

Federal and State Laws Impacting Data Sharing

Child Abuse

Federal Laws

Child Abuse Prevention and Treatment Act 42 U.S.C. 5101, et seq.

In general, the Child Abuse Prevention and Treatment Act (CAPTA) requires a State to preserve the confidentiality of all child abuse and neglect reports and records in order to protect the rights of the child and the child's parents or guardians.¹ However, CAPTA allows the State to release information to certain individuals and entities.

The State may share confidential child abuse and neglect reports and records that are made and maintained with any of the following:

1. Individuals who are the subject of a report;²
2. Grand jury or court, when necessary to determine an issue before the court or grand jury³; and
3. Other entities or classes of individuals who are authorized by statute to receive information pursuant to a legitimate state purpose.⁴

Additionally, States have the option to allow public access to court proceedings that determine child abuse and neglect cases, so long as the State, at a minimum, can ensure the safety and well-being of the child, parents and families.⁵

The State must provide certain otherwise confidential child abuse and neglect information to the following:

1. Any Federal, State, or local government entity, or any agent of such entity, that has a need for such information in order to carry out its responsibilities under the law to protect children from abuse and neglect;⁶
2. Child abuse citizen review panels, if such panels are established to comply with this law;⁷
3. Public disclosure of the findings or information about the case of child abuse or neglect that results in a child fatality or near fatality;⁸ and
4. Child fatality review panels.⁹

¹ 42 U.S.C. 5106(b)(2)(B)(viii)

² 42 U.S.C. 5106(b)(2)(B)(viii)(I)

³ 42 U.S.C. 5106(b)(2)(B)(viii)(V)

⁴ 42 U.S.C. 5106(b)(2)(B)(viii)(VI)

⁵ 42 U.S.C. 5106(b)(2)

⁶ 42 U.S.C. 5106(b)(2)(B)(ix)

⁷ 42 U.S.C. 5106(c)(5)(A)

⁸ 42 U.S.C. 5106(b)(2)(B)(x)

⁹ 42 U.S.C. 5106(b)(2)(B)(x)

Authorized recipients of confidential child abuse and neglect information are bound by the same confidentiality restrictions as the child protective services agency. Thus, recipients of such information must use the information only for activities related to the prevention and treatment of child abuse and neglect. Further disclosure is permitted only in accordance with this law.

States do have the authority to release otherwise confidential child abuse and neglect information to researchers for the purpose of child abuse and neglect research in either of two ways:

1. The child protective services agency may contract with a researcher, thereby making the researcher its "agent"; or
2. States may statutorily authorize release of such information to researchers as a legitimate State purpose, since research involving data in child protective services records can provide important information that will help government officials plan programs for abused and neglected children and develop future policy directions.