

AN ACT

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IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

To amend the Prevention of Child Abuse and Neglect Act of 1977 to broaden and clarify the definitions of child abuse and neglect, to require multidisciplinary teams to investigate certain reports of child abuse, and to amend the circumstances under which child abuse reports can be expunged from the Child Protection Register; and to amend Title 16 of the District of Columbia Official Code to broaden and clarify the definitions of child abuse and neglect.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Improved Child Abuse Investigations Amendment Act of 2002".

Sec. 2. The Prevention of Child Abuse and Neglect Act of 1977, effective September 23, 1977 (D.C. Law 2-22; D.C. Official Code § 4-1301.01 *et seq.*), is amended as follows:

Amend
§ 4-1301.02

(a) Section 102 (D.C. Official Code § 4-1301.02) is amended as follows:

(1) Paragraph (1) is amended to read as follows:

"(1) "Abused", when used in reference to a child, shall have the same meaning as is provided in D.C. Official Code § 16-2301(23)."

(2) A new paragraph (12A) is added to read as follows:

"(12A) "Inconclusive report" means a report, made pursuant to section 3 of An Act To provide for the mandatory reporting by physicians and institutions in the District of Columbia of certain physical abuse of children, approved November 6, 1966 (80 Stat. 1354; D.C. Official Code § 4-1321.03), which cannot be proven to be either substantiated or unfounded."

(3) A new paragraph (14A) is added to read as follows:

"(14A) "Neglected child" shall have the same meaning as is provided in D.C. Official Code § 16-2301(9)."

(4) Paragraph (17) is repealed.

(5) A new paragraph (18A) is added to read as follows:

"(18A) "Substantiated report" means a report, made pursuant to section 3 of An Act To provide for the mandatory reporting by physicians and institutions in the District of Columbia of certain physical abuse of children, approved November 6, 1966 (80 Stat. 1354;

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D.C. Official Code § 4-1321.03), which is supported by credible evidence and is not against the weight of the evidence."

(6) A new paragraph (19A) is added to read as follows:

"(19A) "Unfounded report" means a report, made pursuant to section 3 of An Act To provide for the mandatory reporting by physicians and institutions in the District of Columbia of certain physical abuse of children, approved November 6, 1966 (80 Stat. 1354; D.C. Official Code § 4-1321.03), which is made maliciously or in bad faith or which has no basis in fact."

(7) Paragraph (20) is repealed.

(b) Section 105(b) (D.C. Official Code § 4-1301.05(b)) is amended by striking the phrase "supported report" and inserting the phrase "substantiated report" in its place.

Amend
§ 4-1301.05

(c) Section 106a(a) (D.C. Official Code § 4-1301.06a(a)) is amended as follows:

Amend
§ 4-1301.06a

(1) The lead-in language is amended to read as follows

"(a) Upon receipt of a report that a child (1) is born addicted or dependent on a controlled substance or has a significant presence of a controlled substance in his or her system at birth; (2) has a controlled substance in his or her body as a direct and foreseeable consequence of the acts or omissions of the child's parent, guardian, or custodian; or (3) is regularly exposed to illegal drug-related activity in the home, the Agency shall:"

(2) Paragraph (3) is amended by striking the phrase "supported report" and inserting the phrase "substantiated report" in its place.

(d) Section 108 (D.C. Official Code § 4-1301.08) is amended by striking the phrase "supported report" and inserting the phrase "substantiated report" in its place.

Amend
§ 4-1301.08
Amend
§ 4-1301.09

(e) Section 109 (D.C. Official Code § 4-1301.09) is amended as follows:

(1) Subsection (a) is amended by striking the phrase "supported report" and inserting the phrase "substantiated report" in its place.

(2) Subsection (b) is amended by striking the phrase "supported report" and inserting the phrase "substantiated report" in its place.

(f) A new Title I-A is added to read as follows:

New Part A-i

"TITLE I-A.

"MULTIDISCIPLINARY INVESTIGATION TEAM

"Sec. 151. Mandatory investigation of child abuse and neglect cases by multidisciplinary team.

New
§ 4-1301.51

"(a) Every instance of sexual abuse of a child shall be reviewed and investigated by a multidisciplinary investigation team ("MDT"), which shall focus, first, on the needs of the child, and, second, on the law enforcement, prosecution, and related civil proceedings. The MDT may handle other instances of child abuse and neglect as identified in the protocol provided in subsection (c) of this section.

"(1) A MDT shall consist of one or more representatives of the:

"(A) Metropolitan Police Department;

"(B) Child and Family Services Agency; and

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"(C) Office of the Corporation Counsel.

"(2) The Office of the United States Attorney and the Children's Advocacy Center shall be requested to designate one or more representatives to serve on a MDT, and those designated representatives shall be included on the MDT.

"(3) A MDT may also include:

"(A) A representative of the District of Columbia Public Schools;

"(B) Licensed mental health practitioners;

"(C) Medical personnel;

"(D) Child development specialists;

"(E) Victim counselors; and

"(F) Experts in the assessment and treatment of substance abuse.

"(b) The MDT shall adopt a written child abuse protocol to ensure coordination and cooperation among all agencies investigating and prosecuting cases arising from alleged child abuse or neglect to increase the efficiency and effectiveness of the agencies handling the cases and to facilitate the provision of services to children and families. The protocol shall:

"(1) Define additional categories of abuse and neglect cases, in addition to sexual abuse, which will be handled by the MDT;

"(2) Outline in detail the procedures to be used in investigating and prosecuting cases arising from alleged child abuse or neglect; and

"(3) Outline in detail the methods to be used in coordinating treatment programs and other services to the child, the family, and the perpetrator.

"(c) Subsections (a) and (b) of this section shall apply as of October 1, 2003."

(g) Section 201 (D.C. Official Code § 4-1302.01) is amended as follows:

**Amend
§ 4-1302.01**

(1) Subsection (a) is amended by striking the word "Division" and inserting the word "Agency" in its place.

(2) Subsection (b)(1) is amended by striking the word "Maintain" and inserting the phrase "Maintain, in print or in a database," in its place.

(3) Subsection (c) is amended by striking the phrase "Department of Human Services" and inserting the word "Agency" in its place.

(4) A new subsection (e) is added to read as follows:

"(e) The Mayor shall submit a report to the Council on the Agency's plan for implementation of the provisions of this title, as amended by the Improved Child Abuse Investigations Amendment Act of 2002, passed on 2nd reading on July 2, 2002 (Enrolled version of Bill 14-372), no later than January 31, 2003."

(h) Section 202 (D.C. Official Code § 4-1302.02) is amended as follows:

**Amend
§ 4-1302.02**

(1) Subsection (a) is amended by striking the phrase "concerning each supported report:" and inserting the phrase "concerning each substantiated and inconclusive report:" in its place.

(2) Subsection (c) is repealed.

(i) Section 203 (D.C. Official Code § 4-1302.03(a)) is amended as follows:

**Amend
§ 4-1302.03**

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(1) Subsection (a) is amended as follows:

(A) Paragraph (2) is amended by striking the phrase "concerning cases of an allegedly neglected or abused child;" and inserting the phrase "concerning investigating and prosecuting cases of an allegedly abused or neglected child;" in its place.

(B) A new paragraph (2A) is added to read as follows:

"(2A) The United States Attorney for the District of Columbia, or his or her agent, for the purpose of fulfilling his or her official duties concerning investigating and prosecuting cases involving an allegedly abused or neglected child."

(C) Paragraph (7) is amended by striking the word "and" at the end.

(D) Paragraph (8) is amended by striking the period at the end and inserting the phrase "; and" in its place.

(E) A new paragraph (9) is added to read as follows

"(9) Any member of a multidisciplinary investigation team ("MDT") established pursuant to Title I-A for purposes of an investigation or review conducted by the MDT."

(2) A new subsection (a-1) is added to read as follows:

"(a-1)(1) Except as provided in paragraph (3) of this subsection, the staff which maintains the Child Protection Register shall grant access to substantiated reports to the chief executive officers or directors of day care centers, schools, or any public or private organizations working directly with children, for the purpose of making employment decisions regarding employees and volunteers or prospective employees and volunteers, if:

"(A) The request is made in writing and clearly articulates the basis for the request; and

"(B) The request is accompanied by a notarized consent for release of information from the Child Protection Register signed by the employee or volunteer or prospective employee or volunteer.

"(2) Information provided pursuant to this subsection shall be limited to information pertaining to the nature and disposition of the report of abuse or neglect and shall not include any identifying information regarding any person other than the employee or volunteer, or prospective employee or volunteer.

"(3) The Agency shall not release any information pursuant to this subsection pertaining to a substantiated report that was received prior to the effective date of the Improved Child Abuse Investigations Amendment Act of 2002, passed on 2nd reading on July 2, 2002 (Enrolled version of Bill 14-372)."

(j) Section 205(b)(3) (D.C. Official Code § 4-1302.05(b)(3)) is amended to read as follows:

**Amend
§ 4-1302.05**

"(3) The administrative procedures through which the person may seek to correct information which he or she alleges is incorrect or to establish that the report is unfounded."

(k) Section 206 (D.C. Official Code § 4-1302.06) is amended by striking the word "incorrect" and inserting the phrase "incorrect or establish that a report is unfounded" in its

**Amend
§ 4-1302.06**

place.

(1) Section 207 (D.C. Official Code § 4-1302.07) is amended to read as follows:

Amend
§ 4-1302.07

"Sec. 207. Expungement

"(a) Notwithstanding any other provision of law, substantiated reports shall not be expunged from the Child Protection Register.

"(b) The staff which maintains the Child Protection Register shall expunge from each inconclusive report all information that identifies any person in the inconclusive report upon the first occurrence of either:

"(1) The 18th birthday of that child, if there is no reasonable suspicion or evidence that another child living in the same household or under the care of the same parent, guardian, or custodian has been abused or neglected; or

"(2) The end of the 5th year after the termination of the social rehabilitation services directed toward the abuse and neglect.

"(c) The staff which maintains the Child Protection Register shall expunge:

"(1) Any unfounded report immediately upon such classification by the Agency;
and

"(2) Any material successfully challenged as incorrect pursuant to the rules adopted under section 206."

Sec. 3. Title 16 of the District of Columbia Official Code is amended as follows:

(a) Section 16-2301 is amended as follows:

Amend
§ 16-2301

(1) Paragraph (9) is amended to read as follows:

"(9)(A) The term "neglected child" means a child:

"(i) who has been abandoned or abused by his or her parent, guardian, or custodian, or whose parent, guardian, or custodian has failed to make reasonable efforts to prevent the infliction of abuse upon the child. For the purposes of this sub-subparagraph, the term "reasonable efforts" includes filing a petition for civil protection from intrafamily violence pursuant to section 16-1003;

"(ii) who is without proper parental care or control, subsistence, education as required by law, or other care or control necessary for his or her physical, mental, or emotional health, and the deprivation is not due to the lack of financial means of his or her parent, guardian, or custodian;

"(iii) whose parent, guardian, or custodian is unable to discharge his or her responsibilities to and for the child because of incarceration, hospitalization, or other physical or mental incapacity;

"(iv) whose parent, guardian, or custodian refuses or is unable to assume the responsibility for the child's care, control, or subsistence and the person or institution which is providing for the child states an intention to discontinue such care;

"(v) who is in imminent danger of being abused and another child living in the same household or under the care of the same parent, guardian, or custodian has

been abused;

"(vi) who has received negligent treatment or maltreatment from his or her parent, guardian, or custodian;

"(vii) who has resided in a hospital located in the District of Columbia for at least 10 calendar days following the birth of the child, despite a medical determination that the child is ready for discharge from the hospital, and the parent, guardian, or custodian of the child has not taken any action or made any effort to maintain a parental, guardianship, or custodial relationship or contact with the child;

"(viii) who is born addicted or dependent on a controlled substance or has a significant presence of a controlled substance in his or her system at birth;

"(ix) in whose body there is a controlled substance as a direct and foreseeable consequence of the acts or omissions of the child's parent, guardian, or custodian; or

"(x) who is regularly exposed to illegal drug-related activity in the home.

"(B) No child who in good faith is under treatment solely by spiritual means through prayer in accordance with the tenets and practices of a recognized church or religious denomination by a duly accredited practitioner thereof shall for that reason alone be considered a neglected child for the purposes of this act.

"(C) Subparagraph (A)(viii), (ix), and (x) of this paragraph shall apply as of October 1, 2003."

(2) Paragraph (23) is amended to read as follows:

"(23)(A) The term "abused", when used with reference to a child, means:

"(i) infliction of physical or mental injury upon a child;

"(ii) sexual abuse or exploitation of a child; or

"(iii) negligent treatment or maltreatment of a child.

"(B)(i) The term "abused", when used with reference to a child, does not include discipline administered by a parent, guardian or custodian to his or her child; provided, that the discipline is reasonable in manner and moderate in degree and otherwise does not constitute cruelty. For the purposes of this paragraph, the term "discipline" does not include:

"(I) burning, biting, or cutting a child;

"(II) striking a child with a closed fist;

"(III) inflicting injury to a child by shaking, kicking, or throwing the child;

"(IV) nonaccidental injury to a child under the age of 18 months;

"(V) interfering with a child's breathing; and

"(VI) threatening a child with a dangerous weapon or using such a weapon on a child. For purposes of this provision, the term "dangerous weapon" means a firearm, a knife, or any of the prohibited weapons described in section 22-4514.

"(ii) The list in sub-subparagraph (i) of this subparagraph is illustrative of

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unacceptable discipline and is not intended to be exclusive or exhaustive."

(3) New paragraphs (30), (31), (32), (33), (34), (35), (36) and (37) are added to read as follows:

"(30) The term "physical injury" means bodily harm greater than transient pain or minor temporary marks.

"(31) The term "mental injury" means harm to a child's psychological or intellectual functioning, which may be exhibited by severe anxiety, depression, withdrawal, or outwardly aggressive behavior, or a combination of those behaviors, and which may be demonstrated by a change in behavior, emotional response, or cognition.

"(32) The term "sexual abuse" means:

"(A) engaging in, or attempting to engage in, a sexual act or sexual contact with a child;

"(B) causing or attempting to cause a child to engage in sexually explicit conduct; or

"(C) exposing a child to sexually explicit conduct.

"(33) The term "sexually explicit conduct" means actual or simulated:

"(A) sexual act;

"(B) sexual contact;

"(C) bestiality;

"(D) masturbation; or

"(E) lascivious exhibition of the genitals, anus, or pubic area.

"(34) The term "sexual act" shall have the same meaning as provided in section 101(8) of the Anti-Sexual Abuse Act of 1994, effective May 23, 1995 (D.C. Law 10-257; D.C. Official Code § 22-3001(8)).

"(35) The term "sexual contact" shall have the same meaning as provided in section 101(9) of the Anti-Sexual Abuse Act of 1994, effective May 23, 1995 (D.C. Law 10-257; D.C. Official Code § 22-3001(9)).

"(36) The term "controlled substance" means a drug or chemical substance, or immediate precursor, as set forth in Schedules I through V of the District of Columbia Uniform Controlled Substances Act of 1981, effective August 5, 1981 (D.C. Law 4-29; D.C. Official Code § 48-901.01 *et seq.*), which has not been prescribed by a physician.

"(37) The term "drug-related activity" means the use, sale, distribution, or manufacture of a drug or drug paraphernalia without a legally valid license or medical prescription."

(b) Section 16-2317(b) is amended by adding after the phrase "child is neglected." in the lead-in language the phrase "The Court may not make a finding of neglect based solely on a finding that a child is born addicted or dependent on a controlled substance or has a significant presence of a controlled substance in his or her system at birth."

**Amend
§ 16-2317**

Sec. 4. Fiscal impact statement.

The Council adopts the June 28, 2002 fiscal impact statement of the Chief Financial Officer as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

Sec. 5. Applicability.

This act shall be subject to the availability of appropriations.

Sec. 6. Effective date.

This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), a 30-day period of Congressional review as provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1), and publication in the District of Columbia Register.

Chairman
Council of the District of Columbia

Mayor
District of Columbia