

## PA Act 33 of 2008 Child Fatality/Near Fatality Review Teams

On July 3, 2008, Pennsylvania Governor Ed Rendell signed into law a bill that mandates the investigation of county agencies that suffer a child death or near death when child abuse is the suspected cause – with particular attention dedicated to those fatalities where child abuse or neglect is the *substantiated* cause. The legislation took effect on December 30, 2008.

### PA Act 33 of 2008

- amends Title 23 (Domestic Relations) of the Pennsylvania Consolidated Statutes,
- calls for the investigation of every child fatality or near fatality for which child abuse or neglect is the suspected cause.
- calls for the organization of a Child Fatality or Near Fatality (CFNF) review team when a child dies or nearly dies as a result of child abuse for which there is
  - a substantiated report or
  - when the county agency has not made a status determination within 30 days.
  
- mandates a process to determine, through exhaustive inquiry and evaluation,
  - if and where system failures occurred and
  - how to remedy any identified weaknesses as quickly as possible.
  
- expands the “Good Faith” Immunity from Liability section of Title 23 to include providing immunity for those who provide information about a child fatality or near fatality to the CFNF review team.
- expands the Release of Information in Confidential Reports section of Title 23 to include providing information to a member of the CFNF review team.

### Helpful definitions

“Substantiated child abuse” is defined as abuse for which “an indicated report” or “founded report” has been determined.

Indicated report – results if an investigation by CYF or Pa. Department of Human Services (DHS) determines that substantial evidence of the alleged abuse exists based on any of the following:

- Available medical evidence (Photographs or x-rays may be used, but injuries do not have to be visible or current);
- The Child Protective Services (CPS) Investigation (statements of the child, parents, etc.); or
- An admission of the acts of abuse by the perpetrator.

Founded report – results when an allegation of the abuse of a child adjudicates:

- The entry of a plea of guilty or “no contest” by an alleged perpetrator or
- A finding of guilt to a criminal charge involving the same factual circumstances involved in the allegation of child abuse.

“Near fatality” is defined as “an act that, as certified by a physician, places a child in serious or critical condition.”

### **The County Child Welfare Agency's role in fulfilling the mandate of Act 33**

The county child welfare agency is required to make an immediate *oral* report to the Pa. Department of Human Services (Pa. DHS) in any instance where child abuse or neglect is suspected as the cause of a child fatality or near fatality.

The county child welfare agency is required to file *written* documentation with Pa. DHS within 48 hours of the associated oral report, about the child fatality or near fatality.

The form, the *Regional Notification of a Child Death, Follow Up Report*, was developed by Pa. DHS and is used by all county agencies in Pennsylvania to facilitate the collection of statistical and demographic information from the CFNF review team and county agencies, so that the data can be used in studies conducted by Pa. DHS.

The *Regional Notification of a Child Death, Follow Up Report*, provided through the Pa. DHS Office of Children, Youth and Families regional office, requests information about:

- Agency involvement with the child, child's parent(s), guardian or custodian;
- Agency history of General Protective Services or Child Protective Services with the child prior to his or her death or near death;
- Services provided to other children, child's parent(s), custodian(s) or guardian(s) by the county agency or by court order; and
- Whether the child was in the county's custody at the time of the child's fatality or near fatality.

NOTE: For the purposes of this document, "child fatality or near fatality" from this point forward refers only to those child deaths or near deaths for which there is either:

- a substantiated report of abuse or neglect tied to a child's death or near death or
- no official status determination about cause of death made within 30 days.

### **Child Fatality or Near Fatality Review Team's role in fulfilling the mandate of Act 33**

The county where the child fatality or near fatality occurred, and any other county where the child resided during the previous 16 months, must convene a case-specific CFNF review team within 31 days of the oral report.

#### **Composition**

The CFNF review team must include a minimum of six people who are broadly representative of the county where the team is established and who have expertise in prevention and treatment of child abuse.

Given case-specific needs and availability, the composition of the CFNF review team may consist of:

- A staff person from the county agency;
- A member of the advisory committee of the county agency;
- A health care professional;
- A representative of a local school, educational program or child care or early childhood development program;
- A representative of law enforcement or the district attorney;
- An attorney-at-law trained in legal representation of children or an individual trained under 42 PA.C.S. § 6342 (relating to Court-Appointed Special Advocates);
- A mental health professional;
- A representative of a children's advocacy center that provides services to children in the county. The individual under the subparagraph must not be an employee of the county agency;
- The county coroner or forensic pathologist;
- A representative of a local domestic violence program;
- A representative of a local drug and alcohol program;

- An individual representing parents or
- Any individual who the county agency or CFNF review team determines necessary to assist the team in performing its duties.

DHS, in accordance with the protocol and in consultation with the CFNF review team, shall appoint an individual who is not an employee of the county agency to serve as chairperson.

### **Responsibilities**

The CFNF review team must

- review the child fatality or near fatality in detail and submit a written report to Pa. DHS within 90 days of convening;
- review the circumstances around the child fatality or near fatality;
- review the services provided to the child and the child's family and the perpetrator by the county agency in each of the counties where the child resided in the 16 months prior to the child fatality or near fatality;
- review the services provided to the child and the child's family and the perpetrator by other public and private community agencies and professionals \* in each of the counties where the child resided in the 16 months prior to the child fatality or near fatality;
- review relevant court records and documents related to the abused child and the child's family;
- review the county agency's compliance with statutes and regulations and with relevant policies and procedures of the county agency; and
- submit a final written report on the child fatality or near fatality to Pa. DHS and designated county officials within 90 days of convening.

\* includes: law enforcement, mental health services, programs for young children and children with special needs, drug and alcohol programs, local schools and health care providers.

### **Final Report**

The CFNF review team Final Report must detail:

- Assessments of the deficiencies and strengths of the child welfare agency regarding:
  - Compliance with statutes and regulation; and
  - Services to children
- Recommendations for changes at the state and local levels on:
  - Reducing the likelihood of future child fatality or near fatality directly related to child abuse and neglect;
  - Monitoring and inspections of county agencies; and
  - Improving collaboration between community agencies and service providers to prevent child abuse and neglect.

### **CFNF – Guidelines for Release of Information**

Within 30 days after submission of the report to Pa. DHS, the report shall be made available, upon request, to whomever confidential reports may be released.

No report shall be made available to the public if the district attorney certifies that its release could compromise a criminal investigation or proceeding. This hold is limited to 60 days unless renewed.

The following limited portions of each report may be made available to the public;

- The identity of the deceased child;
- The identity of the agency, public or private, that had custody of the child, or
- The identity of the agency, public or private, that was contracted by the county agency to provide in-home services to the child/family prior to the child fatality or near fatality;
- A description of the services provided; and
- The identity of the county agency that coordinated the CFNF review team.

**Department of Human Services (Pa. DHS) role in fulfilling the mandate of Act 33**

Pa. DHS receives the initial *oral* report from DHS (CYF) when the cause of a child fatality or near fatality is suspected to be child abuse or neglect.

Pa. DHS will receive *written* documentation from DHS (CYF) detailing the circumstances surrounding the child fatality or near fatality within 48 hours of the oral report.

Pa. DHS will cooperate with each CFNF review team, providing assistance and relevant information, to coordinate its fact-finding efforts and interviews with the team(s) to avoid duplication of effort.

Within 30 days of receipt of the CFNF review team Final Report, Pa. DHS must make the report available to other individuals to whom confidential reports may be released. The public portions released are restricted by the aforementioned limits.

Pa. DHS must investigate every child fatality and near fatality that involves suspected child abuse and provide a written report summarizing their findings. The report must include:

- The circumstance of the child fatality or near fatality;
- The nature and extent of the review;
- Statutory and regulatory compliance by the County agency in the county/ies
  - Where the child fatality or near fatality occurred
  - Where the child resided within the 16 months preceding the child fatality or near fatality;
- Its findings; and
- Recommendations for reducing the likelihood of future child fatality or near fatality resulting from child abuse.

The Pa. DHS report must be made available to

- CYF
- The CFNF review team
- Designated county officials
- The public – within the aforementioned limits

The Pa. DHS review and report must be completed no later than six months after receipt of the initial report of the child fatality or near fatality.

**REPORTS OF SUSPECTED CHILD ABUSE INVOLVING CHILD FATALITIES/NEAR FATALITIES  
 PROCESS TIMELINE FROM Act 33 of 2008 PROVISIONS  
 Signed 07-03-2008, Effective 12-30-2008**

