

Statutes

Although Child Protective Services stems from a concern for the care of children, the basis for this service is found in state and federal statutes.

The definitions of child abuse and neglect are found in [Chapter 49](#) of the Code of West Virginia. In addition, the authorization for the Department to provide Child Protective Services is contained in this Chapter of the Code.

Although state statutes authorize the Department to provide Child Protective Services, the statutes do not describe in detail the actions, which must be taken by Department staff. The delivery of this service is based upon the current standards for good practice.

The following is a brief description of and comment upon some of the most commonly referred to sections of the Code which address child abuse and neglect. Refer to this link for the specific language of Chapter 49.

§49-1-3 Definitions relating to child abuse and neglect

In this section there are definitions for physical abuse, sexual abuse and neglect. Generally speaking, child abuse involves a parent, guardian or custodian who knowingly or intentionally inflicts an injury upon a child. Neglect involves the failure or the inability to provide a child with necessary food clothing, shelter or other items. Sexual abuse includes but is not limited to: sexual intercourse; sexual intrusion; and, sexual contact. This section also includes a definition of those conditions which constitute imminent danger.

§49-6 Procedure in Cases of Child Abuse and Neglect

Article 6 of Chapter 49 includes all of the statutes which govern the legal process from the filing of a petition in Circuit court through disposition. Except in very limited circumstances, the transfer of custody of a child to the Department requires a court order.

§49-6-A Reports of Children Suspected To Be Abused Or Neglected

This Article identifies those persons such as school personnel who are required by law to report suspected child abuse and neglect. In addition, this Article describes the penalties for failing to report. It is under the provisions of this Article that the Department is authorized to operate its program of Child Protective Services.

§49-7-1 Confidentiality of records

This part of the statute requires that in general, the Department is required to maintain the confidentiality of its Child Protective Services. There are some exceptions in which information can be provided to state or federal officials.

Federal Statutes

The federal statutes which regulate Child Protective Services are known as the Child Abuse and Treatment Act and the Adoption and Safe Families Act (ASFA). Under the provisions of this Act all states can receive federal funding for Child Protective Services. The receipt of this funding is dependent upon a states willingness to agree to implement the provisions of the Act. One of the provisions of the ASFA is the establishment of goals for Child Welfare Services. These goals are safety, permanency and well-being. The West Virginia Department of Health and Human Resources receives funding under the provisions of the Adoption and Safe Families Act and the Child Abuse and Treatment Act. The state statutes have been revised to comply with the requirements of this Act.