



Review and Expunction of Central Registries and Reporting Records

Records of child abuse and neglect reports are maintained by State child protection or social services agencies, often in statewide databases that are known as central registries.¹ These records are used to aid in the investigation, treatment, and prevention of child abuse cases and to provide statistical information for staffing and funding purposes. Central registry records also are used to screen persons who will be entrusted with the care of children. Since a person's eligibility for certain types of employment or to foster or adopt children can be affected by the contents of these records, most States also have procedures for a person to challenge the findings of a central registry record and to request the record's removal or expunction.

Following an investigation, States classify child abuse records in a variety of ways, depending on the State's statutory language. The classification "unsubstantiated" often is ascribed to situations in which investigators have been unable to confirm the occurrence of abuse or neglect. Other terms for unsubstantiated can include "unfounded," "not indicated," or "unconfirmed." The classification "substantiated" often is given to a report when a determination has been made that abuse or neglect likely did occur. Other terms for substantiated include "founded," "indicated," or "confirmed." Several States maintain all investigated reports of abuse and neglect in their central registries, while other States maintain only substantiated reports.

¹ For more information on this topic, see Child Welfare Information Gateway's *Establishment and Maintenance of Central Registries for Child Abuse or Neglect Reports* at <https://www.childwelfare.gov/topics/systemwide/laws-policies/statutes/centreg/>.

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<https://www.childwelfare.gov/topics/systemwide/laws-policies/state/>.

Right of the Reported Person to Review and Challenge Records

All States use the records of substantiated reports that are maintained in central registries or other record-keeping systems for background checks for persons seeking employment to work with children and for prospective foster and adoptive parents. Therefore, several due-process and protection issues arise when a State maintains a central registry that identifies individuals accused of and found to have committed child abuse or neglect. In some cases, persons whose names are listed as alleged perpetrators in a central registry have asserted that the listing of their name in the registry deprives them of a constitutionally protected interest without due process of law.

A review of statutes and regulations across all States indicates that approximately 44 States, the District of Columbia, American Samoa, and Puerto Rico provide an individual the right to request an administrative hearing to contest the findings of an investigation of a report and to have an inaccurate report expunged or deleted from the registry.² In Delaware, Louisiana, New Hampshire, and North Carolina, a person who wishes to challenge a report must petition the court for a hearing. In Wyoming, any person who has been named in a substantiated report of child abuse or neglect has the right to submit to the registry a statement concerning the incident.

When Records Must Be Expunged

The terms “expunction” or “expungement” refer to the procedures used by States to maintain and update their central registries and record keeping by removing old or inaccurate records.

Under the Child Abuse Prevention and Treatment Act (CAPTA), in order to receive a Federal grant, States must submit plans that include provisions and procedures for

² The word “approximately” is used to stress the fact that States frequently amend their laws. This information is current through May 2018. The States that provide for administrative review include Alabama, Alaska, Arizona, Arkansas, California, Colorado, Connecticut, Florida, Georgia, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, Nevada, New Jersey, New Mexico, New York, North Dakota, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Utah, Vermont, Virginia, Washington, West Virginia, Wisconsin, and Wyoming.

the prompt expunction of records of unsubstantiated or false cases of child abuse if the records are accessible to the general public or are used for purposes of employment or other background checks. CAPTA does, however, allow State child protective services agencies to retain information on unsubstantiated reports in their casework files to assist in future risk and safety assessments.³

Approximately 44 States, the District of Columbia, American Samoa, and Guam have provisions in statute for the expunction of certain child abuse and neglect reports.⁴ Statutes vary as to expunction standards and procedures. For example, the time specified for the expunction of unfounded or unsubstantiated reports generally ranges from immediately upon determination to 10 years.⁵ Delaware, Virginia, and Wyoming do not permit unsubstantiated reports to be placed in the registry at all.

Substantiated reports are usually retained longer, typically at least until the child who was the victim of the abuse or neglect has reached adulthood.

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 agency regulations, case law, and informal practices and procedures.

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³ 42 U.S.C.A. § 5106a(b)(2)(B)(xii) (2016).

⁴ Six States (Alaska, Idaho, New Mexico, Ohio, Oregon, and Wisconsin) and the Northern Mariana Islands, Puerto Rico, and the U.S. Virgin Islands do not have provisions for the expunction of child abuse and neglect records.

⁵ For more information, see U.S. Department of Health and Human Services, Office of the Assistant Secretary for Planning and Evaluation, and Administration for Children and Families, Administration on Children, Youth and Families, Children’s Bureau. (2003). *National Study of Child Protective Services Systems and Reform Efforts: Review of State CPS Policy*: Chapter 4. Available at <http://aspe.hhs.gov/hsp/CPS-status03/state-policy03/index.htm>

Alabama

Current Through May 2018

Right of the Reported Person to Review and Challenge Records

Citation: Admin. Code r. 660-5-34-.08

All persons allegedly responsible for abuse/neglect with substantiated (i.e., indicated) dispositions must be given an opportunity to disagree with the findings of the Department of Human Resources through either a hearing or an administrative record review.

Any person who is approved, licensed, or certified to care for children or is an employee or volunteer for any licensed facility that cares for children must be offered a hearing when they have been identified as the person allegedly responsible for abuse/neglect and the preliminary disposition is 'indicated.' These individuals must be offered a hearing even if they were reported to have abused or neglected their own children.

A child abuse/neglect hearing is an internal investigatory hearing that is fact finding in nature and designed to elicit the facts in an atmosphere that allows the person responsible for the abuse/neglect to contest the evidence presented against him or her. The department shall conduct a hearing to determine by a preponderance of credible evidence that the child has been abused or neglected.

Any person allegedly responsible for abuse or neglect who has a preliminary indicated disposition and is not entitled to a hearing must be offered an administrative record review. The record review is completed to determine if the assessment contains sufficient documentation based on a preponderance of credible evidence to support the indicated disposition of child abuse/neglect. Administrative record reviews are conducted by departmental staff who are not involved with the case. Prior abuse/neglect reports involving the person allegedly responsible are considered during the record review process to assist in determining the disposition. The reviewers have the authority to overturn the dispositional finding of the worker and supervisor, and their decision is final.

When Records Must Be Expunged

Citation: Ala. Code § 26-14-8

In the case of any child abuse or neglect investigation that is determined to be 'not indicated,' the alleged perpetrator may request after 5 years from the completion of the investigation that his or her name be expunged from the central registry. As long as the Department of Human Resources has received no further reports concerning the alleged perpetrator during the 5 years since the completion of the investigation, the department shall expunge the name at that time.

Alaska

Current Through May 2018

Right of the Reported Person to Review and Challenge Records

Citation: Child Prot. Serv. Man. § 2.2.10.1

An individual who disagrees with a decision made by the Department of Health and Social Services that the person has a substantiated finding of child maltreatment may request a review by the Office of Administrative Hearings.

Once the department completes the safety assessment and the risk assessment, a maltreatment finding must be made. If the finding is substantiated, the department will send a notice of the decision to the child's parents and/or legal caregivers. The department also will send each alleged perpetrator a certified letter of notice of alleged maltreatment decision and placement on the child protection registry that advises of the findings and the outcome of the initial assessment. The notice letter informs the alleged perpetrator of the appeal process and the right to appeal the finding within 30 days from when the letter was certified. If certified, the returned certified receipt must be placed in the file subsequent to closure. The notice also must include the following:

- Recommendations and/or service resources as indicated for all cases with a substantiated finding and when there are no impending safety threats
- A summary of any services that have been offered or provided during the initial assessment, regardless of the finding

When Records Must Be Expunged

This issue is not addressed in the statutes and regulations reviewed.

American Samoa

Current Through May 2018

Right of the Reported Person to Review and Challenge Records

Citation: Ann. Code § 45.2028

At any time after the completion of the investigation, but no later than 10 years after the receipt of the report, a subject of the report may request the head of the registry to amend, seal, or expunge the record of the report. If the head of the registry refuses or does not act within a reasonable time, but in no event later than 30 days after the request, the subject shall have the right to a fair hearing to determine whether the record of the report in the central registry should be amended or expunged on the grounds that it is inaccurate or it is being maintained in a manner inconsistent with the law.

The burden in the hearing shall be on the Department of Public Safety. In the hearings, the fact that there was a finding of child abuse, sexual abuse, or neglect is presumptive evidence that the report was substantiated.

When Records Must Be Expunged

Citation: Ann. Code §§ 45.2025; 45.2026

Unless an investigation determines there is some credible evidence of alleged abuse, sexual abuse, or neglect, all information identifying the subject of the report is immediately expunged from the central registry.

In all other cases, the record of the report to the central registry is sealed no later than 10 years after the subject child's 18th birthday. Once sealed, the record shall not otherwise be available unless the head of the central registry, upon notice to the subjects of the report, gives his or her personal approval for an appropriate reason.

Arizona

Current Through May 2018

Right of the Reported Person to Review and Challenge Records

Citation: Rev. Stat. § 8-811

The Department of Child Safety shall notify a person who is alleged to have abused or neglected a child that the department intends to substantiate the allegation in the central registry and of that person's right:

- To receive a copy of the report containing the allegation
- To a hearing before the entry into the central registry

The department shall provide the notice by first-class mail or by personal service no more than 14 days after completion of the investigation. A request for a hearing on the proposed finding must be received by the department within 20 days after the mailing or personal service of the notice by the department.

If a request for a hearing is made, the department shall conduct a review before the hearing. The department shall provide an opportunity for the accused person to provide information to support the position that the department should not substantiate the allegation. If the department determines that there is no probable cause that the accused person engaged in the alleged conduct, the department shall amend the information or finding in the report and shall notify the person and a hearing shall not be held.

The notification also shall state that if the department does not amend the information or finding in the report within 60 days after it receives the request for a hearing the person has a right to a hearing, unless:

- The person is a party in a pending civil, criminal, administrative, or juvenile proceeding in which the allegations of abuse or neglect are at issue.
- A court or administrative law judge has made findings as to the alleged abuse or neglect.
- A court has found that a child is dependent or has terminated a parent's rights based on an allegation of abuse or neglect.

If the court or administrative law judge in a proceeding has made a finding of abuse or neglect, the finding shall be entered into the central registry as a substantiated report.

If the department does not amend the information or finding in the report, the department shall notify the Office of Administrative Hearings of the request for a hearing no later than 5 days after completion of the review. The department shall forward all records, reports, and other relevant information with the request for a hearing within 10 days. The office shall hold a hearing, with the following stipulations:

- A child who is the victim of or a witness to abuse or neglect is not required to testify at the hearing.
- A child's hearsay statement is admissible if the time, content, and circumstances of that statement are sufficiently indicative of its reliability.
- The identity of the reporting source of the abuse or neglect shall not be disclosed without the permission of the reporting source.
- The reporting source is not required to testify.
- A written statement from the reporting source may be admitted if the time, content, and circumstances of that statement are sufficiently indicative of its reliability.

On completion of the presentation of evidence, the administrative law judge shall determine if probable cause exists to sustain the department's finding that the parent abused or neglected the child. If the administrative law judge determines that probable cause exists to sustain the department's finding of abuse or neglect, the sustained finding shall be entered into the central registry as a substantiated report. If the administrative law judge determines that probable cause does not exist to sustain the department's finding, the administrative law judge shall order the department to amend the information or finding in the report.

When Records Must Be Expunged

Citation: Rev. Stat. § 8-804

If the Department of Child Safety received a report before September 1, 1999, and determined that the report was substantiated, the department shall maintain the report in the central registry until 18 years from the child victim's date of birth.

If the department received a report on or after September 1, 1999, and determined that the report was substantiated, the department shall maintain the report in the central registry for 25 years after the date of the report.

The department shall annually purge reports and investigative outcomes received pursuant to the timeframes prescribed above.

Any person who was the subject of a department investigation may request confirmation that the department has purged information about the person from the central registry. On receipt of this request, the department shall provide the person with written confirmation that the department has no record containing identifying information about that person.

Arkansas

Current Through May 2018

Right of the Reported Person to Review and Challenge Records

Citation: Ann. Code § 12-18-908

The Department of Human Services shall identify in its policy and procedures manual the types of child maltreatment for which an offender can request that the offender's name be removed from the registry. If an offender has been entered into the registry as an offender for any of these types of child maltreatment, the offender may petition the department to request that his or her name be removed from the registry if he or she has not had a subsequent true report of this type for 1 year and if more than 1 year has passed since the offender's name was placed on the registry.

If the department denies the request for removal of the name from the registry, the offender shall wait 1 year from the date of the request before filing a new petition with the department. The department shall develop policy and procedures to assist it in determining whether to remove the offender's name from the registry.

If the department denies the second request for removal of the name from the registry, the offender may request an administrative hearing within 30 days from receipt of the department's decision. The standard on review for the administrative hearing shall be whether the department abused its discretion.

At least 10 days prior to the administrative hearing, the alleged offender and the department shall share any information with the other party that the party intends to introduce into evidence at the administrative hearing that is not contained in the record. If a party fails to timely share information, the administrative law judge shall:

- Grant a continuance
- Allow the record to remain open for submission of rebuttal evidence
- Reject the information as not relevant to the rehabilitation or the incident of child maltreatment

When Records Must Be Expunged

Citation: Ann. Code § 12-18-908

The department shall identify in its policy and procedures manual the types of child maltreatment that will automatically result in the removal of the name of an offender from the registry. If an adult offender has been entered into the registry, the offender's name shall be removed from the registry when the offender has not had a subsequent true report of this type for 1 year and if more than 1 year has elapsed since the offender's name was placed in the registry. Notwithstanding the foregoing provisions, with regard to offenders who were juveniles at the time of the act or omission that resulted in a true finding of child maltreatment, the department shall:

- Not remove the name from the registry if the offender was found guilty of, pled guilty to, or pled nolo contendere to a felony in circuit court as an adult for the same act for which the offender is named in the registry, unless the conviction is reversed or vacated
- Remove the name from the registry if more than 1 year has passed since the true finding of child maltreatment, there have been no subsequent true findings of child maltreatment, and the offender can prove by a preponderance of evidence that he or she has been rehabilitated

California

Current Through May 2018

Right of the Reported Person to Review and Challenge Records

Citation: Penal Code § 11170; Pol. & Proc. Man. § 31-021

Any person may determine if he or she is listed in the Child Abuse Central Index (CACI) by making a request in writing to the Department of Justice (DOJ). The request shall be notarized and include the person's name, address, date of birth, and either a Social Security number or a California identification number.

Upon receipt of a notarized request, the DOJ shall make available to the requesting person information identifying the date of the report and the submitting agency. The requesting person is responsible for obtaining the investigative report from the submitting agency pursuant to § 11167.5(b)(11).

In policy: Within 5 business days of submitting a person's name to the DOJ for listing on the CACI, notice of that listing must be sent to the person at his or her last known address.

A person who wishes to schedule a grievance hearing must submit a written request to the county within 30 calendar days of the date of notice. Failure to submit the request within the prescribed timeframe shall constitute a waiver of the right to a grievance hearing.

A grievance hearing request shall be denied when a court of competent jurisdiction has determined that the suspected child abuse and/or severe neglect has occurred or when the allegation of child abuse or severe neglect is pending before the court. If this no longer applies, the person can submit the written request within 30 calendar days of the conclusion of the court case to request a grievance hearing.

The grievance hearing shall be scheduled within 10 business days and held no later than 60 calendar days from the date the request for grievance is received by the county.

The county may resolve a grievance at any point by changing a finding of substantiated child abuse and/or severe neglect to a finding that is not substantiated and notifying the DOJ of the need to remove the individual's name from the CACI.

The grievance review officer conducting the grievance hearing shall be a staff member or other person not directly involved in the decision, the investigation, or finding that is the subject of the hearing. The grievance hearing shall, to the extent possible, be conducted in a nonadversarial environment.

The county and the person shall be permitted to examine all records and evidence related to the county's investigative activities and investigative findings associated with the original referral that prompted the CACI listing, except for information that is otherwise made confidential by law.

The county shall first present its evidence supporting its action or findings that are the subject of the grievance. The person will then provide evidence supporting his or her claim that the county's decision should be withdrawn or changed. The county shall then be allowed to present rebuttal evidence in further support of its finding. Thereafter, the grievance review officer may, at his or her discretion, allow the parties to submit any additional evidence as may be warranted to fully evaluate the matter under review.

The grievance review officer shall make a determination based upon the evidence presented at the hearing as to whether the allegation of child abuse and/or severe neglect is substantiated as defined by the Penal Code (§) 11165.12.

The grievance review officer shall render a written recommended decision within 30 calendar days of the completion of the hearing. The decision shall contain a summary statement of facts, the issues involved, findings, and the basis for the decision.

The county director shall issue a final written decision adopting, rejecting, or modifying the recommended decision within 10 business days after the recommended decision is rendered. The final written decision shall explain why a recommended decision was rejected or modified by the county director.

When Records Must Be Expunged

Citation: Penal Code § 11170

If a person listed in the CACI was under age 18 at the time of the report, the information shall be deleted from the index 10 years from the date of the incident resulting in the index listing, if no subsequent report concerning the same person is received during that time period.

Information from an inconclusive or unsubstantiated report shall be deleted from the index after 10 years if no subsequent report concerning the same suspected child abuser is received within that time. If a subsequent report is received within that 10-year period, information from any prior report, as well as any subsequently filed report, shall be maintained in the index for a period of 10 years from the time the most recent report is received by the DOJ.

If a person is listed in the index only as a victim of child abuse or neglect, and that person is age 18 or older, that person may have his or her name removed from the index by making a written request to the DOJ. The request shall be notarized and include the person's name, address, Social Security number, and date of birth.

Colorado

Current Through May 2018

Right of the Reported Person to Review and Challenge Records

Citation: Rev. Stat. § 19-3-313.5

On or before January 1, 2004, the State Board of Human Services shall promulgate rules to establish a process at the State level by which a person who is found to be responsible in a confirmed report of child abuse or neglect filed with the State Department of Human Services pursuant to § 19-3-307 may appeal the finding of a confirmed report of child abuse or neglect to the State department. At a minimum, the rules established shall address the following matters, consistent with Federal law:

- The provision of adequate and timely written notice by the county departments of social services or, for an investigation pursuant to § 19-3-308(4.5), by the agency that contracts with the State, using a form created by the State department, to a person found to be responsible in a confirmed report of child abuse or neglect of the person's right to appeal the finding of a confirmed report of child abuse or neglect to the State department
- The timeline and method for appealing the finding of a confirmed report of child abuse or neglect
- Designation of an entity other than a county department of social services with the authority to accept and respond to an appeal by a person found to be responsible in a confirmed report of child abuse or neglect at each stage of the appellate process
- The legal standards involved in the appellate process and a designation of the party who bears the burden of establishing that each standard is met
- The confidentiality requirements of the appeals process

When Records Must Be Expunged

Citation: Rev. Stat. § 19-3-313.5

The rules established by the State Board of Human Services shall, consistent with Federal law, provide for procedures that facilitate the prompt expunction of and prevent the release of any information contained in any records and reports that are accessible to the general public or are used for purposes of employment or background checks in cases determined to be unsubstantiated or false.

The State Department of Social Services and the county Department of Social Services may maintain information concerning unsubstantiated reports in casework files to assist in future risk and safety assessments.

Connecticut

Current Through May 2018

Right of the Reported Person to Review and Challenge Records

Citation: Gen. Stat. § 17a-101k

Upon the issuance of a recommended finding that an individual is responsible for abuse or neglect of a child, the Commissioner of Children and Families shall provide notice of the finding, by first class mail, no later than 5 business days after the issuance of such finding, to the individual who is alleged to be responsible for the abuse or neglect. The notice shall:

- Contain a short and plain description of the finding that the individual is responsible for the abuse or neglect of a child
- Inform the individual of the existence of the registry and of the commissioner's intention to place the individual's name on the registry unless the individual exercises his or her right to appeal the finding
- Inform the individual of the potential adverse consequences of being listed on the registry, including, but not limited to, the potential effect on the individual obtaining or retaining employment or licensure or engaging in activities involving direct contact with children, and inform the individual of the individual's right to administrative procedures as provided in this section to appeal the finding
- Include a written form for the individual to sign and return, indicating if the individual will invoke the appeal procedures

Following a request for appeal, the commissioner shall conduct an internal review of the recommended finding to be completed no later than 30 days after the request for appeal is received by the department. The commissioner shall review all relevant information relating to the finding to determine whether the finding is factually or legally deficient and ought to be reversed. Prior to the review, the commissioner shall provide the individual access to all relevant documents in the possession of the commissioner regarding the finding of responsibility for abuse or neglect of a child.

The individual or the individual's representative may submit any documentation that is relevant to a determination of the issue and may, at the discretion of the commissioner, participate in a telephone conference or face-to-face meeting to be conducted for gathering additional information that may be relevant to determining whether the finding is factually or legally deficient.

If the commissioner, as a result of the prehearing review, determines that the recommended finding of abuse or neglect is factually or legally deficient, the commissioner shall so indicate, in writing, and shall reverse the recommended finding. The commissioner shall send notice to the individual by certified mail of the commissioner's decision to reverse or maintain the finding no later than 5 business days after the decision is made. If the finding is upheld, the commissioner shall notify the individual of the right to request a hearing. The individual may request a hearing no later than 30 days after receipt of the notice. The hearing shall be scheduled no later than 30 days after receipt by the commissioner of the request for a hearing, except for good cause shown by either party.

At the hearing, the individual may be represented by legal counsel. The burden of proof shall be on the commissioner to prove that the finding is supported by a fair preponderance of evidence submitted at the hearing. No later than 30 days after the conclusion of the hearing, the hearing officer shall issue a written decision to either reverse or uphold the finding.

When Records Must Be Expunged

Citation: Gen. Stat. § 17a-101k

Records containing unsubstantiated findings and records relating to family assessment cases shall remain sealed, except that such records shall be made available to department employees in the proper discharge of their duties. These records shall be expunged by the commissioner 5 years from the completion date of the investigation or the closure of the family assessment case, whichever is later, if no further report is made about the individual subject to the investigation or the family subject to the assessment.

If the department receives more than one report on an individual subject to investigation or a family subject to assessment and each report is unsubstantiated, all reports and information pertaining to the individual or family shall be expunged by the commissioner 5 years from the completion date of the most recent investigation.

Delaware

Current Through May 2018

Right of the Reported Person to Review and Challenge Records

Citation: Ann. Code Tit. 16, § 929; Pol. Man. Admin. Stds. § G

A person who has been entered on the Child Protection Registry at Child Protection Level II or Level III, and who has successfully completed a division-recommended or family court-ordered case plan, may file a petition for removal in the family court prior to the expiration of the time designated for the level. Only a person who has successfully completed that person's own case plan is eligible to petition for an early removal.

A petition for removal from the registry must be filed in the family court in the county in which the substantiation occurred. A copy of the petition must be served on the Division of Family Services. The division may file an objection or answer to the petition within 30 days after being served. In every case, the division shall inform the court whether or not the person applying for removal has been substantiated for abuse or neglect while on the Child Protection Registry. The family court may, in its discretion, dispose of a petition for removal without a hearing.

In policy: Beginning February 1, 2003, the child protection registry shall only contain substantiated incidents of child abuse and neglect. At the conclusion of an investigation, the division shall send written notice to the person's last known address of its intent to place the person on the child protection registry for having committed child abuse or neglect, and shall advise the individual of the opportunity to request a hearing in family court. A hearing request form shall be included with each notice of intent to substantiate. Only the person (alleged perpetrator) who has been notified of the division's intent to substantiate may request a hearing in family court.

When Records Must Be Expunged

Citation: Ann. Code Tit. 16, § 929

A person who has been entered on the Child Protection Registry at Child Protection Level II or Level III will be automatically removed from the registry if the person has not been substantiated for an incident of abuse or neglect while on the registry.

Removal from the Child Protection Registry means only that the person's name has been removed from the registry and may no longer be reported to employers pursuant to chapter 85 of title 11 or chapter 3 of title 31.

Notwithstanding removal from the registry, the person's name and other case information remains in the Division of Family Services' internal information system as substantiated for all other purposes, including, but not limited to, the division's use of the information for historical, treatment, and investigative purposes; child care licensing decisions; foster and adoptive parent decisions; reporting pursuant to § 309 of title 31; reporting to law enforcement authorities; or any other purpose set forth in § 906(e) of this title.

District of Columbia

Current Through May 2018

Right of the Reported Person to Review and Challenge Records

Citation: Ann. Code §§ 4-1302.05; 4-1302.06

The staff that maintains the Child Protection Register shall, within 7 days from the date that a report is entered in the register, give notice to each person identified in the report that the report identifies him or her as responsible for the alleged abuse or neglect of the child who is the subject of the report.

This notice shall include the following information:

- The date that the report identifying the person was entered in the Child Protection Register
- The right of the person to review the entire report, except information that identifies other persons mentioned in the report
- The administrative procedures through which the person may seek to correct information that he or she alleges is incorrect or to establish that the report is unfounded

The Mayor shall establish, by rules adopted pursuant to § 2-501, et seq., procedures to permit a person identified in the Child Protection Register to challenge information that he or she alleges is incorrect or establish that a report is unfounded.

When Records Must Be Expunged

Citation: Ann. Code § 4-1302.07

Notwithstanding any other provision of law, substantiated reports shall not be expunged from the Child Protection Register.

The staff that maintains the Child Protection Register shall expunge from each inconclusive report all information that identifies any person in the inconclusive report upon the first occurrence of either:

- The 18th birthday of the child who is the subject of the report, if there is no reasonable suspicion or evidence that another child living in the same household or under the care of the same parent, guardian, or custodian has been abused or neglected
- The end of the 5th year after the termination of the social rehabilitation services directed toward the abuse and neglect

The staff that maintains the Child Protection Register shall expunge the following:

- Any unfounded report immediately upon such classification by the agency
- Any material successfully challenged as incorrect pursuant to the rules adopted under § 4-1302.06

Florida

Current Through May 2018

Right of the Reported Person to Review and Challenge Records

Citation: Ann. Stat. § 39.202(2)(e); Pol. Man. # 170-16

Except for the name of the reporter, access to child abuse and neglect reports shall be granted to any person alleged in the report as having caused the abuse, abandonment, or neglect of a child. This access shall be made available no later than 30 days after the Department of Children and Family Services receives the initial report of abuse, abandonment, or neglect and, when the alleged perpetrator is not a parent, shall be limited to information involving the protective investigation only and shall not include any information relating to subsequent dependency proceedings. However, any information otherwise made confidential or exempt by law shall not be released.

In policy: The Florida Safe Families Network (FSFN) is the department's Statewide Automated Child Welfare Information System. FSFN serves as the statewide electronic case record for all child abuse investigations and case management activities.

An internal review can be conducted by the department to ensure policy, rule, and statute were followed when making a determination of a verified finding in a child protective investigation. Only the 'caregiver responsible' may request an internal review.

An internal review involves the examination of the information contained in FSFN; the hardcopy investigation file; other pertinent documents (if any are available) particular to the specific case, such as police reports; and any documents provided by the requestor along with interviews of staff involved in the investigation, if they are still employed by the department. The internal review will not reinvestigate the allegations but will consider whether a preponderance of the evidence supports the verified finding based on the investigative process and information provided by the requestor.

The internal review will be completed by the Regional Family and Community Services director or his or her designee. The person completing the internal review must not have been involved in any stage of the investigation.

The internal review shall be completed within 60 days of the request. The person completing the internal review has the authority to change a verified finding if the documentation does not support the finding.

If a dependency proceeding is pending at the time of the request for an internal review, the review shall not be initiated until after the adjudicatory hearing. If a criminal investigation or criminal case is pending at the time of the request, the internal review shall not be initiated until after the law enforcement investigation or State attorney's case is completed.

An internal review may not be conducted on an investigative file past the department's retention schedule.

After the review is completed, if the verified finding is changed as a result, the supervisor of the child protective investigator that made the finding or a person designated by the Regional Family and Community Services director will immediately:

- Ensure the investigative summary is updated and an addition is made to the chronological notes to explain that an internal review occurred, resulting in an update of the finding
- Ensure the program office staff documents the decision in FSFN
- Prepare an addendum to the investigative summary reflecting the changed finding and send a copy to the Children's Legal Services attorney assigned to the case as well as the case manager assigned to the case if there is an open dependency case involving the subject of the internal review

- Review the case with the child protective investigator, supervisor, and program administrator that made the finding, if appropriate, to discuss and document why the reviewer indicated that a preponderance of credible evidence did not exist and to discuss any changes in practice indicated by the internal review

When Records Must Be Expunged**Citation: Ann. Stat. § 39.202**

The Department of Children and Family Services shall make and keep reports and records of all cases under this chapter and shall preserve the records pertaining to a child and family until the child who is the subject of the report is age 30, at which time the records may then be destroyed.

Georgia*Current Through May 2018***Right of the Reported Person to Review and Challenge Records****Citation: Ann. Code § 49-5-183**

Upon receipt of an investigator's report of a substantiated case, the Division of Family and Children Services shall mail to the alleged child abuser a notice regarding the substantiated case via certified mail, return receipt requested. The notice shall further inform the alleged child abuser of his or her right to a hearing to appeal the determination and the procedures for obtaining the hearing.

In order to exercise his or her right to a hearing, the alleged child abuser shall file a written request for a hearing with the division within 10 days after receipt of the notice. The written request shall contain the alleged child abuser's current residence address and, if he or she has a telephone, a telephone number at which he or she may be notified of the hearing.

If the division receives a timely written request for a hearing, it shall transmit that request to the Office of State Administrative Hearings within 10 days after the receipt. The office shall conduct a hearing that shall be for the purpose of an administrative determination regarding whether, based on a preponderance of evidence, there was child abuse committed by the alleged child abuser to justify the investigator's determination of a substantiated case.

At the conclusion of the hearing, upon a finding that there is not a preponderance of evidence to conclude that the alleged child abuser committed an act of child abuse, the administrative law judge shall order that the alleged child abuser's name be removed from the child abuse registry.

When Records Must Be Expunged**Citation: Ann. Code §§ 49-5-183; 49-5-184**

With regard to a minor child alleged to have committed abuse, the division shall remove such individual's name from the registry if:

- He or she has reached age 18.
- More than 1 year has passed from the date of the act or omission that resulted in a substantiated case and there have been no subsequent acts or omissions resulting in a substantiated case.
- He or she can prove by a preponderance of the evidence that he or she has been rehabilitated.

An individual whose name appears in the child abuse registry as having committed a substantiated case shall be entitled to a hearing for an administrative determination of whether or not expunction of such individual's name should be ordered. In order to exercise such right, the individual shall file a written request for a hearing with the division.

A hearing shall be conducted within 60 days following receipt of the request by the Office of State Administrative Hearings. Upon a finding that there is no credible evidence that the individual who requested the hearing is the individual who had a substantiated case, the office shall order the division to expunge that name from the registry.

Guam*Current Through May 2018***Right of the Reported Person to Review and Challenge Records****Citation: Ann. Code Tit. 19, § 13210(c)**

A victim or alleged victim of child abuse, the parents of a victim or alleged victim of child abuse, or a perpetrator or alleged perpetrator of child abuse may review, upon written request, all information contained in the central register or in any report filed pursuant to § 13203, except information that would identify the reporter of the abuse, and the review may occur at any time after a court proceeding has been initiated regarding the abuse.

When Records Must Be Expunged**Citation: Ann. Code Tit. 19, § 13208(f)**

If an investigation of a report of suspected child abuse or neglect does not determine, within 1 year of the date of the report of suspected child abuse or neglect, that the report is an indicated report or a substantiated report, the report shall be considered an unsubstantiated report, and all information identifying the subjects of the report shall be expunged from child protective services' suspected files.

Hawaii*Current Through May 2018***Right of the Reported Person to Review and Challenge Records**

This issue is not addressed in the statutes reviewed.

When Records Must Be Expunged**Citation: Rev. Stat. § 350-2(d)**

The Department of Human Services shall promptly expunge the reports in cases if either of the following is true:

- The report is determined not confirmed by the department, an administrative hearing officer, or a Hawaii State court on appeal.
- The petition arising from the report has been dismissed by order of the family court after an adjudicatory hearing on the merits pursuant to chapter 587A.

Records and information contained in a report that is expunged may be retained by the department solely for future risk and safety assessment purposes.

Idaho*Current Through May 2018***Right of the Reported Person to Review and Challenge Records****Citation: Idaho Code § 16-1629(10); Admin. Code § 16.05.03.500**

The Department of Health and Welfare shall establish appropriate administrative procedures for the conduct of administrative reviews and hearings as required by Federal statute for all children committed to the department and placed in out-of-home care.

In regulation: A substantiated incident of child abuse, neglect, or abandonment will automatically become effective and be placed on the child protection central registry, unless the individual identified in the notification files a request for an administrative review within 28 days from the date on the notification. The request for an administrative review must be mailed to the Family and Community Services (FACS) division administrator.

The request for an administrative review must identify the notification being protested and explain the reasons for disagreement. Additional information may be provided for the administrator's consideration.

The FACS division administrator will consider all available information and determine whether the incident was erroneously determined to be 'substantiated.' The administrator will furnish a written decision to the individual.

When Records Must Be Expunged

This issue is not addressed in the statutes reviewed.

Illinois

Current Through May 2018

Right of the Reported Person to Review and Challenge Records

Citation: Comp. Stat. Ch. 325, § 5/7.16

Within 60 days after the notification of the completion of the Child Protective Service Unit investigation, the perpetrator named in the notification may request the Department of Children and Family Services to amend the record or remove the record of the report from the register. The 60-day deadline for filing a request shall be tolled until after the conclusion of any criminal court action in the circuit court or after adjudication in any juvenile court action concerning the circumstances that give rise to an indicated report. The request shall be in writing and directed to such person as the department designates in the notification letter notifying the perpetrator of the indicated finding.

The perpetrator shall have the right to a timely hearing within the department to determine whether the record of the report should be amended or removed on the grounds that it is inaccurate or it is being maintained in a manner inconsistent with this act, except that there shall be no such right to a hearing on the ground of the report's inaccuracy if there has been a court finding of child abuse or neglect or a criminal finding of guilt as to the perpetrator. Such hearing shall be held within a reasonable time after the perpetrator's request and at a reasonable place and hour. The appropriate Child Protective Service Unit shall be given notice of the hearing.

If the minor who is the victim named in the report is the subject of a pending action chapter 705, § 405/5-1, et seq., and is in the custody or guardianship of the department or has an open intact family services case with the department or is the subject of a pending action under chapter 705, § 405/2-1, et seq., and the report was made while a guardian ad litem was appointed for the minor, then the minor, through the minor's attorney or guardian ad litem, shall have the right to participate and be heard in such hearing as defined under the department's rules.

In such hearings, the burden of proving the accuracy and consistency of the record shall be on the department and the appropriate Child Protective Service Unit. The hearing shall be conducted by the director or his or her designee, who is hereby authorized and empowered to order the amendment or removal of the record to make it accurate and consistent with this act. The decision shall be made, in writing, at the close of the hearing, or within 60 days thereof, and shall state the reasons upon which it is based. Decisions of the department under this section are administrative decisions subject to judicial review under the Administrative Review Law.

Should the department grant the request of the perpetrator, either on an administrative review or after an administrative hearing, to amend an indicated report to an unfounded report, the report shall be released and expunged in accordance with the standards set forth in chapter 325, § 5/7.14.

When Records Must Be Expunged

Citation: Comp. Stat. Ch. 325, § 5/7.14

All reports in the central register shall be classified in one of three categories: 'indicated,' 'unfounded,' or 'undetermined,' as the case may be. All information identifying the subjects of an unfounded report shall be expunged from the register forthwith, except as provided in chapter 325, § 5/7.7.

Identifying information on all other records shall be removed from the register no later than 5 years after the report is indicated. However, if another report is received involving the same child, his or her sibling or offspring, or a child in the care of the persons responsible for the child's welfare, or involving the same alleged offender, the identifying information may be maintained in the register until 5 years after the subsequent case or report is closed.

Notwithstanding any other provision of this section, identifying information in indicated reports involving serious physical injury to a child, as defined by the department in rules, may be retained longer than 5 years after the report is indicated or after the subsequent case or report is closed and may not be removed from the register except as provided by the department in rules.

Identifying information in indicated reports involving sexual penetration, sexual molestation, sexual exploitation, torture, or death of a child shall be retained for a period of not less than 50 years after the report is indicated or after the subsequent case or report is closed.

Indiana

Current Through May 2018

Right of the Reported Person to Review and Challenge Records

Citation: Ann. Code §§ 31-33-26-8; 31-33-27-5

This section does not apply to substantiated reports if a court has determined that a child is a child in need of services based on the following:

- A report of child abuse or neglect that names the perpetrator as the individual who committed the child abuse or neglect
- Facts presented to the court at a hearing in a child-in-need-of-services case that are consistent with the facts and conclusions stated in the report, if the department approved the substantiated report after the court's determination

No later than 30 days after the Department of Children and Family Services enters a substantiated child abuse or neglect report into the index, the department shall notify the following:

- The parent, guardian, or custodian of the child who is named in the report as the victim of the child abuse or neglect
- Any person identified as the perpetrator, if other than the child's parent, guardian, or custodian

The department shall state the following in a notice to the perpetrator of a substantiated report:

- The report has been classified as substantiated.
- The perpetrator may request that a substantiated report be amended or expunged at an administrative hearing if the perpetrator does not agree with the classification of the report unless a court is in the process of making a determination.
- The perpetrator's request for an administrative hearing to contest the classification of a substantiated report must be received by the department not more than 30 days after the notice is served.

If the perpetrator fails to request an administrative hearing within 30 days, the perpetrator named in a substantiated report may request an administrative hearing to contest the classification of the report if the perpetrator demonstrates that the failure to request an administrative hearing was due to excusable neglect or fraud. The Indiana Rules of Civil Procedure provide the standard for excusable neglect or fraud.

This section applies to information relating to substantiated reports in any records of the department. An individual identified as a perpetrator of child abuse or neglect in a substantiated report may file a petition with a court exercising juvenile jurisdiction in the county in which the individual resides, requesting that the court order the department to expunge the substantiated report and related information.

The court shall hold a hearing on the petition and any response filed by the department, unless a hearing is waived by agreement of the parties.

In considering whether to grant a petition filed under this section, the court may review:

- The factors listed in § 31-39-8-3 concerning the risk assessment in relation to the petitioner if the substantiated report was the subject of a juvenile court case
- Any facts relating to the petitioner's current status, activities, employment, contacts with children, or other circumstances relevant to consideration of whether the petition should be granted

The court may grant the petition if the court finds, by clear and convincing evidence, both of the following:

- There is little likelihood that the petitioner will be a future perpetrator of child abuse or neglect.
- The information has insufficient current probative value to justify its retention in records of the department for future reference.

When Records Must Be Expunged

Citation: Ann. Code §§ 31-33-26-14; 31-33-26-15; 31-33-27-3; 31-33-27-4

The department shall immediately amend or expunge from the index a substantiated report containing an inaccuracy arising from an administrative or a clerical error.

The department shall expunge a substantiated report contained within the index no later than 10 working days after any of the following occurs:

- A court determines that child abuse or neglect has not occurred.
- An administrative hearing officer finds that the child abuse or neglect report is unsubstantiated.
- A court enters an order for expunction of the report under § 31-33-27-5.

The department shall amend a substantiated report in the index by deleting the name of an alleged perpetrator if the court or an administrative hearing officer finds that the person was not a perpetrator of the child abuse or neglect that occurred.

The department shall expunge child abuse or neglect information no later than 24 years after the date of birth of the youngest child named in the department's assessment report as an alleged victim of child abuse or neglect, if:

- The department approved the assessment as unsubstantiated.
- The court entered a final judgment based on a finding that child abuse or neglect did not occur.

The department may, upon the request of an interested person, expunge information relating to an unsubstantiated assessment of child abuse or neglect at any time if the department determines that the probative value of the information does not justify its retention in the records of the department.

The department shall amend information relating to a substantiated report by deleting the name of a person as an alleged perpetrator if a court having jurisdiction over a child in need of services proceeding or an administrative hearing officer finds that the person was not a perpetrator of the child abuse or neglect that occurred.

Iowa

Current Through May 2018

Right of the Reported Person to Review and Challenge Records

Citation: Ann. Stat. § 235A.19

A subject of a child abuse report shall have the right to examine report data and disposition data that refers to the subject.

Within 90 days of the date of the notice of the results of a child abuse assessment, the subject of a child abuse report may file with the Department of Human Services a written statement to the effect that report data and disposition data referring to the subject are in whole or in part erroneous and may request a correction of those data or of the findings of the child abuse assessment report.

The department shall provide the subject with an opportunity for a contested case hearing to correct the data or the findings, unless the department corrects the data or findings as requested. The department may defer the hearing until the conclusion of the adjudicatory phase of a pending juvenile or district court case relating to the data or findings.

The subject of a child abuse report may appeal the decision resulting from a hearing to the district court. Immediately upon appeal, the court shall order the department to file with the court a certified copy of the report data or disposition data.

Upon the request of the appellant, the record and evidence in such cases shall be closed to all but the court and its officers, and access to the record and evidence shall be prohibited unless otherwise ordered by the court. The clerk shall maintain a separate docket for such actions.

Whenever the department corrects or eliminates data as requested or as ordered by the court, the department shall advise all persons who have received the incorrect data of that fact. Upon application to the court and service of notice on the department, any subject of a child abuse report may request and obtain a list of all persons who have received report data or disposition data referring to the subject.

When Records Must Be Expunged

Citation: Ann. Stat. § 235A.18

Report and disposition data relating to a particular case of alleged child abuse shall be sealed 10 years after the initial placement of the data in the registry unless good cause be shown why the data should remain open to authorized access. If a subsequent report of alleged child abuse involving the same child or the same person named in the data as having abused a child is received within this 10-year period, or within the period in which the person's name is in the central registry, the data shall be sealed 10 years after receipt of the subsequent report unless good cause be shown why the data should remain open to authorized access.

Notwithstanding the paragraph above, a person named in the initial data placed in the registry as having abused a child shall have the person's name removed from the registry after 10 years, if not previously removed from the registry pursuant to the other provisions of this section, if that person has not had a subsequent case of alleged abuse that resulted in the person's name being placed in the registry as the person responsible for the abuse within the 10-year period.

A person named in the initial data placed in the registry as having abused a child shall have the person's name removed from the registry after 5 years if the department determined in the report and disposition data that the person committed child abuse as defined in § 232.68(2)(a)(1) (physical abuse), (4) (neglect), or (6) (prenatal drug exposure).

The subparagraph above shall not apply, and the name of a person named in the initial data as having abused a child shall remain in the registry for 10 years, if the department determined in the initial report and disposition data that the person committed child abuse as defined in § 232.68(2)(a)(1), (4), or (6), and the child abuse resulted in the child's death or a serious injury.

Kansas

Current Through May 2018

Right of the Reported Person to Review and Challenge Records

Citation: Admin. Regs. § 30-46-17

Any perpetrator of abuse or neglect may apply in writing to the secretary of the Department of Children and Family Services to have the perpetrator's record expunged from the central registry when 3 years have passed since the perpetrator's name was entered on the central registry or when information is presented that was not available at the time of the finding of abuse or neglect.

Each application for expunction shall be referred to the expunction review panel. The panel shall consist of the director of the department or the director's designee, the chief legal counsel of the department or the counsel's designee, and a representative of the public appointed by the secretary. The department director or the director's designee shall chair the panel.

A review hearing shall be convened by the panel, at which time the applicant may present evidence supporting expunction of the applicant's name from the central registry. The applicant shall have the burden of providing the panel with the basis for granting the application. Evidence in support of or in opposition to the application may be presented by the regional office that conducted the original investigation. An application for expunction from a perpetrator shall be accepted no more than once every 12 months.

Recommendations of the review panel shall be determined by majority vote. The following factors shall be considered by the panel in making its recommendation:

- The nature and severity of the act of abuse or neglect
- The number of findings of abuse or neglect involving the applicant
- If the applicant was a child at the time of the findings of abuse or neglect for which expunction is requested, the age of the applicant at the time of the occurrence
- Circumstances that no longer exist that contributed to the finding of abuse or neglect by the applicant
- Actions taken by the applicant to prevent the reoccurrence of abuse or neglect

The review hearing shall be set within 30 days from the date the application for expunction is received by the department. The department director or the director's designee shall send a written notice to the applicant and the regional office that made the finding at least 10 days before the hearing. The notice shall state the day, hour, and place of the hearing. Continuances may be granted only for good cause.

A written recommendation to the secretary shall be rendered by the panel within 60 days from the date of the hearing. The recommendation to the secretary shall be submitted in writing and shall set forth the reasons for the recommendation. Based upon findings and recommendations of the panel, a record may be expunged or expunction may be denied by the secretary.

When Records Must Be Expunged

Citation: Admin. Regs. § 30-46-17(c)

Any record may be expunged from the central registry by the secretary when 18 years have passed since the most recent finding of abuse or neglect.

Each record of a perpetrator who was under age 18 at the time of abuse or neglect shall be expunged 5 years after the finding of abuse or neglect is entered in the central registry if the perpetrator has had none of the following after entry in the registry:

- A finding of abuse or neglect
- A juvenile offender adjudication for any act that, if committed by an adult, would be a class A person misdemeanor or any person felony
- A criminal conviction for a class A person misdemeanor or any person felony

The decision of the secretary shall be in writing and shall set forth the reasons for the decision. Denial of the application shall be the final agency order. The applicant shall be informed of the right to appeal pursuant to the Kansas judicial review act.

Kentucky*Current Through May 2018***Right of the Reported Person to Review and Challenge Records****Citation: Admin. Reg. Tit. 922, § 1:480**

A person who has been found by the Cabinet of Health and Family Services to have abused or neglected a child may appeal the cabinet's investigative finding through an administrative hearing. The person must submit a written request for appeal to the cabinet no later than 30 calendar days from the date the notice of a substantiated finding of child abuse or neglect is postmarked. The request must include the following:

- A description of the nature of the investigative finding
- The specific reason the appellant disputes the cabinet's substantiated finding of child abuse or neglect
- The specific name of each known cabinet staff person involved with the investigation
- A copy of the notice of a substantiated finding of child abuse or neglect, if available

Upon receipt of a written request for appeal, the cabinet shall confirm whether the matter is subject to review through an administrative hearing. The following shall not be subject to review through an administrative hearing:

- A matter in which a civil court having competent jurisdiction:
 - » Has heard evidence and made a final judicial determination that abuse or neglect of a child did or did not occur
 - » Is currently engaged in legal proceedings regarding the same issue being appealed
- A matter in which an appellant has been criminally charged and convicted of an action that is the basis of the cabinet's finding of abuse or neglect of a child
- A final administrative decision made by the cabinet as a result of a previous appeal on the same issue
- An appeal that has been abandoned by an appellant who failed to demonstrate good cause for failure to go forward
- Failure to submit a written request for appeal within the established timeframe, unless an appellant demonstrates good cause
- An investigation that results in an unsubstantiated finding of abuse or neglect of a child

The cabinet shall reserve the right, in its sole discretion, to amend, modify, or reverse its investigative finding of child abuse or neglect at any time based upon a review of the cabinet's records or subsequent discovery of additional information.

When Records Must Be Expunged**Citation: Admin. Reg. Tit. 922, § 1:470**

Each name shall be removed from the central registry after a period of 7 years if both of the following are true:

- No additional incident of child abuse or neglect has been substantiated by the cabinet since the time of the incident for which the individual's name was placed on the registry.
- Cabinet records indicate that the incident for which the individual's name was placed on the registry did not relate to any of the following:
 - » Sexual abuse or sexual exploitation of a child
 - » A child fatality related to abuse or neglect
 - » A near fatality related to abuse or neglect
 - » Involuntary termination of parental rights in accordance with §§ 625.050 through 625.120

Louisiana*Current Through May 2018***Right of the Reported Person to Review and Challenge Records****Citation: Children's Code Art. 616.1**

When a report alleging abuse or neglect is recorded as justified by the Department of Children and Family Services in the central registry but no petition is subsequently filed alleging that the child is in need of care, the individual who is the subject of the finding may file a written motion seeking correction of that entry and all related department records in the court exercising juvenile jurisdiction in the parish in which the finding was made. If neither the department nor the district attorney files a written objection, the court may enter an order.

If, after a contradictory hearing with the department and the district attorney, the court finds that the report was not justified, and correction of the record is not contrary to the best interests of the child, it may order the department to correct the central registry entry.

If the central registry entry is ordered to be corrected, the department and any law enforcement office having any record of the report shall be ordered to correct those records and any other records, notations, or references thereto, and the court shall order the department and other custodians of these records to file a sworn affidavit to the effect that their records have been corrected. The affidavit of the department shall also attest to the correction of the central registry entry.

The provisions of this article shall apply only to those reports determined by the department to be justified prior to the effective date of Children's Code article 616.1.1 (August 1, 2017).

Effective August 1, 2017, when a report alleging abuse or neglect is determined to be justified by the department, the individual who is or was the subject of the determination may make a formal written request to the Division of Administrative Law for an administrative appeal of the justified determination, in accordance with the procedures set forth in title 67 of the Louisiana Administrative Code.

When Records Must Be Expunged

Citation: Children's Code Art. 616.2

The Bureau of Identification and Information in the Office of State Police shall maintain a central index registry of all reports of sexual abuse. All information regarding the reports shall be maintained by the Department of Public Safety and Corrections for 10 years from the date of receipt of the report, unless a subsequent report is received during that time, in which case, information from all reports will be maintained indefinitely.

Maine

Current Through May 2018

Right of the Reported Person to Review and Challenge Records

Citation: Child & Fam. Pol. Man. § XV. E

A person who officially has been found by the State to have abused or neglected a child has the right to have that finding reviewed. Once the Department of Human Services has made an official finding of abuse or neglect, the responsible caseworker shall send a letter to the affected individual within 10 calendar days, informing him or her of the findings. These findings must be specific in that they identify the type of abuse; the name of the victim; the specific incidents, behaviors, or patterns of behaviors; and the specific harm or threats of harm to the child.

Once a request for a review is received, an agency reviewer will be appointed to review the case record. The reviewer, who must have had no involvement with the case prior to the review process, shall have the authority to overturn the previous official finding of child abuse or neglect. The reviewer shall review the case and make a determination either (a) sustaining the official finding of abuse or neglect or (b) overturning the official finding. This determination shall be made in writing and mailed to the appellant by first class mail, at his or her last known address, within 45 days of the receipt of the request for review.

In making a determination to sustain or overturn an official finding of abuse or neglect, the reviewer will review and consider all information in the case record as well as information provided by the appellant. The reviewer will then determine whether the information in the record, taken as a whole, establishes by preponderance that child abuse or neglect has occurred or is threatened to occur. In making that determination, the reviewer may consider such factors as whether:

- Sufficient information was gathered from relevant collateral sources, including, but not limited to, past department records, medical and mental health records, law enforcement records, school records, and community nursing records to support the findings.
- The process and content of information gathering from the family was accomplished within policy and practice guidelines.
- The record reflects an analysis of all relevant information.
- Critical persons were interviewed during the assessment.
- The request for the review from the appellant is specific to the findings with which there is disagreement and the basis for that disagreement.
- Sufficient documentation exists in the record to support the substantiation decision.

When the reviewer has completed the review of the agency record, he or she will prepare a written statement of findings, including a statement as to whether the reviewer believes that the record contains sufficient information to support the substantiation.

In those cases in which an official finding of abuse or neglect is overturned, that finding shall become part of all information systems maintained by the department. In such cases, any allegation that was originally entered as 'substantiated' shall be changed to 'unsubstantiated.'

When Records Must Be Expunged

Citation: Rev. Stat. Tit. 22, § 4008(5)

The Department of Human Services shall retain unsubstantiated child protective services case records for no more than 18 months following a finding of unsubstantiation and then expunge unsubstantiated case records from all departmental files or archives, unless a new referral has been received within the 18-month retention period.

Unsubstantiated child protective services records of persons who were eligible for Medicaid services under the Federal Social Security Act, title XIX, at the time of the investigation may be retained for up to 5 years for the sole purpose of State and Federal audits of the Medicaid program. Unsubstantiated child protective services case records retained for audit purposes must be stored separately from other child protective services records and may not be used for any other purpose.

Maryland

Current Through May 2018

Right of the Reported Person to Review and Challenge Records

Citation: Family Law § 5-706.1

Within 30 days after the completion of an investigation in which there has been a finding of indicated or unsubstantiated abuse or neglect, the local Department of Social Services shall notify, in writing, the individual alleged to have abused or neglected a child of the following:

- The finding
- The opportunity to appeal the finding
- If the individual has been found responsible for indicated abuse or neglect, that the individual may be identified as responsible for abuse or neglect in the centralized confidential database

In the case of a finding of indicated abuse or neglect, an individual may request a contested case hearing to appeal the finding by responding to the notice of the local department in writing within 60 days. Unless the individual and the department agree on another location, a contested case hearing shall be held in the jurisdiction in which the individual alleged to have abused or neglected a child resides.

If a criminal proceeding is pending on charges arising out of the alleged abuse or neglect, the Office of Administrative Hearings shall stay the hearing until a final disposition is made. If, after final disposition of the criminal charge, the individual requesting the hearing is found guilty of any criminal charge arising out of the alleged abuse or neglect, the Office of Administrative Hearings shall dismiss the administrative appeal.

If a child in need of assistance (CINA) case is pending concerning a child who has been allegedly abused or neglected by the appellant or a child in the care, custody, or household of the appellant, the Office of Administrative Hearings shall stay the hearing until the CINA case is concluded. After the conclusion of the CINA case, the Office of Administrative Hearings shall vacate the stay and schedule further proceedings in accordance with this section.

In the case of a finding of unsubstantiated abuse or neglect, an individual may request a conference with a supervisor in the local department by responding to the notice of the local department in writing within 60 days.

In response to a timely request for a conference, a local department supervisor shall schedule a conference, to occur within 30 days after the supervisor receives the request, to allow the individual an opportunity to review the redacted record and request corrections or to supplement the record. Within 10 days after the conference, the local department shall send the following to the individual:

- A written summary of the conference and of any modifications to be made in the record
- Notice of the individual's right to request a contested case hearing

The individual may request a contested case hearing to appeal the outcome of the conference by responding to the summary in writing within 60 days. If the individual does not receive the written summary and required notice within 20 days, the individual may request a contested case hearing.

In the case of an unexpunged finding of indicated or unsubstantiated abuse or neglect made prior to June 1, 1999, the local department shall provide the individual with an opportunity to appeal the finding in accordance with this section if the individual:

- Requests such an appeal
- Has not been offered an opportunity to request a contested case hearing
- Has not been found guilty of any criminal charge arising out of the alleged abuse or neglect

When Records Must Be Expunged

Citation: Family Law § 5-707(b)

The local department shall expunge a report of suspected abuse or neglect and all assessments and investigative findings:

- Within 5 years after the date of referral if the investigation concludes that the report is unsubstantiated, and no further reports of abuse or neglect are received during the 5 years
- Within 2 years after the date of referral if the report is ruled out, and no further reports of abuse or neglect are received during the 2 years

If a report is ruled out, the local department may, on good cause shown, immediately expunge the report and all assessments and investigative findings.

Massachusetts

Current Through May 2018

Right of the Reported Person to Review and Challenge Records

Citation: DCF Policy #94-001

Alleged perpetrators may request a fair hearing if the Department of Children and Families identifies the individual on the department's registry of alleged perpetrators.

To reverse a support decision or to remove an individual's name from the department's registry of alleged perpetrators, the aggrieved party must demonstrate by evidence presented at the fair hearing at least one of the following:

- That, based on the information available during the investigation and/or new information not available during the investigation, the department's or provider's decision was not in conformity with the department regulations:
 - » With regard to the request to remove an individual's name from the registry of alleged perpetrators, the aggrieved party must demonstrate that the department's action was not in accordance with Regulation 110 CMR 4.33
 - » With regard to a support decision, the aggrieved party must demonstrate that the decision was not in conformity with department policies and/or regulations and that the decision resulted in substantial harm to the aggrieved party
- That the department's or provider's procedural actions were not in conformity with the department's policies and/or regulations and resulted in substantial harm to the aggrieved party

Whenever a decision to list an individual on the department's registry of alleged perpetrators is reviewed, the related support decision is also considered as part of the review. If a support decision is reversed by the director of the area office or provider that made the decision under appeal or by a fair hearing, the name of any individual(s) that was listed on the department's registry of alleged perpetrators is removed.

The fair-hearing officer will not recommend reversal of the clinical decision made by a trained social worker if there is a reasonable basis for the questioned decision.

When Records Must Be Expunged

Citation: Ann. Laws Ch. 119, § 51E

The name and all other identifying information relating to any child, or to his or her parents or guardian, shall be removed from the reports 1 year after the Department of Children and Families determines that the allegation of serious physical or emotional injury resulting from abuse or neglect cannot be substantiated, or, if the allegations are substantiated, when the child reaches age 18 or 1 year after the date of termination of services to the child or his or her family, whichever date occurs last.

Michigan

Current Through May 2018

Right of the Reported Person to Review and Challenge Records

Citation: Comp. Laws § 722.627(4)-(6)

If the Department of Human Services classifies a report of suspected child abuse or child neglect as a central registry case, the department shall maintain a record in the central registry and, within 30 days after the classification, shall notify in writing each person who is named in the record as a perpetrator of the child abuse or child neglect. The notice shall set forth the person's right to request expunction of the record and the right to a hearing if the department refuses the request. The notice shall not identify the person reporting the suspected child abuse or child neglect.

A person who is the subject of a report or record made under this act may request the department to amend an inaccurate report or record from the central registry and local office file. A person who is the subject of a report or record made under this act may request the department to expunge from the central registry a report or record by requesting a hearing. A report or record filed in a local office file is not subject to expunction except as the department authorizes, if considered in the best interests of the child.

A person who is the subject of a report or record made under this act may, within 180 days from the date of service of notice of the right to a hearing, request the department hold a hearing to review the request for amendment or expunction. If the hearing request is made within 180 days of the notice, the department shall hold a hearing to determine by a preponderance of the evidence whether the report or record in whole or in part should be amended or expunged from the central registry. The hearing shall be held before a hearing officer appointed by the department and shall be conducted as prescribed by the Administrative Procedures Act of 1969. The department may, for good cause, hold a hearing under this subsection if the department determines that the person who is the subject of the report or record submitted the request for a hearing within 60 days after the 180-day notice period expired.

When Records Must Be Expunged

Citation: Comp. Laws § 722.627(7)

If the investigation of a report does not show child abuse or child neglect by a preponderance of evidence, or if a court dismisses a petition because the petitioner has failed to establish that the child comes within the jurisdiction of the court, the information identifying the subject of the report shall be expunged from the central registry.

If a preponderance of evidence of abuse or neglect exists, or if a court takes jurisdiction of the child, the department shall maintain the information in the central registry as follows:

- For a person listed as a perpetrator in category I or II under § 722.628d, either as a result of an investigation or as a result of the reclassification of a case, the department shall maintain the information in the central registry for 10 years.
- For a person listed as a perpetrator in category I or II that involved any of the circumstances listed in § 722.637(1), including severe physical injury or exposure or contact with methamphetamine manufacture; or § 722.638(1), including abandonment, criminal sexual conduct, torture, life-threatening injury, murder, or attempted murder, the department shall maintain the information in the central registry until the department receives reliable information that the perpetrator of the abuse or neglect is dead.

For a person who is the subject of a report or record made under this act before March 31, 2015, the following applies:

- For a person listed as perpetrator in category I or II, the department may remove the information in the registry after 10 years without a request for amendment or expunction.
- For a person listed as a perpetrator in category I or II that involved any of the circumstances listed in § 722.637(1) or 722.638(1), the department shall maintain the information in the central registry until the department receives reliable information that the perpetrator of the child abuse or child neglect is dead.

Minnesota

Current Through May 2018

Right of the Reported Person to Review and Challenge Records

Citation: Ann. Stat. § 626.556, Subd. 10f & 10i

The investigating agency shall notify the parent or guardian of the child who is the subject of the report, and any person or facility determined to have maltreated a child, of their appeal or review rights under this section or § 256.022. Administrative reconsideration is not applicable in family assessments since no determination concerning maltreatment is made.

For an investigation in which an individual or facility has been determined to have maltreated a child, an interested person acting on behalf of the child who contests the investigating agency's final determination regarding maltreatment may request the investigating agency to reconsider its final determination regarding maltreatment.

The request for reconsideration must be submitted in writing to the investigating agency within 15 calendar days after receipt of notice of the final determination or, if the request is made by an interested person who is not entitled to notice, within 15 days after receipt of the notice by the parent or guardian of the child.

Effective January 1, 2002, an individual who was determined to have maltreated a child and who was disqualified for employment or licensure based on serious or recurring maltreatment may request reconsideration of the maltreatment determination and the disqualification. The request for reconsideration of the maltreatment determination and the disqualification must be submitted within 30 calendar days of the individual's receipt of the notice of disqualification.

If the investigating agency denies the request or fails to act upon the request within 15 working days after receiving the request for reconsideration, the person or facility entitled to a fair hearing may submit to the Commissioner of Human Services or the Commissioner of Education a written request for a hearing. For reports involving maltreatment of a child in a facility, an interested person acting on behalf of the child may request a review by the Child Maltreatment Review Panel under § 256.022 if the investigating agency denies the request or fails to act upon the request or if the interested person contests a reconsidered determination. The investigating agency shall notify persons who request reconsideration of their rights under this paragraph. The request must be submitted in writing to the review panel and a copy sent to the investigating agency within 30 calendar days of receipt of notice of a denial of a request for reconsideration or of a reconsidered determination. The request must specifically identify the aspects of the agency determination with which the person is dissatisfied. If, as a result of a reconsideration or review, the investigating agency changes the final determination of maltreatment, that agency shall notify the parties specified in subdivisions 10b, 10d, and 10f.

If an individual or facility contests the investigating agency's final determination regarding maltreatment by requesting a fair hearing under § 256.045, the Commissioner of Human Services shall ensure that the hearing is conducted and a decision is reached within 90 days of receipt of the request for a hearing. The time for action on the decision may be extended for as many days as the hearing is postponed or the record is held open for the benefit of either party.

When Records Must Be Expunged

Citation: Ann. Stat. § 626.556, Subd. 11c

Records maintained or records derived from reports of abuse by local welfare agencies, agencies responsible for assessing or investigating the report, or court services agencies shall be destroyed by the responsible authority under the following circumstances:

- For reports alleging child maltreatment that were not accepted for assessment or investigation, family assessment cases, and cases in which an investigation results in no determination of maltreatment or the need for child protective services, the records must be maintained for a period of 5 years after the date the report was not accepted for assessment or investigation or of the final entry in the case record and then destroyed.
- All records relating to reports that, upon investigation, indicate either maltreatment or a need for child protective services shall be maintained for 10 years after the date of the final entry in the case record and then destroyed.
- All records regarding a report of maltreatment, including any notification of intent to interview that was received by a school, shall be destroyed by the school when ordered to do so by the agency conducting the assessment or investigation. The agency shall order the destruction of the notification when other records relating to the report under investigation or assessment are destroyed.
- Private or confidential data released to a court services agency must be destroyed by the court services agency when ordered to do so by the local welfare agency that released the data. The local welfare agency shall order destruction of the data when other records relating to the assessment or investigation are destroyed.

Mississippi

Current Through May 2018

Right of the Reported Person to Review and Challenge Records

Citation: Ann. Code § 43-21-257; Admin. Code § 18-006-101

The Department of Human Services shall adopt rules and administrative procedures, especially those procedures to afford due process to individuals who have been named as substantiated perpetrators before the release of their names from the central registry, as may be necessary to carry out this subsection.

In regulation: The department provides individuals who disagree with department findings or decisions covered under this policy a right to appeal the decision. An administrative process has been implemented to offer a fair, impartial, timely, and accessible hearing to any person whose name has been placed into the child abuse central registry as a perpetrator of child abuse or neglect or has a substantiated report of abuse or neglect against him or her.

With the establishment of the central registry, there also is the requirement to establish procedures to afford due process to individuals who have been named as substantiated perpetrators prior to the release of their name from the registry.

When a request for a fair hearing is received by the department, a hearing will be arranged. The administrative fair hearing must be conducted within 60 days after the receipt of the request for a hearing.

The hearing officer will do the following:

- Schedule a date, time, and place for the hearing
- Send a written notice of the scheduled hearing at least 30 days prior to the hearing date
- Notify the Protection Unit of the scheduled hearing

The Protection Unit will then notify the county office responsible for the investigation report of the scheduled hearing and request the social worker or social worker's supervisor prepare to be present at the hearing and be prepared to present evidence that led to the individual's name being placed in the registry.

At the administrative fair hearing, either party may be represented by an attorney. The department will be asked to present all the evidence which led to the department's findings. The appealing party shall follow, presenting evidence that the reasons for the decision made are not true or not sufficient for the action taken.

After all evidence is heard or received and the hearing is completed, the presiding hearing officer shall prepare and file a written finding of facts and a decision on these findings and forward the document to the Protection Unit within 15 days of the hearing date.

If the administrative fair hearing reverses the department's decision, the Protection Unit will notify the appealing party in writing that his or her name shall be removed from the central registry by administrative procedures.

The decision of the hearing officer is final and binding, unless overturned by a court of competent jurisdiction.

When Records Must Be Expunged

Citation: Ann. Code § 43-21-263

The youth court may order the sealing of records involving children under the following conditions:

- The child who was the subject of the case has reached age 20.
- The youth court has dismissed the case.
- The youth court sets aside an adjudication in the case.

Missouri

Current Through May 2018

Right of the Reported Person to Review and Challenge Records

Citation: Ann. Stat. § 210.152

The alleged perpetrator named in the report and the parents of the child named in the report, if the alleged perpetrator is not a parent, shall be notified in writing of any determination based on the investigation made by the Division of Family Services within 90 days, 120 days in cases involving sexual abuse, or until the investigation is complete in cases involving a child fatality or near-fatality.

The notice shall advise either:

- That the division has determined by a probable-cause finding (prior to August 28, 2004) or by a preponderance of evidence (after August 28, 2004) that abuse or neglect exists and that the division shall retain all identifying information regarding the abuse or neglect; that such information shall remain confidential and will not be released except to law enforcement agencies or prosecuting or circuit attorneys or as provided in § 210.150; and that the alleged perpetrator has 60 days from the date of receipt of the notice to seek reversal of the division's determination through a review by the child abuse and neglect review board
- That the division has not made a probable cause finding or determined by a preponderance of evidence that abuse or neglect exists

The division may reopen a case for review if new, specific, and credible evidence is obtained.

Any person named in an investigation as a perpetrator who is aggrieved by a determination of abuse or neglect by the division may seek an administrative review by the child abuse and neglect review board. The request for review must be made within 60 days of notification of the division's decision. In those cases where criminal charges based on the facts of the investigation are pending, the request for review shall be made within 60 days from the court's final disposition or dismissal of the charges.

In any action for administrative review, the child abuse and neglect review board shall sustain the division's determination if that determination was supported by evidence of probable cause prior to August 28, 2004, or is supported by a preponderance of evidence after August 28, 2004, and is not against the weight of the evidence. The child abuse and neglect review board hearing shall be closed to all persons except the parties, their attorneys, and those persons providing testimony on behalf of the parties.

If the alleged perpetrator is aggrieved by the decision of the child abuse and neglect review board, the alleged perpetrator may seek de novo judicial review in the circuit court. The request for a judicial review shall be made within 60 days of notification of the decision of the child abuse and neglect review board. In reviewing these decisions, the circuit court shall provide the alleged perpetrator the opportunity to appear and present testimony. The alleged perpetrator may subpoena any witnesses except the alleged victim or the reporter.

In the action for administrative review, the child abuse and neglect review board shall notify the child or the parent, guardian, or legal representative of the child that a review has been requested.

When Records Must Be Expunged

Citation: Ann. Stat. § 210.152

For investigation reports where there is insufficient evidence of abuse or neglect, and the Division of Family Services determines that the allegation was made maliciously, for purposes of harassment, or in retaliation for the filing of a report, identifying information shall be expunged within 45 days from the conclusion of the investigation.

For investigation reports initiated by a mandated reporter where insufficient evidence of abuse or neglect is found by the division, identifying information shall be retained for 5 years from the conclusion of the investigation.

For all other reports where there is insufficient evidence, identifying information shall be retained for 2 years. At the end of that time, the identifying information shall be removed from the records of the division and destroyed.

For reports in which the division is unable to locate the child alleged to have been abused or neglected, identifying information shall be retained for 10 years from the date of the report and then shall be removed from the records of the division.

Montana

Current Through May 2018

Right of the Reported Person to Review and Challenge Records

Citation: Child & Family Serv. Pol. Man. § 106-1

Any action taken by a government agency that is against the recognized constitutional rights of a person is considered an 'adverse action.' Those actions include the substantiation of child abuse or neglect.

Notice is a fundamental aspect of the general right of due process that a governmental agency must provide. The purpose of a notice is to provide the client with the opportunity to be specifically informed of the Division of Child and Family Services' adverse action and the opportunity to contest the action in a fair hearing.

The notice of adverse action should contain the following information:

- A statement of the adverse action and the reasons for the adverse action
- The effective date of the adverse action
- The legal basis for the division's action
- An explanation of the client's right to request a fair hearing

In the case of a substantiation of child abuse or neglect, the individual against whom child abuse or neglect was substantiated does not have the right to a fair hearing if a district court has made an adjudication in the substantiated case or the perpetrator has been criminally convicted of an offense related to child abuse or neglect that contains the same facts as the substantiated report and involves the same child.

Persons requesting a fair hearing as a result of a substantiation of child abuse or neglect must request a fair hearing within 30 days of the date of the substantiation letter.

In the case of a substantiation of child abuse, the hearings officer need not grant or may dismiss a fair hearing when the internal review of the Substantiation Review Panel has resulted in a reversal of the original substantiation determination.

If the Substantiation Review Panel determines that the documentation does not support the substantiation, a letter shall be sent to the individual requesting the fair hearing about the internal review's decision to reverse the substantiation. If the Substantiation Review Panel upholds the substantiation determination, the case will be referred to the Hearings Office to schedule a fair hearing.

To prepare for the hearing, all evidence should be reviewed and organized in consultation with department legal staff. It is the responsibility of the specialist in charge of the case to outline the circumstances of the case and the reasons for the decision.

At the hearing, the hearing officer may explain the procedures, such as which party is to present its case first, immediately prior to the opening of the hearing. The party who has the burden of proof should be the party who presents its position first, which is usually the division.

The hearing officer will issue a final written decision within 90 days from the date when all requested documentation is received, including briefs. The hearing officer has final decision-making authority for cases involving substantiated child abuse or neglect.

In child abuse or neglect substantiation cases, because the hearing officer has final decision-making authority, any appeal must be submitted directly to district court within 30 days of the hearing officer's decision.

When Records Must Be Expunged

Citation: Ann. Code § 41-3-202

A person who is the subject of an unsubstantiated report that was made prior to October 1, 2003, and after which a period of 3 years has elapsed without there being submitted a subsequent substantiated report or an order issued based on the circumstances surrounding the initial allegations may request that the department destroy all of the records concerning the unsubstantiated report.

If it is determined from the investigation that the child has not suffered abuse or neglect, and the initial report is determined to be unfounded, the Department of Public Health and Human Services and the social worker, county attorney, or peace officer who conducted the investigation shall destroy all of their records concerning the report and the investigation. The destruction must be completed within 30 days of the determination that the child has not suffered abuse or neglect.

If the report is unsubstantiated, the department and the social worker who conducted the investigation shall destroy all of the records, except for medical records, concerning the unsubstantiated report and the investigation within 30 days after the end of the 3-year period starting from the date the report was determined to be unsubstantiated, unless:

- There had been a previous report or there is a subsequent substantiated report concerning the same person.
- An order has been issued based on the circumstances surrounding the initial allegations.

Nebraska

Current Through May 2018

Right of the Reported Person to Review and Challenge Records

Citation: Rev. Stat. § 28-723

At any time subsequent to the completion of the investigation by the Department of Social Services, the subject of the report of child abuse or neglect may request the department to amend, expunge identifying information from, or remove the record of the report from the central registry of child protection cases maintained pursuant to § 28-718. If the department refuses to do so or does not act within 30 days, the subject of the report shall have the right to a fair hearing within the department to determine whether the record of the report of child abuse or neglect should be amended, expunged, or removed on the grounds that it is inaccurate or that it is being maintained in a manner inconsistent with the Child Protection and Family Safety Act.

Such fair hearing shall be held within a reasonable time after the subject's request and at a reasonable place and hour. In such hearings, the burden of proving the accuracy and consistency of the record shall be on the department. A juvenile court finding of child abuse or child neglect shall be presumptive evidence that the report was not unfounded.

The hearing shall be conducted by the chief executive officer of the department or his or her designated agent, who is hereby authorized and empowered to order the amendment, expunction, or removal of the record to make it accurate or consistent with the requirements of the act. The decision shall be made in writing, at the close of the hearing or within 30 days thereof, and shall state the reasons upon which it is based. Decisions of the department may be appealed under the provisions of the Administrative Procedure Act.

When Records Must Be Expunged

Citation: Rev. Stat. §§ 28-720; 28-721

If a case that has been classified as court pending is dismissed by the court or a juvenile petition under § 43-247(3)(a) is redesignated to indicate there is no fault on the part of the parent, guardian, or custodian, the case shall be immediately expunged from the central registry of child protection cases.

At any time, the department may amend, expunge, or remove from the central register of child protection cases any record upon good cause shown and upon notice to the subject of the report of child abuse or neglect and to the division.

If the subject of the report of child abuse or neglect is a minor child who is age 12 or older but younger than age 19, the subject is entered into the central registry, and the case involving that minor child is classified as court substantiated or agency substantiated, the department shall conduct a mandatory expunction hearing within 60 days after the subject receives the notification required under § 28-713.01, unless the subject and the subject's attorney of record, parent, guardian, or guardian ad litem sign and return a waiver form within 30 days after receipt. The department shall not, as guardian, sign a waiver form for any subject in its custody. If such subject remains on the central registry of child protection cases, the department shall conduct a second mandatory expunction hearing within 60 days after the subject's 19th birthday, unless the subject signs and returns a waiver form within 30 days after receipt.

If a mandatory expunction hearing is held regarding the subject of a report of child abuse or neglect who is a minor child and the subject is entered into the central registry, the subject may make a subsequent request under this section or § 28-723.

Nevada

Current Through July 2014

Right of the Reported Person to Review and Challenge Records

Citation: Admin. Code § 432B.170; Child Welfare Pol. Man. § 0516.5.1

When a finding of confirmed abuse or neglect of a child by the person responsible for the welfare of the child has been made, the agency that provides child welfare services shall:

- Provide written notification to the person concerning his or her right to appeal the finding
- Provide information on the appeals process

A request for an appeal must be made in writing to the agency within 15 days after the date on which the written notification is sent. A hearing that is held pursuant to this section must be conducted in accordance with chapter 233B.

In policy: There are three main reasons to overturn a finding from substantiated to unsubstantiated in the central registry system:

- Overturn a substantiated finding due to an agency appeal decision
- Overturn a substantiated finding based on a judicial decision
- Overturn a substantiated finding in due to a data entry error

To overturn a finding due to an agency appeal, the child welfare designee assigned to hear the appeal must have the authority to overturn the finding. Upon completion of the appeal process, the following actions will be taken by the agency that provides child welfare services:

- Within 5 days of rendering an appeal decision, the designee who heard the appeal will ensure that the case file documentation is completed to justify overturning the finding.
- A staff member designated by the child welfare agency or upper level manager will overturn the finding in the central registry and enter a case note that the approved change has occurred, noting where to find the documentation for the rationale for the decision.
- The designee who rendered the decision will send a letter to the individual whose finding has been overturned, notifying them of the change in the central registry.
- The same notification will be sent via email to the investigating caseworker and their supervisor.
- If a central registry check occurred prior to the appeal decision being rendered, another central registry check can be requested to reflect the current finding.

When a child welfare agency is notified that a finding has been overturned by a judicial review or a fair hearing, documentation of that decision and the rationale for the decision should be submitted to the designee responsible for overturning the finding in the central registry.

When Records Must Be Expunged

Citation: Rev. Stat. § 432.120

The information contained in the central registry concerning cases in which a report of abuse or neglect of a child has been substantiated by an agency that provides child welfare services must be deleted from the central registry no later than 10 years after the child who is the subject of the report reaches age 18.

New Hampshire

Current Through May 2018

Right of the Reported Person to Review and Challenge Records

Citation: Rev. Stat. § 169-C:35

Upon receipt by the Department of Health and Human Services of a written request and verified proof of identity, an individual shall be informed by the department if that individual's name is listed in the founded reports maintained in the central registry.

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 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.

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.

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.

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 1 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.

When Records Must Be Expunged

Citation: Rev. Stat. § 169-C:35-a

The department shall retain a screened-out report for 1 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. A report is 'screened out' when the department has determined it does not rise to the level of a credible report of abuse or neglect and is not referred for assessment.

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.

The department shall retain a founded report or a report that was unfounded but with reasonable concern for 7 years from the date that the department closes the case, after which time the department shall delete or destroy all electronic and paper records of the report. This paragraph shall not apply to foster placement records or to adoption records.

New Jersey

Current Through May 2018

Right of the Reported Person to Review and Challenge Records

Citation: Ann. Stat. § 9:6-8.10a(b)(12)

The Division of Child Protection and Permanency in the Department of Children and Families may, upon written request, release the records and reports of child abuse and neglect, or parts thereof, consistent with the provisions of § 9:6-8.83, et al., to any person appealing a department service or status action or a substantiated finding of child abuse or neglect and his or her attorney or authorized lay representative upon a determination by the department or the presiding administrative law judge that such disclosure is necessary for a determination of the issue on appeal.

When Records Must Be Expunged

Citation: Ann. Stat. § 9:6-8.40a

The division shall expunge from its records all information relating to a report, complaint, or allegation of an incident of child abuse or neglect when an investigation has determined that the allegation was unfounded.

New Mexico

Current Through May 2018

Right of the Reported Person to Review and Challenge Records

Citation: Admin. Code § 8.10.3.22

The Protective Services Division (PSD) worker shall provide parents, guardians, foster parents, preadoptive parents, and treatment foster parents who were the subject of the protective services investigation the notice of results of the investigation letter. The PSD worker shall send the notice of the results of the investigation letter within the 45-day timeframe for completion of an investigation, with a possible 30-day extension.

The PSD worker shall notify parents, guardians, foster parents, preadoptive parents, and treatment foster parents who were the subject of a substantiated investigation, which is not the subject of a pending children's court case, in writing that the decision to substantiate the investigation may be reviewed through PSD's administrative review process. A client seeking an administrative review shall request the review in writing to PSD within 10 days of the action or notice of the proposed action.

If the investigation decision is upheld after being reviewed through PSD's administrative review process, then PSD shall send a formal letter to the parent, guardian, foster parent, preadoptive parent, or treatment foster parent who was the subject of the investigation notifying them of the decision to uphold the substantiation and that the upheld decision may be reviewed through the Children, Youth and Families Department's administrative hearing process. The parent, guardian, foster parent, preadoptive parent, or treatment foster parent shall request an administrative hearing in writing to the PSD director's office within 10 days of receipt of the letter.

When Records Must Be Expunged

This issue is not addressed in the statutes and regulations reviewed.

New York

Current Through May 2018

Right of the Reported Person to Review and Challenge Records

Citation: Soc. Serv. Law § 422(5), (7)-(8)

Notwithstanding any other provision of law, the Office of Children and Family Services may, at its discretion, grant a request to expunge an unfounded report when:

- The source of the report was convicted of knowingly making a false allegation about that report.
- The subject of the report presents clear and convincing evidence that affirmatively refutes the allegation of abuse or maltreatment.

The absence of credible evidence supporting the allegation of abuse or maltreatment shall not be the sole basis to expunge the report. Nothing in this paragraph shall require the Office of Children and Family Services to hold an administrative hearing to decide whether to expunge a report. That office shall make its determination upon reviewing the written evidence submitted by the subject of the report and any records or information obtained from the State or local agency that investigated the allegations of abuse or maltreatment.

At any time, a subject of a report and other persons named in the report may receive, upon request, a copy of all information contained in the central register.

At any time subsequent to the completion of the investigation, but in no event later than 90 days after the subject of the report is notified that the report is indicated, the subject may request the commissioner to amend the record of the report. If the commissioner does not amend the report within 90 days, the subject shall have the right to a fair hearing to determine whether the record of the report in the central register should be amended on the grounds that it is inaccurate or is being maintained in a manner inconsistent with the law.

When Records Must Be Expunged

Citation: Soc. Serv. Law § 422(5-a), (6)

Upon notification from a local social services district that a report is part of the family assessment and services track, the central register shall forthwith identify the report as an assessment track case and legally seal such report.

In all other cases, the record of the report to the central register shall be expunged 10 years after the 18th birthday of the youngest child named in the report. In the case of a child in residential care, the record of the report to the central register shall be expunged 10 years after the reported child's 18th birthday.

North Carolina

Current Through May 2018

Right of the Reported Person to Review and Challenge Records

Citation: Gen. Stat. § 7B-311(d)

The Social Services Commission shall adopt rules regarding the operation of the central registry and responsible-individuals list (RIL), including procedures for notifying a responsible individual of a determination of abuse or serious neglect.

The name of an individual who has been identified as a responsible individual shall be placed on the RIL only after one of the following:

- The individual is properly notified pursuant to § 7B-320 and fails to file a petition for judicial review in a timely manner.
- The court determines that the individual is a responsible individual as a result of a hearing on the individual's petition for judicial review.
- The individual is criminally convicted as a result of the same incident involved in an investigative assessment response.

Within 5 working days after the completion of an investigation that results in a determination of abuse or serious neglect and the identification of a responsible individual, the director of the Department of Social Services shall deliver written notice of the determination to the identified individual. The notice shall include all of the following:

- The nature of the investigation
- That the individual has been identified as a responsible individual
- A summary of the evidence supporting determination
- A statement that unless the individual petitions for judicial review, his or her name will be placed on the RIL
- A description of the actions the individual must take to seek judicial review of the determination
- A copy of a petition for judicial review form

The person must file a petition for judicial review within 15 days of the receipt of the notice. Failure to timely file the petition constitutes a waiver of the person's right to a district court hearing and to contest the placement of the individual's name on the RIL.

Upon the filing of a petition, the court clerk shall calendar the matter for hearing within 45 days. At the hearing, the director shall have the burden of proving by a preponderance of evidence the abuse or serious neglect and the identification of the person seeking judicial review as a responsible individual.

Upon receipt of a notice of a hearing, the director shall review all records, reports, and other information gathered during the investigation. If after a review, the director determines that there is not sufficient evidence to support a determination that the person abused or seriously neglected the child and is a responsible individual, the director shall prepare a written statement of the determination and deliver the statement to the individual seeking judicial review. The director also shall give written notice of the director's determination to the court clerk, and the judicial review hearing shall be cancelled.

Within 30 days after completion of the hearing, the court shall enter an order containing findings of fact and conclusions of law. If the court concludes that the director has not established by a preponderance of evidence abuse or serious neglect or the identification of the responsible individual, the court shall reverse the director's determination and order the director not to place the individual's name on the RIL. If the court concludes that the director has established by a preponderance of the evidence abuse or serious neglect and the identification of the individual seeking judicial review as a responsible individual, the court shall order the director to place the individual's name on the RIL.

A person who has been identified as a responsible individual may not petition for judicial review if either of the following apply:

- The person is criminally convicted as a result of the same incident.
- After proper notice, the person fails to file a petition for judicial review with the district court in a timely manner.

When Records Must Be Expunged

Citation: Gen. Stat. § 7B-311(d)

The Social Services Commission shall adopt rules regarding the operation of the central registry and RIL, including procedures for correcting and expunging information.

North Dakota

Current Through May 2018

Right of the Reported Person to Review and Challenge Records

Citation: Cent. Code § 50-25.1-05.4; Admin. Code §§ 75-03-18-02; 03; 04; 05; 07; 12; 13

The Department of Human Services shall adopt rules to resolve complaints and conduct appeal hearings requested by the subject of a report of suspected child abuse, neglect, or death resulting from abuse or neglect who is aggrieved by the conduct or result of an assessment.

In regulation: The subject of a report of suspected child abuse or neglect who is aggrieved by the result of the assessment may file an appeal.

A staff member of child protection services will notify the subject in writing of the decision resulting from an assessment. The staff member who notifies the subject of the decision resulting from the assessment shall complete an affidavit of mailing that becomes a part of the assessment record in the form and manner prescribed by the department.

A request for an appeal must be in writing on forms developed and provided by the department. The written request must include the following:

- A succinct statement by the subject as to why the subject disagrees with the decision that includes all reasons or grounds with which the subject disagrees
- A statement of the relief sought by the subject

An appeal may not be filed before the date of an assessment decision and must be filed within 30 days after the documented date of the subject notification of the decision. Notification is considered to have occurred 3 days after the date on the affidavit of mailing.

This chapter shall be construed to encourage informal, mutually consensual meetings or discussions between the subject and the assessing agency or regional human service center. Such informal review will not suspend or extend the time for filing an appeal.

The formal hearing must be conducted in substantial conformity with applicable provisions of chapter 75-01-03.

Neither a request for appeal under this chapter nor an appeal from that decision under North Dakota Century Code chapter 28-32 shall be construed to suspend the legal effect of an assessment decision during the time of the appeal, until such time as a final decision overturning the case decision has been made and not appealed.

If an assessment decision is reversed on appeal under this chapter or under North Dakota Century Code chapter 28-32, a notation of the fact that the finding was overturned must be added to the record.

When Records Must Be Expunged

Citation: Child Prot. Serv. Man. § 640-20-15

For those cases where a decision is made that services are required, the assessment information should be destroyed after 10 years from the date the decision is made. The identifying information will be expunged from the child abuse information index after 10 years from the date of the decision.

For those cases where a decision is made that no services are required/services recommended, the assessment information should be destroyed after 3 years from the date of the decision. The identifying information will not be kept on the index after the decision is made.

For those cases where a decision is made that no services are required and no services are recommended, the file should be destroyed after 1 year from the date of the decision. The identifying information will not be kept on the index.

If a subsequent decision is made, the assessment information from the prior decision will follow the date of the subsequent decision for destruction if the time line is longer. For example:

- If an initial decision is made that 'services are required' and 3 years later a subsequent decision is made that 'services are required,' the information in the prior report will follow the date of the newer decision and both sets of information may be retained for 10 years from the new decision date.
- If an initial decision is made that 'no services are required' and 1 year later a subsequent decision is made that 'no services are required,' the assessment information from the prior report will follow the date of the subsequent decision for destruction. Both sets of information may be retained for 3 years from the new date.
- If an initial decision is made that 'services are required' and 2 years later a decision is made that 'no services are required,' the timeframe for retention for the initial 'services required' decision is not shortened to the 'no services required' timeframe.

Northern Mariana Islands

Current Through May 2018

Right of the Reported Person to Review and Challenge Records

This issue is not addressed in the statutes reviewed.

When Records Must Be Expunged

This issue is not addressed in the statutes reviewed.

Ohio

Current Through May 2018

Right of the Reported Person to Review and Challenge Records

This issue is not addressed in the statutes and regulations reviewed.

When Records Must Be Expunged

This issue is not addressed in the statutes and regulations reviewed.

Oklahoma

Current Through May 2018

Right of the Reported Person to Review and Challenge Records **Admin. Code Tit. 340, § 75-3-530**

An individual may be eligible to request an appeal when the individual is a person responsible for the child's health, safety, or welfare (PRFC) in an investigation involving abuse or neglect allegations and the investigation results in a substantiated finding regarding the PRFC.

An eligible individual may request a review through the appeal process when no deprived petition is filed, no existing deprived petition is amended, or a deprived petition is filed and the court case is dismissed prior to adjudication.

Upon substantiation of abuse, neglect, or both, the child welfare specialist notifies the PRFC of the finding by mail within 10 calendar days to the PRFC's last known address. The notice informs the PRFC of any substantiated child abuse or neglect finding in the investigation; the date of the abuse or neglect referral, allegation, and finding without identifying the reporting party; and demographic information.

The notice specifies that the PRFC may file an appeal by mailing a request to the Appeals Program Unit within 15 calendar days from the postmark on the envelope containing the notice and that failure to submit the appeal request within 15 calendar days results in the finding becoming final and the PRFC waives any right to appeal this finding in the future, unless good cause is established. Conditions of good cause include, but are not limited to, severe illness or other disabling condition.

Within 120 calendar days following acceptance of the PRFC's timely request for a review, the appeals committee determines whether the substantiated finding of abuse or neglect meets substantiation protocol per regulation. When the appeals committee determines the finding failed to meet the criteria for substantiation, the Appeals Program Unit determines whether the preliminary decision was based upon lack of credible evidence to support the allegations of child abuse, neglect, or both or determines whether the preliminary decision is based upon a lack of documentation by the child welfare specialist.

The Appeals Program Unit modifies the finding, when appropriate, in the Child Abuse and Neglect Information System (KIDS). When the substantiation finding is appropriate, but the allegation in KIDS is incorrect, the chair on the appeals committee ensures the inappropriate allegation is marked as an improper entry and the correct allegation is added along with the substantiated finding.

When Records Must Be Expunged

Citation: Ann. Stat. Tit. 10A, § 1-2-108

Records obtained by the Department of Human Services shall be maintained by the department until otherwise provided by law.

Oregon

Current Through May 2018

Right of the Reported Person to Review and Challenge Records

Citation: Admin. Rules §§ 413-010-0715; 413-010-0720; 413-010-0721; 413-010-0735

The local child welfare office must deliver a notice to the person identified as the perpetrator in the child protective services (CPS)-founded disposition. The notice must include the following:

- A statement that the CPS disposition was recorded as 'founded,' including a description of the type of child abuse or neglect identified
- A description of the CPS assessment that briefly explains how the CPS-founded disposition was determined
- A statement about the right of the individual to submit a request for review of the CPS-founded disposition
- Instructions for making a request for review, including the requirement that the requestor provide a full explanation why the requestor believes the CPS-founded disposition is in error

A person requesting a review must prepare a written request for review within 30 calendar days of the receipt of the notice of the founded disposition that includes the following items:

- The date the request for review is written
- The full name of the person identified as responsible for abuse or neglect in the CPS-founded disposition
- A full explanation of why the person believes the founded disposition is in error and any additional information and documents the person wants considered during the review
- The person's current name (if it has changed), street address, and telephone number

The local office must conduct a review and issue a review decision to the requestor within 30 days from the date the local office receives a request for review. The review must be based on current child welfare practice and definitions of child abuse and consider the following:

- Relevant documentary information contained in the department's child welfare case file, including the CPS assessment and disposition, screening information, assessment information and narrative, related police reports, medical reports, and information provided by the person requesting review
- Whether there is reasonable cause to believe that child abuse occurred
- Whether there is reasonable cause to believe that the person requesting review is responsible for the child abuse
- Whether there is reasonable cause to believe that the type of abuse for which the CPS assessment was founded is correctly identified in the assessment

At the conclusion of the review, each committee member must make his or her respective recommendations known to the child welfare program manager.

The child welfare program manager must:

- Observe the review committee
- Ask questions of the committee members as needed for clarification
- Consider the committee's recommendations and the basis for the recommendations
- Make one of the following decisions:
 - » Retain the founded disposition
 - » Change the disposition to 'unfounded disposition' or 'unable to determine'
 - » Change the type of abuse for which the CPS disposition was founded

The decision and the basis for the decision must be documented.

When Records Must Be Expunged

This issue is not addressed in the statutes and regulations reviewed.

Pennsylvania

Current Through May 2018

Right of the Reported Person to Review and Challenge Records

Citation: Cons. Stat. Tit. 23, § 6341

Any person named as a perpetrator and any school employee named in an indicated report of child abuse may, within 90 days of being notified of the status of the report, request the secretary of the Department of Public Welfare to amend or expunge an indicated report on the grounds that it is inaccurate or it is being maintained in a manner inconsistent with law. If the secretary grants the request, the statewide central register, appropriate county agency, appropriate law enforcement officials, and all subjects shall be so advised of the decision.

If the secretary refuses a request for administrative review or does not act within the prescribed time, the perpetrator or school employee shall have the right to appeal and request a hearing before the secretary to amend or expunge an indicated report on the grounds that it is inaccurate or it is being maintained in a manner inconsistent with the law. The request for hearing must be made within 90 days of notice of the decision. The appropriate county agency and appropriate law enforcement officials shall be given notice of the hearing. The burden of proof in the hearing shall be on the appropriate county agency. The department shall assist the county agency as necessary.

A person named as a perpetrator in a founded report of child abuse must provide to the department a court order indicating that the underlying adjudication that formed the basis of the founded report has been reversed or vacated. The department or county agency shall provide a person making an appeal with evidence gathered during the child abuse investigation within its possession that is relevant to the child abuse determination. The department or county agency shall bear the burden of proving by substantial evidence that the report should remain categorized as an indicated report.

The administrative law judge's or hearing officer's decision in a hearing shall be entered, filed, and served upon the parties within 45 days of the date upon which the proceeding or hearing is concluded. Notice of the decision shall be made to the statewide database, the appropriate county agency, any appropriate law enforcement officials, and all subjects of the report, except for the abused child. The secretary or designated agent may make any appropriate order respecting the amendment or expunction of such records to make them accurate or consistent with the requirements of this chapter.

When Records Must Be Expunged

Citation: Cons. Stat. Tit. 23, §§ 6337; 6338(b); 6338.1

A report shall be maintained for 1 year then expunged under the following circumstances:

- It is determined to be unfounded.
- An investigation is unable to determine whether it is founded, indicated, or unfounded.
- It is an unfounded report for which the county agency has accepted the family for services.
- It is determined to be invalid.

Reports that are determined to be valid but are not accepted for services shall be maintained for 5 years then expunged. Valid reports that are accepted for services shall be maintained for 5 years after the closure of services then expunged.

All information that identifies the subjects of founded and indicated child abuse reports shall be expunged when the subject child reaches age 23.

The name of a person who is the subject of an indicated report who was under age 18 when he or she committed the abuse shall be expunged from the statewide database when he or she reaches age 21 or 5 years have elapsed, whichever is later, as follows:

- The person has not been named as a perpetrator in any subsequent indicated report.
- The person has never been convicted or adjudicated as delinquent for an offense he or she committed under § 6344(c).
- The child abuse did not involve the use of a deadly weapon.

The provisions of this section shall not apply to any of the following:

- A perpetrator who is the subject of a founded report of child abuse
- A sexually violent delinquent child who is required to register as a sexual offender or was found delinquent as a result of the same acts that resulted in child being named a perpetrator of child abuse
- A juvenile offender who is required to register as a sex offender for the same acts that resulted in being named a perpetrator of child abuse and who has not been removed from the statewide registry of sexual offenders

Puerto Rico

Current Through May 2018

Right of the Reported Person to Review and Challenge Records

Citation: Ann. Laws Tit. 8, § 446d

The subject of the report shall be entitled to request in writing from the secretary of the Department of the Family a copy of the information found in the central registry referring to his or her case. The secretary or his or her designee shall furnish the information, provided this does not go against the best interests of the minor and if the necessary steps are taken to protect the confidentiality of the person who in good faith reported the case or cooperated during its investigation. If the request for information is denied, the person affected by the secretary's decision may resort to the court of appeals within 30 days of the date of notice of the final decision.

In those referrals lacking grounds, the subject of the report may request in writing that his or her name be amended or deleted from the registry within 30 days following the date of the notification that there are no grounds. The Commonwealth Center for the Protection of Minors shall have 30 days from the date of receipt of the request to act thereon. If the request is denied or the center fails to act thereon, the subject of the report shall have 30 days to file his or her petition for review with the court of appeals.

When Records Must Be Expunged

This issue is not addressed in the statutes reviewed.

Rhode Island

Current Through May 2018

Right of the Reported Person to Review and Challenge Records

Code of Rules § 03 001 001, Policy 100.0055

The Department of Children, Youth and Families has a responsibility to inform any person 'indicated' as a result of a child abuse and/or neglect investigation of the right to an agency appeal to the department hearing officer. The department hearing officer provides an opportunity for any person to be heard through a formal procedure for review of any agency decision when efforts at resolution within the respective divisions have not been successful.

In the case of a complaint related to an indicated finding of child abuse or neglect, the complainant's initial statement of dissatisfaction with the decision and request for hearing shall be filed directly with the department hearing officer. The hearing officer shall send a copy of the complaint and request for hearing to the child protective services (CPS) chief executive who may at his or her discretion consider the complaint and act thereon, if he or she deems appropriate.

At a hearing on a complaint, the hearing officer must determine whether a preponderance of the evidence gathered during the investigation indicated that abuse or neglect occurred and whether or not the CPS investigator complied with all policy and procedures relating to the conduct of such investigations.

No investigative findings made by the department shall be deemed final and no final entry shall be made into the central registry with reference to any investigation when the right to appeal has been claimed, unless and until such time as the appeal hearing has been conducted and a written decision is rendered.

The results of all appeals hearings shall be promptly reflected in the central registry.

When Records Must Be Expunged

Citation: Gen. Laws §§ 40-11-3; 40-11-13.1

Any person who has been reported for child abuse and/or neglect and who has been determined not to have neglected and/or abused a child shall have his or her record expunged as to that incident 3 years after that determination.

All records concerning reports of child abuse and neglect made pursuant to this chapter, including reports made to the department, shall be destroyed 3 years after the date of a final determination by either the family court or the department that the reported child abuse or neglect did not in fact occur.

South Carolina

Current Through May 2018

Right of the Reported Person to Review and Challenge Records

Citation: Ann. Code §§ 63-7-1410 through 63-7-1440

This article provides for a child protective services appeals process for reports that have been indicated and are not being brought before the family court for disposition and for reports indicated and entered in the central registry and not being brought before the family court for disposition. This process is available only to the person determined to have abused or neglected the child.

If a person requests an appeal and the family court has determined that the person is responsible for abuse or neglect of the child, an appeal is not available. If the family court reaches such a determination after the initiation of the appeal, the Department of Social Services shall terminate the appeal. If a proceeding is pending in the family court, the department shall stay the appeal pending the court's decision.

If the department determines that a report of suspected child abuse or neglect is indicated, or if the case was entered in the central registry and the department is not taking the case to the family court for disposition, the department shall provide notice of the case decision by certified mail to the person determined to have abused or neglected the child. The notice must inform the person of the right to appeal the case decision and that if he or she intends to appeal the decision, he or she must notify the department of this intent in writing within 30 days of receipt of the notice. If the person does not provide notice within 30 days, the right to appeal is waived by the person and the case decision becomes final. Within 14 days after receipt of a notice of intent to appeal, an appropriate official of the department must conduct an interim review of the case.

If the official conducting the interim review decides that the determination against the appellant is not supported by a preponderance of evidence, this decision must be reflected in the department's case record and database. If the person's name was in the central registry and the interim review results in a reversal of the decision that supports that entry, the person's name must be removed from the central registry.

The State director shall appoint a hearing officer to conduct a contested case hearing for each case decision appealed. The purpose of the hearing is to determine whether there is a preponderance of evidence that the appellant was responsible for abuse or neglect of the child.

After a contested case hearing, if the State director decides that the determination against the appellant is not supported by a preponderance of evidence, this decision must be reflected in the department's case record and database. If the person's name was in the central registry as a result of a determination and the State director reverses the decision that supports that entry, the person's name must be removed from the central registry. If the State director affirms the determination against the appellant, the appellant has the right to seek judicial review in the family court of the jurisdiction in which the case originated.

An appellant seeking judicial review shall file a petition in the family court within 30 days after the final decision of the department. The family court shall conduct a judicial review of the pleadings and a certified transcript of the record that must include the evidence upon which the findings and decisions appealed are based. The judgment must include a determination of whether the decision of the department that a preponderance of evidence shows that the appellant abused or neglected the child should be affirmed or reversed.

When Records Must Be Expunged

Citation: Ann. Code §§ 63-7-1950; 63-7-1960

If it is determined that a report is unfounded, the Department of Social Services must immediately purge information identifying that person as a perpetrator from the registry and from department records.

The names, addresses, birth dates, identifying characteristics, and other information unnecessary for auditing and statistical purposes of persons named in department records of indicated cases other than the central registry must be destroyed 7 years from the date services are terminated.

South Dakota

Current Through May 2018

Right of the Reported Person to Review and Challenge Records

Citation: Ann. Laws § 26-8A-11

Within 30 days after the Department of Social Services notifies any person that he or she will be placed on the central registry for child abuse and neglect based upon a substantiated investigation, the person may request an administrative hearing. The administrative hearing is limited to determining whether the record should be amended or removed on the grounds that it is inaccurate. The request shall be made in writing and directed to the person designated by the department in the notice.

If there has been a court finding of child abuse or neglect, the record's accuracy is conclusively presumed and the person has no right to an administrative hearing.

In the hearing, the burden of proving the accuracy of the record is on the department. The hearing examiner may order the amendment or removal of the record. The decision of the hearing examiner shall be made in writing within 90 days after the date of receipt of the request for a hearing and shall state the reasons upon which it is based. Decisions of the department under this section are administrative decisions subject to judicial review under chapter 1-26.

When Records Must Be Expunged

Citation: Ann. Laws §§ 26-8A-11; 26-8A-12

In any case where there has been no substantiated report of child abuse and neglect, the Department of Social Services may not maintain a record or other information of unsubstantiated child abuse and neglect for longer than 3 years if there has been no further report within that 3-year period.

The secretary may not adopt any rule that would permit the removal from the central registry of any person who has been convicted of any violation of chapter 22-22 (sex offenses), chapter 22-24A (obscenity and indecency), § 22-22A-3 (aggravated incest), or § 26-10-1 (felony abuse of or cruelty to a minor), if the victim of the crime was a child.

Tennessee

Current Through May 2018

Right of the Reported Person to Review and Challenge Records

Citation: Admin. Regs. §§ 0250-07-09-.07; 0250-07-09-.11

Within 10 business days after the Department of Children's Services has closed the case and classified a person in a substantiated report as a perpetrator of abuse or neglect, the department shall notify the person of the classification. The notice shall contain, at a minimum, the following:

- That the person has been classified as the perpetrator of abuse or neglect in a substantiated report
- That the person may request a formal file review by the department within 20 business days of the date of the notice
- That failure to submit a request for a formal file review within 20 business days, absent a showing of good cause, shall result in the classified report becoming final and the person shall waive any right to a formal file review

The department shall respond to a request for a formal file review within 10 business days by sending written notice of the person's obligations pursuant to a formal file review process. This additional notice shall include, at a minimum, the following:

- That the person may submit additional written information on his or her behalf that must be received within 30 business days of the date of the notice
- That if the information is not timely submitted, the formal file review shall proceed with the information in the file and the person's right to submit additional information shall be waived
- That the formal file review shall be completed within 90 business days of the date of the notice

In conducting the formal file review, the commissioner's designee shall determine whether a preponderance of the evidence available to the reviewer, including any submission by the alleged perpetrator, supports substantiation.

If the commissioner's designee determines that a preponderance of evidence does not support substantiation, the report shall be reversed and it shall be classified as unsubstantiated. If the commissioner's designee determines that the proof in the report supports a different conclusion than that reached by the department, the report shall be modified and it shall be classified accordingly. The commissioner's designee shall notify the person of the outcome.

If the commissioner's designee determines that a preponderance of the evidence supports substantiation, the report shall be upheld and it shall be classified as substantiated. Within 10 business days of the date of completion of the formal file review, the department shall send to the person who was classified in a report of any form of abuse or neglect written notice containing at a minimum, the following:

- That the person has been identified as the perpetrator of abuse or neglect in a substantiated report investigated by the department and, after conducting a formal file review, the 'substantiated' report was upheld
- That the person may request a hearing within 20 business days of the date of the notice before an administrative law judge
- That if the person fails to timely request a hearing absent good cause, he or she shall waive the right to an administrative hearing
- That if the person fails to timely request a hearing absent good cause, the department will release its finding of abuse or neglect to any person or organization consistent with these rules

The sole issue for the administrative judge to determine is whether the preponderance of the evidence, in light of the entire record, proves that the individual committed any form of abuse or neglect. If the administrative judge concludes that a preponderance of the evidence does not support a conclusion that the individual committed the act of abuse or neglect, the report shall be classified as unsubstantiated.

When Records Must Be Expunged

Citation: Admin. Regs. § 0250-07-09-.11

If the administrative judge concludes that a preponderance of the evidence does not support a conclusion that the individual committed the act of abuse or neglect, or if a reviewing court reverses a departmental determination of abuse or neglect, the report shall be classified as unsubstantiated. The department shall not release information from its records identifying the individual as a perpetrator of any form of abuse or neglect.

Nothing in this rule shall be construed to require expunction of any information from internal case records maintained by the department.

Texas

Current Through May 2018

Right of the Reported Person to Review and Challenge Records

Citation: Family Code § 261.309

The executive commissioner shall by rule establish policies and procedures to resolve complaints relating to and conduct reviews of child abuse or neglect investigations conducted by the Department of Family and Protective Services.

If a person under investigation for allegedly abusing or neglecting a child requests clarification of the status of the person's case or files a complaint relating to the conduct of the department's staff or to department policy, the department shall conduct an informal review to clarify the person's status or resolve the complaint. The division of the department responsible for investigating complaints shall conduct the informal review as soon as possible but no later than the 14th day after the date the request or complaint is received.

If, after the department's investigation, the person who is alleged to have abused or neglected a child disputes the department's determination of whether child abuse or neglect occurred, the person may request an administrative review of the findings. A department employee in administration who was not involved in or did not directly supervise the investigation shall conduct the review. The review must sustain, alter, or reverse the department's original findings in the investigation.

The department employee shall conduct the review as soon as possible but no later than the 45th day after the date the department receives the request, unless the department has good cause for extending the deadline. If a civil or criminal court proceeding or an ongoing criminal investigation relating to the alleged abuse or neglect investigated by the department is pending, the department may postpone the review until the court proceeding is completed.

A person is not required to exhaust the remedies provided by this section before pursuing a judicial remedy provided by law.

This section does not provide for a review of an order rendered by a court.

When Records Must Be Expunged

Citation: Family Code §§ 261.002; 261.315

The executive commissioner shall adopt rules necessary to carry out this section. The rules shall require the department to remove a person's name from the central registry maintained no later than the 10th business day after the date the department receives notice that a finding of abuse and neglect against the person is overturned in any of the following:

- An administrative review or an appeal of the review conducted under § 261.309(c)
- A review or an appeal of the review conducted by the Office of Consumer Affairs of the department
- A hearing or an appeal conducted by the State Office of Administrative Hearings

At the conclusion of an investigation in which the department determines that the person alleged to have abused or neglected a child did not commit abuse or neglect, the department shall notify the person of the person's right to request the department to remove information about the person's alleged role in the abuse or neglect report from the department's records.

On request by a person whom the department has determined did not commit abuse or neglect, the department shall remove information from the department's records concerning the person's alleged role in the abuse or neglect report.

The executive commissioner shall adopt rules necessary to administer this section.

Utah

Current Through May 2018

Right of the Reported Person to Review and Challenge Records

Citation: Ann. Code § 62A-4a-1009

The Division of Child and Family Services shall send a notice of agency action to a person about whom the division has made a supported finding. The notice shall state that:

- The division has conducted an investigation regarding alleged child abuse, neglect, or dependency.
- The division has made a supported finding of abuse, neglect, or dependency.
- Facts gathered by the division support the supported finding.
- The person has the right to request a copy of the report and an opportunity to challenge the supported finding.
- Failure to request an opportunity to challenge the supported finding within 30 days of receiving the notice will result in an unappealable supported finding of child abuse, neglect, or dependency unless the person can show good cause why compliance within the 30-day requirement was virtually impossible or unreasonably burdensome.

A person may make a request to challenge a supported finding within 30 days of a notice being received. Upon receipt of a request, the Office of Administrative Hearings shall hold an adjudicative proceeding pursuant to the Administrative Procedures Act.

In an adjudicative proceeding, the division shall have the burden of proving, by a preponderance of evidence, that there is a reasonable basis to conclude that child abuse, neglect, or dependency occurred and that the alleged perpetrator was substantially responsible for the abuse or neglect that occurred. Any party shall have the right of judicial review of final agency action.

Except as otherwise provided in this chapter, an alleged perpetrator who, after receiving notice, fails to challenge a supported finding may not further challenge the finding and shall have no right to agency review, an adjudicative hearing, or judicial review of the finding.

An alleged perpetrator may not make a request to challenge a supported finding if a court of competent jurisdiction entered a finding, in a proceeding in which the alleged perpetrator was a party, that the alleged perpetrator is substantially responsible for the abuse, neglect, or dependency that was also the subject of the supported finding.

An adjudicative proceeding may be stayed during the time a judicial action on the same matter is pending.

When Records Must Be Expunged

Citation: Ann. Code § 62A-4a-1008

The division shall delete any reference in the management information system to a report that is:

- Determined by the division to be without merit, if no subsequent report involving the same person has occurred, within 1 year
- Determined by a court to be unsubstantiated or without merit, if no subsequent report involving the same person has occurred, within 5 years

On or before May 1, 2018, the division shall make rules for the expunction of supported reports or unsupported reports in the management information system. The rules shall:

- In relation to an unsupported report or a supported report, identify the types of child abuse or neglect reports that the division:
 - » Shall expunge within 5 years after the last date on which the person's name was placed in the information system, without requiring the subject of the report to request expunction
 - » Shall expunge within 10 years after the last date on which the person's name was placed in the information system, without requiring the subject of the report to request expunction
 - » May expunge following a person's request for expunction
 - » May not expunge due to the serious nature of the specified types of child abuse or neglect
- Establish an administrative process and a standard of review for the subject of a report to make an expunction request

If a person's name is in the information system for a type of serious child abuse or neglect report, the person may request to have the report expunged 10 years after the last date on which the person's name was placed in the information system for a supported or unsupported report. If a person's expunction request is denied, the person shall wait at least 1 year after the issuance of the denial before the person may again request to have the person's report expunged.

Vermont

Current Through May 2018

Right of the Reported Person to Review and Challenge Records

Citation: Ann. Stat. Tit. 33, §§ 4916a; 4916b

If an investigation results in a determination that a report of child abuse or neglect should be substantiated, the Department for Children and Families shall notify the person alleged to have abused or neglected a child of the right to request a review of the substantiation determination by an administrative reviewer and the right to receive a copy of the commissioner's written findings. A person who wishes to challenge placement of his or her name on the registry must notify the department within 14 days of the date the department mailed notice of the right to review.

The department shall hold an administrative review conference within 35 days of receipt of the request for review. At least 10 days prior to the administrative review conference, the department shall provide to the person requesting the review a copy of the redacted investigation file, notice of time and place of the conference, and conference procedures, including information that may be submitted and mechanisms for providing information. The department shall also provide to the person those redacted investigation files that relate to prior investigations that the department has relied upon to make its substantiation determination in the case in which a review has been requested.

The administrative review may be stayed upon request of the person if there is a pending criminal or family division of the superior court case that is related to the same incident of abuse or neglect for which the person was substantiated. During this period, the person's name shall be placed on the registry. Upon resolution of the court case, the person may exercise his or her right to review by notifying the department in writing within 30 days after the related court case, including any appeals, has been fully adjudicated. If the person fails to notify the department within 30 days, the department's decision shall become final and no further review is required.

If the administrative reviewer accepts the department's substantiation determination, a registry record shall be made immediately. If the reviewer rejects the department's substantiation determination, no registry record shall be made.

If no administrative review is requested, the department's decision in the case shall be final, and the person shall have no further right of review. The commissioner may grant a waiver and permit such a review upon good cause shown. Good cause may include an acquittal or dismissal of a criminal charge arising from the incident of abuse or neglect.

A commissioner's decision that creates a registry record may be appealed to the Human Services Board. Within 30 days of the date on which the administrative reviewer mailed notice of placement of a report on the registry, the person who is the subject of the substantiation may apply in writing to the Human Services Board for relief. The board shall hold a hearing within 60 days of the receipt of the request for a hearing and shall issue a decision within 30 days of the hearing. Priority shall be given to appeals in which there are immediate employment consequences for the person appealing the decision.

A hearing may be stayed upon request of the petitioner if there is a pending court case related to the same incident of abuse or neglect for which the person was substantiated.

If no review by the board is requested, the department's decision in the case shall be final, and the person shall have no further right for review under this section. The board may grant a waiver and permit such a review upon good cause shown.

When Records Must Be Expunged

Citation: Ann. Stat. Tit. 33, §§ 4916c; 4916d

A person whose name has been placed on the registry prior to July 1, 2009, and has been listed on the registry for at least 3 years may file a written request with the Commissioner for Children and Families seeking a review for the purpose of expunging an individual registry record. A person whose name has been placed on the registry on or after July 1, 2009, and has been listed on the registry for at least 7 years may file a written request seeking a review for the purpose of expunging a record. The commissioner shall grant a review upon request.

A person who is required to register as a sex offender shall not be eligible to petition for expunction of his or her registry record until the person is no longer required to register.

The person shall have the burden of proving that a reasonable person would believe that he or she no longer presents a risk to the safety or well-being of children.

A review shall consider the following factors:

- The nature of the substantiation
- The number of substantiations
- The amount of time since the substantiation
- The circumstances that would indicate whether a similar incident would likely occur
- Any activities that would reflect upon the person's changed behavior or circumstances, such as therapy, employment, or education

At the review, the person who requested the review shall be permitted to present any evidence that supports the request for expunction. A person may seek a review no more than once every 36 months.

Registry entries concerning a person who was substantiated for behavior occurring before the person reached age 10 shall be expunged when the person reaches age 18, provided that the person has had no additional substantiated entries. A person substantiated for behavior occurring before age 18 and whose name has been listed on the registry for at least 3 years may request a review for the purpose of expunging an individual registry record.

Virgin Islands

Current Through May 2018

Right of the Reported Person to Review and Challenge Records

This issue is not addressed in the statutes reviewed.

When Records Must Be Expunged

This issue is not addressed in the statutes reviewed.

Virginia

Current Through May 2018

Right of the Reported Person to Review and Challenge Records

Citation: Ann. Code § 63.2-1526

A person who is suspected of or is found to have committed abuse or neglect may, within 30 days of being notified of that determination, request the local Department of Social Services making the determination to amend the determination and the local department's related records.

Upon written request, the local department shall provide the appellant all information used in making its determination. The local department shall hold an informal conference where this person, who may be represented by counsel, shall be entitled to informally present testimony of witnesses, documents, factual data, arguments, or other submissions of proof to the local department.

If the local department refuses the request for amendment or fails to act within 45 days after receiving the request, the person may, within 30 days thereafter, petition the commissioner, who shall grant a hearing to determine whether it appears, by a preponderance

of evidence, that the determination or record contains information that is irrelevant or inaccurate regarding the commission of abuse or neglect by the person who is the subject of the determination.

The hearing officer shall have the authority to issue subpoenas for the production of documents and the appearance of witnesses and to determine the number of depositions that will be allowed. The person who is the subject of the report has the right to submit oral or written testimony or documents and to be informed of the procedure by which information will be made available or withheld. The alleged child victims of the person and their siblings shall not be subpoenaed, deposed, or required to testify.

The hearing officers are empowered to order the amendment of such determination or records as required to make them accurate and consistent with the requirements of law or regulation.

If, after hearing the facts of the case, the hearing officer determines that the person who is the subject of the report has presented information that was not available to the local department at the time of the local conference and that, if available, may have resulted in a different determination by the local department, he or she may remand the case to the local department for reconsideration.

The local department shall have 14 days in which to reconsider the case. If, at the expiration of 14 days, the local department fails to act or fails to amend the record to the satisfaction of the appellant, the case shall be returned to the hearing officer for a determination. If aggrieved by the decision of the hearing officer, the appellant may obtain further review of the decision in accordance with article 5 of the Administrative Process Act.

When an appeal of the local department's finding is made and a criminal charge is also filed against the appellant for the same conduct involving the same victim as investigated by the local department, the appeal process shall automatically be stayed until the criminal prosecution in circuit court is completed. During that stay, the appellant's right of access to the records of the local department regarding the matter being appealed shall also be stayed.

Once the criminal prosecution in circuit court has been completed, the local department shall advise the appellant in writing of his or her right to resume his or her appeal within the timeframes provided by law and regulation.

When Records Must Be Expunged

Citation: Ann. Code § 63.2-1514; Admin. Code Tit. 22, § 40-705-130

The record of unfounded investigations and complaints and reports determined to be not valid shall be purged 1 year after the date of the complaint or report if there are no subsequent complaints or reports regarding the same child or the person who is the subject of the complaint or report in that 1 year.

The record of family assessments shall be purged 3 years after the date of the complaint or report if there are no subsequent complaints or reports regarding the same child or the person who is the subject of the report in that 3-year period.

The child protective services records regarding the petitioner that result from the complaint or report shall be purged immediately by any custodian of the records upon presentation to the custodian of a certified copy of a court order that there has been a civil action that determined that the complaint or report was made in bad faith or with malicious intent. After purging the records, the custodian shall notify the petitioner in writing that the records have been purged.

In regulation: Reports with an unfounded disposition will be kept in the child abuse and neglect information system to provide local departments with information regarding prior investigations. This record shall be kept separate from the central registry and accessible only to the department and to local departments.

The record of the investigation with an unfounded disposition shall be purged 1 year after the date of the complaint or report if there are no subsequent complaints or reports regarding the individual against whom allegations of abuse or neglect were made or regarding the same child in that 1 year.

Washington

Current Through May 2018

Right of the Reported Person to Review and Challenge Records

Citation: Rev. Code § 26.44.125

A person who is named as an alleged perpetrator in a founded report of child abuse or neglect after October 1, 1998, has the right to seek review and amendment of the finding as provided in this section. Within 30 calendar days after the Department of Children, Youth, and Families has notified the alleged perpetrator that he or she is named as an alleged perpetrator in a founded report of child abuse or neglect, the person may request that the department review the finding. The request must be made in writing. The written notice provided by the department must contain at least the following information in plain language:

- Information about the department's investigative finding as it relates to the alleged perpetrator
- Sufficient factual information to apprise the alleged perpetrator of the date and nature of the founded reports
- That the alleged perpetrator has the right to submit to child protective services a written response regarding the child protective services finding, which, if received, shall be filed in the department's records
- That information in the department's records, including information about this founded report, may be considered in a later investigation or proceeding related to a different allegation of child abuse or neglect or child custody
- That founded allegations of child abuse or neglect may be used by the department in determining whether a perpetrator is qualified to be licensed or approved to care for children or vulnerable adults or to be employed by the department in a position having unsupervised access to children or vulnerable adults
- That the alleged perpetrator has a right to challenge a founded allegation of child abuse or neglect

If a request for review is not made as provided in this section, the alleged perpetrator may not further challenge the finding and shall have no right to agency review or to an adjudicative hearing or judicial review of the finding, unless he or she can show that the department did not comply with notice requirements.

Upon receipt of a written request for review, the department shall review and, if appropriate, may amend the finding. Management-level staff within the department designated by the secretary shall be responsible for the review. The review must be completed within 30 days after receiving the written request for review. The review must be conducted in accordance with procedures the department establishes by rule. Upon completion of the review, the department shall notify the alleged perpetrator in writing of the agency's determination.

If, following agency review, the report remains founded, the person named as the alleged perpetrator in the report may request an adjudicative hearing to contest the finding. The request for an adjudicative proceeding must be filed within 30 calendar days after receiving notice of the agency review determination. If a request for an adjudicative proceeding is not made as provided in this subsection, the alleged perpetrator may not further challenge the finding and shall have no right to agency review or to an adjudicative hearing or judicial review of the finding.

When Records Must Be Expunged

Citation: Rev. Code § 26.44.031

The department shall destroy all of its records concerning the following:

- A screened-out report within 3 years from the receipt of the report
- An unfounded or inconclusive report within 6 years of completion of the investigation, unless a prior or subsequent founded report has been received regarding the child who is the subject of the report; a sibling or half-sibling of the child; or a parent, guardian, or legal custodian of the child before the records are destroyed

West Virginia

Current Through May 2018

Right of the Reported Person to Review and Challenge Records

Citation: CPS Pol. Man. § 6.1

A person may request a hearing any time that he or she feels aggrieved by an action taken by the Department of Health and Human Services. This can be done either verbally or in written format. It is important that when a person expresses a wish to have a hearing that the appropriate forms are completed and timely submitted to the Board of Review.

When a person wishes to appeal a substantiation of maltreatment, the appropriate form must be used. Within 2 business days from receipt of a completed and signed form, the local office will submit the form via email to the regional program manager or his/her designee(s) for review. If a notice of findings and/or adjudication order was issued and can be accessed, a copy of that document will be sent with the form. The regional staff member or designee will review the finding(s) and make a decision within 15 days from receipt of the form.

If the decision is to reverse/remove the finding(s), the regional staff member will indicate approval of an override on the form and return the form to the local office. The local office will then send notice of the override decision to the person within 5 business days.

If the decision is to deny the request for reversal on at least one of the findings, the regional staff will so indicate on the form and will forward the form with any associated notice letter(s) or adjudication orders by email to the Board of Review within 2 business days from the reconsideration decision date entered on the form.

When Records Must Be Expunged

Citation: Ann. Code §§ 15-2C-5; 15-13-4

Registry listings of abuse, neglect, or misappropriation of property with respect to an individual shall promptly be expunged in cases where a conviction is vacated or overturned following appeal by a court having jurisdiction, where the record of a conviction is expunged by a court having jurisdiction, or in cases where the individual so convicted is granted executive clemency with respect to the conviction.

A person whose conviction is overturned for the offense which required them to register under this article shall, upon petition to the court, have their name removed from the registry.

Wisconsin

Current Through May 2018

Right of the Reported Person to Review and Challenge Records

Citation: Ann. Stat. § 48.981(3)(c)(5m), (5p)

The county department or, in a county having a population of 750,000 or more, the Department of Children and Families or a licensed child welfare agency under contract with the department, may include in the results of an investigation a determination that a specific person has abused or neglected a child. If the department or agency makes an initial determination that a specific person has abused or neglected a child, the department or agency shall provide that person with an opportunity for a review of that initial determination in accordance with rules promulgated by the department before the department or agency may make a final determination that the person has abused or neglected a child. Within 5 days after the date of a final determination that a specific person has abused or neglected a child, the department or agency shall notify the person in writing of the determination, the person's right to a contested case hearing on the determination, and the procedures by which the person may receive that hearing.

A person who is the subject of a final determination that the person has abused or neglected a child has the right to a contested case hearing on that determination under chapter 227. To receive that hearing, the person must send to the department a written request for a hearing within 10 days after the date of the notice of the determination. The department shall commence the hearing within 90 days after receipt of the request for the hearing, unless the hearing is rescheduled on the request of the person requesting the hearing or the contested case proceeding is held in abeyance, as provided in this subdivision, and shall issue a final decision within 60 days after the close of the hearing.

Judicial review of the final administrative decision following the hearing may be had by any party to the contested case proceeding as provided in chapter 227. The person presiding over a contested case proceeding may hold the hearing in abeyance pending the outcome of any criminal proceedings or any proceedings under § 48.13 based on the alleged abuse or neglect or the outcome of any investigation that may lead to the filing of a criminal complaint or a petition under § 48.13 based on the alleged abuse or neglect.

When Records Must Be Expunged

This issue is not addressed in the statutes reviewed.

Wyoming

Current Through May 2018

Right of the Reported Person to Review and Challenge Records

Citation: Ann. Stat. § 14-3-213; Code of Rules § 049-0006-2

Any person named as a perpetrator of child abuse or neglect in any report maintained in the central registry that is classified as a substantiated report shall have the right to have included in the report his or her statement concerning the incident giving rise to the report. Any person seeking to include a statement pursuant to this subsection shall provide the state agency with the statement.

The State agency shall provide notice to any person identified as a perpetrator of his or her right to submit his or her statement in any report maintained in the central registry.

In regulation: In substantiated cases, the Department of Family Services shall inform the alleged perpetrator in writing that:

- Their name has been entered on the central registry.
- They may respond in writing to the findings of the investigation and such statement will be included with the central registry report.
- They may request an administrative hearing pursuant to the department's contested case hearing procedures.

Following a determination of substantiation, an alleged perpetrator of abuse and/or neglect who is aggrieved by the determination may request an administrative hearing. Requests for an administrative hearing shall be submitted in writing within 20 days of the date of the notice of the determination. In those cases in which criminal charges arising out of facts of the investigation are pending, the request for review shall be made within 20 days from the court's final disposition or dismissal of the charges. If criminal charges are filed after the request for hearing has been made but before the administrative hearing is held, the hearing request will be dismissed and a subsequent request may be submitted pursuant to the terms of this subsection.

An opportunity to discuss the issues and resolve the dispute shall be offered. If the dispute is resolved to the satisfaction of both parties, the person who requested the administrative hearing shall sign a statement withdrawing the request. If the dispute is not resolved, the matter shall proceed to hearing.

Notwithstanding any other provision in this section, an alleged perpetrator is not entitled to an administrative hearing if the perpetrator has been convicted, adjudicated, or there is a finding by a civil, juvenile, or criminal court, or a consent decree whether by a plea of guilty, finding of guilt, or nolo contendere plea that the alleged perpetrator committed certain acts that the child protective act defines as abuse or neglect.

When Records Must Be Expunged

Citation: Ann. Stat. § 14-3-213

Upon good cause shown and upon notice to the subject of an 'under-investigation' or 'substantiated' report, the State agency may list, amend, expunge, or remove any record from the central registry in accordance with rules and regulations adopted by the State agency.

Within 6 months, all reports classified as 'under investigation' shall be reclassified as 'substantiated' or expunged from the central registry, unless the State agency is notified of an open criminal investigation or criminal prosecution. Unsubstantiated reports shall not be contained within the central registry.



U.S. Department of Health and Human Services
Administration for Children and Families
Administration on Children, Youth and Families
Children's Bureau

