

IC 31-33-27

Chapter 27. Expungement of Child Abuse or Neglect Reports

IC 31-33-27-1

"Expunge" or "Expungement"

Sec. 1. As used in this chapter, "expunge" or "expungement" means:

- (1) the removal or deletion of all information maintained by the department concerning a report, assessment, or determination under this article relating to an incident or condition of child abuse or neglect; and
- (2) the destruction or delivery of the information to a person to whom the information pertains.

As added by P.L.48-2012, SEC.56.

IC 31-33-27-2

"Information"

Sec. 2. As used in this chapter, "information" includes all files and records created or maintained by the department. The term includes the original and copies of documents, correspondence, messages, photographs, videotapes, audio recordings, audiovisual recordings, and any other material contained in electronic, paper, or digital form or in other media.

As added by P.L.48-2012, SEC.56.

IC 31-33-27-3

Expungement of records; retained information; adoption of rules

Sec. 3. (a) The department shall expunge child abuse or neglect information not later than twenty-four (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:

- (1) the department approved the assessment as unsubstantiated; or
- (2) the court in a child in need of services case entered a final judgment based on a finding that child abuse or neglect did not occur.

(b) 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.

(c) This subsection applies to information that is not expunged under subsection (a) or (b). The department may retain information relating to an unsubstantiated assessment of child abuse or neglect in paper or digital form or in other media that is accessible only by department employees with access rights established by the department through policy or rule.

(d) Information that is retained in the records of the department under subsection (c) may be used by the department to facilitate its assessment of a subsequent report concerning the same child or

family.

(e) The department may not rely solely on information available under subsection (c) to support substantiation of a later report, if information obtained in the assessment of the later report is otherwise insufficient to support a substantiated determination.

(f) The department shall adopt a written policy, and may adopt rules under IC 4-22-2, regarding access to information retained under subsection (c).

As added by P.L.48-2012, SEC.56.

IC 31-33-27-4

Expungement of records; amended information

Sec. 4. (a) The department shall expunge child abuse or neglect information relating to a substantiated report not later than the time specified for expungement of the report from the child protection index under IC 31-33-26-15.

(b) The department shall amend information relating to a substantiated report by deleting the name of a person as an alleged perpetrator if:

(1) a court having jurisdiction over a child in need of services proceeding; or

(2) an administrative hearing officer under IC 31-33-26-9;

finds that the person was not a perpetrator of the child abuse or neglect that occurred.

As added by P.L.48-2012, SEC.56.

IC 31-33-27-5

Substantiated reports; perpetrator petitions for expungements

Sec. 5. (a) This section applies to information relating to substantiated reports in any records of the department.

(b) 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.

(c) The petitioner shall:

(1) name the department as respondent in the petition; and

(2) serve the department with a copy of the petition and a summons.

(d) 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.

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

(1) the factors listed in IC 31-39-8-3 in relation to the petitioner, if the substantiated report was the subject of a juvenile court case; and

(2) 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.

(f) The court may grant the petition if the court finds, by clear and convincing evidence, that:

- (1) there is little likelihood that the petitioner will be a future perpetrator of child abuse or neglect; and
- (2) the information has insufficient current probative value to justify its retention in records of the department for future reference.

As added by P.L.48-2012, SEC.56.

IC 31-33-27-6

Use of expunged records in civil action

Sec. 6. If the department expunges child abuse or neglect information under this chapter:

- (1) at the request of a perpetrator named in an assessment report;
- (2) at or after the time for expungement specified in section 4(a) of this chapter; or
- (3) under a court order under section 5 of this chapter;

IC 31-39-8-7 applies to any civil action brought against the department or any other agency, entity, or individual, if the content of the expunged information may be relevant to any issue in the civil action.

As added by P.L.48-2012, SEC.56.