

**300 Abuse and Background Checks**

**304 Child Protection Registry**

**1.0 Legal Authorization**

The legal authority for these regulations is found in the 16 **Del.C.** Ch. 9.

**2.0 Purpose**

The purpose of these regulations is (1) to develop regulations that assess the risk of future harm to children from acts of abuse or neglect and to designate each such act of abuse or neglect to a Child Protection Level, pursuant to 16 **Del.C.** §923; and (2) to develop regulations for classifying unsubstantiated cases of abuse or neglect within the Division of Family Services' internal information system, pursuant to 16 **Del.C.** §924.

**3.0 Date of Implementation**

The proposed revisions to the regulations become effective no less than ten days after publication of the final order.

**7 DE Reg. 787 (12/1/03)**

**4.0 Applicability**

These regulations apply to acts of abuse or neglect that are alleged to have occurred on or after February 1, 2003; and to the designation to Child Protection Levels of each case substantiated for abuse or neglect that was placed on the Central Registry (also known as the Central Child Abuse Registry, the Child Abuse Registry, and the Central Abuse Registry) between August 1, 1994 and February 1, 2003.

**5.0 Definition**

**"Parent/caretaker"** means those responsible for the care, custody, and control of the child as that term is defined in 16 **Del.C.** §902.

**6.0 Assessment of the Risk of Future Harm and Designation of Child Protection Levels**

6.1 During an investigation of an incident of abuse or neglect, the Division of Family Services shall be guided by 16 **Del.C.** §906(b).

6.2 A person who has been substantiated for abuse or neglect must be entered on the Child Protection Registry at one of four designated Child Protection Levels related to the risk of future harm to children arising from the incident under investigation or for which a person has been substantiated.

**7.0 Child Protection Level I**

7.1 The following incidents of abuse or neglect shall be deemed to present a low risk of future harm to children and shall be designated to Child Protection Level I:

7.1.1 **"Educational Neglect"** means failure by a parent/caretaker to follow through with Court-ordered activity for the child after conviction in Court for "Failure to Send Child to School."

7.1.2 **"Mild to Moderate Emotional Abuse"** includes, but is not limited to, behaviors by a parent/caretaker toward a child such as recurrent incidents of ridiculing, demeaning, making derogatory remarks, cursing, or threatening to inflict undue physical or emotional harm.

7.1.3 **"Mild to Moderate Emotional Neglect"** means mild to moderate and/or isolated incidents of isolating/shunning, rejecting, or ignoring a child. This category includes inaction by a parent/caretaker or a failure to protect the child that results in little to no harm to the child's sense of well-being and safety. Child witnessing of misdemeanor domestic violence is also at this level.

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- 7.1.4 **“Mild Physical Neglect”** means failure by a parent/caretaker of a child to provide for the basic needs (e.g., food, clothing, shelter) of the child, for no apparent financial reason, and although this failure decreases the child’s general well-being, it does not present a threat to the child’s safety. The child’s general well-being may also be decreased by inaction by a parent/caretaker or a failure to protect the child.
- 7.2 Conviction of any of the following crimes when based on the same incident of abuse or neglect as alleged in the Notice of Intent to Substantiate shall be deemed to present a low risk of future harm to children and shall be designated Child Protection Level I:
- 7.2.1 violation of compulsory school attendance requirements or truancy,
- 7.3 An incident of abuse or neglect containing the elements of any crime or offense listed or described in 7.2.1 without regard to the institution or result of criminal or delinquency proceedings based on such incident.

**7 DE Reg. 787 (12/1/03)****8.0 Child Protection Level II**

- 8.1 The following incidents of abuse or neglect shall be deemed to present a moderate risk of future harm to children and shall be designated Child Protection Level II:
- 8.1.1 **“Bruises, cuts and lacerations not requiring intervention by a medical professional”** means injury caused by a parent/caretaker to the body tissue of a child causing discoloration, but without breaking the skin (bruise) or an injury which causes an open wound (cut/laceration) of a child over the age of six months. The injuries did not require medical treatment beyond medical examination and/or were not extensive (size, quantity, and location) on the child’s body.
- 8.1.2 **“Child Left Alone, Ages 12-17/Disabled Child with Minimal Care Needs”** means a parent/caretaker left the child alone or without a substitute caretaker for an extended period of time and appropriate plans for an emergency have not been made. This category includes a disabled child of any age who requires on-site supervision and protection, but minimal assistance with activities of daily living (e.g., eating, hygiene, toiletry).
- 8.1.3 **“Lack of Supervision, ages 7 – 11”** means the parent/caretaker of a child fails to provide immediate care to ensure the well-being and safety of the child, who is unable to care for him/herself or respond appropriately to an emergency. These are incidents in which the parent/caretaker is physically present, but is not attending to the child due to behaviors such as substance abuse.
- 8.1.4 **“Lock In/Out, ages 12 – 17”** occurs when a parent/caretaker deliberately locks a child for a prolonged period of time in a confined area such as a bedroom, closet, and car or locks the child out of the home.
- 8.1.5 **“Moderate Physical Neglect”** means failure by a parent/caretaker of a child to provide for the basic needs (e.g., food, clothing, shelter) of the child, for no apparent financial reason, and this failure decreases the child’s safety or general well-being. This category includes inaction by a parent/caretaker or a failure to protect the child that results in moderate harm to the child.
- 8.1.6 **“Other Physical Abuse”** means actions prohibited by **Delaware Code** such as striking with a closed fist and kicking or other actions such as biting and pulling hair by a parent/caretaker of a child that have not resulted in observable injury to the child.
- 8.1.7 **“Severe Emotional Abuse”** includes, but is not limited to, behaviors by a parent/caretaker toward a child such as chronically ridiculing, demeaning, making derogatory remarks, cursing, or threatening to inflict undue physical or emotional harm.
- 8.1.8 **“Severe Emotional Neglect”** includes behaviors by a parent/caretaker such as chronically isolating/shunning, rejecting, or ignoring a child. This category includes inaction by a parent/caretaker or a failure to protect the child that results in substantial harm to the child’s sense of well-being and safety. Child witnessing of felony domestic violence is also included at this level.

- 8.1.9 **“Verbal Innuendo”** means inappropriate sexualized statements to a child by a parent/caretaker intended to entice or alarm.
- 8.2 Conviction of any of the following crimes when based on the same incident of abuse or neglect as alleged in the Notice of Intent to Substantiate shall be deemed to present a moderate risk of future harm to children and shall be designated Child Protection Level II:
- 8.2.1 interference with custody or
- 8.2.2 indecent exposure in the second degree.
- 8.3 An incident of abuse or neglect containing the elements of any crime or offense listed or described in 8.2.1 or 8.2.2 without regard to the institution or result of criminal or delinquency proceedings based on such incident.

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**9.0 Child Protection Level III**

- 9.1 The following incidents of abuse or neglect shall be deemed to present a high risk of future harm to children and shall be designated Child Protection Level III:
- 9.1.1 **“Abandonment, Ages 13 – 17”** means the parent/caretaker fails to assume or refuses to assume responsibility or to provide basic care for a child on a daily basis. The basic care consists of food, clothing, shelter, medical care, reasonable and consistent financial support, and the maintenance of regular communication/contact between the parent/caretaker and child.
- 9.1.2 **“Bizarre Treatment”** means behavior toward a child by a parent/caretaker that is extreme, or significantly disproportionate to the precipitating event initiated by the child, or would not be perceived as a logical consequence by a reasonable person such as use of or threatened use of a deadly weapon.
- 9.1.3 **“Bruises, cuts, lacerations requiring intervention by a medical professional”** means injury caused by a parent/caretaker to the body tissue of a child causing discoloration, but without breaking the skin (bruise) or an injury which causes open wound (cut/laceration). The injury required medical treatment beyond medical examination and/or was extensive (size, quantity, and locations) on the child’s body. All children under the age of six months are included at this level, regardless of the need for medical treatment beyond medical examination or the extensiveness of the injury. Current evidence of historical injuries (perhaps appearing on an x-ray) that would have required medical treatment at the time of the injuries, but which do not necessitate current treatment, also require a finding at this level.
- 9.1.4 **“Child, Ages 7 – 11, Left Alone/Disabled Child with Moderate Care Needs”** means a parent/caretaker left the child alone or without a substitute caretaker. This category includes a disabled child of any age who requires on-site supervision and protection, as well as routine assistance with activities of daily living (e.g., eating, hygiene, toiletry).
- 9.1.5 **“Dislocation/Sprain”** means a medically diagnosed displacement of a bone or injury to a ligament or muscle caused by a parent/caretaker.
- 9.1.6 **“Lack of Supervision, Age 6 and Younger”** means the parent/caretaker of a child fails to provide immediate care to ensure the well-being and safety of the child, who is unable to care for him/herself or respond appropriately to an emergency. These are incidents in which the parent/caretaker is physically present, but is not attending to the child due to behaviors such as substance abuse.
- 9.1.7 **“Lock In/Out, Ages 7 – 11”** occurs when a parent/caretaker deliberately locks a child for a prolonged period of time in a confined area such as the bedroom, closet, and car or locks the child out of the home.
- 9.1.8 **“Malnutrition”** means a medically diagnosed condition of poor nourishment of a child resulting from insufficient food or an improper diet caused by a parent/caretaker.
- 9.1.9 **“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.

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- 9.1.10 **“Other Medical Neglect”** means failure by a parent/caretaker to obtain proper or necessary medical care, but the medical care is not life-threatening. This finding does not include cases governed by 16 Del. C. §913.
- 9.1.11 **“Severe Physical Neglect”** means failure by the parent/caretaker of a child to provide for the basic needs (e.g., food, clothing, shelter) of the child, for no apparent financial reason, and this failure could result in bodily harm or death. This category includes inaction by a parent/caretaker or a failure to protect the child that results in severe harm to the child.
- 9.1.12 **“Verbal Innuendo”** means inappropriate sexualized statements to a child by a parent/caretaker intended to entice or alarm.
- 9.2 Conviction of any of the following crimes when based on the same incident of abuse or neglect as alleged in the Notice of Intent to Substantiate shall be deemed to present a high risk of future harm to children and shall be designated Child Protection Level III:
- 9.2.1 abandonment of a child,
- 9.2.2 assault in the third degree,
- 9.2.3 indecent exposure in the first degree,
- 9.2.4 menacing,
- 9.2.5 misdemeanor endangering the welfare of a child or an incompetent person.
- 9.2.6 offensive touching,
- 9.2.7 reckless endangering,
- 9.2.8 sexual harassment,
- 9.2.9 terroristic threatening,
- 9.2.10 unlawful administration of drugs or controlled substances, or
- 9.2.11 unlawful imprisonment,
- 9.3 An incident of abuse or neglect containing the elements of any crime or offense listed or described in 9.2.1 - 9.2.11 without regard to the institution or result of criminal or delinquency proceedings based on such incident.

**7 DE Reg. 787 (12/1/03)****10.0 Child Protection Level IV**

- 10.1 The following incidents of abuse or neglect shall be deemed to present the highest risk of future harm to children and shall be designated Child Protection Level IV:
- 10.1.1 **“Abandonment 0 – 12”** means the parent/caretaker fails to assume or refuses to assume responsibility or to provide basic care for a child on a daily basis. The basic care consists of food, clothing, shelter, medical care, reasonable and consistent financial support, and the maintenance of regular communication/contact between the parent/caretaker and child. This finding does not include the voluntary surrender of a baby pursuant to the Safe Arms for Baby Act.
- 10.1.2 **“Blunt Force Trauma”** means serious or life-threatening bruises, cuts, lacerations caused by a parent/caretaker that require medical treatment beyond medical examination.
- 10.1.3 **“Bone Fracture”** means a medically diagnosed break or crack in a bone or cartilage caused by a parent/caretaker.
- 10.1.4 **“Burn/Scald”** means a medically diagnosed injury intentionally or recklessly inflicted by the parent/caretaker to a child by contacting the child’s skin/hair to a flame, hot object, hot liquid, electrical source, or a chemical source.
- 10.1.5 **“Child, Aged 6 or Younger, Left Alone/Disabled Child with Significant Care Needs”** means a parent/caretaker left the child alone or without a substitute caretaker. This category includes a disabled child of any age who requires on-site supervision and protection and whose activities of daily living (e.g., feeding, hygiene, toiletry) must be performed by the parent/caretaker.
- 10.1.6 **“Death”** means a child’s loss of life due to abuse or neglect by parent/caretaker.

- 10.1.7 **“Driving Under the Influence (DUI)”** means incidents documented by law enforcement of a parent/caretaker driving a vehicle under the influence of alcohol or drugs with a child present.
- 10.1.8 **“Exploitation”** occurs when a parent/caretaker behaves unethically toward a child, using the parent’s/caretaker’s position of power to solicit sexual acts in an attempt to obtain some type of sexual gratification. This category includes situations in which a parent/caretaker prostitutes a child or knowingly permits a child to be “used” by another party, regardless of whether the parent/caretaker receives sexual gratification or other compensation (money, drugs) or no compensation at all. Additionally, this category includes situations in which a parent/caretaker teaches, encourages, or instructs a child to engage in illegal behaviors (e.g., shoplifting, burglary, drug dealing, driving without a license).
- 10.1.9 **“Head Trauma”** means a medically diagnosed serious or life-threatening injury inflicted by a parent/caretaker to a child’s face or head.
- 10.1.10 **“Internal Injury”** means a medically diagnosed serious injury within the abdominal or chest area inflicted by a parent/caretaker.
- 10.1.11 **“Life-Threatening Medical Neglect”** means a parent’s/caretaker’s failure to obtain medical care for a child has resulted in permanent functional impairment attributable to neglect. Medical diagnosis is necessary to support this finding. This category also includes failure by a parent/caretaker to use equipment such as an apnea monitor or respirator, to provide medications for health problems such as diabetes or asthma, or to practice therapies in the home for a child such as suctioning of the airway as directed by a physician for the purpose of preventing death and sustaining life. This finding does not include cases governed by 16 Del. C. §913.
- 10.1.12 **“Lock In/Out, Ages 0-6”** occurs when a parent/caretaker deliberately locks a child in a confined area such as the bedroom, closet, and car or locks the child out of the home.
- 10.1.13 **“Operating a Vessel or Boat Under the Influence (BUI)”** means incidents documented by law enforcement of a parent/caretaker driving a vessel or boat under the influence of alcohol or drugs with a child present.
- 10.1.14 **“Poisoning”** means a parent/caretaker intentionally or recklessly over-medicates or causes a child to ingest alcohol, drugs (legal/illegal) not prescribed for that child, or other toxic substances, resulting in significant and/or enduring functional impairment.
- 10.1.15 **“Pornography”** means production or possession of visual material (e.g., pictures, films, video) by a parent/caretaker depicting a child engaged in a sexual act or a simulation of such an act. The visual material involves sexualized content, as opposed to “naked baby” pictures.
- 10.1.16 **“Puncture/Stab”** means a parent/caretaker inflicts injury, piercing the child’s body with a pointed object, which requires medical treatment beyond medical examination.
- 10.1.17 **“Sexual Abuse”** means any sexual contact, sexual intercourse, or sexual penetration, as those terms are defined in the Delaware Criminal Code, between a parent/caretaker and a child.
- 10.1.18 **“Shaken Baby”** means there has been a inflicted head injury which includes shaken baby and an impact injury. It involves some degree of intracranial injury. The most common manifestation is subdural hematoma, but it may include other types of intracranial injuries. There is a risk of serious and permanent brain damage and there may be a significant risk of death. This injury typically involves infants.
- 10.1.19 **“Suffocation”** means a parent/caretaker deliberately interferes with child’s ability to breathe, by strangling/choking, smothering or otherwise depriving the child of oxygen.
- 10.2 Conviction of any of the following crimes when based on the same incident of abuse or neglect as alleged in the Notice of Intent to Substantiate shall be deemed to present the highest risk of future harm to children and shall be designated Child Protection Level 4:
- 10.2.1 assault in the first degree,
- 10.2.2 assault in the second degree,
- 10.2.3 bestiality,

- 10.2.4 coercion,
  - 10.2.5 continuous sexual abuse of a child,
  - 10.2.6 criminally negligent homicide,
  - 10.2.7 dangerous crime against a child,
  - 10.2.8 dealing in children,
  - 10.2.9 felony endangering the welfare of a child or an incompetent person,
  - 10.2.10 incest,
  - 10.2.11 kidnapping,
  - 10.2.12 manslaughter,
  - 10.2.13 murder,
  - 10.2.14 murder by abuse or neglect,
  - 10.2.15 possession of child pornography,
  - 10.2.16 promoting suicide,
  - 10.2.17 rape,
  - 10.2.18 sexual exploitation of a child,
  - 10.2.19 sexual extortion,
  - 10.2.20 sexual solicitation of a child,
  - 10.2.21 unlawful dealing with a child,
  - 10.2.22 unlawfully dealing in child pornography,
  - 10.2.23 unlawful sexual contact,
  - 10.2.24 vehicular assault, or
  - 10.2.25 vehicular homicide,
- 10.3 An incident of abuse or neglect containing the elements of any crime or offense listed or described in 10.2.1 - 10.2.25 without regard to the institution or result of criminal or delinquency proceedings based on such incident.

**7 DE Reg. 787 (12/1/03)**

#### **11.0 Unsubstantiated Investigations**

- 11.1 If the Division determines from its investigation not to substantiate the person for abuse or neglect, the person may not be entered on the Child Protection Registry for that reported incident. The Division shall indicate in its internal information system that the incident is unsubstantiated, and so notify the person in writing.
- 11.2 If the Division determines from its investigation that there is no credible evidence to substantiate the person for abuse or neglect for that incident, the internal information system will indicate that the finding is "Unsubstantiated – No Evidence."
- 11.3 If the Division determines from its investigation that substantiation proceedings for that incident of abuse or neglect are not warranted or justified, but that there are reasons for concern, the internal information system will indicate that the finding is "Unsubstantiated with Concern."

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