

§4099-L. Duties of the investigation team

The duties of the investigation team include, but are not limited to, the following. [PL 2023, c. 248, §4 (NEW).]

1. Receive reports of alleged abuse or neglect. The investigation team shall receive reports of alleged out-of-home abuse or neglect under circumstances set out in this subchapter. When the investigation team receives a report that alleges abuse or neglect in facilities or by persons not licensed or subject to inspection by the department, the investigation team shall immediately refer the report to the agency or department charged with the responsibility to investigate the report. [PL 2023, c. 248, §4 (NEW).]

2. Investigate. The investigation team shall investigate reported out-of-home abuse or neglect.

A. The investigation team shall complete an investigation within 90 days from the date on which the investigation was initiated, except in circumstances when the information necessary to complete the investigation is unavailable to the investigation team. [PL 2023, c. 248, §4 (NEW).]

B. The investigation team's investigation of a report with a high severity allegation with respect to a child in a residential care facility must be initiated within 3 business days of the date of the receipt of the report. If the investigation team cannot initiate its investigation within 3 business days, the investigation team shall request a safety plan from the facility. [PL 2023, c. 248, §4 (NEW).]

C. To minimize redundant department investigations in response to the same or related allegations of out-of-home abuse or neglect, the investigation team shall conduct a single investigation sufficient to determine whether abuse or neglect occurred and whether a licensing violation has occurred. The investigation team shall coordinate and consult with the department entity that performs general licensing functions. [PL 2023, c. 248, §4 (NEW).]

D. The investigation team shall refer allegations of criminal activity to the office of the district attorney or the Office of the Attorney General when appropriate and shall coordinate its investigation with the office to which allegations are referred to minimize trauma to the child or children involved. [PL 2023, c. 248, §4 (NEW).]

E. The investigation team's investigation of a suspicious child death is subject to and may not interfere with the authority and responsibility of the Office of the Attorney General to investigate and prosecute homicides pursuant to Title 5, section 200-A. [PL 2023, c. 248, §4 (NEW).]

F. The investigation team shall conduct interviews as needed to investigate allegations and determine if abuse or neglect has occurred.

(1) The investigation team shall conduct interviews of a child involved in the alleged abuse or neglect in a manner that is in the child's best interest.

(2) The investigation team shall notify the parent, guardian or custodian of a child prior to initiating an interview of the child except under circumstances in which prior notification is not in the child's best interest.

(3) The investigation team shall conduct an interview of a child without prior notification in accordance with section 4021, subsection 3 and rules adopted pursuant to this subchapter. [PL 2023, c. 248, §4 (NEW).]

G. The investigation team, to the extent possible, shall record interviews in accordance with applicable rules adopted by the department and pursuant to section 4021.

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

(2) A person being questioned or interviewed under this subchapter may not be prohibited from recording the questioning or interview. [PL 2023, c. 248, §4 (NEW).]

H. Notwithstanding Title 20-A, section 6101, subsection 2, when the investigation team is conducting an investigation of a person at the Maine Educational Center for the Deaf and Hard of Hearing and the Governor Baxter School for the Deaf who is subject to licensure by the Department of Education, the Maine Educational Center for the Deaf and Hard of Hearing and the Governor Baxter School for the Deaf and the Department of Education shall disclose the following information to the investigation team:

- (1) Background checks related to the person;
- (2) The person's credentials;
- (3) Any conduct on the part of the person related to the allegation; and
- (4) Any action taken by the Maine Educational Center for the Deaf and Hard of Hearing and the Governor Baxter School for the Deaf or the Department of Education in response to conduct of any person at the Maine Educational Center for the Deaf and Hard of Hearing and the Governor Baxter School for the Deaf that is similar to the allegation. [PL 2023, c. 248, §4 (NEW).]

[PL 2023, c. 248, §4 (NEW).]

3. Investigative powers of commissioner. The following are investigative powers of the commissioner.

A. The commissioner or the commissioner's designee may issue a subpoena requiring a person to disclose or provide to the department information or records in that person's possession that are necessary and relevant to an investigation of a report of suspected out-of-home abuse or neglect.

- (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.
- (3) Information or records obtained by subpoena must be treated in accordance with section 7703. [PL 2023, c. 248, §4 (NEW).]

B. The commissioner may obtain confidential criminal history record information and other criminal history record information under Title 16, chapter 7 that the commissioner considers relevant to an investigation of out-of-home abuse or neglect. [PL 2023, c. 248, §4 (NEW).]

[PL 2023, c. 248, §4 (NEW).]

4. Determination of harm. The investigation team shall determine whether or not a child has been harmed, in which case the investigation team shall determine the degree of harm or threatened harm by a person responsible for the child. In the case of a suspicious child death, the investigation team shall determine:

- A. Whether abuse or neglect was a cause or factor contributing to the child's death; and [PL 2023, c. 248, §4 (NEW).]
- B. The degree of threatened harm to any other child for whom the person or persons responsible for the deceased child may be responsible now or in the future. [PL 2023, c. 248, §4 (NEW).]

[PL 2023, c. 248, §4 (NEW).]

5. Issue a decision. The investigation team shall issue a written decision that an allegation of abuse or neglect is unsubstantiated, indicated or substantiated. Each allegation of abuse or neglect must be considered separately. The written decision must include at least the following:

- A. The factors supporting an indicated or substantiated decision; [PL 2023, c. 248, §4 (NEW).]
 - B. The identity of the person or persons responsible in the case of an indicated or substantiated decision; and [PL 2023, c. 248, §4 (NEW).]
 - C. The person's right to appeal the department's indicated or substantiated decision pursuant to paragraph B. [PL 2023, c. 248, §4 (NEW).]
- [PL 2023, c. 248, §4 (NEW).]

SECTION HISTORY

PL 2023, c. 248, §4 (NEW).

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