

TITLE XII

PUBLIC SAFETY AND WELFARE

CHAPTER 169-C

CHILD PROTECTION ACT

Section 169-C:1

169-C:1 Short Title. – This chapter shall be known as the Child Protection Act.

Source. 1979, 361:2, eff. Aug. 22, 1979.

Section 169-C:2

169-C:2 Purpose. –

I. It is the purpose of this chapter, through the mandatory reporting of suspected instances of child abuse or neglect, to provide protection to children whose life, health or welfare is endangered and to establish a judicial framework to protect the rights of all parties involved in the adjudication of child abuse or neglect cases. Each child coming within the provisions of this chapter shall receive, preferably in his own home, the care, emotional security, guidance and control that will promote the child's best interest; and, if the child should be removed from the control of his parents, guardian or custodian, adequate care shall be secured for the child. This chapter seeks to coordinate efforts by state and local authorities, in cooperation with private agencies and organizations, citizens' groups, and concerned individuals, to:

- (a) Protect the safety of the child.
- (b) Preserve the unity of the family whenever possible.
- (c) Provide assistance to parents to deal with and correct problems in order to avoid removal of children from the family.
- (d) Take such action as may be necessary to prevent abuse or neglect of children.
- (e) Provide protection, treatment and rehabilitation, as needed, to children placed in alternative care.

II. This chapter shall be liberally construed to the end that its purpose may be carried out, to wit:

(a) To encourage the mental, emotional, and physical development of each child coming within the provisions of this chapter, by providing him with the protection, care, treatment, counselling, supervision, and rehabilitative resources which he needs and has a right to receive.

(b) To achieve the foregoing purposes and policies, whenever possible, by keeping a child in contact with his home community and in a family environment by preserving the unity of the family and separating the child from his parents only when the safety of the child is in danger or when it is clearly necessary for his welfare or the interests of the public safety and when it can be clearly shown that a change in custody and control will plainly better the child; and

(c) To provide effective judicial procedures through which the provisions of this chapter are executed and enforced and which recognize and enforce the constitutional and other rights of the parties and assures them a fair hearing.

Source. 1979, 361:2. 1983, 331:1, 2, eff. Aug. 17, 1983.

Section 169-C:3

169-C:3 Definitions. – When used in this chapter and unless the specific context indicates otherwise:

I. "Abandoned" means the child has been left by his parent, guardian or custodian, without provision for his care, supervision or financial support although financially able to provide such support.

II. "Abused child" means any child who has been:

(a) Sexually abused; or

(b) Intentionally physically injured; or

(c) Psychologically injured so that said child exhibits symptoms of emotional problems generally recognized to result from consistent mistreatment or neglect; or

(d) Physically injured by other than accidental means.

III. "Adjudicatory hearing" means a hearing to determine the truth of the allegations in the petition filed under this chapter.

IV. [Repealed].

V. "Child" means any person who has not reached his eighteenth birthday.

VI. "Child care agency" means a "child day care agency" as defined in RSA 170-E:2, IV or a "child care agency" as defined in RSA 170-E:25, II.

VII. "Child placing agency" means the department, Catholic charities of New Hampshire, or child and family services of New Hampshire, or any successor organization.

VII-a. "Concurrent plan" means an alternate permanency plan in the event that a child cannot be safely reunified with his or her parents.

VIII. "Consent order" means a written agreement entered into among or between the parties regarding the facts and the disposition in a neglect or abuse case, and approved by the court.

IX. "Court" means the district court, unless otherwise indicated.

X. "Custodian" means an agency or person, other than a parent or guardian, licensed pursuant to RSA 170-E to whom legal custody of the child has been given by court order.

XI. "Dispositional hearing" means a hearing held after a finding of abuse or neglect to determine what dispositional order should be made on behalf of the child.

XII. "Department" means the department of health and human services.

XIII. "Foster home" means a residential care facility licensed pursuant to RSA 170-E for child care in which family care and training are provided on a regular basis for no more than 6 unrelated children, unless all the children are of common parentage.

XIII-a. "Founded report" means a report made pursuant to this chapter for which the department finds probable cause to believe that the child who is the subject of such report is abused or neglected.

XIV. "Guardian" means a parent or person appointed by a court having jurisdiction with the duty and authority to make important decisions in matters having a permanent effect on the life and development of the child, and to be concerned about the general welfare of the child. Such duty and authority include but are not necessarily limited either in number or kind to:

(a) The authority to consent: (1) to marriage, (2) to enlistment in the armed forces of the United States, and (3) to major medical, psychiatric and surgical treatment, (4) to represent the child in legal actions; and (5) to make other decisions of substantial legal significance concerning the child;

(b) The authority and duty of reasonable visitation, except to the extent that such right of visitation has been limited by court order; and

(c) The rights and responsibilities of legal custody except where legal custody has been vested in another individual or in an authorized agency.

XIV-a. "Household member" means any person living with the parent, guardian, or custodian of the

child from time to time or on a regular basis, who is involved occasionally or regularly with the care of the child.

XV. "Imminent danger" means circumstances or surroundings causing immediate peril or risk to a child's health or life.

XVI. "Institutional child abuse or neglect" means situations of known or suspected child abuse or neglect wherein the person responsible for the child's welfare is a foster parent or is an employee of a public or private residential home, institution or agency.

XVII. "Legal custody" means a status created by court order embodying the following rights and responsibilities unless otherwise modified by court order:

(a) The right to determine where and with whom the child shall live;

(b) The right to have the physical possession of the child;

(c) The right and the duty to protect and constructively discipline the child; and

(d) The responsibility to provide the child with food, clothing, shelter, education, emotional security and ordinary medical care provided that such rights and responsibilities shall be exercised subject to the power, rights, duties and responsibilities of the guardian of the child and subject to residual parental rights and responsibilities if these have not been terminated by judicial decree.

XVIII. "Legal supervision" means a legal status created by court order wherein the child is permitted to remain in his home under the supervision of a child placing agency subject to further court order.

XIX. "Neglected child" means a child:

(a) Who has been abandoned by his parents, guardian, or custodian; or

(b) Who is without proper parental care or control, subsistence, education as required by law, or other care or control necessary for his physical, mental, or emotional health, when it is established that his health has suffered or is very likely to suffer serious impairment; and the deprivation is not due primarily to the lack of financial means of the parents, guardian or custodian; or

(c) Whose parents, guardian or custodian are unable to discharge their responsibilities to and for the child because of incarceration, hospitalization or other physical or mental incapacity; Provided, that no child who is, in good faith, 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 to be a neglected child under this chapter.

XX. "Notice" means communication given in person or in writing to the parent, guardian, custodian or other interested party not having custody or control of the child, of the time and place fixed for hearing; and it shall be given in all cases, unless it appears to the court that such notice will be ineffectual.

XX-a. "Out-of-home placement" means the placement of a child in substitute care with someone other than the child's biological parent or parents, adoptive parent or parents, or legal guardian.

XXI. "Parent" means mother, father, adoptive parent, but such term shall not include a parent as to whom the parent-child relationship has been terminated by judicial decree or voluntary relinquishment.

XXI-a. "Party having an interest" means the child; the guardian ad litem of the child; the child's parent, guardian or custodian; the state; or any household member subject to court order.

XXI-b. "Permanency hearing" means a court hearing for a child in an out-of-home placement to review, modify, and/or implement the permanency plan or to adopt the concurrent plan.

XXI-c. "Permanency plan" means a plan for a child in an out-of-home placement that is adopted by the court and provides for timely reunification, termination of parental rights or parental surrender when an adoption is contemplated, guardianship with a fit and willing relative or another appropriate party, or another planned permanent living arrangement.

XXII. "A person responsible for a child's welfare" includes the child's parent, guardian or

custodian, as well as the person providing out-of-home care of the child, if that person is not the parent, guardian or custodian. For purposes of this definition, "out-of-home care" includes child day care, and any other settings in which children are given care outside of their homes.

XXIII. "Probable cause" means facts and circumstances based upon accurate and reliable information, including hearsay, that would justify a reasonable person to believe that a child subject to a report under this chapter is abused or neglected.

XXIV. "Protective custody" means the status of a child who has been taken into physical custody by a police officer or juvenile probation and parole officer because the child was in such circumstances or surroundings which presented an imminent danger to the child's health or life and where there was not sufficient time to obtain a court order.

XXV. "Protective supervision" means the status of a child who has been placed with a child placing agency pending the adjudicatory hearing.

XXVI. "Relative" means parent, grandparent, brother, sister, stepparent, stepbrother, stepsister, uncle, aunt, nieces, nephews or first and second cousins.

XXVII. "Residual parental rights and responsibilities" means those rights and responsibilities remaining with the parent after the transfer of legal custody or guardianship except guardianship pursuant to termination of parental rights, including, but not limited to, right of visitation, consent to adoption, right to determine religious affiliation and responsibilities for support.

XXVII-a. "Sexual abuse" means the following activities under circumstances which indicate that the child's health or welfare is harmed or threatened with harm: the employment, use, persuasion, inducement, enticement, or coercion of any child to engage in, or having a child assist any other person to engage in, any sexually explicit conduct or any simulation of such conduct for the purpose of producing any visual depiction of such conduct; or the rape, molestation, prostitution, or other form of sexual exploitation of children, or incest with children. With respect to the definition of sexual abuse, the term "child" or "children" means any individual who is under the age of 18 years.

XXVIII. "Unfounded report" means a report made pursuant to this chapter for which the department finds that there is no probable cause to believe that the child is abused or neglected.

Source. 1979, 361:2. 1983, 291:1. 1986, 223:2, 3, 5, 6. 1987, 402:12. 1989, 146:1. 1990, 240:1; 257:5, 6. 1994, 212:2; 411:1, 2, 17, 19, I. 1995, 310:124, 175. 2000, 294:9, eff. July 1, 2000. 2007, 236:6-8, eff. Jan. 1, 2008.

Section 169-C:3-a

169-C:3-a Rulemaking. – The commissioner of the department of health and human services shall adopt rules under RSA 541-A relative to:

I. Information contained in the central registry under RSA 169-C:35.

II. Access to confidential records under RSA 169-C:36.

III. The authority to investigate reports of institutional abuse or neglect under RSA 169-C:37.

Source. 1983, 242:8; 291:1, II. 1986, 223:7. 1994, 212:2. 1995, 310:171, eff. Nov. 1, 1995.

Section 169-C:4

169-C:4 Jurisdiction, Continued Jurisdiction, Modification. –

I. The court shall have exclusive original jurisdiction over all proceedings alleging the abuse or neglect of a child.

II. The court may, with the consent of the child, retain jurisdiction over any child, who, prior to his

or her eighteenth birthday, was found to be neglected or abused and who is attending school until such child completes high school or until his or her twenty-first birthday, whichever occurs first; and the court is authorized to and shall make such orders relative to the support and maintenance of said child during the period after the child's eighteenth birthday as justice may require.

II-a. A child who has consented to the continued jurisdiction of the court pursuant to paragraph II, may revoke his or her consent and request that the case be closed. The revocation of consent and request to close a case shall be made in writing and filed with the court. Upon receipt of the request, the court shall forward copies to all parties of record at their last known address. If no party objects within 10 business days of the date the court forwarded copies of the request to the parties, the court shall accept the child's revocation of consent and shall close the case. If a party objects, the court may, after consideration of the objection, either grant the request and close the case without hearing or schedule the matter for hearing. If the matter is scheduled for hearing, the court shall accept the child's revocation of consent and close the case unless the court finds that immediate closure would create a risk of substantial harm to the child. If the court finds that immediate closure would create a risk of substantial harm to the child, the court shall continue the matter for a period not to exceed 30 days and direct that the department work with the child to develop an independent living plan which shall include referrals to appropriate services. If at the end of such period, the child still wishes to revoke his or her consent and to request that the case be closed, the court shall accept the revocation of consent and close the case.

III. When a custody award has been made pursuant to this chapter, said order shall not be modified or changed nor shall another order affecting the status of the child be issued by the superior court except on appeal under RSA 169-C:28.

Source. 1979, 361:2. 1990, 240:2, eff. June 26, 1990. 2008, 204:1, eff. Jan. 1, 2009.

Section 169-C:5

169-C:5 Venue. –

I. Proceedings under this chapter may be originated in the judicial district in which the child is found or resides.

II. By the court, upon its own motion, or that of any party, proceedings under this chapter may, upon notice and acceptance, be transferred to another court as the interests of justice or convenience of the parties require.

Source. 1979, 361:2, eff. Aug. 22, 1979.

Section 169-C:6

169-C:6 Protective Custody. –

I. A police or juvenile probation and parole officer may take a child into protective custody without the consent of the parents or other person legally responsible for the child's care if the child is in such circumstances or surroundings as would present an imminent danger to the child's health or life unless immediate action is taken and there is not enough time to petition for a court order.

II. If a police or juvenile probation and parole officer removes a child under paragraph I above, the officer:

(a) Shall inform the court forthwith whereupon continued protective custody pending a hearing may be ordered by the court;

(b) May take the child to a child protection services worker of the department; or

(c) May place the child in a foster home; if a child is placed directly in a foster home, the department shall be notified of the incident and where the child is placed within 24 hours, unless there is a physician involved and treating the child and the child is or will be taken to and admitted to a hospital; and

(d) Shall, when the child is removed from an individual other than a parent or a person legally responsible for the child, make every reasonable effort to inform both parents or other persons legally responsible for the child's care where the child has been taken.

III. Any police or juvenile probation and parole officer or other individual acting in good faith pursuant to this section, shall have immunity from any liability, civil or criminal, that might otherwise be incurred or imposed as a result of such removal or placement.

IV. The court shall hold a hearing on the matter within 24 hours of taking the child into protective custody, Sundays and holidays excluded. Notice shall be given to both parents and all parties designated by the petitioner or the court.

V. If a child is found by a child protection services worker of the department to be in imminent danger in such circumstances or surroundings and where immediate removal appears necessary to protect the child from such imminent danger, the department's child protection services worker shall contact a judge or clerk immediately for an order to remove the child. Prior to any order authorizing foster placement, the child protective service worker shall inform the judge of efforts to locate any non-custodial parent or other relatives for temporary placement.

VI. The court having jurisdiction over a child who appears to be abused or neglected, and in imminent danger may issue ex parte orders pursuant to RSA 169-C:6-a, permitting the child or the alleged perpetrator to be removed from the home at the request of the department or a law enforcement officer.

VII. No child taken into protective custody pursuant to this section shall be securely detained.

VIII. Unless otherwise ordered by the court, the refusal of a parent or other person having control of a child to administer or consent to the administration of any psychotropic drug to such child shall not, in and of itself, constitute grounds for the police or a juvenile probation and parole officer to take the child into custody, or for the court to order that such child be taken into custody. However, if the administration of a decreasing dose of the drug is required during withdrawal from the medication, the refusal may constitute grounds for taking the child into protective custody.

Source. 1979, 361:2. 1987, 402:12. 1988, 197:6. 1994, 411:3, 16, 17. 1995, 310:175. 2000, 294:9, eff. July 1, 2000. 2003, 199:1, eff. Aug. 29, 2003. 2004, 237:7, eff. June 15, 2004.

Section 169-C:6-a

169-C:6-a Emergency Interim Relief. –

I. The department or law enforcement officer requesting the court for an ex parte order shall, to the extent known, present the following evidence in writing with sworn signature or orally under oath:

(a) A statement of the specific danger requiring either immediate placement of the child or removal of the alleged perpetrator.

(b) The time, place, and manner in which the child was removed from danger, if relevant.

(c) If the child was removed prior to the court order, a brief statement why it was not possible to obtain the order prior to removal.

(d) Why there is not sufficient time to notify the parent, guardian, or custodian prior to the order.

(e) The names and addresses of custodial parents, non-custodial parents, legal custodians, other legal guardians of the child, and any other person responsible for the welfare of the child at the time of removal.

(f) When removal of the child is requested, those alternatives to foster care which were considered, such as removal of the alleged perpetrator, or placement of the child with relatives or others with whom the child is familiar.

II. Whenever a petition is filed for abuse or neglect with or prior to the request for ex parte relief, the request need not repeat information included in the petition.

III. If the court finds reasonable cause to believe that the child is in such circumstances or surroundings as would present an imminent danger to the child's health or life, the court shall issue such ex parte orders as are necessary to protect the child and shall set the matter for hearing no later than 5 days from the date of the ex parte orders, excluding Saturdays, Sundays, and holidays.

IV. If the court issues ex parte orders, the department or law enforcement officer shall file a petition meeting the requirements of RSA 169-C:7 within 72 hours of the issuance of the orders, excluding Sundays and holidays.

Source. 1994, 411:4. 1995, 310:175, eff. Nov. 1, 1995. 2002, 180:1, eff. July 14, 2002.

Section 169-C:6-b

169-C:6-b Child's Welfare and Findings Regarding Removal. –

I. The court shall, in its first court ruling that sanctions, even temporarily, the removal of a child from the home, determine whether continuation in the home is contrary to the child's welfare.

II. The court shall within 60 days of a child's removal from the home, determine and issue written findings as to whether reasonable efforts were made or were not required to prevent the child's removal. In determining whether reasonable efforts were made to prevent the child's removal, the court shall consider whether services to the family have been accessible, available, and appropriate.

Source. 2007, 236:9, eff. Jan. 1, 2008.

Section 169-C:7

169-C:7 Petition. –

I. A proceeding under this chapter is originated by any person filing a petition, with a judge or clerk in the judicial district in which the child is found or resides, alleging neglect or abuse of a child.

II. The petition shall be entitled ""In the Matter of _____," and shall be verified under oath by the petitioner.

III. To be legally sufficient, the petition shall set forth the facts alleged to constitute abuse or neglect, and the statutory grounds upon which the petition is based.

IV. In addition, the petition shall also include, to the extent known:

- (a) The name, birth date, and address of the child.
- (b) The name and address of any custodial parent.
- (c) The name and address of any other individual or agency having custody of the child.
- (d) The name of any non-custodial parent.
- (e) The name of any household member who is subject to the order.

Source. 1979, 361:2. 1990, 240:3. 1994, 411:5, 6, eff. Jan. 1, 1995.

Section 169-C:8

169-C:8 Issuance of Summons and Notice. –

I. After a petition has been filed or an ex parte order issued, the court shall issue a summons to all persons named in the petition to be served by a law enforcement officer personally, or if personal service is not possible, at their usual place of abode. Such summons shall require the person or persons having custody or control of the child to appear personally, unless otherwise ordered, before the court at a time and place set for a preliminary hearing, which shall not be less than 24 hours nor more than 7 days after return of service of the petition.

II. A copy of the petition shall be attached to each summons or incorporated therein.

III. The summons shall contain a notice that the child shall have a guardian ad litem, appointed by the court. The summons shall also state as follows: ""Parents and other individuals chargeable by law for the child's support and necessities may be liable for expenses incurred in this proceeding including the costs of certain evaluations and placements. RSA 186-C regarding children with disabilities grants children and their parents certain rights to services from school districts at public expense and to appeal school district decisions regarding services to be provided.""

IV. The summons shall also contain a description and explanation of the proceedings and a statement of the rights of the person or persons summoned, under this chapter, RSA 170-C, and under the rules of court.

Source. 1979, 361:2. 1983, 458:8. 1990, 140:2, X. 1991, 214:1. 1994, 411:7. 1995, 308:65, eff. July 1, 1995. 2007, 236:10, eff. Jan. 1, 2008. 2008, 274:31, eff. July 1, 2008.

Section 169-C:8-a

169-C:8-a Notice of Petition to Department of Health and Human Services. – The court shall serve the department of health and human services with a copy of any petition filed under RSA 169-C:7 and the department shall have legal standing at and receive notice of all proceedings under this chapter from the time of said service.

Source. 1995, 308:66; 310:175, 181, eff. Nov. 1, 1995.

Section 169-C:9

169-C:9 Failure to Appear; Warrant. –

I. Any person or persons summoned having custody or control of the child who, without reasonable cause, fails to appear, may be proceeded against for contempt of court.

II. In case the summons cannot be served, or the parties served fail to appear, or in the case when it appears to the court that service will be ineffectual, or that the best interest of the child requires that he be brought forthwith into the custody of the court, a warrant may be issued for the child's appearance against anyone having custody or control of the child.

Source. 1979, 361:2, eff. Aug. 22, 1979.

Section 169-C:10

169-C:10 Attorneys and Guardians ad Litem. –

I. In cases brought pursuant to this chapter involving a neglected or abused child, the court shall appoint a guardian ad litem or Court Appointed Special Advocate (CASA) guardian ad litem for the child. The court shall not appoint an attorney for any guardian ad litem appointed for the child, but may appoint an attorney or any other qualified individual as the guardian ad litem for the child. The CASA guardian ad litem shall have the same authority and access to information as any other guardian ad litem.

II. (a) In cases involving a neglected or abused child under this chapter, where the child's expressed interests conflict with the recommendation for dispositional orders of the guardian ad litem, the court may appoint an attorney to represent the interests of the child. In any case of neglect or abuse brought pursuant to this chapter, the court shall appoint an attorney to represent an indigent parent alleged to have neglected or abused his or her child. In addition, the court may appoint an attorney to represent an indigent parent not alleged to have neglected or abused his or her child if the parent is a household member and such independent legal representation is necessary to protect the parent's interests. The court shall not appoint an attorney to represent any other persons involved in a case brought under this chapter.

(b) When an attorney is appointed as counsel for a child, representation may include counsel and investigative, expert and other services, including process to compel the attendance of witnesses, as may be necessary to protect the rights of the child.

III. The New Hampshire supreme court shall adopt rules regarding the duties and responsibilities of the CASA guardian ad litem or other guardian ad litem appointed for the child.

Source. 1979, 361:2. 1995, 308:67. 1997, 292:2, eff. Jan. 1, 1998.

Section 169-C:10-a

169-C:10-a Appointment of Court Appointed Special Advocates and Guardians Ad Litem. –

[Repealed 1996, 248:10, eff. Jan. 2, 1997.]

Section 169-C:11

169-C:11 Subpoena. – A subpoena may be issued pursuant to RSA 516, or upon application of a party to the proceedings, or upon the motion of the court. The court may issue subpoenas requiring the production of papers and the attendance of any person whose presence is required by the child, his parents or guardian or any other person whose presence, in the opinion of the court, is necessary.

Source. 1979, 361:2, eff. Aug. 22, 1979.

Section 169-C:12

169-C:12 Evidence. – In any hearing under this chapter, the court shall not be bound by the technical rules of evidence and may admit evidence which it considers relevant and material.

Source. 1979, 361:2, eff. Aug. 22, 1979.

Section 169-C:12-a

169-C:12-a Testimony During Abuse and Neglect Proceedings. – Testimony by parents who are the subject of an abuse and neglect petition and who are alleged to have abused or neglected a child, which is given during proceedings under this chapter or during a fair hearing conducted by the department, shall not be admissible in criminal proceedings relating to such abuse or neglect allegations.

Source. 1990, 240:4. 1995, 310:175, eff. Nov. 1, 1995.

Section 169-C:12-b

169-C:12-b Filing Reports, Evaluations, and Other Records. – All reports, evaluations, and other records from the department of health and human services, counselors, and guardians ad litem in proceedings under this chapter shall be filed with the court and all other parties at least 5 business days prior to any hearing. If a report, evaluation, or other record is not filed at least 5 business days prior to the hearing, a party may request, and the court shall grant, a continuance to a date certain which shall not be more than 10 days from the date of filing. Once filed with the court and given to all other parties, the report, evaluation, or other record need not be refiled during the proceeding. Failure to comply with the provisions of this section shall not be grounds for dismissal of the petition.

Source. 1991, 57:2. 1994, 212:2. 1995, 310:181, eff. Nov. 1, 1995. 2006, 276:2, eff. Jan. 1, 2007.

Section 169-C:12-c

169-C:12-c Medical Examinations of Child. – A parent who is the subject of an abuse or neglect petition not involving sexual abuse shall be entitled to request a medical examination of each child involved by a licensed physician of the parent's choice at the parent's expense within 72 hours of the first official notice of the complaint received by the parent. Where the department has assumed protective supervision or legal custody of the child and an examination of the child is necessary to verify or refute an allegation of injury, the department shall cooperate with the request and shall transport the child to the physician's office for examination provided that the physician's office is within a reasonable distance of the district office that is conducting the abuse or neglect investigation. The transportation of a child to a physician's office that is located within the state of New Hampshire shall be presumed to be reasonable under this section.

Source. 2006, 276:3, eff. Jan. 1, 2007.

Section 169-C:13

169-C:13 Burden of Proof. – The petitioner has the burden to prove the allegations in support of the petition by a preponderance of the evidence.

Source. 1979, 361:2, eff. Aug. 22, 1979.

Section 169-C:14

169-C:14 Hearings Not Open to the Public. – The general public shall be excluded from any hearing under this chapter and such hearing shall, whenever possible, be held in rooms not used for criminal trials. Only such persons as the parties, their witnesses, counsel and representatives of the agencies present to perform their official duties shall be admitted, except that other persons invited by a party may attend, with the court's prior approval. The court may provide docket information to invited persons.

Source. 1979, 361:2. 1990, 53:1, eff. April 6, 1990. 2006, 228:1, eff. July 31, 2006.

Section 169-C:14-a

169-C:14-a Records of Hearings. – The court shall notify parties of their right to request in advance of any hearing under this chapter that a record of such hearing shall be preserved and made available to the parties.

Source. 1996, 248:2, eff. Jan. 2, 1997.

Section 169-C:15

169-C:15 Preliminary Hearing. –

I. After an ex parte order is issued or petition filed, a preliminary hearing shall be conducted by the court to determine if reasonable cause exists to believe that the child is abused or neglected.

II. If the court does not find reasonable cause to believe that the child is abused or neglected, it shall dismiss the petition.

III. Upon a finding of reasonable cause that the child is abused or neglected, the court shall:

(a) Appoint an attorney to represent the child pursuant to RSA 169-C:10.

(b) Determine whether any ex parte orders issued should be continued or modified.

(c) Issue orders pursuant to RSA 169-C:16, which shall be immediate and in writing if the court finds that the child's circumstances or surroundings present an imminent danger to the child's health or life.

(d) Set a date for an adjudicatory hearing to be held and completed within 30 calendar days of the filing of the petition. Upon a written finding of extraordinary circumstances, the court may continue the adjudicatory hearing to a date certain for the hearing to be held and completed and written findings issued that shall in no event exceed 60 calendar days from the filing of the petition.

IV. The court shall determine whether each parent summoned, having custody or control of the child, understands the possible consequences to parental rights should the court find that the child is abused or neglected. Each person shall sign a statement stating that such person understands the consequences to parental rights. Such statement shall be in a form to be determined by the court.

V. Any person who is subject to an ex parte order may challenge the order at the preliminary hearing.

Source. 1979, 361:2. 1991, 214:2. 1994, 411:8, eff. Jan. 1, 1995. 2007, 236:11, eff. Jan. 1, 2008.

Section 169-C:16

169-C:16 Preliminary Disposition. –

I. If the court finds sufficient facts to sustain the petition, at a preliminary disposition, the court may:

- (a) Permit the child to remain with the parent, relative, guardian, or other custodian, subject to such conditions and limitations as the court may prescribe.
- (b) Transfer legal supervision to a child placing agency.
- (c) Transfer protective supervision to a child placing agency.
- (d) Issue an order of protection setting forth conditions of behavior by a parent, relative, guardian, custodian, or a household member. Such order may require any such person to:
 - (1) Stay away from the premises, another party, or the child.
 - (2) Permit a parent or other named person to visit the child at stated periods and under such conditions as the court may order.
 - (3) Abstain from harmful conduct with respect to the child or any person to whom custody of the child is awarded.
 - (4) Correct specified deficiencies in the home that make the home a harmful environment for the child.
 - (5) Refrain from specified acts of commission or omission that make the home a harmful environment for the child.

I-a. Notwithstanding RSA 169-C:25, a copy of each protective order issued pursuant to RSA 169-C:16, I(d)(1) shall be transmitted to the administrative office of the courts electronically or by facsimile. The administrative office of the courts shall enter information regarding the protective order into the state database, which shall be made available to the police and sheriffs' departments statewide. It shall also update the database upon expiration or termination of the order.

II. A neglected or abused child shall not be placed in an institution established for the care and rehabilitation of delinquent children, the youth development center or any institution where an adult is confined.

III. The court may at any time order the child, parents, guardian, custodian, or household member subject to the petition or ex parte order, to submit to a mental health evaluation, or undergo a physical examination or treatment, with a written assessment being provided to the court. The court may order that the child, who is the subject of the petition or the family or both be evaluated by a mental health center or any other psychiatrist, psychologist or psychiatric social worker or family therapist or undergo physical examination or treatment with a written assessment provided to the court. Evaluations performed at the Philbrook center may occur only upon receiving prior approval for such evaluation from the commissioner of the department of health and human services, or designee.

IV. If the child, the parent, guardian or custodian objects to the mental health evaluation, he shall object in writing to the court having jurisdiction within 5 days after notification of the time and place of said evaluation. The court shall hold a hearing to consider the objection prior to ordering said evaluation. Upon good cause shown, the court may excuse the child, the parent, guardian or custodian from the provisions of this section.

V. If an order is made on a person not before the court under subparagraph I(d)(1), it shall be served on such person by a law enforcement officer. A hearing to challenge an order may be requested in writing. The hearing shall be held within 5 days of the request. A request for a hearing shall not stay the effect of the order.

VI. When the party subject to the order has an obligation to support the child in question, the court may order such party to remain out of the residence of the child. When the party subject to the order has no duty to support the child and solely owns or leases the residence of the child, the court may order such party to remain out of the residence of the child for a period of no more than 30 days.

Source. 1979, 361:2. 1985, 195:5. 1990, 3:47. 1994, 411:9-12. 1995, 310:182, eff. Nov. 1, 1995. 2005, 244:3, eff. Jan. 1, 2006.

Section 169-C:17

169-C:17 Consent Order. –

I. At any time after the filing of the petition and prior to an order of adjudication pursuant to RSA 169-C:18, the court may approve a written agreement entered into among or between the parties.

II. A consent order shall not be approved unless the department consents and the child and parents, guardian, or custodian are informed of the consequences of the order by the court and the court determines that the child and parents voluntarily and intelligently consent to the terms and conditions of the order. A consent order under this section may include a finding of abuse or neglect; however, a finding of abuse or neglect shall not be required except where the consent order provides for out-of-home placement of the child.

III. Where a consent order includes a finding and provides for the out-of-home placement of a child, the order shall set a date for a permanency hearing that is within 12 months of the date of the court's approval of the consent order.

Source. 1979, 361:2. 1995, 308:68; 310:175, eff. Nov. 1, 1995. 2002, 152:1, eff. Jan. 1, 2003. 2007, 236:12, eff. Jan. 1, 2008.

Section 169-C:18

169-C:18 Adjudicatory Hearing. –

I. An adjudicatory hearing under this chapter shall be conducted by the court separate from the trial of criminal cases.

II. A record of the adjudicatory hearing shall be preserved unless expressly waived in writing by the parties, and the parties shall be notified in writing of their right to appeal.

III. The petitioner shall present witnesses to testify in support of the petition and any other evidence necessary to support the petition. The petitionees shall have the right to present evidence and witnesses on their own behalf and to cross-examine adverse witnesses. The admissibility of all evidence in this hearing shall be determined by RSA 169-C:12. The provisions of RSA 613:3, I, relative to the summoning of out-of-state witnesses, shall apply to the proceedings.

IV. If the court does not find sufficient evidence of neglect or abuse, it shall dismiss the petition.

V. If the court makes a finding that a child has been abused or neglected, the court shall order a child placing agency to make an investigation and a social study consisting of, but not limited to, the home conditions, family background, and financial assessment, school record, mental, physical and social history of the family, including sibling relationships and residences for appropriateness of preserving relationships between siblings who are separated as a result of court ordered placement, and submit it in writing to the court prior to the final disposition of the case. The court shall determine whether the minor's school district shall be joined pursuant to RSA 169-C:20, and if joined, the court shall review the school district's recommendations. No disposition order shall be made by a court without first reviewing the social study and without first reviewing the school district recommendations required under RSA 169-C:20. Preliminary orders, continued pursuant to RSA 169-C:16, may be entered or modified as appropriate until the dispositional hearing.

V-a. Where an adjudicatory order includes a finding and provides for the out-of-home placement of a child, the order shall set a date for a permanency hearing that is within 12 months of the date of the adjudicatory finding.

V-b. The department's dispositional report shall include:

(a) A description of efforts made by the department to avoid the need for placement and an explanation of why these efforts were unsuccessful.

(b) An explanation why the child cannot be protected from the identified problems in the home even if services are provided to the child and family.

VI. The social study will be used only after a finding of neglect or abuse and only as a guide for the court in determining an appropriate disposition for a child. The court shall share the report with the parties. Any psychiatric report shall be used by the court only after a finding of neglect or abuse unless such report is submitted for determination of competency.

VII. The court shall hold a hearing on final disposition within 30 days after a finding of neglect or abuse.

VIII. Whenever a court contemplates a placement which will require educational services outside the child's home school district, the court shall notify the school district and give the district the opportunity to send a representative to the hearing at which such placement is contemplated. In cases where immediate court action is required to protect the health or safety of the child or of the community, the court may act without providing for an appearance by the school district, but shall make reasonable efforts to solicit and consider input from the school district before making a placement decision.

Source. 1979, 361:2. 1994, 411:13. 1996, 248:3. 1998, 203:1, eff. June 18, 1998. 2002, 179:1, eff. July 14, 2002. 2004, 41:2, eff. May 3, 2004. 2007, 236:13, eff. Jan. 1., 2008; 295:3, eff. Sept. 11, 2007. 2008, 274:9, eff. July 1, 2008.

Section 169-C:19

169-C:19 Dispositional Hearing. – The department of health and human services shall provide the court with the costs of the recommended services, placements and programs. If the court finds that a child is abused or neglected or if the court issues a consent order pursuant to RSA 169-C:17, II, the court may order the following disposition:

I. The child may be permitted to remain with the parents, guardian, relative, or other custodian, subject to any or all of the following conditions:

(a) That the parents, guardian, relative, or custodian accept legal supervision by a child placing agency.

(b) That the parents, guardian, relative, or custodian, or the child, or both, accept individual or family therapy, or medical treatment.

(c) That the child attend a day care center.

(d) That a homemaker or parent aide be allowed to visit the home and assist the family.

II. (a) An order of protection may be issued setting forth conditions of behavior by a parent, relative, sibling, guardian, custodian or a household member. Such order may require any such person to:

(1) Stay away from the premises, another party, or the child.

(2) Permit a parent or other named person to visit supervised or otherwise, or have contact with the child at stated periods and under such conditions as the court may order.

(3) Abstain from harmful conduct with respect to the child or any person to whom custody of the child is awarded.

(4) Correct specified deficiencies in the home that make the home a harmful environment for the child.

(5) Refrain from specified acts of commission or omission that make the home or contact with the child a harmful environment for the child.

(b) If an order is made affecting a person not before the court under subparagraph (a), it shall be served on such person by a law enforcement officer. A hearing to challenge an order may be requested in writing. The hearing shall be held within 5 days of the request. A request for a hearing shall not stay the effect of the order.

(c) When the party subject to the order of protection has an obligation to support the child in question, the court may order such party to remain out of the residence of the child. When the party subject to the order has no duty to support the child and solely owns or leases the residence of the child, the court may order such party to remain out of the residence of the child for a period of no more than 30 days.

II-a. Notwithstanding RSA 169-C:25, a copy of each protective order issued pursuant to RSA 169-C:19, II(a)(1) shall be transmitted to the administrative office of the courts electronically or by facsimile. The administrative office of the courts shall enter information regarding the protective order into the state database, which shall be made available to the police and sheriffs' departments statewide. It shall also update the database upon expiration or termination of the order.

III. (a) Legal custody may be transferred to a child placing agency or relative provided, however, that no child shall be placed with a relative until a written social study of the relative's home, conducted by a child placing agency, is submitted to the court. Where a child is in an out-of-home placement, the court shall include in its order the concurrent plan for the child.

(b) If the child is placed out of state, the provisions of RSA 170-A shall be followed.

IV. The court may order any parent, guardian, relative, custodian, household member, or child to undergo individual or family therapy, or medical treatment.

V. If the judge orders services, placements, or programs different from the recommendations of the department, the judge shall include a statement of the costs of the services, placements and programs so ordered.

VI. Prior to any placement which will require educational services outside the child's home school district, the court shall notify the school district and give the district the opportunity to send a representative to the hearing at which such placement is contemplated. At such hearing the court shall consider the recommendations of the school district and if such an out-of-district placement is ordered the court shall make written findings that describe the reasons for the placement.

Source. 1979, 361:2. 1994, 411:14. 1995, 308:69, 70; 310:175, 181. 1998, 203:3, eff. June 18, 1998. 2002, 152:2, eff. Jan. 1, 2003. 2005, 244:4, eff. Jan. 1, 2006. 2007, 236:14, eff. Jan., 1, 2008; 295:4, eff. Sept. 11, 2007.

Section 169-C:19-a

169-C:19-a Out-of-District Placement. – In the case of an out-of-district placement, the appropriate court shall notify the department of education on the date that the court order is signed, stating the initial length of time for which such placement is made. This section shall apply to the original order and all subsequent modifications of that order.

Source. 1991, 342:2, eff. Aug. 27, 1991.

Section 169-C:19-b

169-C:19-b Presumption in Favor of In-State Placements. – There shall be a presumption that an in-state placement is the least restrictive and most appropriate placement. The court may order an out-

of-state placement only upon an express written finding that there is no appropriate in-state placement available.

Source. 1995, 308:71, eff. July 1, 1995.

Section 169-C:19-c

169-C:19-c Court Order for Services, Placements, and Programs Required for Minors From Certain Providers Qualified for Third-Party Payment. – The court, wherever and to the extent possible, shall order services, placements, and programs by providers certified pursuant to RSA 170-G:4, XVIII who qualify for third-party payment under any insurance covering the minor.

Source. 1996, 286:11, eff. June 10, 1996.

Section 169-C:19-d

169-C:19-d Visitation With Siblings. – The court shall, whenever reasonable and practical, and based on a determination of the best interests of the child, ensure that children who have an existing relationship with a sibling and who are separated from their siblings as a result of a court decree, court order, consent order, or court-recommended placement, including but not limited to, placement in foster homes, or in the homes of parents or extended family members, have access to and visitation rights with such siblings throughout the duration of such placement, and subsequent to such placement if the children or their siblings are separated by long-term or short-term foster care placement.

Source. 1998, 203:2, eff. June 18, 1998.

Section 169-C:19-e

169-C:19-e Custody Hearing for Parent not Charged With Abuse or Neglect. –

I. A parent who has not been charged with abuse or neglect shall be afforded, upon request, a full hearing in the district or family court regarding his or her ability to obtain custody. At the hearing, the parent shall be provided the opportunity to present evidence pertaining to his or her ability to provide care for the child and shall be awarded custody unless the state demonstrates, by a preponderance of the evidence, that he or she has abused or neglected the child or is otherwise unfit to perform his or her parental duties. The court shall make written findings of fact supporting its decision.

II. The department shall notify a parent who has not been charged with abuse or neglect of his or her right to request a hearing under this section at the earliest available opportunity.

Source. 2001, 229:1, eff. Jan. 1, 2002. 2007, 173:1, eff. Jan. 1, 2008.

Section 169-C:20

169-C:20 Disposition of a Child with a Disability. –

I. At any point during the proceedings, the court may, either on its own motion or that of any other person, and if the court contemplates a residential placement, the court shall immediately, join the legally liable school district for the limited purposes of directing the school district to determine whether the child is a child with a disability or of directing the school district to review the services

offered or provided under RSA 186-C if the child had already been determined to be a child with a disability. If the court orders the school district to determine whether the minor is a child with a disability, the school district shall make this determination by treating the order as the equivalent of a referral by the child's parent for special education, and shall conduct any team meetings or evaluations that are required under law when a school district receives a referral by a child's parent.

II. Once joined as a party, the legally liable school district shall have full access to all records maintained by the district court under this chapter. The school district shall also report to the court its determination of whether the minor is a child with a disability, and the basis for such determination. If the child is determined to be a child with a disability, the school district shall make a recommendation to the court as to where the child's educational needs can be met in accordance with state and federal education laws. In cases where the court does not follow the school district's recommendation, the court shall issue written findings explaining why the recommendation was not followed.

III. If the school district finds or has found that the child is a child with a disability, or if it is found that the child is a child with a disability on appeal from the school district's decision in accordance with the due process procedures of RSA 186-C, the school district shall offer an appropriate educational program and placement in accordance with RSA 186-C. Financial liability for such education program shall be as determined in RSA 186-C:19-b.

IV. In an administrative due process hearing conducted by the department of education pursuant to RSA 186-C, a school district shall not provide a hearing officer with information from or copies of records maintained by the court which the school district has accessed pursuant to paragraph II of this section, unless the court issues an order authorizing such a release by the school district in accordance with the following:

(a) A school district seeking such authorization shall file a motion with the court describing the need for the disclosure in the department of education proceeding, with copies delivered to all parties on the same day the motion is filed with the court;

(b) A motion filed by a school district under this provision shall include, on a separate sheet of paper, the following statement in bold typeface: **""Persons subject to juvenile proceedings have important rights to the confidentiality of juvenile court proceedings. This motion requests the disclosure of some of that information. If you object to the disclosure of information, you must file a written objection with the court no later than 10 days after the filing of the school district's notice. If you fail to object in writing, the court may allow private information to be revealed to the New Hampshire Department of Education hearing officer.";** and

(c) Any objection by a party shall be filed with the court no later than 10 days after the filing of the school district's notice with the court, unless such time is extended by the court for good cause.

V. The court shall schedule an expedited hearing on the matter to determine if such information may be released. The court may rule without a hearing if there is no objection filed or if the school district and a parent or legal guardian or the juvenile, if he or she has reached the age of majority, agree in writing to waive a hearing. In determining whether to authorize the disclosure of the information requested by the school district, the court shall balance the importance of disclosure of the records to a fair and accurate determination of the merits against the privacy interests of the parties to the proceedings, and render a written decision setting forth its findings and rulings. No information released to a hearing officer pursuant to this paragraph shall be disclosed to any other person or entity without the written permission of the court, the child's parent or legal guardian, or the juvenile if he or she has reached the age of majority, except that any court reviewing an administrative due process hearing on appeal shall have access to the same information released to a hearing officer pursuant to this paragraph.

VI. In this section, **""child with a disability"** shall be as defined in RSA 186-C.

Source. 1979, 361:2. 1983, 458:2. 1986, 223:13. 1987, 402:22. 1990, 140:2, X, eff. June 18, 1990. 2008, 274:10, eff. July 1, 2008.

Section 169-C:21

169-C:21 Final Order. –

I. If facts sufficient to sustain the petition are established under RSA 169-C:18, the court shall enter a final order in writing finding that the child has been abused or neglected.

II. The order of the court shall include conditions the parents shall meet before the child is returned home. The order shall also include a specific plan which shall include, but not be limited to, the services the child placing agency will provide to the child and family. Prior to the issuance of a final order, the child placing agency shall submit its recommendation for the plan, which the court may use in whole or in part.

Source. 1979, 361:2, eff. Aug. 22, 1979.

Section 169-C:21-a

169-C:21-a Violation of Protective Order; Penalty. –

I. (a) When a person subject to a protective order under RSA 169-C:16, I(d)(1) or RSA 169-C:19, II(a)(1) violates either a temporary or permanent protective order issued or enforced under this chapter, peace officers shall arrest the defendant and ensure that the defendant is detained until arraignment. Such arrests may be made within 6 hours without a warrant upon probable cause, whether or not the violation is committed in the presence of a peace officer.

(b) Subsequent to an arrest, the peace officer shall seize any firearms and ammunition in the control, ownership, or possession of the defendant and any deadly weapons which may have been used, or were threatened to be used, during the violation of the protective order. The law enforcement agency shall maintain possession of the firearms, ammunition, or deadly weapons until the court issues an order directing that the firearms, ammunition, or deadly weapons be relinquished and specifying the person to whom the firearms and ammunition or deadly weapons will be relinquished.

II. The prosecution and sentencing for criminal contempt for a violation of a protective order shall not preclude the prosecution of or sentencing for other criminal charges underlying the contempt.

III. A person shall be guilty of a class A misdemeanor if such person knowingly violates a protective order issued under this chapter. Charges made under this chapter shall not be reduced to a lesser charge, as permitted in other instances under RSA 625:9.

IV. Any person convicted under paragraph III, or who has been convicted in another jurisdiction of violating a protective order enforceable under the laws of this state, who, within 6 years of such conviction or the completion of the sentence imposed for such conviction, whichever is later, subsequently commits and is convicted of one or more offenses under this chapter may be charged with an enhanced penalty for each subsequent offense as follows:

(a) There shall be no enhanced charge under this section if the subsequent offense is a class A felony or an unclassified felony;

(b) If the subsequent offense would otherwise constitute a class B felony, it may be charged as a class A felony;

(c) If the subsequent offense would otherwise constitute a class A misdemeanor, it may be charged as a class B felony;

(d) If the subsequent offense would otherwise constitute a class B misdemeanor, it may be charged as a class A misdemeanor;

(e) If the subsequent offense would otherwise constitute a violation, it may be charged as a class B misdemeanor.

Source. 2000, 189:1, eff. Jan. 1, 2001.

Section 169-C:22

169-C:22 Modification of Dispositional Orders. – Upon the motion of a child, parent, custodian, guardian or of the child placing agency alleging a change of circumstances requiring a different disposition the court shall conduct a hearing and pursuant to RSA 169-C:19 may modify a dispositional order; provided that the court may dismiss the motion if the allegations are not substantiated in the hearing.

Source. 1979, 361:2, eff. Aug. 22, 1979.

Section 169-C:23

169-C:23 Standard for Return of Child in Placement. – In the absence of a guardianship of the person of the minor, governed by the terms of RSA 463, before a child in out-of-home placement is returned to the custody of his or her parents, the parent or parents shall demonstrate to the court that:

- I. They are in compliance with the outstanding dispositional court order;
- II. The child will not be endangered in the manner adjudicated on the initial petition, if returned home;
- III. Return of custody is in the best interests of the child. Upon showing the ability to provide proper parental care, it shall be presumed that a return of custody is in the child's best interests.

Source. 1979, 361:2. 1999, 149:1, eff. Jan. 1, 2000.

Section 169-C:24

169-C:24 Periodic Review Hearings. –

I. The court shall conduct an initial review hearing within 3 months of the dispositional hearing to review the status of all dispositional orders issued under this chapter. The court may conduct additional review hearings upon its own motion or upon the request of any party at any time.

II. At a review hearing the court shall determine whether the department has made reasonable efforts to finalize the permanency plan that is in effect. Where reunification is the permanency plan that is in effect, the court shall consider whether services to the family have been accessible, available, and appropriate.

Source. 1979, 361:2, eff. Aug. 22, 1979. 2007, 236:15, eff. Jan. 1, 2008.

Section 169-C:24-a

169-C:24-a Petition for Termination of Parental Rights Required; Reasonable Efforts to Reunify. –

I. The state, through an authorized agency, or if required by a district court, shall file a petition for termination of parental rights or, if such a petition has been filed by another party, the state shall seek

to be joined as a party to such petition, where any one or more of the following circumstances exist:

(a) Where a child has been in an out-of-home placement pursuant to a finding of child neglect or abuse, under the responsibility of the state, for 12 of the most recent 22 months;

(b) Where a court of competent jurisdiction has determined that a child has been abandoned as defined by RSA 170-C:5, I; or

(c) Where a court of competent jurisdiction has made any one or more of the following determinations:

(1) That the parent has been convicted of murder, pursuant to RSA 630:1-a or RSA 630:1-b, of another child of the parent, a sibling or step-sibling of the child, the child's other parent, or other persons related by consanguinity or affinity, including a minor child who resided with the defendant.

(2) That the parent has been convicted of manslaughter, pursuant to RSA 630:2, of another child of the parent.

(3) That the parent has been convicted of attempt, pursuant to RSA 629:1, solicitation, pursuant to RSA 629:2, or conspiracy, pursuant to RSA 629:3, to commit any of the offenses specified in subparagraphs I(c)(1) or I(c)(2).

(4) That the parent has been convicted of a felony assault under RSA 631:1, 631:2, 632-A:2, or 632-A:3 that resulted in injury to the child, a sibling or step-sibling of the child, the child's other parent, or other persons related by consanguinity or affinity, including a minor child who resided with the defendant.

II. Concurrent with the filing or joinder in a petition for termination of parental rights as defined in paragraph I of this section, the state shall seek to identify, recruit, and approve a qualified family for adoption in accordance with the provisions of RSA 170-B, and in accordance with the principle that the health and safety of the child shall be the paramount concern.

III. The state may not be required to file a petition for termination of parental rights, or seek to be joined as a party to such a petition, if one or more of the following conditions exist:

(a) The child is being appropriately cared for by a relative;

(b) A state agency has documented in the case file a compelling reason for determining that filing a petition for termination of parental rights would not be in the best interests of the child; or

(c) The state has not provided to the family of the child, consistent with RSA 170-C:5, III, such services and reasonable efforts as the state deems necessary for the safe return of the child to the child's home. In determining whether the state has made reasonable efforts to prevent placement and reunify the family, the district court shall consider whether services to the family have been accessible, available, and appropriate.

IV. The state shall submit a sworn statement prior to any district court hearing in which the court is to determine whether there have been reasonable efforts to prevent placement, reunify the family, or make and finalize a new permanent home for the child. Such statement shall be submitted to the court and to the parties at least 5 days prior to the hearing, and shall describe such reasonable efforts made by the state or the rationale for not making such efforts.

Source. 1999, 133:3, eff. June 18, 1999. 2005, 235:2, eff. July 11, 2005.

Section 169-C:24-b

169-C:24-b Permanency Hearings. –

I. For a child that has been in an out-of-home placement for 12 or more months, the court shall hold and complete a permanency hearing within 12 months of the finding. For a child that enters an out-of-home placement subsequent to a finding, the court shall hold and complete a permanency hearing within 12 months of the date the child enters the out-of-home placement.

II. At a permanency hearing, the court shall determine whether and, if applicable, when the child will be returned to the parent or parents, pursuant to RSA 169-C:23. If the standard for return pursuant to RSA 169-C:23 is not met, the court shall identify a permanency plan other than reunification for the child. Other options for a permanency plan include:

- (a) Termination of parental rights or parental surrender when an adoption is contemplated;
- (b) Guardianship with a fit and willing relative or another appropriate party; or
- (c) Another planned permanent living arrangement.

III. At a permanency hearing the court shall determine whether the department has made reasonable efforts to finalize the permanency plan that is in effect. Where reunification is the permanency plan that is in effect, the court shall consider whether services to the family have been accessible, available, and appropriate.

Source. 2007, 236:16, eff. Jan. 1, 2008.

Section 169-C:24-c

169-C:24-c Post-Permanency Hearings. –

I. For a child who is in an out-of-home placement following the permanency hearing, the court shall hold and complete a post-permanency hearing within 12 months of the permanency hearing and every 12 months thereafter as long as the child remains in an out-of-home placement. The court may conduct periodic post-permanency hearings upon its motion or upon the request of any party at any time.

II. At a post-permanency hearing the court shall determine whether the department has made reasonable efforts to finalize the permanency plan that is in effect. Where reunification is the permanency plan that is in effect, the court shall consider whether the services to the family have been accessible, available, and appropriate.

Source. 2007, 236:16, eff. Jan. 1, 2008.

Section 169-C:25

169-C:25 Confidentiality. –

I. (a) The court records of proceedings under this chapter shall be kept in books and files separate from all other court records. Such records shall be withheld from public inspection but shall be open to inspection by the parties, child, parent, grandparent pursuant to subparagraph (b), guardian, custodian, attorney, or other authorized representative of the child.

(b) A grandparent seeking access to court records under subparagraph (a) shall file a request for access with the court clerk supported by an affidavit signed by the grandparent stating the reasons for requesting access and shall give notice of such request to all parties to the case and the minor's parents. Any party to the case or parent may object to the grandparent's request within 10 days of the filing of the request. If no objection is made, and for good cause shown, the grandparent's request may be granted by the court. If an objection is made, access may be granted only by court order.

II. It shall be unlawful for any person present during a child abuse or neglect hearing to disclose any information concerning the hearing that may identify a child or parent who is involved in the hearing without the prior permission of the court. Any person who knowingly violates this provision shall be guilty of a misdemeanor.

III. All case records, as defined in RSA 170-G:8-a, relative to abuse and neglect, shall be confidential, and access shall be provided pursuant to RSA 170-G:8-a.

Source. 1979, 361:2. 1983, 331:3. 1990, 19:2. 1993, 266:3; 355:4, eff. Sept. 1, 1993. 2002, 243:1, eff. May 17, 2002. 2008, 258:1, eff. Jan. 1, 2009.

Section 169-C:26

169-C:26 Continuances. – Except as otherwise provided, continuances in proceedings under this chapter may be granted by the court only for good cause shown. Whenever the court grants a continuance under this section, the court shall make written findings as to the circumstances that warranted the continuance.

Source. 1979, 361:2, eff. Aug. 22, 1979. 2007, 236:17, eff. Jan. 1, 2008.

Section 169-C:27

169-C:27 Liability of Expenses and Hearing on Liability. –

I. (a) Whenever an order creating liability for expenses is issued by the court under this chapter or whenever a voluntary service plan is developed and provided for a minor and the minor's family by the department, any expenses incurred for services, placements, and programs the providers of which are certified pursuant to RSA 170-G:4, XVIII, shall be payable by the department of health and human services.

(b) Subparagraph (a) shall not apply to expenses incurred for special education and related services, or to expenses incurred for evaluation, care, and treatment of the child at the Philbrook center.

(c) The state shall have a right of action over for such expenses against the parents or the people chargeable by law for the child's support and necessities and the right to require parents or other people chargeable by law for the minor's support and necessities to assign to the state any insurance benefits that may be available to pay for all or a portion of the services provided. The department shall request reimbursement for such expenses from parents or people chargeable by law for the minor's support and necessities and shall request assignment to the state of any insurance benefits that may be available to pay for all or a portion of the services provided. The court shall require the individual chargeable by law for the child's support and necessities to submit a financial statement annually to the court upon which the court shall make an order as to reimbursement to the state as may be reasonable and just, based on the person's ability to pay. Such financial statement shall include, but not be limited to, any benefits received from the Social Security Administration or insurance benefits available to the individual. The court shall include disposition of these benefits in its order as to reimbursement. Such reimbursement shall be established on a per month or per week basis and shall continue from the time the services begin until 4 years beyond the time such services end, unless such reimbursement is fully paid prior to the end of the 4-year period. The court's jurisdiction to order reimbursement shall continue until the court-ordered obligation to reimburse has been fulfilled. If the court does not issue a reimbursement order, the court shall issue written findings explaining why such reimbursement is not ordered.

(d) Liability for placement expenses for any court ordered placement of any minor mother under this chapter shall include liability for placement expenses for the child or children of such minor mother if the minor mother and child or children are placed at the same facility.

(e) Payments due under this section for the care of children in foster homes shall commence within 60 days of the child's placement in the foster home and shall be made every 30 days thereafter.

II. Upon the issuance of the order in paragraph I, the court shall send notice to the state. The state may, within 30 days from receipt of notice, request a hearing on the issues of the cost or appropriateness of services, or recovery. At such hearing, the court shall provide all financial

information, including names and addresses of persons chargeable by law for the child's support and necessities, to the state.

III. The office of reimbursements acting on behalf of Laconia developmental services and the New Hampshire hospital is authorized to compromise or reduce any expense to be charged to the state.

IV. The department may enter into an agreement with a county to collect, on behalf of the department, payments from persons or entities which are ordered to reimburse the state under paragraph I, or which are chargeable by law for the minor's support and necessities. An agreement may authorize the county to deduct reasonable administrative costs from the amounts collected. The balance of any amounts collected by the county pursuant to this paragraph shall be forwarded to the department.

V. If the person responsible for paying reimbursements to the department under paragraph IV is financially able to pay such reimbursements but fails to make such payments, the department may apply to the district court for a lien on such person's real or personal property for the amount of reimbursements due.

VI. (a) For the adoptive parent or prospective adoptive parent of a child in the custody of the state whose birth parents have consented to the adoption, relinquished their parental rights to the department, or the parental rights of whose birth parents were terminated pursuant to a petition brought by the department, authorized agency, or foster parent, pursuant to RSA 170-C:4, the state shall have no right of action against such adoptive parent or prospective adoptive parent for the expenses of services, placements, and programs provided pursuant to RSA 169-B, 169-C, or 169-D after the adoption.

(b) If the department determines that the adoptive parent has been convicted of sexual or physical abuse of the adopted child pursuant to RSA 631 or 632-A, or the adoptive parent has misappropriated adoption subsidy moneys, the adoptive parent shall be responsible for payment for subsequent services, placements, and programs provided pursuant to RSA 169-B, 169-C, or 169-D after the adoption. A determination of misappropriation is subject to the provisions of RSA 126-A:5, VIII.

Source. 1979, 361:2; 434:81. 1981, 555:2. 1982, 25:3. 1983, 458:5. 1985, 96:6; 380:38. 1987, 402:31, 32. 1988, 107:5; 153:2, 5. 1989, 75:2; 229:2; 286:2. 1990, 3:48; 203:2. 1991, 265:3. 1993, 266:4. 1994, 212:2. 1995, 220:3; 308:72, 73; 310:171, 175, 181, 182. 1996, 286:14, 17. 1997, 305:2. 2001, 93:11, eff. Dec. 19, 2002. 2007, 263:21, eff. July 1, 2008. 2008, 274:33, eff. July 1, 2008.

Section 169-C:28

169-C:28 Appeals. –

I. An appeal under this chapter may be taken to the superior court by the child or the child's authorized representative or any party having an interest, including the state, or any person subject to any administrative decision pursuant to this chapter, within 30 days of the final dispositional order; but an appeal shall not suspend the order or decision of the court unless the court so orders. The superior court shall hear the matter de novo, and shall give an appeal under this chapter priority on the court calendar. For purposes of this chapter, a "final dispositional order" includes a dismissal of a petition for abuse and neglect by the district court. "Final dispositional order" shall also include any ruling or order arising from an administrative hearing held or initiated by any administrative agency, including the department, in which a finding of child abuse or neglect is made.

II. This section shall apply to all appeals under this chapter, including appeals in proceedings before the family division of the courts.

Source. 1979, 361:2. 1989, 40:1. 1998, 235:1. 2000, 254:3, eff. June 12, 2000.

Section 169-C:28-a

169-C:28-a Household Members. – [Repealed 1994, 411:19, II, eff. Jan. 1, 1995.]

Reporting Law

Section 169-C:29

169-C:29 Persons Required to Report. – Any physician, surgeon, county medical examiner, psychiatrist, resident, intern, dentist, osteopath, optometrist, chiropractor, psychologist, therapist, registered nurse, hospital personnel (engaged in admission, examination, care and treatment of persons), Christian Science practitioner, teacher, school official, school nurse, school counselor, social worker, day care worker, any other child or foster care worker, law enforcement official, priest, minister, or rabbi or any other person having reason to suspect that a child has been abused or neglected shall report the same in accordance with this chapter.

Source. 1979, 361:2, eff. Aug. 22, 1979.

Section 169-C:30

169-C:30 Nature and Content of Report. – An oral report shall be made immediately by telephone or otherwise, and followed within 48 hours by a report in writing, if so requested, to the department. Such report shall, if known, contain the name and address of the child suspected of being neglected or abused and the person responsible for the child's welfare, the specific information indicating neglect or the nature and extent of the child's injuries (including any evidence of previous injuries), the identity of the person or persons suspected of being responsible for such neglect or abuse, and any other information that might be helpful in establishing neglect or abuse or that may be required by the department.

Source. 1979, 361:2. 1989, 146:2. 1994, 411:17. 1995, 310:175, eff. Nov. 1, 1995.

Section 169-C:31

169-C:31 Immunity From Liability. – Anyone participating in good faith in the making of a report pursuant to this chapter is immune from any liability, civil or criminal, that might otherwise be incurred or imposed. Any such participant has the same immunity with respect to participation in any investigation by the department or judicial proceeding resulting from such report.

Source. 1979, 361:2. 1994, 411:17. 1995, 310:175, eff. Nov. 1, 1995.

Section 169-C:32

169-C:32 Abrogation of Privileged Communication. – The privileged quality of communication between husband and wife and any professional person and his patient or client, except that between attorney and client, shall not apply to proceedings instituted pursuant to this chapter and shall not constitute grounds for failure to report as required by this chapter.

Source. 1979, 361:2, eff. Aug. 22, 1979.

Section 169-C:33

169-C:33 Photographs and X-Rays. –

I. Any medical person or the department preparing or investigating a report under this chapter, may take, or cause to be taken, photographs of the areas of trauma visible on a child who is the subject of a report and, if medically indicated, cause to be performed a radiological examination of the child without the consent of the child's parents or guardians. All photographs and X-rays taken, or copies of them, shall be sent to the appropriate offices of the department as soon as possible.

II. The reasonable cost of photographs or X-rays taken under this section shall be reimbursed by the department.

Source. 1979, 361:2. 1994, 411:17. 1995, 310:175, eff. Nov. 1, 1995.

Section 169-C:34

169-C:34 Duties of the Department of Health and Human Services. –

I. If it appears that the immediate safety or well-being of a child is endangered, the family may flee or the child disappear, or the facts otherwise so warrant, the department shall commence an investigation immediately after receipt of a report. In all other cases, a child protective investigation shall be commenced within 72 hours of receipt of the report.

II. For each report it receives, the department shall promptly perform a child protective investigation to: (i) determine the composition of the family or household, including the name, address, age, sex and race of each child named in the report, and any siblings or other children in the same household or in the care of the same adults, the parents or other persons responsible for their welfare, and any other adults in the same household; (ii) determine whether there is probable cause to believe that any child in the family or household is abused or neglected, including a determination of harm or threatened harm to each child, the nature and extent of present or prior injuries, abuse or neglect, and any evidence thereof, and a determination of the person or persons apparently responsible for the abuse or neglect; (iii) determine the immediate and long-term risk to each child if the child remains in the existing home environment; and (iv) determine the protective treatment, and ameliorative services that appear necessary to help prevent further child abuse or neglect and to improve the home environment and the parents' ability to adequately care for the children.

III. The department may request and shall receive from any agency of the state or any of its political subdivisions or any schools, such assistance and information as will enable it to fulfill its responsibilities under this section.

IV. Upon notification by the department that the immediate safety or well-being of a child may be endangered, the court may, in its discretion, order a police officer, juvenile probation and parole officer, or child protection service worker to enter the place where the child is located, in furtherance of such investigation.

V. Notwithstanding any other provision of law to the contrary, the department may, pursuant to a voluntary service plan that is developed and provided for a minor and the minor's family by the department, offer voluntary services to families without making a determination of the person or persons apparently responsible for the abuse or neglect. The department shall adopt rules, pursuant to RSA 541-A, relative to the provision of voluntary services under this paragraph.

V-a. Notwithstanding any other provision of law to the contrary, the department may, pursuant to a voluntary service plan that is developed and provided for the child by the department, offer voluntary

services to any child who prior to his or her eighteenth birthday was found to be neglected or abused, who was in legal custody of the department as of his or her eighteenth birthday, and who is less than 21 years of age.

VI. At the first contact in person, any person investigating a report of abuse or neglect on behalf of the department shall verbally inform the parents of a child suspected of being a victim of abuse or neglect of the specific nature of the charges and that they are under no obligation to allow a social worker or state employee on their premises or surrender their children to interviews unless that social worker or state employee is in possession of a court order to that effect. Upon receiving such information, the parent shall sign a written acknowledgement indicating that the information required under this paragraph was provided by the person conducting the investigation. The parent and department shall each retain a copy of the acknowledgment.

Source. 1979, 361:2. 1987, 402:12. 1994, 411:15-17. 1995, 310:175, 181. 2000, 294:9. 2001, 279:1, eff. Jan. 1, 2002. 2006, 276:1, eff. Jan. 1, 2007. 2008, 204:2, eff. Jan. 1, 2009.

Section 169-C:34-a

169-C:34-a Multidisciplinary Child Protection Teams. –

I. The department of health and human services may enter into formal cooperative agreements with appropriate agencies and organizations to create multidisciplinary child protection teams to assist with the investigation and evaluation of reports of abuse and neglect under this chapter.

II. Multidisciplinary child protection team members may include licensed physical and mental health practitioners, educators, law enforcement officers, representatives from the local child advocacy center, social workers, and such other individuals as may be necessary to assist with the investigation and evaluation of reports of abuse or neglect.

III. The department may share information from its case records to the extent permitted by law with members of a multidisciplinary child protection team in order to assist the team with its investigation and evaluation of a report of abuse or neglect. Multidisciplinary child protection team members shall be required to execute a confidentiality agreement and shall be bound by the confidentiality provisions of RSA 169-C:25 and RSA 170-G:8-a.

IV. The department, in conjunction with the department of justice and the New Hampshire Network of Children's Advocacy Centers, shall develop a written protocol for multidisciplinary child protection team investigations. The purpose of the protocol shall be to ensure the coordination and cooperation of the agencies involved in multidisciplinary child protection team investigations, to increase the efficiency in the handling of these cases, and to minimize the impact on the child of the legal and investigatory process. The protocol developed shall be reviewed and, if necessary, revised not less than once every 3 years. The department shall forward a copy of the approved protocol to the speaker of the house of representatives, the senate president, and the governor by November 1 of the year in which they were approved and revised.

Source. 2006, 118:1, eff. July 10, 2006.

Section 169-C:35

169-C:35 Central Registry. –

I. There shall be established a state registry for the purpose of maintaining a record of founded reports of abuse and neglect. The registry shall be confidential and subject to rules on access established by the commissioner of the department under RSA 541-A.

II. Upon receipt by the department of a written request and verified proof of identity, an individual shall be informed by the department whether that individual's name is listed in the founded reports maintained in the central registry. It shall be unlawful for any employer other than those specified in RSA 170-E and RSA 170-G:8-c to require as a condition of employment that the employee submit his or her name for review against the central registry of founded reports of abuse and neglect. Any violation of this provision shall be punishable as a violation.

III. Founded reports of abuse and neglect shall be retained for a period of 7 years subject to an individual's right to petition for the earlier removal of his or her name from the central registry as provided in this section.

IV. Any individual whose name is listed in the founded reports maintained on the central registry may petition the district court to have his or her name expunged from the registry.

(a) A petition to expunge shall be filed in the district court where the abuse and neglect petition was heard. In cases where the department makes a finding but no petition is filed with the court, a petition to expunge shall be filed in the district court where the petition for the abuse and neglect could have been brought.

(b) A petition to expunge shall be filed on forms promulgated by the district courts and may include any information the petitioner deems relevant.

(c) When a petition to expunge is filed, the district court shall require the department to report to the court concerning any additional founded abuse and neglect reports on the petitioner and shall require that the department submit the petitioner's name, birth date, and address to the state police to obtain information about criminal convictions. The court may require the department to provide any additional information that the court believes may aid it in making a determination on the petition.

(d) Upon the receipt of the department's report, the court may act on the petition without further hearing or may schedule the matter for hearing at the request of either party. If the court determines that the petitioner does not pose a present threat to the safety of children, the court shall grant the petition and order the department to remove the individual's name from the central registry. Otherwise, the petition shall be dismissed.

V. When an individual's name is added to the central registry, the department shall notify individuals of their right to petition to have their name expunged from the central registry. No petition to expunge shall be brought within one year from the date that the petitioner's name was initially entered on the central registry. If the petition to expunge is denied, no further petition shall be brought more frequently than every 3 years thereafter.

VI. Upon receipt of a written request from another state's child welfare agency to check the central registry established under this section for information on a prospective foster or adoptive parent or any other adult living in the home of such a prospective foster or adoptive parent, the department shall conduct the requested check and shall provide the requesting state with the results of the check along with such additional information from the department's case records as the department deems necessary for the requesting state to be able to evaluate the results.

Source. 1979, 361:2. 1983, 331:5. 1985, 367:1. 1993, 355:5. 1995, 310:173, 175, eff. Nov. 1, 1995. 2002, 111:1, eff. Jan. 1, 2003. 2007, 325:1, eff. July 16, 2007.

Section 169-C:35-a

169-C:35-a Records Management of Abuse and Neglect Reports. –

I. The department shall retain a screened-out report for one year from the date that the report was screened-out, after which time, the department shall delete or destroy all electronic and paper records of the report. In this section, a "screened-out report" is one which the department has determined does

not rise to the level of a credible report of abuse or neglect and is not referred for assessment.

II. The department shall retain an unfounded report for 3 years from the date that the department determined the case to be unfounded, after which time, the department shall delete or destroy all electronic and paper records of the report.

III. The department shall retain a founded report for 7 years from the date that the petitionee has exhausted or failed to exercise his or her due process right to appeal the department's determination to found the report, after which time, the department shall delete or destroy all electronic and paper records of the report.

IV. The provisions of paragraph III, which relate to the destruction of the records of founded reports, shall not apply to cases that remain open with the department in excess of 7 years or to adoption records. Upon the closure of a case which has remained open with the department in excess of 7 years, the department shall delete or destroy all electronic and paper records of the report.

V. Nothing in this section shall prevent the department from retaining generic, non-identifying information which is required for state and federal reporting and management purposes.

Source. 2002, 162:1, eff. Nov. 11, 2002.

Section 169-C:36

169-C:36 Confidentiality. – [Repealed 1983, 331:8, eff. Aug. 17, 1983.]

Section 169-C:37

169-C:37 Institutional Abuse and Neglect. – The department of justice shall be empowered to receive and investigate reports of institutional abuse or neglect at the youth development center, Laconia developmental services, and New Hampshire hospital; and the department shall be empowered to receive and investigate reports of all other suspected instances of institutional abuse or neglect. Either the department of justice or the commissioner of the department or both may adopt rules consistent with this authority to investigate such reports and take appropriate action for the protection of children.

Source. 1979, 361:2. 1983, 242:9. 1988, 107:5. 1994, 411:17. 1995, 310:173, 175, eff. Nov. 1, 1995.

Section 169-C:38

169-C:38 Report to Law Enforcement Authority. –

I. The department shall immediately by telephone or in person refer all cases in which there is reason to believe that any person under the age of 18 years has been: (a) sexually molested; (b) sexually exploited; (c) intentionally physically injured so as to cause serious bodily injury; (d) physically injured by other than accidental means so as to cause serious bodily injury; or (e) a victim of a crime, to the local law enforcement agency in the community in which the acts of abuse are believed to have occurred. The department shall also make a written report to the law enforcement agency within 48 hours, Saturdays, Sundays and holidays excluded. A copy of this report shall be sent to the office of the county attorney.

II. All law enforcement personnel and department employees shall cooperate in limiting the number of interviews of a child victim and, when appropriate, shall conduct joint interviews of the child. Employees of the department shall share with the investigating police officers all information in their possession which it is lawful for them to disclose to a law enforcement agency. Investigating police

officers shall not use or reveal any confidential information shared with them by the department except to the extent necessary for the investigation and prosecution of the case.

III. No staff member of the department shall be held civilly or criminally liable for a telephone referral or a written report made under paragraph I.

IV. Law enforcement personnel or department employees who are trained caseworkers shall have the right to enter any public place, including but not limited to schools and child care agencies, for the purpose of conducting an interview with a child, with or without the consent or notification of the parent or parents of such child, if there is reason to believe that the child has been:

- (a) Sexually molested.
- (b) Sexually exploited.
- (c) Intentionally physically injured so as to cause serious bodily injury.
- (d) Physically injured by other than accidental means so as to cause serious bodily injury.
- (e) A victim of a crime.
- (f) Abandoned.
- (g) Neglected.

V. For any interview conducted pursuant to paragraph IV, the interview with the child shall be videotaped if possible. If the interview is videotaped, it shall be videotaped in its entirety. If the interview cannot be videotaped in its entirety, an audio recording of the entire interview shall be made.

Source. 1979, 361:2. 1986, 225:1. 1988, 237:1. 1994, 411:17. 1995, 310:175. 1998, 185:1, 2, eff. Jan. 1, 1999.

Section 169-C:38-a

169-C:38-a Standardized Protocol for the Investigation and Assessment of Child Abuse and Neglect Cases. – The department of health and human services and the department of justice shall jointly develop a standardized protocol for the interviewing of victims and the investigation and assessment of cases of child abuse and neglect. The protocol shall seek to minimize the impact on the victim. The protocol shall also be designed to protect the rights of all parties affected. The protocol shall specifically address the need to establish safe and appropriate places for interviewing children.

Source. 2002, 113:1, eff. July 2, 2002.

Section 169-C:39

169-C:39 Penalty for Violation. – Anyone who knowingly violates any provision of this subdivision shall be guilty of a misdemeanor.

Source. 1979, 361:2, eff. Aug. 22, 1979.

Prevention Program

Section 169-C:39-a

169-C:39-a Purpose. –

I. The legislature recognizes that child abuse and neglect are serious societal problems, are threats to the family unit, and result in major expenses to society. The legislature further declares that there is a

need to assist private and public agencies in initiating and enhancing community based educational and service programs for the prevention of these misfortunes. It is the intent of the legislature to support programs that will reduce conditions leading to child abuse and thus limit the need for future state intervention and expense. It is further intended that programs for preventing child abuse and neglect will be cooperative ventures of citizens, communities, and the state. The purpose of this subdivision is to create a new fund to be used exclusively for the prevention of child abuse and neglect, in order to augment funds currently available from federal, state, or local sources for this purpose.

II. The purpose of this subdivision is to provide a new source of funding, to be known as the New Hampshire children's trust fund, which shall increase the funds available for the prevention of child abuse and neglect. The legislature does not intend that these funds will be used as a substitute for any funds available from federal, state, or local sources for prevention programs; nor does the legislature intend that these funds will substitute for state appropriations to the budget of the department of health and human services or to any other state agency.

Source. 1986, 184:1. 1987, 372:1. 1994, 212:2. 1995, 310:181. 1997, 254:1, eff. Aug. 18, 1997.

Section 169-C:39-b

169-C:39-b Definitions. – In this subdivision:

I. ""Board" means the board of trustees established by RSA 169-C:39-d.

II. ""Trust fund" means the New Hampshire children's trust fund held and administered as a designated fund by the New Hampshire Charitable Foundation or its successor or replacement.

III. ""Grantee" means any public or private nonprofit organization which receives funding under this subdivision.

IV. ""Prevention" means strengthening family function and reducing or eliminating factors conducive to child abuse and neglect.

V. ""Prevention programs" means programs designed to meet the goals in paragraph IV and may include, but are not limited to:

(a) Community-based educational programs on prenatal care, prenatal bonding, child development, basic child care, care of children with special needs, coping with family stress, child sexual assault prevention and awareness projects in schools; and

(b) Community-based programs relating to aid to parents, child abuse counselling, support groups for families at risk of child abuse and neglect, and early identification of families with potential for such problems.

VI. ""Interest" means the income from whatever source earned by the fund (exclusive of capital gains which shall be added to principal), net of bank management fees and administrative expenses incurred by the New Hampshire Charitable Foundation in connection with the investment and administration of the fund.

Source. 1986, 184:1. 1987, 372:2, 3. 1992, 24:2, V. 1997, 254:2, eff. Aug. 18, 1997.

Section 169-C:39-c

169-C:39-c New Hampshire Children's Trust Fund. –

I. There is hereby established in the New Hampshire Charitable Foundation a special fund to be known as the New Hampshire children's trust fund. This fund is organized exclusively for religious, charitable, scientific, literary, or educational purposes, within the meaning of those terms as used in section 501(c)(3) of the Internal Revenue Code of 1986, as amended, and no part of the net earnings

shall inure to the benefit of any private shareholder or individual. In addition, but in no way limiting the enumerated purpose of this fund, it is established for the prevention of cruelty to children. Funding shall be made available to a wide range of state and community-based family resource programs to prevent child abuse. The fund shall make regular payments of interest as defined in RSA 169-C:39-b, VI to the New Hampshire children's trust fund board for programs as defined in RSA 169-C:39-b, V, and said moneys shall not be available for any other purpose. The trust fund established in this paragraph shall be held and administered as a component fund of the New Hampshire Charitable Foundation, subject to its articles of agreement and bylaws, except that no change in the purpose of the fund as stated in the preceding sentence shall be made without an amendment to this chapter. The New Hampshire Charitable Foundation shall provide an annual accounting of the trust fund to the board. The board shall have the responsibility of soliciting moneys from sources other than the general fund, including federal moneys. The board shall deposit any moneys received as a result of solicitation into the trust fund. The board may request that the New Hampshire Charitable Foundation assist them or their designee in connection with the solicitation of moneys from sources other than the general fund. The New Hampshire Charitable Foundation shall be entitled to make an administrative charge against the trust fund for investment services and administrative services in an amount comparable to that charged to other funds administered by the New Hampshire Charitable Foundation, subject to negotiation between the New Hampshire Charitable Foundation and the board. Such administrative charge shall be in addition to the administrative expenses payable under RSA 169-C:39-c, IV.

II. The state treasurer shall establish a separate account to be known as the "trust fund reserve account" into which shall be deposited all moneys appropriated to the trust fund reserve account. When moneys from a source other than the general fund and other than federal funds are deposited into the trust fund established under paragraph I, the state treasurer shall deposit into the trust fund, from the trust fund reserve account, additional moneys in the same amount on a one-to-one matching basis. Any interest earned on the trust fund reserve account shall revert to the general fund.

III. Until the total assets of the fund exceed \$5,000,000 only the interest earned on the moneys in the trust fund established under paragraph I shall be available for disbursement each year, except for any moneys, the receipt of which is conditioned upon the moneys being expended. When the amount of the trust fund exceeds \$5,000,000, any moneys in excess of this amount shall be disbursed for the purposes of this subdivision, except for any moneys, the receipt of which is conditioned upon the moneys remaining in the trust fund.

IV. Of the interest earned on the trust fund established under paragraph I, not more than 10 percent shall be designated for administrative expenses. All mileage payments for members of the board shall be paid out of these moneys.

Source. 1986, 184:1. 1987, 372:4. 1989, 132:2. 1992, 24:2, VI. 1997, 254:3, 4, eff. Aug. 18, 1997.

Section 169-C:39-d

169-C:39-d New Hampshire Children's Trust Fund Board. –

I. There is hereby established a board composed of the following members, all of whom shall have had experience and knowledge with regard to problems of child abuse and neglect, to administer the prevention program:

(a) Eight members to be appointed by the board, as follows:

(1) Three members who are knowledgeable about child development, child health, child psychology, education, juvenile delinquency, or related fields.

(2) Three members who are knowledgeable about the organization and administration of volunteer community services and grant administration.

(3) Two members who are knowledgeable about banking, finance, investments, tax law, business, or public relations.

(b) Two members of the senate to be appointed by the president of the senate.

(c) Two members of the house of representatives to be appointed by the speaker of the house.

(d) The attorney general or a designee.

(e) One representative of children, youth, and families appointed by the commissioner of the department of health and human services.

(f) One representative of public health appointed by the commissioner of the department of health and human services.

(g) One member, who shall be knowledgeable about one of the areas designated in subparagraph (a), appointed by the governor.

II. The board members, other than the legislative members who shall serve for a term concurrent with their legislative terms, and other than the attorney general and those members appointed by the commissioner of the department of health and human services, shall serve terms of 3 years.

III. The board shall choose a chairman from among its members and shall meet at least 4 times per year and more often at the call of the chair. Seven members shall constitute a quorum. The board shall be administratively attached to the department of justice. Members of the board shall receive mileage payments at the state employee rate.

IV. [Repealed.]

Source. 1986, 184:1. 1993, 165:1. 1994, 212:2. 1995, 310:171. 1997, 254:5, eff. Aug. 18, 1997.

Section 169-C:39-e

169-C:39-e Duties of the Board. – In addition to the duties outlined in RSA 169-C:39-c, the board shall have the following duties:

I. (a) Administer the grant program established by this subdivision.

(b) Apply for and receive funds from other sources including, but not limited to, federal and state grants.

II. Disburse funds to qualified grantees, subject to any applicable state law governing the distribution of state grants and state contracts.

III. Publicize the availability of the trust fund moneys.

IV. Renew and monitor the quality of the programs which have received moneys from the trust fund.

V. Report annually on the effectiveness of the grant program and provide an annual accounting of the fund to the speaker of the house, the senate president, and the governor.

Source. 1986, 184:1. 1987, 372:5, 10. 1993, 165:2, eff. July 23, 1993.

Section 169-C:39-f

169-C:39-f Criteria for Selection of Grantees. – The board shall use all of the following criteria for selecting grantees:

I. A grantee shall be a community-based public or private nonprofit organization or community prevention council that intends to use its grant for a community or state-wide prevention program.

II. A grantee shall stipulate that participation by targeted individuals in its prevention program be voluntary.

III. A grantee shall demonstrate the need for its proposed prevention program.

IV. A grantee shall establish its ability to secure community support and its efficiency of

administration.

V. A grantee shall meet the criteria established for the fund for purposes of the evaluation and accountability of the funded project.

Source. 1986, 184:1. 1997, 254:6, 7, eff. Aug. 18, 1997.

Section 169-C:39-g

169-C:39-g Amount of Grant. – A grantee shall have a portion of its funding contributed from a source other than the children's trust fund, which source may include town, city, county, federal, or private sources. Contribution in kind, whether material, commodities, transportation, office space, or personal services, shall be evaluated by the board of trustees and counted as part of the required non-state funding; provided that such in kind contribution shall not be permitted to exceed 50 percent of the non-state contribution. A grantee shall be eligible to receive up to 50 percent of its yearly funding from the trust fund.

Source. 1986, 184:1, eff. July 1, 1986.

Section 169-C:39-h

169-C:39-h Rulemaking. – [Repealed 2006, 48:1, eff. June 17, 2006.]

Section 169-C:39-i

169-C:39-i Successor to or Replacement of New Hampshire Charitable Foundation. – References in this subdivision to the New Hampshire Charitable Foundation shall include any successor to such foundation. The New Hampshire Charitable Foundation may resign from the obligations imposed on it under this subdivision by paying over all funds held by it under this subdivision to the state treasurer, together with an accounting. Upon such payment, the New Hampshire Charitable Foundation shall be relieved of all further obligations with respect to the trust fund.

Source. 1987, 372:6. 1992, 24:1. 1997, 254:8, eff. Aug. 18, 1997.

Severability

Section 169-C:40

169-C:40 Severability. – If any provision of this chapter or the application thereof to any person or circumstances is held to be invalid, the remainder of the chapter and the application of such provision to other persons or circumstances shall not be affected thereby.

Source. 1979, 361:2, eff. Aug. 22, 1979.