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Disclosure of Confidential Child Abuse and Neglect Records

State child protective services agencies are required to maintain records of the reports of suspected child abuse and neglect that they receive. These reports include identifying information about the child, the child's family, conditions in the child's home environment, the nature and extent of the child's injuries, and information about other children in the same environment. Agency records also may include other information submitted by the reporter, including photographs and medical records, as well as the results of any assessments or investigations completed by the agency. These records are maintained by state child protection or social services agencies to aid in the investigation, treatment, and prevention of child abuse and to maintain statistical information for staffing and funding purposes. In many states, these records and the results of investigations are maintained in databases, which often are called central registries.¹ The type of information retained in central registries and agency records and access to this information vary from state to state.

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

Confidentiality of Records

Among the requirements for receiving federal funding under the Child Abuse Prevention and Treatment Act (CAPTA) is that states must preserve the confidentiality of all child abuse and neglect reports and records to protect the privacy rights of the child and of the child's parents or guardians, except in certain limited circumstances.² All jurisdictions have provisions that protect abuse and neglect records from public scrutiny; many jurisdictions include specific provisions that protect the records from public view.

Persons or Entities Allowed Access to Records

State statutes indicate who may access child abuse and neglect records, the specific kinds of information that will be made available, and under what circumstances the information will be made available. In general, individuals and entities are granted access to a case because they have a direct interest in the case, direct interest in the child's welfare, or have an interest in providing protective or treatment services. Typically, individuals entitled to access the records are physicians and medical examiners; researchers; police; judges and other court personnel; the person who is the subject of a report; a person who was an alleged child victim; and the parent, guardian, parent's attorney, or guardian ad litem representing an alleged victim.

In approximately 37 states, the District of Columbia, Guam, Puerto Rico, and the U.S. Virgin Islands, information from a record may be shared with placing agencies or treatment providers, as needed, to provide appropriate care for a child.³ In 22 states and Puerto Rico, the person or agency that made the initial report of suspected abuse or neglect may be provided with

² 42 U.S.C.A. § 5106a(b)(2)(B)(viii)-(x) (LexisNexis 2017).

³ The word "approximately" is used to stress the fact that states frequently amend their laws. This information is current through June 2017. The states that provide information to placing agencies and treatment providers include Alaska, Arizona, Arkansas, California, Colorado, Connecticut, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Minnesota, Mississippi, Missouri, Montana, Nebraska, Nevada, New Hampshire, New Jersey, New Mexico, New York, North Carolina, Oklahoma, Oregon, Rhode Island, South Carolina, South Dakota, Tennessee, Utah, Vermont, Wisconsin, and Wyoming.

a summary of the outcome of the investigation.⁴ In approximately 18 states and Guam, a prospective foster or adoptive parent is provided with information from the records in order to help the parent meet the needs of the child.⁵ In 31 states and the District of Columbia, public agencies in other states are permitted access to information related to their child protection duties.⁶ Information about an Indian child may be shared with the child's tribe in 10 states.⁷

When Public Disclosure of Records Is Allowed

Under most circumstances, information from child abuse and neglect records may not be disclosed to the public. In approximately 37 states and the District of Columbia, however, some disclosure of information is allowed in cases in which abuse or neglect of the child has resulted in a fatality or near fatality.⁸ The information that is disclosed typically includes the following:

- The child's date of birth and gender
- The cause of the fatality or near fatality, if it has been determined
- The date of the fatality or near fatality
- The alleged offender's relationship with the child
- A summary of any previous child maltreatment reports and investigations

⁴ Alaska, Arizona, California, Colorado, Connecticut, Delaware, Georgia, Iowa, Maine, Minnesota, Mississippi, Montana, Nebraska, Nevada, New Hampshire, New Jersey, North Dakota, Ohio, Pennsylvania, Rhode Island, Wisconsin, and Wyoming.

⁵ Arizona, Arkansas, Connecticut, Florida, Illinois, Kansas, Louisiana, Maine, Minnesota, Montana, New Hampshire, New Jersey, New Mexico, Oklahoma, Pennsylvania, South Dakota, Texas, and Wisconsin.

⁶ Alabama, Alaska, Arkansas, California, Colorado, Connecticut, Florida, Georgia, Illinois, Iowa, Kansas, Louisiana, Massachusetts, Minnesota, Missouri, Montana, Nevada, New Hampshire, New Jersey, New Mexico, New York, Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Vermont, and Wisconsin.

⁷ Arizona, Connecticut, Georgia, Kansas, Maine, Montana, New Mexico, Oklahoma, Utah, and Wisconsin.

⁸ Alabama, Alaska, Arizona, Arkansas, Colorado, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Michigan, Minnesota, Mississippi, Missouri, Nebraska, Nevada, New Jersey, New Mexico, New York, North Carolina, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, West Virginia, and Wisconsin allow disclosure when there has been a fatality or near fatality. A "near fatality" is usually defined as a serious injury that places the child in critical condition.

- A description of any services offered or provided by the department currently and in the past
- In the case of a fatality, the name of the child

In 12 states and the District of Columbia, any information that will endanger a child, or is otherwise not in the child's best interests, will be withheld from disclosure.⁹

Approximately 14 states allow disclosure of information for the purpose of clarifying or correcting the record when information has already been made public through another source, such as disclosure by the subject of the report, a law enforcement agency, or the court.¹⁰ In nine states, public disclosure is allowed when a suspected perpetrator of any act of abuse or neglect has been arrested or criminally charged.¹¹ In 18 states and the District of Columbia, information that could compromise a criminal investigation or prosecution is not disclosed.¹²

In Delaware, the child protective services agency must submit records concerning a child who has suffered a fatality or near fatality to a state protective services accountability commission. The commission is responsible for conducting an investigation and review of these reports. The commission then releases to the public a summary of the information and findings resulting from reviews of child deaths and near deaths due to abuse and neglect.

In Florida and Nebraska, when a child in the custody of the state child welfare agency is determined to be missing from his or her placement, the agency must release to the public the name, date of birth, a photograph, and physical description of the child.

Virginia maintains a child protection accountability system that collects an array of information regarding child abuse and neglect cases across several systems and agencies. The information collected includes protective services records; state police arrest and disposition statistics; and court records on felony charges and convictions, sentences imposed for criminal offenses, and the number of protective orders issued. The collected data is made available to the public on a website established and maintained by the Department of Social Services. The available data does not include any individual identifying information.

Use of Records for Employment Screening

Central registry records are used increasingly to screen adults for various employment or volunteer positions. Approximately 32 states and the District of Columbia allow access to central registry records for agencies conducting background checks on individuals applying to be child care or youth care providers.¹³ Four states provide access to tribal agencies to aid in determining the suitability of an individual to have access to children.¹⁴ Information is made available to employers in the child care business, schools, or health-care industry. However, it is generally limited to whether there are substantiated or indicated reports of child maltreatment for potential employees or volunteers who will have significant contact with children.

⁹ Alaska, Illinois, Iowa, Maine, Michigan, Nebraska, New Jersey, New York, North Carolina, Oregon, Texas, and Wisconsin.

¹⁰ Alaska, Arizona, Connecticut, Illinois, Iowa, Kansas, Kentucky, Louisiana, Maine, Michigan, Montana, Nebraska, New York, and South Carolina.

¹¹ Alaska, Colorado, Connecticut, Illinois, Maine, Minnesota, Nebraska, New York, and North Carolina.

¹² Alaska, Arizona, Arkansas, Connecticut, Iowa, Louisiana, Maine, Maryland, Mississippi, Nebraska, Nevada, New Jersey, New Mexico, North Carolina, Pennsylvania, Rhode Island, South Dakota, and Texas.

¹³ Alabama, Arizona, Arkansas, California, Colorado, Connecticut, Florida, Georgia, Illinois, Indiana, Iowa, Maine, Maryland, Missouri, Montana, Nebraska, Nevada, New Hampshire, New Jersey, New York, North Carolina, Oregon, Pennsylvania, South Carolina, South Dakota, Texas, Utah, Vermont, Virginia, Washington, Wisconsin, and Wyoming.

¹⁴ California, Georgia, Oklahoma, and South Dakota.

Six states allow parents to be notified when a report is received concerning a child care provider to help them determine whether to use or continue to use that provider to care for their child.¹⁵ In 23 states and the District of Columbia, a person or agency conducting an investigation of a prospective foster or adoptive parent may access the records.¹⁶

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¹⁵ Louisiana, Mississippi, Missouri, New Jersey, North Dakota, and Oklahoma.

¹⁶ Arizona, Arkansas, California, Colorado, Connecticut, Florida, Georgia, Indiana, Iowa, Maine, Massachusetts, Michigan, Nevada, New Jersey, New York, North Carolina, Oklahoma, Pennsylvania, South Dakota, Texas, Utah, Washington, and Wisconsin. For more discussion on this requirement, see Information Gateway's *Background Checks for Prospective Foster, Adoptive, and Kinship Caregivers* at <https://www.childwelfare.gov/topics/systemwide/laws-policies/statutes/background/>.