



SWAN Legal Services Initiative

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(No state child welfare cases were published in April)

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Medical Marijuana Act

On April 17, 2016, Governor Tom Wolf signed Act 16, the Medical Marijuana Act, into law. It went into effect on May 17, 2016, and the Department of Health has an additional six months to issue temporary regulations. The full implementation of the program is expected to take up to two years.

What does this legislation mean for child welfare in Pennsylvania? Here's what you need to know:

- The term “medical marijuana” refers to using the whole, unprocessed marijuana plant and its extracts to treat a disease or symptom. The only types of medical marijuana currently permitted are pills, oils, gels, creams, ointments, tinctures, liquid and non-whole plant forms for administration through vaporization. Smoking is prohibited under this law.
- Only patients with serious medical conditions will be able to access medical marijuana.
- “Serious medical conditions” are listed in the statute and include autism, cancer, Crohn’s disease, epilepsy, glaucoma, HIV, inflammatory bowel syndrome, intractable seizures, and post-traumatic stress disorder.
- To purchase medical marijuana, a patient needs to be under the continuing care of a physician who is registered with the Department of Health. The physician must provide a signed certification stating the patient has one of the enumerated serious medical conditions. Once this certification is obtained, the patient must apply for an identification card with the Department of Health.
- A patient with an identification card can only purchase medical marijuana at an authorized dispensary.
- Patients under the age of 18 must have a caregiver who is approved by the Department of Health in order to obtain medical marijuana. A caregiver can be a parent, guardian or any individual approved by the Department.
- A registered patient or caregiver is protected from arrest, prosecution and discrimination in child custody.

For more information, the entire Act can be found on the [Pennsylvania General Assembly website](#).

Spotlight: Vincent Payne, et al. v. City of Philadelphia, et al.

Plaintiff’s daughter was removed from his home due to allegations of abuse that resulted in his incarceration. Shortly thereafter, he received notice of a dependency hearing and was provided counsel at that hearing. He subsequently filed a complaint seeking damages for violations of procedural and substantive due process rights, in part for failing to ensure his presence at the dependency hearing. The court concluded that recognizing a right of every incarcerated parent to attend every hearing would be a significant burden that would impede on the agency’s goal of protecting children. As such, the court found that the defendants were entitled to summary judgment on all claims. 2016 WL 1298951