred to in subsection a., or parts thereof, consistent with the provisions of P.L.1997, c.175 (C.9:6-8.83 et al.) to:

(1) A public or private child protective agency authorized to investigate a report of child abuse or neglect;
(2) A police or other law enforcement agency investigating a report of child abuse or neglect;
(3) A physician who has before him a child whom he reasonably suspects may be abused or neglected or an authorized member of the staff of a duly designated regional child abuse diagnostic and treatment center which is involved with a particular child who is the subject of the request;
(4) A physician, a hospital director or his designate, a police officer or other person authorized to place a child in protective custody when such person has before him a child whom he reasonably suspects may be abused or neglected and requires the information in order to determine whether to place the child in protective custody;
(5) An agency, whether public or private, including any division or unit in the Department of Human Services or the Department of Children and Families, authorized to care for, treat, assess, evaluate or supervise a child who is the subject of a child abuse report, or a parent, guardian, resource family parent or other person who is responsible for the child’s welfare, or both, when the information is needed in connection with the provision of care, treatment, assessment, evaluation or supervision to such child or such parent, guardian, resource family parent or other person and the provision of information is in the best interests of the child as determined by the Division of Youth and Family Services;
A court or the Office of Administrative Law, upon its finding that access to such records may be necessary for determination of an issue before it, and such records may be disclosed by the court or the Office of Administrative Law in whole or in part to the law guardian, attorney or other appropriate person upon a finding that such further disclosure is necessary for determination of an issue before the court or the Office of Administrative Law;

A grand jury upon its determination that access to such records is necessary in the conduct of its official business;

Any appropriate State legislative committee acting in the course of its official functions, provided, however, that no names or other information identifying persons named in the report shall be made available to the legislative committee unless it is absolutely essential to the legislative purpose;

(9) (Deleted by amendment, P.L.1997, c.175).

A family day care sponsoring organization for the purpose of providing information on child abuse or neglect allegations involving prospective or current providers or household members pursuant to P.L.1993, c.350 (C.30:5B-25.1 et seq.) and as necessary, for use in administrative appeals related to information obtained through a child abuse registry search;

The Victims of Crime Compensation Board, for the purpose of providing services available pursuant to the “Criminal Injuries Compensation Act of 1971,” P.L.1971, c.317 (C.52:4B-1 et seq.) to a child victim who is the subject of such report;

Any person appealing a department service or status action or a substantiated finding of child abuse or neglect and his attorney or authorized lay representative upon a determination by the department or the presiding Administrative Law Judge that such disclosure is necessary for a determination of the issue on appeal;

Any person or entity mandated by statute to consider child abuse or neglect information when conducting a background check or employment-related screening of an individual employed by or seeking employment with an agency or organization providing services to children;

Any person or entity conducting a disciplinary, administrative or judicial proceeding to determine terms of employment or continued employment of an officer, employee, or volunteer with an agency or organization providing services for children. The information may be disclosed in whole or in part to the appellant or other appropriate person only upon a determination by the person or entity conducting the proceeding that the disclosure is necessary to make a determination;

The members of a county multi-disciplinary team, established in accordance with State guidelines, for the purpose of coordinating the activities of agencies handling alleged cases of child abuse and neglect;
(16) A person being evaluated by the department or the court as a potential care-giver to determine whether that person is willing and able to provide the care and support required by the child;

(17) The legal counsel of a child, parent or guardian, whether court-appointed or retained, when information is needed to discuss the case with the department in order to make decisions relating to or concerning the child;

(18) A person who has filed a report of suspected child abuse or neglect for the purpose of providing that person with only the disposition of the investigation;

(19) A parent, resource family parent or legal guardian when the information is needed in a department matter in which that parent, resource family parent or legal guardian is directly involved. The information may be released only to the extent necessary for the requesting parent, resource family parent or legal guardian to discuss services or the basis for the department’s involvement or to develop, discuss, or implement a case plan for the child;

(20) A federal, State or local government entity, to the extent necessary for such entity to carry out its responsibilities under law to protect children from abuse and neglect;


(22) The Child Fatality and Near Fatality Review Board established pursuant to P.L.1997, c.175 (C.9:6-8.83 et al.); or

(23) Members of a family team or other case planning group formed by the Division of Youth and Family Services and established in accordance with regulations adopted by the Commissioner of Children and Families for the purpose of addressing the child’s safety, permanency or well-being, when the provision of such information is in the best interests of the child as determined by the Division of Youth and Family Services.

Any individual, agency, board, court, grand jury, legislative committee, or other entity which receives from the department the records and reports referred to in subsection a., shall keep such records and reports, or parts thereof, confidential and shall not disclose such records and reports or parts thereof except as authorized by law.

c. The department may share information with a child who is the subject of a child abuse or neglect report, as appropriate to the child’s age or condition, to enable the child to understand the basis for the department’s involvement and to participate in the development, discussion, or implementation of a case plan for the child.

d. The department may release the records and reports referred to in subsection a. of this section to any person engaged in a bona fide research purpose, provided, however, that no names or other information identifying persons named in the report shall be made
available to the researcher unless it is absolutely essential to the research purpose and provided further that the approval of the Commissioner of Children and Families or his designee shall first have been obtained.

e. For incidents determined by the department to be substantiated, the department shall forward to the police or law enforcement agency in whose jurisdiction the child named in the report resides, the identity of persons alleged to have committed child abuse or neglect and of victims of child abuse or neglect, their addresses, the nature of the allegations, and other relevant information, including, but not limited to, prior reports of abuse or neglect and names of siblings obtained by the department during its investigation of a report of child abuse or neglect. The police or law enforcement agency shall keep such information confidential.

f. The department may disclose to the public the findings or information about a case of child abuse or neglect which has resulted in a child fatality or near fatality. Nothing may be disclosed which would likely endanger the life, safety, or physical or emotional well-being of a child or the life or safety of any other person or which may compromise the integrity of a department investigation or a civil or criminal investigation or judicial proceeding. If the department denies access to specific information on this basis, the requesting entity may seek disclosure of the information through the Chancery Division of the Superior Court. No information may be disclosed which is deemed confidential by federal or State law. The name or any other information identifying the person or entity who referred the child to the department shall not be released to the public.

g. The department shall release the records and reports referred to in subsection a. of this section to a unified child care agency contracted with the department pursuant to N.J.A.C.10:15-2.1 for the purpose of providing information on child abuse or neglect allegations involving a prospective approved home provider or any adult household member pursuant to section 2 of P.L.2003, c.185 (C.30:5B-32) to a child’s parent when the information is necessary for the parent to make a decision concerning the placement of the child in an appropriate child care arrangement.

h. The department shall track and annually publish the number of incidents determined by the department to be substantiated that involve children who previously were the subject of investigations of allegations of child abuse or neglect that were determined by a child protective investigator to be unfounded, as defined in section 1 of P.L. (C. ) (pending before the Legislature as this bill).

The department shall develop standards to reduce the incidence of repeated cases of child maltreatment identified pursuant to this subsection.
The department shall not release any information that would likely endanger the life, safety, or physical or emotional well-being of a child or the life or safety of any other person.¹

(cf: P.L. 2006, c.47, s.42)

The Commissioner of Children and Families shall adopt regulations, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), to carry out the purposes of this act.

This act shall take effect immediately.