



Disclosure of Confidential Child Abuse and Neglect Records

Records of child abuse and neglect reports are maintained by State child protection or social services agencies to aid in the investigation, treatment, and prevention of child abuse cases and to maintain statistical information for staffing and funding purposes. In many States, these records and the results of investigations are maintained in databases, often known as central registries.¹ The type of information contained in registry and department records varies from State to State, as does access to the information maintained.

¹ The records referred to are maintained by State child protection agencies and are not the same as those accessed during a criminal history records check. Criminal histories are records of convictions maintained by the criminal justice system.

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Confidentiality of Records

Under the Child Abuse Prevention and Treatment Act (CAPTA), in order to receive a Federal grant, States must preserve the confidentiality of all child abuse and neglect reports and records to protect the privacy rights of the child and of the child's parents or guardians except in certain limited circumstances.² All jurisdictions have confidentiality provisions to protect abuse and neglect records from public scrutiny. Confidentiality provisions mandate that such records are confidential, and many include specific mechanisms for protecting them from public view.

Persons or Entities Allowed Access to Records

Most jurisdictions permit certain persons access to registry and department records. In general, these are people with a direct interest in a case, in the child's welfare, or in providing protective or treatment services. Many statutes specifically describe who may access the records and under what circumstances. Typically, persons entitled to access include physicians; researchers; police; judges and other court personnel; the person who is the subject of a report; a person who was an alleged child victim; and the parent, guardian, or guardian *ad litem* of an alleged victim who is a minor.

In approximately 21 States and Puerto Rico, the person or agency that made the initial report of suspected abuse or neglect may be provided with a summary of the outcome of the investigation.³ In approximately 16 States and Guam, a prospective foster or adoptive parent is provided with information from the records in order to assist the parent in meeting the needs of the child.⁴

² 42 U.S.C.A. §5106a(b)(2)(A)(v) (West Supp. 1998).

³ The word *approximately* is used to stress the fact that States frequently amend their laws. This information is current through April 2008. The States that provide information to reporters of maltreatment include Arkansas, California, Connecticut, Georgia, Iowa, Louisiana, Maine, Massachusetts, Minnesota, Mississippi, Nebraska, Nevada, New Hampshire, New Jersey, North Dakota, Ohio, Pennsylvania, Rhode Island, Vermont, Wisconsin, and Wyoming.

⁴ Arizona, Arkansas, Illinois, Kansas, Louisiana, Maine, Montana, New Hampshire, New Jersey, New Mexico, Oklahoma, Pennsylvania, South Carolina, South Dakota, Texas, and Wisconsin.

When Public Disclosure of Records is Allowed

Under most circumstances, information from child abuse and neglect records may not be disclosed to the public. In approximately 27 States and the District of Columbia, however, some disclosure of information is allowed in cases in which abuse or neglect of the child has resulted in a fatality or near fatality.⁵ In four States (Minnesota, North Carolina, Oklahoma, and Wisconsin), the alleged perpetrator of the abuse must be criminally charged with causing the fatality or near fatality before information may be disclosed. Georgia and South Carolina require public disclosure of information when a child in State custody has died.

Approximately 14 States allow disclosure of information for the purpose of clarifying or correcting the record when information has already been made public through another source, such as disclosure by the subject of the report, a law enforcement agency, or the court.⁶ In five States (Colorado, Illinois, Maine, Nebraska, and New York), public disclosure is allowed when a suspected perpetrator of abuse or neglect has been arrested or criminally charged.

Use of Records for Employment Screening

Central registry and department records are increasingly used to screen adults for various employment or volunteer positions. Approximately 30 States and the District of Columbia allow or require a check of central registry or department records for individuals applying to be child or youth care providers.⁷ Information is made available to employers in the child care business, schools, or health-care industry. However, it is generally limited to whether there are substantiated or indicated reports of child maltreatment for potential employees or volunteers who will have significant contact with children.

⁵ Alabama, Arizona, Arkansas, Colorado, Connecticut, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Michigan, Mississippi, Missouri, Nebraska, Nevada, New Jersey, New Mexico, New York, Oregon, Rhode Island, South Dakota, West Virginia, and Wisconsin allow disclosure when there has been a fatality or near fatality. A "near fatality" is usually defined as a serious injury that places the child in critical condition.

⁶ Arizona, Connecticut, Illinois, Iowa, Kansas, Kentucky, Louisiana, Maine, Michigan, Montana, Nebraska, New York, South Carolina, and Wisconsin.

⁷ Alabama, Arizona, Arkansas, California, Colorado, Connecticut, Florida, Illinois, Indiana, Iowa, Louisiana, Maine, Maryland, Missouri, Montana, Nebraska, Nevada, New Hampshire, New Jersey, New York, Oregon, Pennsylvania, South Carolina, South Dakota, Texas, Utah, Vermont, Virginia, Washington, and Wyoming.

Three States (Louisiana, Mississippi, and Missouri) allow parents to check the records of child abuse and neglect for a provider of child care to assist them in deciding whether to place their child with that provider. In 15 States and the District of Columbia, a person or agency conducting an investigation of a prospective foster or adoptive parent may access the records.⁸

This publication is a product of the State Statutes Series prepared by Child Welfare Information Gateway. While every attempt has been made to be complete, additional information on these topics may be in other sections of a State's code as well as in agency regulations, case law, and informal practices and procedures.

⁸ California, Colorado, Florida, Illinois, Indiana, Iowa, Maine, Massachusetts, Michigan, Nevada, New York, North Carolina, Pennsylvania, South Dakota, and Utah.