

## §4021. Investigations

**1. Subpoenas and obtaining criminal history.** The commissioner, the commissioner's delegate or the legal counsel for the department may:

A. Issue subpoenas requiring persons to disclose or provide to the department information or records in their possession that are necessary and relevant to an investigation of a report of suspected abuse or neglect or suspicious child death, to a subsequent child protection proceeding or to a panel appointed by the department to review child deaths and serious injuries.

(1) The department may apply to the District Court to enforce a subpoena.

(2) A person who complies with a subpoena is immune from civil or criminal liability that might otherwise result from the act of turning over or providing information or records to the department; and [PL 2007, c. 586, §14 (AMD).]

B. Obtain confidential criminal history record information and other criminal history record information under Title 16, chapter 7 that the commissioner, the commissioner's delegate or the legal counsel for the department considers relevant to an abuse or neglect case or the investigation of a suspicious child death. [PL 2013, c. 267, Pt. B, §19 (AMD).]

[RR 2021, c. 2, Pt. B, §186 (COR).]

**2. Confidentiality.** Information or records obtained by subpoena shall be treated in accordance with section 4008.

[PL 1979, c. 733, §18 (NEW).]

**3. Interviewing the child without prior notification.** The department may interview a child without prior notification under the following provisions.

A. The department may interview a child without prior notification to the parent or custodian when the department has reasonable grounds to believe that prior notice would increase the threat of serious harm to the child or another person. The department may conduct one initial interview with a child without prior notification to the parent or custodian of the child when the child contacts the department or a person providing services puts the child into contact with the department. [PL 1989, c. 270, §7 (AMD).]

B. The interview may take place at a school, hospital, police station or other place where the child is present. [PL 1981, c. 369, §10 (NEW).]

C. Upon the request of a department employee, school officials shall permit the department to meet with and interview the child when the child is present at the school.

(1) School officials may require that the department employee requesting to interview the child provide a written certification that in the department's judgment the interview is necessary to carry out the department's duties under this chapter.

(2) The department caseworker shall discuss the circumstances of the interview and any relevant information regarding the alleged abuse or neglect with the child's teacher or guidance counselor or the school's nurse, social worker or principal, as the caseworker determines is necessary for the provision of any needed emotional support to the child prior to and following the interview.

(3) In order for the department to be able to conduct interviews in a manner consistent with good forensic practice, except as provided in subparagraph (1), school officials may not place any conditions on the department's ability to conduct the interview. Without limiting the generality of this subparagraph, school officials are specifically prohibited from:

(a) Requiring that certain persons be present during the interview;

- (b) Prohibiting certain persons from being present during the interview; and
  - (c) Requiring notice to or consent from a parent or guardian.
- (4) School officials shall provide an appropriate, quiet and private place for the interview to occur.
- (5) That the department intends to interview the child is confidential information and may not be disclosed to any person except those school officials, including an attorney for the school, who need the information to comply with the provisions of this paragraph.
- (6) School personnel who assist the department in making the child available for the interview or who otherwise comply with this paragraph are "participating in a related child protection investigation or proceeding" for purposes of section 4014.

Violation of this paragraph subjects any person involved in the violation, including individual school personnel, to the penalty provided in section 4009. This section does not apply to out-of-home abuse and neglect allegations as covered under subchapter 18. [PL 2023, c. 248, §3 (AMD).]

[PL 2023, c. 248, §3 (AMD).]

**4. Audio recording of planned interviews of children.** To the extent possible, the department shall audio record all planned questioning of and planned interviews with children. No later than February 1, 2003, the commissioner shall provisionally adopt rules in accordance with Title 5, chapter 375 to establish procedures for the audio recording of planned questioning of and planned interviews with children. Rules adopted pursuant to this subsection are major substantive rules as defined in Title 5, chapter 375, subchapter II-A and must be reviewed before final approval by the joint standing committee of the Legislature having jurisdiction over judiciary matters.

Information collected in an interview that was not audio recorded may not be excluded from use in court proceedings solely because the interview was not audio recorded.

[PL 2001, c. 696, §23 (NEW).]

**5. Right to record.** A person being questioned or interviewed under this chapter or the parent of a child who is the subject of a proceeding under this chapter may not be prohibited from audio recording the questioning or interview.

[PL 2001, c. 696, §23 (NEW).]

#### SECTION HISTORY

PL 1979, c. 733, §18 (NEW). PL 1981, c. 369, §10 (AMD). PL 1989, c. 270, §7 (AMD). PL 1993, c. 294, §5 (AMD). PL 2001, c. 696, §23 (AMD). PL 2007, c. 132, §1 (AMD). PL 2007, c. 586, §§14, 15 (AMD). PL 2013, c. 267, Pt. B, §19 (AMD). PL 2015, c. 283, §1 (AMD). RR 2021, c. 2, Pt. B, §186 (COR). PL 2023, c. 248, §3 (AMD).

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