

## **IC 31-33-18**

### **Chapter 18. Disclosure of Reports; Confidentiality Requirements**

#### **IC 31-33-18-1**

##### **Confidentiality; exceptions**

Sec. 1. (a) Except as provided in section 1.5 of this chapter, the following are confidential:

- (1) Reports made under this article (or IC 31-6-11 before its repeal).
- (2) Any other information obtained, reports written, or photographs taken concerning the reports in the possession of:
  - (A) the division of family resources;
  - (B) the local office;
  - (C) the department; or
  - (D) the department of child services ombudsman established by IC 4-13-19-3.

(b) Except as provided in section 1.5 of this chapter, all records held by:

- (1) the division of family resources;
- (2) a local office;
- (3) the department;
- (4) a local child fatality review team established under IC 16-49-2;
- (5) the statewide child fatality review committee established under IC 16-49-4; or
- (6) the department of child services ombudsman established by IC 4-13-19-3;

regarding the death of a child determined to be a result of abuse, abandonment, or neglect are confidential and may not be disclosed. *As added by P.L. 1-1997, SEC. 16. Amended by P.L. 70-2004, SEC. 14; P.L. 234-2005, SEC. 153; P.L. 145-2006, SEC. 283; P.L. 182-2009(ss), SEC. 378; P.L. 128-2012, SEC. 153; P.L. 119-2013, SEC. 10.*

#### **IC 31-33-18-1.5**

##### **Written findings; copies to the department of child services; certain records held by governmental entities not confidential if redacted; procedure for redacting records**

Sec. 1.5. (a) This section applies to records held by:

- (1) a local office;
- (2) the department; or
- (3) the department of child services ombudsman established by IC 4-13-19-3;

regarding a child whose death or near fatality may have been the result of abuse, abandonment, or neglect.

(b) For purposes of subsection (a), a child's death or near fatality may have been the result of abuse, abandonment, or neglect if:

- (1) an entity described in subsection (a) determines that the child's death or near fatality is the result of abuse, abandonment, or neglect; or

- (2) a prosecuting attorney files:
  - (A) an indictment or information; or
  - (B) a complaint alleging the commission of a delinquent act; that, if proven, would cause a reasonable person to believe that the child's death or near fatality may have been the result of abuse, abandonment, or neglect.

Upon the request of any person, or upon its own motion, the court exercising juvenile jurisdiction in the county in which the child's death or near fatality occurred shall determine whether the allegations contained in the indictment, information, or complaint described in subdivision (2), if proven, would cause a reasonable person to believe that the child's death or near fatality may have been the result of abuse, abandonment, or neglect.

(c) If the juvenile court finds that the child's death or near fatality was the result of abuse, abandonment, or neglect, the court shall make written findings and provide a copy of the findings and the indictment, information, or complaint described under subsection (b)(2) to the department.

(d) As used in this section:

(1) "case" means:

- (A) any intake report generated by the department;
- (B) any investigation or assessment conducted by the department; or
- (C) ongoing involvement between the department and a child or family that is the result of:
  - (i) a program of informal adjustment; or
  - (ii) a child in need of services action;

for which related records and documents have not been expunged as required by law or by a court at the time the department is notified of a fatality or near fatality;

(2) "contact" means in person communication about a case in which:

- (A) the child who is the victim of a fatality or near fatality is alleged to be a victim; or
- (B) the perpetrator of the fatality or near fatality is alleged to be the perpetrator;

(3) "identifying information" means information that identifies an individual, including an individual's:

- (A) name, address, date of birth, occupation, place of employment, and telephone number;
- (B) employer identification number, mother's maiden name, Social Security number, or any identification number issued by a governmental entity;
- (C) unique biometric data, including the individual's fingerprint, voice print, or retina or iris image;
- (D) unique electronic identification number, address, or routing code;
- (E) telecommunication identifying information; or
- (F) telecommunication access device, including a card, a plate, a code, an account number, a personal identification

number, an electronic serial number, a mobile identification number, or another telecommunications service or device or means of account access; and

(4) "near fatality" has the meaning set forth in 42 U.S.C. 5106a.

(e) Unless information in a record is otherwise confidential under state or federal law, a record described in subsection (a) that has been redacted in accordance with this section is not confidential and may be disclosed to any person who requests the record. The person requesting the record may be required to pay the reasonable expenses of copying the record.

(f) When a person requests a record described in subsection (a), the entity having control of the record shall immediately transmit a copy of the record to the court exercising juvenile jurisdiction in the county in which the death or near fatality of the child occurred. However, if the court requests that the entity having control of a record transmit the original record, the entity shall transmit the original record.

(g) Upon receipt of the record described in subsection (a), the court shall, within thirty (30) days, redact the record to exclude:

- (1) identifying information described in subsection (d)(3)(B) through (d)(3)(F) of a person; and
- (2) all identifying information of a child less than eighteen (18) years of age.

(h) The court shall disclose the record redacted in accordance with subsection (g) to any person who requests the record, if the person has paid:

- (1) to the entity having control of the record, the reasonable expenses of copying under IC 5-14-3-8; and
- (2) to the court, the reasonable expenses of copying the record.

(i) The data and information in a record disclosed under this section must include the following:

- (1) A summary of the report of abuse or neglect and a factual description of the contents of the report.
- (2) The date of birth and gender of the child.
- (3) The cause of the fatality or near fatality, if the cause has been determined.
- (4) Whether the department had any contact with the child or the perpetrator before the fatality or near fatality, and, if the department had contact, the following:
  - (A) The frequency of the contact with the child or the perpetrator before the fatality or near fatality and the date on which the last contact occurred before the fatality or near fatality.
  - (B) A summary of the status of the child's case at the time of the fatality or near fatality, including:
    - (i) whether the child's case was closed by the department before the fatality or near fatality; and
    - (ii) if the child's case was closed as described under item (i), the date of closure and the reasons that the case was closed.

(j) The court's determination under subsection (g) that certain identifying information or other information is not relevant to establishing the facts and circumstances leading to the death or near fatality of a child is not admissible in a criminal proceeding or civil action.

*As added by P.L.70-2004, SEC.15. Amended by P.L.234-2005, SEC.154; P.L.145-2006, SEC.284; P.L.131-2009, SEC.52; P.L.182-2009(ss), SEC.379; P.L.162-2011, SEC.46; P.L.128-2012, SEC.154; P.L.119-2013, SEC.11.*

## **IC 31-33-18-2**

### **Disclosure of unredacted material to certain persons**

Sec. 2. The reports and other material described in section 1(a) of this chapter and the unredacted reports and other material described in section 1(b) of this chapter shall be made available only to the following:

- (1) Persons authorized by this article.
- (2) A legally mandated public or private child protective agency investigating a report of child abuse or neglect or treating a child or family that is the subject of a report or record.
- (3) Any of the following who are investigating a report of a child who may be a victim of child abuse or neglect:
  - (A) A police officer or other law enforcement agency.
  - (B) A prosecuting attorney.
  - (C) A coroner, in the case of the death of a child.
- (4) A physician who has before the physician a child whom the physician reasonably suspects may be a victim of child abuse or neglect.
- (5) An individual legally authorized to place a child in protective custody if:
  - (A) the individual has before the individual a child whom the individual reasonably suspects may be a victim of abuse or neglect; and
  - (B) the individual requires the information in the report or record to determine whether to place the child in protective custody.
- (6) An agency having the legal responsibility or authorization to care for, treat, or supervise a child who is the subject of a report or record or a parent, guardian, custodian, or other person who is responsible for the child's welfare.
- (7) An individual named in the report or record who is alleged to be abused or neglected or, if the individual named in the report is a child or is otherwise incompetent, the individual's guardian ad litem or the individual's court appointed special advocate, or both.
- (8) Each parent, guardian, custodian, or other person responsible for the welfare of a child named in a report or record and an attorney of the person described under this subdivision, with protection for the identity of reporters and other appropriate individuals.

(9) A court, for redaction of the record in accordance with section 1.5 of this chapter, or upon the court's finding that access to the records may be necessary for determination of an issue before the court. However, except for disclosure of a redacted record in accordance with section 1.5 of this chapter, access is limited to in camera inspection unless the court determines that public disclosure of the information contained in the records is necessary for the resolution of an issue then pending before the court.

(10) A grand jury upon the grand jury's determination that access to the records is necessary in the conduct of the grand jury's official business.

(11) An appropriate state or local official responsible for child protection services or legislation carrying out the official's official functions.

(12) A foster care review board established by a juvenile court under IC 31-34-21-9 (or IC 31-6-4-19 before its repeal) upon the court's determination that access to the records is necessary to enable the foster care review board to carry out the board's purpose under IC 31-34-21.

(13) The community child protection team appointed under IC 31-33-3 (or IC 31-6-11-14 before its repeal), upon request, to enable the team to carry out the team's purpose under IC 31-33-3.

(14) A person about whom a report has been made, with protection for the identity of:

(A) any person reporting known or suspected child abuse or neglect; and

(B) any other person if the person or agency making the information available finds that disclosure of the information would be likely to endanger the life or safety of the person.

(15) An employee of the department, a caseworker, or a juvenile probation officer conducting a criminal history check under IC 31-26-5, IC 31-34, or IC 31-37 to determine the appropriateness of an out-of-home placement for a:

(A) child at imminent risk of placement;

(B) child in need of services; or

(C) delinquent child.

The results of a criminal history check conducted under this subdivision must be disclosed to a court determining the placement of a child described in clauses (A) through (C).

(16) A local child fatality review team established under IC 16-49-2.

(17) The statewide child fatality review committee established by IC 16-49-4.

(18) The department.

(19) The division of family resources, if the investigation report:

(A) is classified as substantiated; and

(B) concerns:

(i) an applicant for a license to operate;

- (ii) a person licensed to operate;
  - (iii) an employee of; or
  - (iv) a volunteer providing services at;
- a child care center licensed under IC 12-17.2-4 or a child care home licensed under IC 12-17.2-5.
- (20) A citizen review panel established under IC 31-25-2-20.4.
- (21) The department of child services ombudsman established by IC 4-13-19-3.
- (22) The state superintendent of public instruction with protection for the identity of:
- (A) any person reporting known or suspected child abuse or neglect; and
  - (B) any other person if the person or agency making the information available finds that disclosure of the information would be likely to endanger the life or safety of the person.
- (23) The state child fatality review coordinator employed by the state department of health under IC 16-49-5-1.
- (24) A person who operates a child caring institution, group home, or secure private facility if all the following apply:
- (A) The child caring institution, group home, or secure private facility is licensed under IC 31-27.
  - (B) The report or other materials concern:
    - (i) an employee of;
    - (ii) a volunteer providing services at; or
    - (iii) a child placed at;the child caring institution, group home, or secure private facility.
  - (C) The allegation in the report occurred at the child caring institution, group home, or secure private facility.
- (25) A person who operates a child placing agency if all the following apply:
- (A) The child placing agency is licensed under IC 31-27.
  - (B) The report or other materials concern:
    - (i) a child placed in a foster home licensed by the child placing agency;
    - (ii) a person licensed by the child placing agency to operate a foster family home;
    - (iii) an employee of the child placing agency or a foster family home licensed by the child placing agency; or
    - (iv) a volunteer providing services at the child placing agency or a foster family home licensed by the child placing agency.
  - (C) The allegations in the report occurred in the foster family home or in the course of employment or volunteering at the child placing agency or foster family home.

*As added by P.L.1-1997, SEC.16. Amended by P.L.70-2004, SEC.16; P.L.234-2005, SEC.155; P.L.145-2006, SEC.285; P.L.146-2006, SEC.43; P.L.138-2007, SEC.66; P.L.182-2009(ss), SEC.380; P.L.48-2012, SEC.39; P.L.119-2013, SEC.12; P.L.123-2014, SEC.20.*

### **IC 31-33-18-3**

#### **Disclosure to qualified researchers**

Sec. 3. (a) Section 2 of this chapter does not prevent the local office or the department from disclosing to a qualified individual engaged in a good faith research project either:

(1) information of a general nature, including the incidents of reported child abuse or neglect or other statistical or social data used in connection with studies, reports, or surveys, and information related to their function and activities; or

(2) information relating to case histories of child abuse or neglect if:

(A) the information disclosed does not identify or reasonably tend to identify the persons involved; and

(B) the information is not a subject of pending litigation.

(b) To implement this section, the department shall adopt under IC 4-22-2 rules to govern the dissemination of information to qualifying researchers.

*As added by P.L.1-1997, SEC.16. Amended by P.L.234-2005, SEC.156; P.L.128-2012, SEC.155.*

### **IC 31-33-18-4**

#### **Notice to parent, guardian, or custodian of availability of reports, information, and juvenile court records; release form; copying costs**

Sec. 4. (a) Whenever a child abuse or neglect assessment is conducted under this article, the department shall give verbal and written notice to each parent, guardian, or custodian of the child that:

(1) the reports and information described under section 1 of this chapter relating to the child abuse or neglect assessment; and

(2) if the child abuse or neglect allegations are pursued in juvenile court, the juvenile court's records described under IC 31-39;

are available upon the request of the parent, guardian, or custodian except as prohibited by federal law.

(b) A parent, guardian, or custodian requesting information under this section may be required to sign a written release form that delineates the information that is requested before the information is made available. However, no other prerequisites for obtaining the information may be placed on the parent, guardian, or custodian except for reasonable copying costs.

*As added by P.L.1-1997, SEC.16. Amended by P.L.234-2005, SEC.157; P.L.131-2009, SEC.53.*

### **IC 31-33-18-5**

#### **Confidentiality of recordings of calls to child abuse hotline**

Sec. 5. (a) An audio recording of a telephone call to the child abuse hotline is confidential and may be released only upon court order.

(b) An audio recording of a report of child abuse or neglect that is the subject of a complaint made to a prosecuting attorney under

IC 31-33-22-3 shall be released without a court order to the prosecuting attorney upon written request of the prosecuting attorney.  
*As added by P.L.48-2012, SEC.40.*