

A GUIDE TO NEW YORK'S CHILD PROTECTIVE SERVICES SYSTEM

2014 REVISED EDITION



**SHELDON SILVER,
SPEAKER**

New York State Assembly

**DONNA A. LUPARDO,
CHAIR**

Committee on Children and Families

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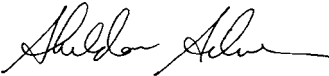
Committee on Children and Families

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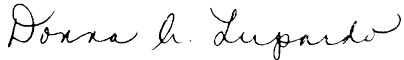
New York State continues to make important strides in protecting children from abuse and maltreatment despite tough budgetary restraints.

The Assembly continues to lead efforts designed to protect children. From supporting initiatives that would lift the veil of secrecy surrounding child abuse investigations and confidentiality to creating more mandated reporters of child abuse, the Assembly has played an instrumental role in maintaining New York State's reputation as a leading advocate for children.

We are committed to advancing future initiatives that would protect New York's most precious resource — our children. By protecting children, we ensure that New York State will have a brighter future for all citizens.



Sheldon Silver, Speaker
New York State Assembly



Donna A. Lupardo, Chair
Committee on Children and Families

TABLE OF CONTENTS

Preface: 2014	1
The Concept of Child Protective Services.....	2
New York State's Child Protective Services Act (1973)	2
The Purpose of New York State's Child Protective Laws.....	3
The State Central Register of Child Abuse and Maltreatment	4
New York State Child Protective Services System Chart.....	6
Definition of Child Abuse.....	8
Definition of Child Neglect.....	9
Other Person Legally Responsible/Subject of a Report	10
Those Professionals Required to Report.....	10
Only Reasonable Suspicion is Required.....	13
Physical and Behavioral Indicators of Child Abuse & Neglect Chart	14
Mandated Reporting of Deaths to Medical Examiner or Coroner	16
Immunity from Liability.....	16
Penalties Related to Reporting Requirements	17
Reporting Procedures	17
Taking Photographs and X-Rays	19
Protective Custody	20
Special Authority for "24 Hour Hold" by Hospitals	22
The Local Child Protective Service and its Duties	23
Standard Child Protective Agency Procedures – A Summary of the Whole Picture	26
Local Plan for Child Protective Services	29
Cooperation: Hospitals, Schools and Law Enforcement.....	30
Protecting Individual Rights	31
Further Information	34

This handbook was written to serve **only as an informational guide** for individuals to navigate through the complex structure of New York State's Child Protective Services (CPS) system. In addition, this handbook is designed to expand awareness of child abuse and highlight the process that occurs when child abuse is reported.

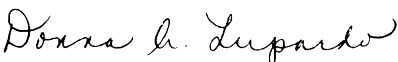
Laws and programs designed to protect children must continue to evolve to reflect overall changes in society. The New York State Legislature has responded by passing laws to increase and strengthen the State's protection of children. Over the years, legislation has been passed to continually update and expand the list of professionals that are required to report suspected child abuse or neglect. Additionally, in 2007, the Legislature enacted the Family Assessment Response (FAR) track as a less invasive approach to the traditional child protective services model. This track allows local social services districts to focus on keeping the family together, while engaging in a multitude of services aimed at increasing the caregiver's ability to care for their children. In 2011 the FAR track was permanently adopted and updated by the Legislature.

The Legislature has also passed various pieces of legislation that, while not directly associated with child protective services, have impacted children and their families as they make their way through the Family Court process and beyond after the initial reports of child abuse or neglect have been made.

More recently, in the fall of 2013, the Assembly held a series of hearings to examine current CPS practices. The goal was to identify areas that were in need of improvement and find ways in which the State could help support such endeavors. By truly understanding the issues individuals face on a daily basis in this system, the Assembly can more effectively craft solutions to ensure the safety of our children and families during this process.

The Assembly will continue its commitment to protecting children by strengthening present laws, improving CPS training programs, working with local stakeholders and providing important information about child protective services. As the chair of the Assembly Committee on Children and Families, I am committed to protecting the children of this State and welcome your ideas and suggestions.

Sincerely,



Donna A. Lupardo, Chair
New York State Assembly
Committee on Children and Families

It is against the law to endanger the welfare of children.¹ People, even parents, who have abused or mistreated a child may be prosecuted for what they have done. Child Protective Services (CPS), while it may refer cases to the district attorney for prosecution, focuses on protecting children from future abuse or neglect. People sometimes think of child protection in the narrow sense of investigating abuse, neglect or maltreatment; filing child protective proceedings in Family Court; and placing children in foster homes. New York's Child Protective Services has a broader focus and a different perspective. Under New York's concept, "the state's first obligation is to help the family with services to prevent its break-up or to reunite it if the child has already left home".² Therefore, in New York, child protection focuses on the child in the context of the family, and recognizes the value of the family to the child. Removing the child from the home is a last resort, to be employed only when less drastic means of protection are impossible.

**NEW YORK STATE'S
CHILD PROTECTIVE SERVICES ACT (1973)**

In order to protect children who are victims of abuse or maltreatment, New York, like most states, created a child protective system in statute with five fundamental components:

- (1) State Central Register of reports of suspected child abuse and maltreatment;
- (2) Detection through third-party recognition of children in danger, including mandatory and voluntary reporting of suspected child abuse and maltreatment;
- (3) Child protective services (a) to verify reports, (b) to provide immediate protection of children and (c) to begin the process of helping families by providing rehabilitative and ameliorative services;

¹ NY CLS Penal §260.10

² NY CLS Soc Serv §384-b(1)(iii)

- (4) Emergency protective custody of children in “imminent danger”; and
- (5) When necessary, court action - Family Court action to remove a child, remove the allegedly abusive or neglectful parent from the child’s residence, impose treatment and/or Criminal Court action (by referring the case to law enforcement) to prosecute the perpetrator.

THE PURPOSE OF NEW YORK STATE’S CHILD PROTECTIVE LAWS

Abused and maltreated children in this State need an effective child protective service to prevent them from suffering further injury and impairment.

The purpose of the Child Protective Services Act and amendments is to encourage more complete reporting of child abuse and maltreatment. The law establishes a child protective service in each county of the State. Each child protective service is required to receive and investigate child abuse and maltreatment reports, to protect children from further abuse or maltreatment, and to provide rehabilitative services for the children, parents and other family members involved.

The purpose of the Family Court Act’s child abuse and neglect provisions is to help safeguard the physical, mental and emotional wellbeing of abused and neglected children by establishing civil procedures to protect them. The Family Court Act provides a due process for determining when the State, acting on behalf of the child, may intervene against the wishes of the parent or other person legally responsible for the child’s care so that the child’s needs are properly met.

The New York State Office of Children and Family Services maintains a statewide Central Register of Child Abuse and Maltreatment for reports made pursuant to the Child Protective Services Act.³ The Central Register, also known as the “Hotline,” receives telephone calls and facsimile reports alleging child abuse and maltreatment **twenty-four hours a day, seven days a week.**⁴ The calls come from two sources: persons who are required by law to report suspected cases of child abuse and maltreatment and any other individual who wishes to voluntarily make a report.⁵ All voluntary reporters may use the statewide, toll-free number to report suspected cases of child abuse or maltreatment.⁶ The statewide, toll-free number is:

1-800-342-3720

Onondaga County and Monroe County each have a telephone hotline number as well for receiving reports of child abuse and maltreatment. Upon receiving a telephone call alleging child abuse or maltreatment, both Onondaga and Monroe counties are required to immediately notify the Central Register.

**The number to call in Onondaga County is:
(315) 422-9701⁷**

**The number to call in Monroe County is:
(585) 461-5690⁸**

Any allegations contained in a telephone call to the Hotline which the interviewer believes could reasonably constitute child abuse or maltreatment must be immediately transmitted to the appropriate local child protective services for investigation.⁹ If the Central Register records contain a previous indicated report concerning a subject of the report, other persons named in the report or other pertinent information, the appropriate local child protective services must be immediately notified of this prior report, the name of any other persons named in the report and informed of any pertinent information contained in the Central Register’s records.¹⁰

³ NY CLS Soc Serv §422(1)

⁴ NY CLS Soc Serv §422(2)(a)

⁵ *Id.*

⁶ <http://www.ocfs.ny.gov/main/cps>

⁷ <http://www.ongov.net/dss/childwelfare.html>

⁸ <http://www2.monroecounty.gov/hs-family.php>

⁹ NY CLS Soc Serv §422(2)(a)

¹⁰ *Id.*

When the Central Register receives a telephone call regarding allegations of child abuse or maltreatment where the alleged perpetrator is not legally responsible for the child (e.g., a stranger) but the alleged acts or circumstances described may constitute a crime or a threat to the health or safety of a child, the Central Register must immediately notify the appropriate law enforcement agency, district attorney or other public official empowered to provide aid or assistance.¹¹

The Central Register is prohibited from not accepting a report or not transmitting allegations contained in a report for investigation solely because the alleged perpetrator was not identified by a person reporting a suspected case of child abuse or maltreatment.¹²

Child abuse or maltreatment reports as well as any other information or photographs obtained by the Central Register or in the possession of the local department are confidential and are made available to only certain persons authorized by law.¹³

Certain persons authorized by law are permitted to check the Central Register to determine the existence of prior indicated reports in order to evaluate the condition or circumstances of the child before them or for other specified purposes.¹⁴

The Central Register is also used for screening of foster parents, adoptive parents and prospective or current employees who have or will have regular and substantial contact with children (see pp. 31-33, Protecting Individual Rights).¹⁵

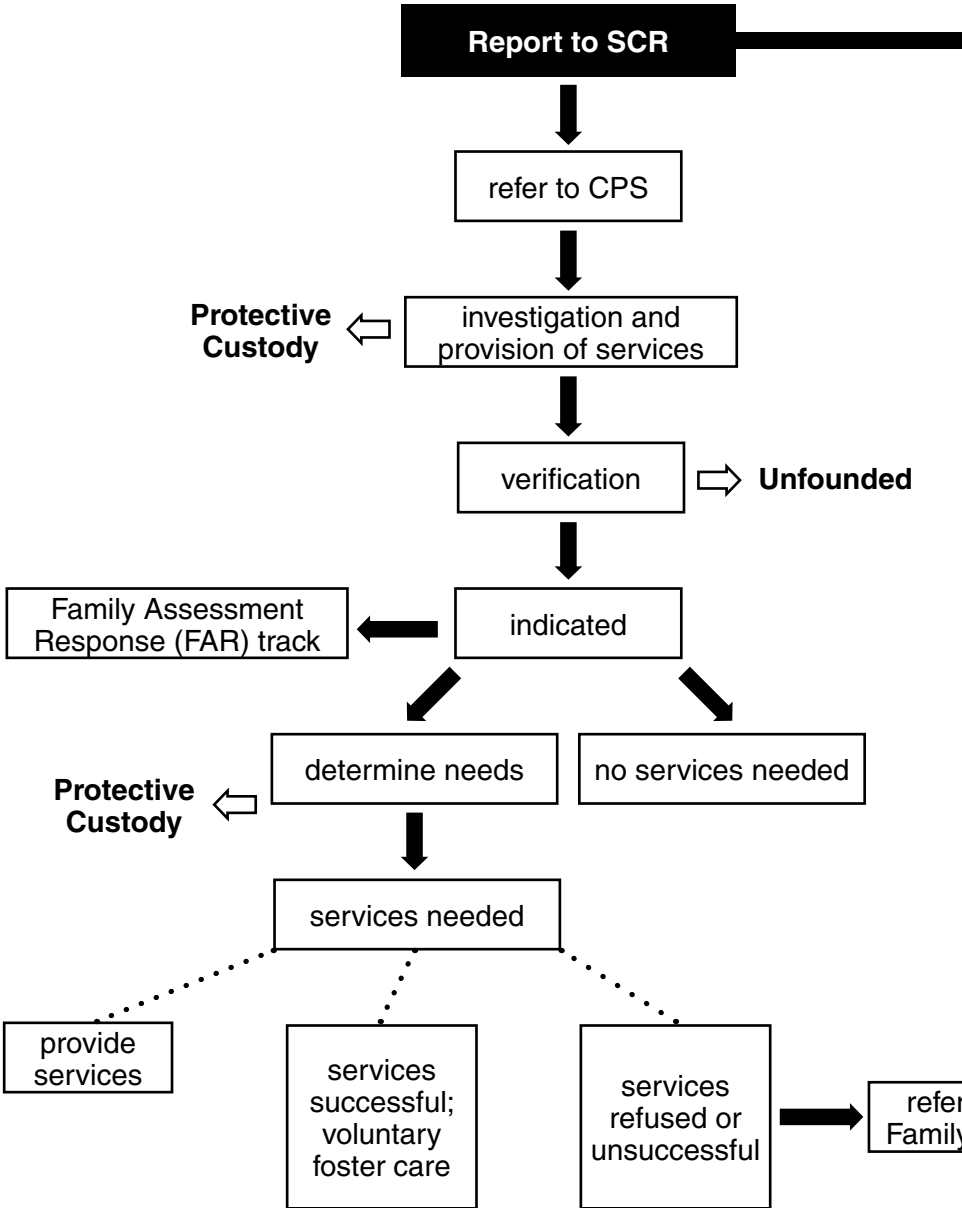
¹¹ NY CLS Soc Serv §422(2)(c)

¹² NY CLS Soc Serv §422(2)(a)

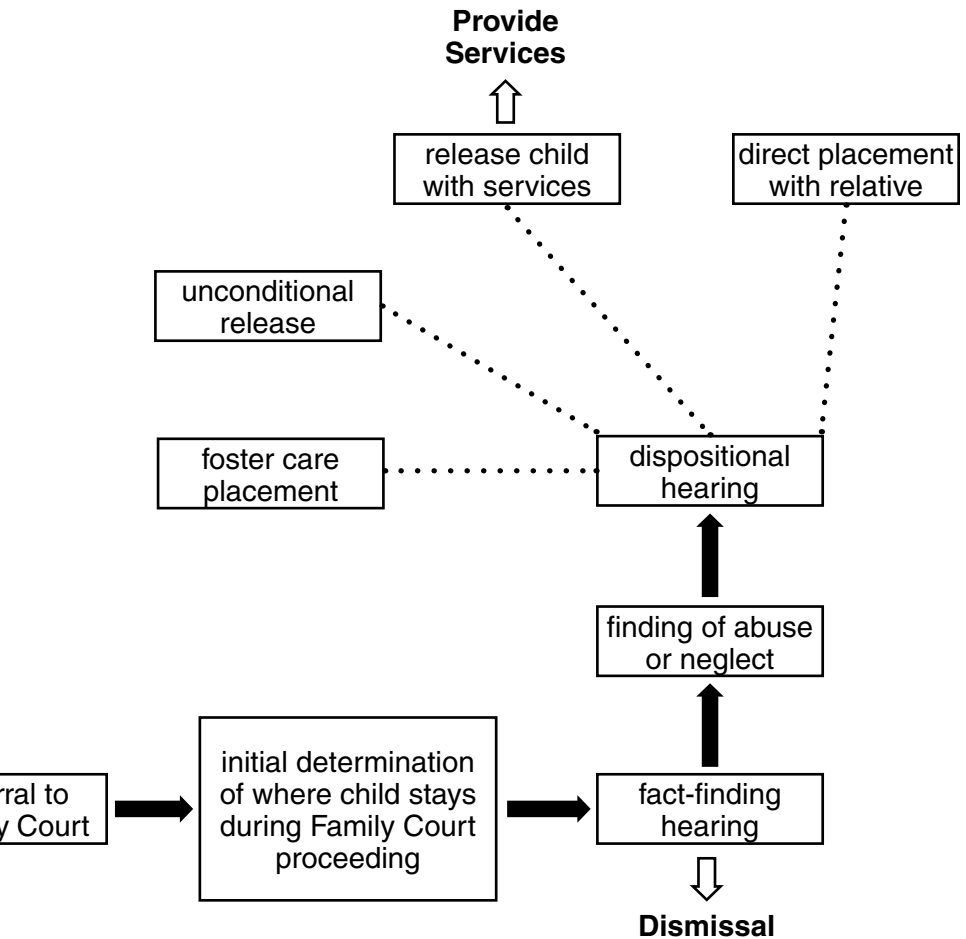
¹³ NY CLS Soc Serv §422(4)(A)

¹⁴ NY CLS Soc Serv §422(2)(a)

¹⁵ NY CLS Family Ct Act §105(f)(iii)



If the subject of the report is not a legally responsible relative, report is forwarded to local law enforcement.



The Family Court Act defines an abused child as “a child less than 18 years of age whose parent or other person legally responsible for the child’s care:

- (i) inflicts or allows to be inflicted upon the child physical injury by other than accidental means which causes or creates a substantial risk of death, serious or protracted disfigurement, protracted impairment of physical or emotional health or protracted loss or impairment of the function of any bodily organ;
- (ii) creates or allows to be created a substantial risk of physical injury to the child by other than accidental means which would be likely to cause death, serious or protracted disfigurement, protracted impairment of physical or emotional health or protracted loss or impairment of the function of any bodily organ; or
- (iii) commits or allows to be committed a sex offense against the child, as defined in Article 130 of the penal law; allows, permits, or encourages the child to engage in any act described in sections 230.25, 230.30 or 230.32 of the penal law (Promoting Prostitution in the third, second, and first degree respectively); commits any act described in section 255.25, 255.26 or 255.7 of the penal law (Incest in the third, second and first degree respectively); or allows such child to engage in any act described in article 263 of the penal law (Sexual Performance by a Child). However, the corroboration requirements contained in the penal law regarding the sections cited above and the age application of article 263 does not apply to child abuse and neglect proceedings in the Family Court.”¹⁶

¹⁶ NY CLS Family Ct Act §1012(e)

The Family Court Act defines a neglected child as “a child less than 18 years of age:

- (i) whose physical, mental or emotional condition has been impaired or is in imminent danger of becoming impaired as a result of the failure of the child’s parent or other person legally responsible for the child’s care to exercise a minimum degree of care:
 - (a) in supplying the child with adequate food, clothing, shelter, education in accordance with Part I of Article 65 of the education law, or medical, dental, optometrical, or surgical care though financially able to do so or offered financial or other reasonable means to do so; or
 - (b) in providing the child with proper supervision or guardianship, by unreasonably inflicting or allowing to be inflicted harm or substantial risk of harm including the infliction of excessive corporal punishment; or by misusing a drug or drugs; or by misusing alcoholic beverages to the extent that the parent or other person legally responsible for the child’s care loses self-control of his or her actions; or by any other acts of a similarly serious nature requiring the aid of the court. However, where the person legally responsible for the child’s care is voluntarily and regularly participating in a rehabilitative program, evidence that he or she has repeatedly misused a drug (or drugs) or an alcoholic beverage (or beverages) to the extent that he or she loses self-control of his or her actions shall not establish that the child is a neglected child without evidence that the child’s physical, mental or emotional condition has been impaired or is in imminent danger of becoming impaired as set forth in paragraph (i); or
- (ii) who has been abandoned.”¹⁷

17 NY CLS Family Ct Act §1012(f); NY CLS Soc Serv §384-b(5)

In the definitions of both an abused and a neglected child, the term “subject of a report” and “person legally responsible” are utilized. The term “subject of a report” includes any parent of, guardian of, custodian of or any other persons 18 years of age or older legally responsible for a child who allegedly causes the abuse or maltreatment of the child named in a report, or who allegedly allows the abuse or maltreatment to be inflicted on the child named in a report.”¹⁸ Other persons who may be the subject of a report include a foster parent or an operator of or employee or volunteer in a home or facility operated or supervised by an authorized agency, the Office of Children and Family Services, the Office of Mental Health, a family day care home, a day care center, a group family day care home, or a day services program, or a consultant or any person who is an employee or volunteer of a corporation, partnership, organization or governmental entity which provides goods under an arrangement which provides for such person to have regular and substantial contact with children in residential care.¹⁹

A “person legally responsible” includes the “child’s custodian, guardian or any other person responsible for the child’s care at the relevant time, including any person who lives in the household or visits at regular intervals.”²⁰

THOSE PROFESSIONALS REQUIRED TO REPORT

Various individuals and officials are required to report or cause a report to be made when they have reasonable cause to suspect that a child coming before them in their professional or official capacity is an abused or maltreated child. They are also required to report or cause a report to be made when there is reasonable cause to suspect that a child is abused or maltreated when a parent, legal guardian, custodian or person legally responsible for the child’s care comes before them in their official or professional capacity and states facts, conditions or circumstances which if true would constitute abuse or maltreatment. The following is a list of these individuals and officials that are mandated to report as required by statute.²¹

¹⁸ NY CLS Soc Serv §412(4)

¹⁹ *Id.*

²⁰ NY CLS Family Ct Act §1012(g)

²¹ NY CLS Soc Serv §413(1)(a)

- Physicians;
- Registered physician assistant;
- Surgeon;
- Medical examiner;
- Coroner;
- Dentist;
- Dental hygienist;
- Osteopath;
- Optometrist;
- Chiropractor;
- Podiatrist;
- Resident;
- Intern;
- Psychologist;
- Registered nurse;
- Social worker;
- Emergency medical technician;
- Licensed creative arts therapist;
- Licensed marriage and family therapist;
- Licensed mental health counselor;
- Licensed psychoanalyst;
- Hospital personnel engaged in the admission, examination, care or treatment of persons;
- Christian Science practitioner;
- School official, which includes but is not limited to school teacher, school guidance counselor, school psychologist, school social worker, school nurse, school administrator or other school personnel required to hold a teaching or administrative license or certificate;
- Social services worker;
- Director of a children's overnight camp, summer day camp or traveling summer day camp, as such camps are defined in section thirteen hundred ninety-two of the public health law;
- Day care center worker;
- School-age child care worker;
- Provider of family or group family day care or any other child care or foster care worker;
- Mental health professional;
- Substance abuse counselor;
- Alcoholism counselor;
- All persons credentialed by the Office of Alcoholism and Substance Abuse Services;
- Peace officer;
- Police officer;
- District attorney or assistant district attorney;
- Investigator employed in the office of a district attorney; or other law enforcement official.

The special unlisted telephone number to use only by persons mandated by law to report suspected cases of child abuse or maltreatment is:

1-800-635-1522²²

Whenever persons are required to report in their capacity as members of the staff of a medical or other public or private institution, school, facility or agency, they

²² <http://www.nysmandatedreporter.org/Resources.aspx>

are required to immediately notify the person in charge; the person in charge then also becomes responsible to report or cause a report to be made.²³ However, the law requires that only one report from the institution, school or agency be made.²⁴

Any person, institution, school, facility, agency, organization, partnership or corporation which employs persons mandated to report suspected incidents of child abuse or maltreatment is required to provide all current and new employees with written information explaining the current reporting procedures.²⁵

Persons applying for licensure or registration as operators of child day care centers, school age child care program, family and group family day care centers, small day care centers and head start day care program directors, homes, programs or facilities and all staff members providing direct child care or supervision in each home, program and facility covered by the operator's license or registration are required to receive a minimum number of hours (depending on the type of facility) of training which must include receiving information regarding child abuse and maltreatment prevention and identification.²⁶

Similarly, those persons seeking or currently holding a license, certificate or permit to operate a family day care home or a group family day care must receive written information explaining reporting requirements from the state or local government agency which issued their license, certificate or permit.²⁷

All persons applying for or renewing a limited permit, licensure or registration to become a teacher of a private or public school, a superintendent of schools, a physician, a chiropractor, a dentist, a dental hygienist, a registered nurse, a podiatrist, an optometrist, a psychologist, a psychiatrist, a licensed master social worker, a licensed clinical social worker, a licensed creative arts therapist, a licensed marriage and family therapist, a licensed mental health counselor or a licensed psychoanalyst are required to complete two hours of coursework or training regarding the identification and reporting of child abuse and maltreatment.²⁸

²³ NY CLS Soc Serv §413(1)(b)

²⁴ *Id.*

²⁵ NY CLS Soc Serv §413(2)

²⁶ ocfs.ny.gov/main/childcare/training.asp

²⁷ NY CLS Soc Serv §413(3)

²⁸ NY CLS Educ §3003(4); NY CLS Educ §3004(2); NY CLS Educ §6507(3)(a)

The law does not require certainty before reporting child abuse or maltreatment. The law purposefully requires only “reasonable cause to suspect” that a child is abused or maltreated.²⁹ Requiring reports of suspected child abuse and maltreatment is intended to ensure the fullest possible reporting. It must be emphasized that the law provides for, and in certain instances requires, the reporting of suspected cases of child abuse and maltreatment because the child protective system is based on investigation and intervention. The sooner a case is reported, the better the chances of protecting the child and rehabilitating the family.

After a report is made, the child protective agency is responsible for making the actual determination of the child’s condition and beginning the process of diagnosis, protection and treatment.³⁰

Recognizing child abuse or maltreatment is not as easy as it may seem. Because abuse and maltreatment usually occur in the privacy of a home without witnesses, recognition is frequently based on deductions; sometimes there is no hard, first-hand evidence. In grappling with the problem of recognition, professionals depend on a series of clues, which, based on their experience, they look for in diagnosing abuse and maltreatment. These clues are not conclusive proof. They are nothing more than circumstantial evidence tending to show that a child was abused or maltreated. The list of indicators on pp. 14-15 may be used as a guide to determine whether there is reasonable suspicion that a child is abused or maltreated. It should be noted that these indicators can exist in situations where a child is not abused or maltreated. It must be underscored that these indicators are only suggestive of abuse or maltreatment. The presence of any one or more symptoms may have an entirely proper or unrelated explanation. Professionals are required to weigh the signs in light of their training and experience to form an expert judgment.

²⁹ NY CLS Soc Serv §413(1)(d)

³⁰ NY CLS Soc Serv §424

Physical Abuse

Special attention should be paid to injuries that are unexplained or inconsistent with the parent's or caretaker's explanation and developmental stage of the child.

Physical Indicators

- Bruises, welts and bite marks
 - on face, lips, mouth, neck, wrists, ankles
 - on torso, back, buttocks, thighs
 - injuries to both eyes or cheeks (accidents usually injure only one side of face)
 - clustered, forming patterns reflecting article shape
- "Grab marks" on arms, shoulders
 - on several different surface areas
- Evidence of human bite (compresses rather than tears)
 - in various stages of healing
 - regularly appearing after absence, weekend, vacation
- Lacerations or abrasions
 - to mouth, lips, gums, eyes
 - to external genitalia
 - on back or arms, legs or torso
- Burns
 - cigar, cigarette, esp. on soles, palms, back, buttocks
 - scalding water immersion (sock-like, glove-like, doughnut shaped on buttocks or genitalia)
 - patterned like electric iron, burner, etc.
 - rope burns on arms, legs, neck, torso
- Fractures
 - to skull, nose, facial structure
 - skeletal trauma accompanied by other injuries
 - multiple or spiral fractures
 - in various stages of healing
- Head injuries
 - absence of hair and/or hemorrhaging beneath scalp
 - subdural hematoma (severe hitting or shaking)
 - retinal hemorrhage or detachment (shaking)
 - eye injury
 - jaw and nasal fractures
 - tooth or frenulum injury

Behavioral Indicators

- Wary of contacts with parents or other adult
- Apprehensive when other children cry
- Behavioral extremes
 - aggressiveness
 - withdrawal
 - extreme mood changes
- Afraid to go home, repeated incidents of running away
- Reports injury by parents
 - sometimes blames self, e.g. "I was bad."
- Habit disorders
 - self-injurious behavior
 - psychoneurotic reactions (phobias, compulsions, obsessions, hypochondria)
- May wear long sleeves or other clothing inappropriate for the season to hide indicators of abuse
- Manifestations of low self-esteem
- Suicide attempts

Neglect

Physical Indicators	<ul style="list-style-type: none"> • Failure to thrive (physically or emotionally) • Positive indicator of toxicology, esp. in newborns; drug withdrawal symptoms, tremors, etc. • Lags in physical development • Consistent hunger, poor hygiene (skin, teeth, ears, etc.) • Speech disorders 	<ul style="list-style-type: none"> • Consistent lack of supervision, especially in dangerous activities or for long periods • Unattended physical problems or medical needs • Chronic truancy • Abandonment • Inappropriate dress for the season
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Behavioral Indicators	<ul style="list-style-type: none"> • Begging, stealing food • Extended stays at school • Constant fatigue, listlessness, falling asleep in class • Alcohol or drug abuse • Delinquency (e.g., thefts) • States there is no caretaker • Runaway behavior • Habit disorders (sucking, biting, rocking, etc.) • Conduct disorders (antisocial, destructive, etc.) 	<ul style="list-style-type: none"> • Neurotic traits (sleep disorders, inhibition of play) • Psychoneurotic reactions (hysteria, obsession) • Behavior extremes; compliant/passive-aggressive • Overly adaptive behavior, adultlike or infantile • Lag in mental/emotional development • Attempted suicide
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Sexual Abuse

Physical Indicators	<ul style="list-style-type: none"> • Difficulty in walking or sitting • Torn, stained or bloody underclothing • Pain or itching in genital area • Bruises or bleeding in external genitalia, vaginal or anal areas • Bruises to the hard or soft palate • Sexually transmitted diseases, 	<ul style="list-style-type: none"> • especially in preteens; includes venereal oral infections • Pregnancy, especially in early adolescent years • Painful discharge of urine and/or repeated urinary infections • Foreign bodies in vagina or rectum
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Behavioral Indicators	<ul style="list-style-type: none"> • Unwilling to change for or participate in gym class • Withdrawal, physical fantasy, or infantile behavior • Bizarre, sophisticated, or unusual sexual behavior or knowledge; seductive or promiscuous behavior • Poor peer relationships • Delinquent or runaway; truancy • Reports sexual assault by caretaker 	<ul style="list-style-type: none"> • Prostitution • Forcing sexual acts on other children • Extreme fear of being touched; unwilling to submit to physical examination • Self-injurious behaviors; suicide attempts • Manifestations of low self-esteem; general fearfulness
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Any person or official required to report suspected child abuse or maltreatment, including a worker in the local child protective service, who has reasonable cause to suspect that a child died as a result of child abuse or maltreatment must report that fact to the appropriate medical examiner or coroner.³¹

The medical examiner or coroner is required to accept the report for investigation and must report his or her finding to the Office of Children and Family Services, which shall promptly provide a copy of such a report to a local multidisciplinary investigative team and local and regional fatality review teams, the police, the appropriate district attorney, the local child protective service, the central register, and, if the institution making the report is a hospital, the hospital.³²

IMMUNITY FROM LIABILITY

Any person (mandated by law or not), official or institution participating in good faith in the making of a report, taking of photographs, placing a child in protective custody or providing a service pursuant to the duties of the child protective service according to the law has immunity from any liability, civil or criminal, that might otherwise result from such actions.³³

For the purpose of any proceeding, civil or criminal, the good faith of persons, officials or institutions required to report cases of child abuse or maltreatment is presumed as long as they were acting in the discharge of their duties and within the scope of their employment.³⁴

³¹ NY CLS Soc Serv §418

³² *Id.*

³³ NY CLS Soc Serv §419

³⁴ *Id.*

Any person, official or institution required by law to report a case of suspected child abuse or maltreatment who willfully fails to do so is guilty of a class A misdemeanor.³⁵ Any person, official or institution required by law to report a case of suspected child abuse or maltreatment who knowingly and willfully fails to do so is civilly liable for the damages proximately caused by the failure to report.³⁶ Knowingly making a false report to the State Central Register is a class A misdemeanor.³⁷

REPORTING PROCEDURES

As previously indicated, reports of suspected child abuse and maltreatment may be made **24 hours a day, 7 days a week** by mandated reporters or any other individual wishing to voluntarily report either by telephone or facsimile.³⁸ The numbers that should be used to call the Statewide Central Register are:

**For Mandated Reporters:
1-800-635-1522³⁹**

**For Individuals Statewide:
1-800-342-3720**

**The number to call in Onondaga County is:
(315) 422-9701⁴⁰**

**The number to call in Monroe County is:
(585) 461-5690⁴¹**

35 NY CLS Soc Serv §420(1)

36 NY CLS Soc Serv §420(2)

37 NY CLS Penal §240.50(4)

38 NY CLS Soc Serv §422(2)(a)

39 <http://www.nysmandatedreporter.org/Resources.aspx>

40 <http://www.ongov.net/dss/childwelfare.html>

41 <http://www2.monroecounty.gov/hs-family.php>

Oral reports made to the Statewide Central Register must be followed by a report in writing within 48 hours after the initial oral report was made.⁴² Reports sent by facsimile machine are required to be made on a form supplied by the State Office of Children and Family Services.⁴³ Written reports submitted by mandated reporters are required to include the following information:⁴⁴

- name and address of the child;
- name and address of the child's parents, or other persons legally responsible for the child, if known;
- the child's age, sex and race;
- the nature and extent of the child's injuries (or, as the case may be, the child's siblings), abuse or maltreatment, including any evidence of prior injuries, abuse or maltreatment;
- the name of the person or persons allegedly responsible for causing, allowing, or inflicting any injuries, abuse or maltreatment, if known;
- the family composition, where appropriate;
- the person making the report and where he or she can be reached; and
- the actions taken by the person reporting the alleged abuse or maltreatment, including the taking (or causing to be taken) of photographs, x-rays, or the removal of the child or notification of the medical examiner or coroner; and
- any other information the State Commissioner of Social Services may deem helpful.

⁴² NY CLS Soc Serv §415

⁴³ *Id.*

⁴⁴ *Id.*

Any person or official required to report suspected abuse and maltreatment of a child may take (or cause to be taken) at the public expense photographs of the areas of trauma visible on a child who is named in a report, and, if medically indicated, may cause to be performed a radiological examination on a child. Any photographs or report of X-ray findings must be sent to the local child protective service at the time the written report is made, or as soon thereafter as possible.⁴⁵

Whenever a person is required to report under the law in the capacity as a member of the staff of a medical or other public or private institution, school, facility or agency, he or she must immediately notify the person in charge (or his or her designated agent), who then must take or cause to be taken at the public expense color photographs of visible trauma, and is required to, if medically indicated, cause to be performed a radiological examination on the child.⁴⁶

However, hospitals and child protective services may not take X-rays or conduct intrusive medical examination for investigative purpose without parental consent or a court order.⁴⁷

⁴⁵ NY CLS Soc Serv §416

⁴⁶ *Id.*

⁴⁷ *Van Emrik v. Chemung*, 911 F.2d 863 (1990)

A child may be placed in protective custody without a court order and without the consent of the parent or other person legally responsible regardless of whether the parent or other person legally responsible for the child's care is absent only if:

- (1) the child is in such circumstance or condition that continuing at home or in the care and custody of the parent or other person legally responsible for the child's care presents an imminent danger to the child's life or health⁴⁸; and
- (2) there is not enough time to file a case in Family Court.⁴⁹

Certain persons are allowed to take children into protective custody. These include:

- (1) peace officers, police officers, law enforcement officials, designated employees of city or county departments of social services, and physicians.⁵⁰

If an authorized person removes or keeps custody of a child, he or she must:

- (1) bring the child immediately to a place approved for this purpose by the local social services department, unless the person is a physician treating the child and the child is or will be presently admitted to a hospital⁵¹;
- (2) at the same time as the removal, give written notice to the parent or other person legally responsible for the child's care of the right to apply to the Family Court for the return of the child and of the right to be represented by counsel in abuse or neglect proceedings as well as the procedures for obtaining counsel if indigent; and include in the written notice his or her name, title, organization as well as the address and telephone number of the organization, the name and telephone number of the child care agency to which the child will be taken and, if available, the telephone number of the person to be contacted for visits with the child⁵²;

⁴⁸ NY CLS Family Ct Act §1024(a)(i)

⁴⁹ NY CLS Family Ct Act §1024(a)(ii)

⁵⁰ NY CLS Family Ct Act §1024(a)

⁵¹ NY CLS Family Ct Act §1024(b)

⁵² *Id.*

- (3) inform the parent or other person legally responsible for the child's care in writing of the intent of a duly authorized agency, a peace officer, police officer, or authorized agent to apply for an order of temporary removal or a temporary order of protection. Included in the written notice must be the date and the time that the application will be made, the address of the court where the application will be made, the right of the parent or other person legally responsible for the child's care to be present at the application and at any hearing held regarding the order as well as the right to be represented by counsel and of the procedures for obtaining counsel, if indigent⁵³; and
- (4) inform the Family Court and make a report pursuant to the Child Protective Services Act as soon as possible.⁵⁴

Where a physician keeps a child in custody in the capacity as a member of the staff of a hospital or similar institution, pending action by the local department of social services or appropriate authorities, he or she is required to notify the person in charge of the institution, or designated agent, who then becomes responsible for further care of the child.⁵⁵

A physician has the right to keep a child in custody until the custody of the child has been transferred to the appropriate police authorities or to the social services official of the city or county in which the physician practices but no longer than until the next regular week day session of the appropriate Family Court.⁵⁶ If a social services official receives custody of the child, he or she is required to promptly inform the parent or other person responsible for the child's care and the Family Court of the action, and at the next regular weekday session of the Family Court commence a child protective proceeding, or return the child.⁵⁷ If the child protective service takes a child into custody and the parent is not present, the service must immediately notify the closest local police station.⁵⁸

⁵³ NY CLS Family Ct Act §1023

⁵⁴ NY CLS Family Ct Act §1024(b)

⁵⁵ NY CLS Family Ct Act §1024(d)

⁵⁶ NY CLS Family Ct Act §1024(e)

⁵⁷ *Id.*

⁵⁸ NY CLS Soc Serv §417

When the person in charge of any hospital or similar institution has reasonable cause to believe that there would be imminent danger to a child's life or health if the child were to remain in his or her place of residence, the person is required to take all necessary measures to protect the child, including, when appropriate, retaining custody of an abused or maltreated child until the next session of the Family Court in which a child protective proceeding may be commenced.⁵⁹ This duty applies whether or not additional medical treatment is required during the period and whether or not a request is made by a parent or guardian for the return of the child during that period.⁶⁰

In all cases where the person in charge of a hospital or similar institution has retained custody of a child pursuant to the law, he or she is required to immediately notify the appropriate local child protective service.⁶¹ The child protective service must then begin an investigation and a child protective proceeding shall commence in the Family Court at the next regular weekday session of the appropriate Family Court or recommend to the Court at that time that the child be returned to his or her parents or guardian.⁶² If the child protective service does not either remove the child or obtain a court order directing the retention of the child, the hospital has no authority to hold the child at the end of the next regular weekday.⁶³

If no further medical treatment is necessary, the child protective service must take all necessary measures to protect the child, including, when appropriate, taking the child into custody.⁶⁴

⁵⁹ NY CLS Soc Serv §417(2)

⁶⁰ *Id.*

⁶¹ *Id.*

⁶² *Id.*

⁶³ *Id.*

⁶⁴ *Id.*

As required by the Child Protective Services Act of 1973, every local department of social services has established a child protective service.⁶⁵ The Act requires the child protective service to have sufficient staff of sufficient qualifications to fulfill the purposes of the Act and to be organized in such a way as to maximize the continuity of responsibility, care and services of individual workers toward individual children and families.⁶⁶

Each local child protective service receives reports of suspected child abuse and maltreatment in familial settings, foster home settings and day care settings on a twenty-four hour, seven-day-a-week basis.⁶⁷ Upon receipt of a report, each local child protective service is required to commence, within 24 hours, an appropriate investigation.⁶⁸ The investigation must include an evaluation of the environment and condition of each child named in the report and any other children in the same home and a determination of the risk to them if they continue to remain in the existing home environment.⁶⁹

The child protective service determines if there are other children in the home and makes a determination of the nature, extent and cause of any condition enumerated in the report or discovered during the investigation including the condition of the other children.⁷⁰ In addition, not later than seven days after receipt of the initial report, the child protective service is required to send a preliminary written report of the initial investigation, including an evaluation and actions taken or contemplated, to the Central Register.⁷¹

At this point in the process, child protective services must make a decision as to whether the case should remain on the traditional child protective services track or whether it is eligible for the Family Assessment Response (FAR) track. In 2007, the New York State legislature authorized the FAR track, an alternative approach for CPS to handle child abuse and neglect cases. The purpose of FAR is to allow social services districts, when appropriate, to use a less invasive approach focused on engaging families in a variety of support services that meet their needs and increase their ability to care for their children.⁷² Prior to implementing a FAR program, the social services district is required to submit a differential response plan to the Office of Children and Family Services (OCFS) detailing how they intend to implement the plan, including the factors utilized to determine whether a case is eligible for FAR,

⁶⁵ NY CLS Soc Serv §423(1)(a)

⁶⁶ NY CLS Soc Serv §423(1)(c)

⁶⁷ NY CLS Soc Serv §424(1)

⁶⁸ *Id.*

⁶⁹ NY CLS Soc Serv §424(6)(a)

⁷⁰ *Id.*

⁷¹ *Id.*

⁷² <http://ocfs.ny.gov/main/cfsr/far.shtm>

services to be offered, and monitoring processes.⁷³ Social services districts may not implement FAR without prior authorization from OCFS.⁷⁴

If, after completing the initial assessment, it is determined that the child(ren) are safe in their home, there are no reports alleging that certain egregious crimes (delineated in statute) have occurred, and all other criteria is met, the case is eligible for the FAR track.⁷⁵ The reasons for making this determination must be documented and the social services district must notify the SCR that the case is part of the FAR track.⁷⁶ The SCR must then legally seal the report and maintain it for a period of ten years from the initial report.⁷⁷ Several steps must be taken by the social services districts for a report on the FAR track. Some of these requirements include: 1) providing written notice to each parent or legally responsible guardian participating in the FAR track explaining the district's intent to meet the needs of the family without following traditional child protective services investigation models; 2) an examination of the family to determine their strengths, concerns and needs; 3) offering and planning services and assistance to help meet the needs and stabilize the family; and 4) completing on-going evaluations and periodic assessments of the risk to the child.⁷⁸ If at any time while the social services district or a community-based agency is providing services there is a concern that there might be additional abuse or neglect occurring in the home, an investigation must occur.⁷⁹

Cases are no longer eligible to remain on the FAR track if there is evidence of child abuse or the parent/legal guardian refuses to cooperate in the development or implementation of the plan to meet their family's needs and there is evidence of maltreatment to the child.⁸⁰ At this point, the social services district must contact and inform the SCR and make a new report of suspected child abuse or neglect.⁸¹

If at the initial assessment it is determined that the FAR track is not appropriate and the traditional path for child protective services is required, the child protective service is required to complete the investigation and determine, within sixty days, whether the report is "indicated" or "unfounded".⁸² If a report is indicated, follow-up reports are made at regular intervals until the case is closed.⁸³ Based on its investigation and evaluation, the agency offers the family such services as appear

⁷³ NY CLS Soc Serv§427-a(2)

⁷⁴ NY CLS Soc Serv§427-a(1)

⁷⁵ NY CLS Soc Serv§427-a(4)

⁷⁶ *Id.*

⁷⁷ *Id.*

⁷⁸ *Id.*

⁷⁹ *Id.*

⁸⁰ NY CLS Soc Serv§427-a(4)

⁸¹ *Id.*

⁸² NY CLS Soc Serv §424(7)

⁸³ NY CLS Soc Serv §424(3)

appropriate for either the child or the family, or both. Before offering services to a family, the child protective caseworker is required to explain that the agency has no legal authority to compel the family to receive services, but does have the authority to petition the Family Court for a determination that a child is in need of care and protection.⁸⁴ The child protective service provides or arranges for and monitors the provision of rehabilitative services for children and their families on a voluntary basis or under order of the Family Court.⁸⁵ When the child protective service determines that the best interests of the child require Family Court or Criminal Court action because an appropriate offer of service was refused or for any other relevant reason, the service may initiate a Family Court proceeding or make a referral to the District Attorney, or both.⁸⁶ The child protective service assists the Family Court during all stages of the court proceeding and/or the District Attorney and the Office of Children and Family Services during the investigation.⁸⁷ A summary of the protocol between the local child protective service and the District Attorney's office outlining the cooperative procedures to be followed in the investigation is included in the local social services district's consolidated multi-year services plan.⁸⁸

84 NY CLS Soc Serv §424(10)

85 NY CLS Soc Serv §424(13)

86 NY CLS Soc Serv §424(11)

87 NY CLS Soc Serv §424(12)

88 NY CLS Soc Serv §34-a(2)(b)

The child protective process involves two interrelated and simultaneous tasks:

- (1) Verification of the report — Is the child abused or maltreated? Do the circumstances support the allegations? Is the child and family in need of protective services?

- (2) Development of plan to meet the needs of the child and family— Is there a need for immediate action? Should the child be placed in protective custody? What kinds of ameliorative or treatment services are necessary? Are they available? Must the child be placed in care? Is court action necessary?

Ordinarily the child protective process begins with a telephone call to the State Central Register alleging child abuse or maltreatment. The Central Register interviewer obtains information concerning the alleged abuse or maltreatment in as clear, concise and concrete form as possible before making a preliminary evaluation. No further investigative action is taken on reports that clearly do not fall within the definition of child abuse or maltreatment or on reports that do not have enough information to be investigated. In such cases, if the alleged act against the child may constitute a crime or an immediate threat to the child's health or safety, the Central Register must notify the appropriate law enforcement agency, district attorney or other public official.

After the Central Register relays a case to the local child protective service, the protective service is required to initiate the investigation within 24 hours and must decide whether the case requires emergency action.

Cases are assigned to protective caseworkers who are responsible for the field investigation and the provision of services. The protective caseworker is required to determine if the report of suspected child abuse or maltreatment is substantiated and requires further action, and if so, what action. In addition, the protective caseworker is required to continue to assess the risk of further abuse and maltreatment of the child. The need to make hard decisions in the child protective process — to verify third-person reports and to offer and impose treatment services — sets child protective casework apart from most other types of social casework. This quasi-law enforcement responsibility marks both aspects of the two-stage protective process.

Verifying, to certitude, reports of child abuse and maltreatment is almost always difficult. No matter how thorough the investigation, sometimes there is no clear evidence of what happened. Most acts of abuse and maltreatment take place in the privacy of the home. Unless a family member is willing and able to tell what happened, there are no witnesses. Many abused and maltreated children are too young or too frightened to seek help on their own and may be ambivalent about criticizing their

parents. A medical report describing concrete physical injuries suggestive of child abuse may not be sufficient for the caseworker, let alone a judge, to base a final decision on who is responsible for the child's condition.

By evaluating information gathered during the investigation, the protective caseworker determines whether there is some credible evidence to indicate the report of abuse or maltreatment. This determination is based on certain signs or indicators, including the physical condition of the home and the worker's evaluation of the family. Credible evidence is evidence that is "worthy of belief."

If the protective caseworker does not find some credible evidence substantiating the report, the report is considered unfounded.

Every local department of social services is required to provide the child protective service with information that is relevant to the investigation of reported allegations of child abuse or maltreatment or to the provision of protective services. This requirement does not apply to information where the confidentiality is expressly protected by law.⁸⁹

The child protective service follows a fairly standard procedure in handling reports. Usually the first steps in investigating allegations of child abuse or maltreatment are to check for previous reports and then to visit the home.

The purpose of the first home visit is to see to the protection of the child and any sibling, and to examine the home for signs of abuse or maltreatment. The protective caseworker looks for what have been called "the immediately observable symptoms" of abuse or maltreatment. In extreme cases the caseworker may find a child bruised or injured, or may actually see a parent beat or mistreat a child. Sometimes the protective caseworker will find a child left unattended at home, or will find the parent or other person legally responsible for the child's care at home but not in control of his or her actions because of alcohol or drug intoxication. During the first and any subsequent visits, the caseworker, through interviews, evaluates the parents or other persons legally responsible for the child's care and other persons in the household.

If the parent does not allow the caseworker into the home, the caseworker must decide whether to forego a home visit or to seek a court order permitting entry into the home over parental objection. The Family Court judge can order the parent to permit the caseworker to enter the home, but only if the judge concludes that there is "probable cause" to believe that the child was abused or maltreated.⁹⁰

Besides visiting the family, protective caseworkers may call or visit relatives, friends, employers, neighbors, schools, doctors, hospitals, police, other appropriate agencies and the person making the report in order to gather more information about the condition of the family and the accuracy of the report.

⁸⁹ NY CLS Soc Serv §423(1)(b)

⁹⁰ NY CLS Family Ct Act §1034(2)(b)(i)

After determining whether protective custody is necessary, it is the responsibility of the caseworker to assess the risk of further abuse or maltreatment of the child and coordinate, provide or arrange for and monitor the provision of services for the children and their families. The protective caseworker needs easy access to a range of counseling and other services designed to help families and break the cycle of abuse and maltreatment. The services may include:

- (1) casework and supervision of families;
- (2) psychiatric counseling;
- (3) group therapy;
- (4) lay therapists and parent aides;
- (5) visiting nurse service;
- (6) Parents Anonymous and other self-help groups;
- (7) placements outside the home;
- (8) homemaker services;
- (9) day care;
- (10) baby-sitting;
- (11) family planning;
- (12) job counseling, training and referral;
- (13) adequate housing;
- (14) parent support services;
- (15) legal services; and
- (16) alcohol or substance abuse services.

Supervision by the child protective agency itself, with periodic home visits, sometimes is enough to protect a child. The parents' or guardians' relationship with a social worker may also help strengthen their role as parents and care providers. Sometimes supervision is supplemented by homemaker, day care or counseling services.

In serious cases, the child might be in such imminent danger that the protective caseworker decides the child must be removed from the home. Parents sometimes agree to a placement of their child or sometimes the person responsible for the abuse or maltreatment voluntarily leaves the home.

When parents refuse to voluntarily accept the caseworker's decision, either for services or placement, the caseworker may turn to the Family Court for help. The caseworker relies on the Family Court's authority to impose services on the unwilling family, to remove the child or the abusive or neglectful parent from home. In Family Court, a preponderance of the evidence is required to establish that a child has been abused or neglected in a fact finding hearing.⁹¹

⁹¹ NY CLS Family Ct Act §1046(b)

In the care and protection provided to abused and maltreated children, no community can escape criticism. The problems are statewide in scope. It is imperative that every community have an effective child protective system. But to do so we need to mobilize citizen and community support.

All local districts are required to develop a multi-year Consolidated Services Plan incorporating child protective, adult protective, Title XX, family, foster care, adoption and preventive services.⁹²

Each social services district is required to consult with local law enforcement agencies, the Family Court and appropriate public and voluntary agencies, including the Society for the Prevention of Cruelty to Children, and after a public hearing, to prepare and submit a district-wide plan for the provision of child protective services to the State Commissioner of Children and Family Services.⁹³ The plan must describe the district's implementation of the Child Protective Services Act, including the organization, staffing, mode of operations, and financing of the child protective service and the provisions made for purchase of services and inter-agency relations.⁹⁴

Each district must submit annual implementation reports concerning their consolidated services plan to the State Office of Children and Family Services.⁹⁵

The Commissioner of the State Office of Children and Family Services is required to state whether or not the plan meets the requirements of the law. If the Commissioner does not approve the plan, he or she is required to state the reasons why and may withhold State reimbursement for all or part of the local department's activities.⁹⁶

⁹² NY CLS Soc Serv §34-a(1)(a)

⁹³ NY CLS Soc Serv §423(3)(a)

⁹⁴ *Id.*

⁹⁵ *Id.*

⁹⁶ NY CLS Soc Serv §34(4)(a)

Since the enactment of the Child Protective Services Act of 1973, there has been a growing recognition of the importance of communication, coordination and cooperation among personnel of hospitals, schools, law enforcement and child protective services to assure the effective handling of child abuse and maltreatment cases. Official guidelines revised and published by the New York State Health Department in 1991 require hospitals and clinics to implement policies and procedures for identifying and reporting cases of child abuse and maltreatment. The guidelines provide for an inter-disciplinary approach for the protection of children.⁹⁷

In 1999, legislation was enacted to conform New York State statute to the federal Child Abuse Protection and Treatment Act of 1996.⁹⁸ This law authorizes the establishment of local and regional fatality review teams to investigate the deaths of children.⁹⁹ It also authorizes social service districts to establish multidisciplinary teams to investigate child abuse.¹⁰⁰

In 1985, the State Education Department published a booklet to assist school personnel in expanding their professional understanding and awareness of child abuse and maltreatment, improving reporting procedures, dealing with prevention within the school and the community and cooperating with the local child protective services.¹⁰¹

In 1986, legislation was enacted requiring schools to provide written notification annually to teachers and school officials of their rights and responsibilities in reporting student drug abuse and child abuse.¹⁰²

In 2000, legislation was enacted to mandate prospective employees of school districts, charter schools and boards of cooperative educational services to be fingerprinted and to provide a criminal history check.¹⁰³ To enhance the level of coordination between child protective services and the District Attorney's office, the multi-year Consolidated Services Plan prepared by the local social services district must include cooperative procedures that will be followed in investigating incidents of child abuse and maltreatment.¹⁰⁴

97 New York State Department of Health, *Suspected Child Abuse and Maltreatment Identification and Management in Hospitals and Clinics* (prt. 1991)

98 NY CLS Soc Serv §422(b)(1)

99 *Id.*

100 NY CLS Soc Serv §423(6)

101 New York State Education Department, *Children, New York's Greatest Resource: The School's Role in Preventing Child Abuse and Neglect* (prt. 1985)

102 NY CLS Educ §3028-b

103 NY CLS Educ §305(30)

104 NY CLS Soc Serv §34-a(2)(b)

While designed to protect helpless and endangered children, New York's laws also seek to protect the legitimate rights of those suspected of abusing or maltreating children and protect children from unnecessary removal.

Reports made pursuant to the Child Protective Services Act — as well as any other information obtained, reports written or photographs taken concerning such reports in the possession of the Office of Children and Family Services or local departments of social services — are confidential.¹⁰⁵ They can be made available only to certain persons under specified circumstances for authorized purposes.¹⁰⁶

Any person who willfully permits and any person who encourages the release of any data and information contained in the State Central Register to persons or agencies not permitted access by law is guilty of a class A misdemeanor.¹⁰⁷

A person applying for an order of removal must notify the parent of the date, time and place where the application will be made and of the right to be present.¹⁰⁸

If a child is placed in protective custody, the parents or other person legally responsible for the child's care must be notified in writing of the name, title, organization, address and telephone number of the person removing the child, the name and telephone number of the agency with whom the child has been placed, the telephone number of the person to be contacted for visits with the child¹⁰⁹, the right to apply to the family court for the return of the child, the right to be represented by counsel, and if indigent, the procedures for obtaining counsel.¹¹⁰ Also, if English is not the individual's first language, the agency is required, by Executive Order, to ensure these individuals have been provided with interpretation services and all vital and important documentation has been translated for them.¹¹¹

After seeing to the safety of the child involved, the child protective service is required to immediately notify the alleged perpetrator and other persons named in the report in writing of the existence of the report and their rights pursuant to the law.¹¹² When the alleged perpetrator is not a parent, the parents must be notified in writing of the existence of the report and their rights pursuant to law.¹¹³

The subject of a report has the right not to cooperate in the investigation. The subject does not have to allow the caseworker into the home, and does not even have to speak with the caseworker.¹¹⁴

¹⁰⁵ NY CLS Soc Serv §422(4)(A)

¹⁰⁶ *Id.*

¹⁰⁷ NY CLS Soc Serv §422(12)

¹⁰⁸ NY CLS Family Ct Act §1023

¹⁰⁹ NY CLS Family Ct Act §1022(d)

¹¹⁰ NY CLS Family Ct Act §1024(b)(iii)

¹¹¹ Exec. Order No. 26 (2011)

¹¹² NY CLS Soc Serv §424(6)(a)

¹¹³ *Id.*

¹¹⁴ *Id.*

If the subject does not cooperate, the child protective services cannot force their way into the home.¹¹⁵ The caseworker must go to Family Court, where the judge will evaluate the situation and decide whether there is sufficient information to order the subject to allow the child protective services to enter the home.¹¹⁶

The protective caseworker is required to explain that the agency has no legal authority to compel the family to receive services.¹¹⁷ However, the child protective service has the authority to petition the Family Court for a determination that a child is in need of care and protection.¹¹⁸

Unless an investigation of a report determines that there is some credible evidence of the alleged abuse or maltreatment, all information contained in the report must be sealed or, for reports made prior to February 12, 1996, expunged from the State Central Register and local district offices.¹¹⁹ The record of the report to the State Central Register must be expunged ten years after the 18th birthday of the youngest child named in the report.¹²⁰

At any time a subject of a report may receive, upon request, a copy of all information contained in the report.¹²¹ However, the State Commissioner of Children and Family Services may withhold data that would identify the person who made the report in some cases.¹²² In addition, the Office of Children and Family Services may prohibit the release of information identifying a person who cooperated in an investigation of a report, which he or she reasonably finds would be detrimental to the safety or interest of the person.¹²³

In any case, at any time, the Commissioner may amend any record upon good cause shown and must give notice to the subject of the report and other persons named in the report.¹²⁴

Within ninety days from when the subject is notified that a report is indicated, the subject of a report may request the Commissioner to amend the record of the indicated report.¹²⁵ If the Commissioner does not amend the report within ninety days after such request, the subject has the right to a fair hearing to determine whether the record of the report should be amended on the grounds that it is inaccurate or it

115 NY CLS Soc Serv §424(6-b)

116 *Id.*

117 NY CLS Soc Serv §424(10)

118 *Id.*

119 NY CLS Soc Serv §422(5)

120 NY CLS Soc Serv §422(6)

121 NY CLS Soc Serv §422(7)

122 *Id.*

123 *Id.*

124 NY CLS Soc Serv §422(6)

125 NY CLS Soc Serv §422(8)(i)

is being maintained in a manner inconsistent with the law.¹²⁶

The Central Register is used to screen foster parents, adoptive parents and prospective and current employees in the field of child care who have or will have regular and substantial contact with children.¹²⁷ If it is determined after a review by the State Office of Children and Family Services that there is a fair preponderance of the evidence that the subject of the indicated report committed the abuse or maltreatment, then the Office of Children and Family Services is required to also determine whether the act or acts are reasonably related and relevant to issues concerning employment or approval of an application of the subject based on guidelines developed for this purpose.¹²⁸ If it is determined that there is not a fair preponderance of the evidence or that the act or acts are not relevant and related to employment issues, the Office of Children and Family Services is precluded from informing the agency or employer making the request for screening that the person about whom their inquiry is made is the subject of an indicated report of child abuse or maltreatment.¹²⁹

¹²⁶ *Id.*

¹²⁷ NY CLS Family Ct Act §1051(f)(iii); NY CLS Soc Serv §424-a

¹²⁸ NY CLS Soc Serv §424-a(1)(e)(iv)

¹²⁹ NY CLS Soc Serv §424-a(2)(d)

Persons wishing further information may contact:

New York State Office of Children and Family Services
52 Washington Street
Rensselaer, New York 12144
(518) 473-7793

In addition, all persons should feel free to contact their local child protective agency for information. To make a report, call the statewide, toll-free number:

1-800-342-3720

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CHILD PROTECTIVE SERVICES SYSTEM**

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