

# Federal and State Laws Impacting Data Sharing

## Child Welfare

### Federal Laws

**Title IV-E of the Social Security Act, as amended**  
**42 U.S.C. §670 et seq.**

**Family First Prevention Services Act**  
**Bipartisan Budget Act of 2018 (H.R. 1892)**

**Title IV-B of the Social Security Act, as amended**  
**42 U.S.C. §401 et seq.; 45 CFR §1357**

**Child and Family Services Improvement and Innovation Act**  
**42 U.S.C. §1305 et seq.**

**Fostering Connections to Success and Increasing Adoptions Act of 2008**  
**42 U.S.C. §627 et seq.**

**Comprehensive Child Welfare Information System (CCWIS)**  
**45 CFR §§1350-1355.59**

Today, the child welfare system must be operated as a data-driven approach to services and supports. In 2018, the Children’s Bureau published a guide to child welfare systems on how to achieve this goal.<sup>1</sup> In this guide, the argument is made that when multiple service systems are working with the same family, the agencies, systems, and organizations should work together to coordinate systems to be holistic and family-centric and to be more efficient and effective in working with the family. This is true at all stages of the child welfare continuum, from stabilization of an intact family, to the child, the child’s family, and the resource family if a child is taken into custody, to reunification or to another permanency goal, and to a teen or young adult transitioning out of foster care into adulthood.<sup>2</sup> The guide further lists the necessary services, which include education, health, behavioral health, mental health, and substance use disorder treatment services.<sup>3</sup>

The Child and Family Services Improvement and Innovation Act of 2006, as amended in 2011,<sup>4</sup> amends both title IV-B and IV-E of the Social Security Act to enable information sharing between the child welfare system and other health and human systems. In conjunction with the Fostering Connections to Success and Increasing Adoptions Act of 2008<sup>5</sup>, also amending title IV-E, these two laws made clear that

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<sup>1</sup> Capacity Building Center for States. (2018). *A Data-driven approach to service array guide*. Washington, DC: Children’s Bureau, Administration for Children and Families, U.S. Department of Health and Human Services.

<sup>2</sup> *Id.* at 4.

<sup>3</sup> *Id.* at 5.

<sup>4</sup> 42 U.S.C. §§621 et seq.

<sup>5</sup> 42 U.S.C. §§621 et seq.

the child welfare system must work in partnership with other systems and share data and information with the educational, health, early childhood, and behavioral health systems.

The laws required the child welfare systems to develop protocols for the appropriate use and monitoring of psychotropic medications and a plan for ongoing oversight and coordination of health care services for children in foster care, including but not limited to mental health services. The child welfare system had to work with the State Medicaid agency, pediatricians, other health care and child welfare experts to develop the plan and the monitoring process, which had to include the oversight of prescription drugs for children and youth in foster care, and how the child welfare agency will consult and involve physicians and other professionals in assessing the health and well-being of children in foster care in determining appropriate medical treatment.<sup>6</sup> Furthermore, the child welfare system was mandated to address the developmental needs of children in foster care who have not attained 5 years of age.<sup>7</sup>

Additionally, the Fostering Connections Act mandated that the child welfare system develop with the Medicaid system, and in consultation with pediatricians, and other health care and child welfare experts, a plan for the oversight and coordination of all health care services for any child in foster care placement, including a coordinated strategy to identify and respond to the health care needs of these children and youth, including but not limited to their mental health and dental needs. In addition to the continuing oversight of psychotropic medication for children in foster care, the plan had to outline the following:

- Schedule of initial and follow-up health screenings that meet reasonable standard of medical practice;
- How health needs identified through screenings are monitored and treated;
- How medical information is updated and appropriately shared;
- Steps to ensure continuity of health care services, including the establishment of a medical home for every child in foster care; and
- How the child welfare system consults with and involves physicians or other appropriate medical or non-medical professionals in assessing the health and well-being of children in foster care and in determining appropriate medical treatment.<sup>8</sup>

Regarding the educational needs of children in foster care and data sharing between the child welfare and education systems, this federal law required a written educational stability plan for each child in foster care to assure that the foster care placement takes into account the appropriateness of the current educational setting and proximity to the school where the child is enrolled at the time of placement. The child welfare agency needed to coordinate with the appropriate local educational agencies to ensure that a child can remain in the school in which she/he is enrolled at the time of placement unless contrary to the child's best interests. If a child in foster care had to change schools due to the placement, the child must be provided immediate and appropriate enrollment in the new school with all educational records supplied to the new school. The law made clear that educational

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<sup>6</sup> 42 U.S.C. §622(b)(15)

<sup>7</sup> 42 U.S.C. §622(b)(18)

<sup>8</sup> 42 U.S.C. §622(b)(15)(A)

stability applied to each child's initial placement in foster care as well as any subsequent placements during the child's stay in foster care.<sup>9</sup>

Last, the Child and Family Services Improvement and Innovation Act mandated that data must be interoperable between the systems and incorporate interoperable standards developed and maintained by intergovernmental partnerships, such as the National Information Exchange Model (NIEM).<sup>10</sup>

The last set of child welfare laws to be discussed is the recent child welfare legislation of both the Comprehensive Child Welfare Information System (CCWIS)<sup>11</sup> final rule and the Family First Prevention Services Act,<sup>12</sup> both reflect the need and promotion of data sharing with other agencies and systems. The CCWIS final rule (optional to states) requires, if practicable, title IV-E agencies to exchange data with other human services and health agencies, education systems, and child welfare courts. This is a change from the previous Statewide and Tribal Automated Child Welfare Information Systems (S/TACWIS), reflecting that the child welfare practice and technology have changed considerably. Data exchanges will help coordinate services, be more efficient by reducing or eliminating redundancies, improve client outcomes, and improve data quality. Taking even a more drastic step, the Family First Prevention Services Act permits states and territories to use title IV-E funds (previously limited to help with the costs of foster care maintenance for eligible children and other related placement costs) for prevention services, including evidence-based mental health programs, substance use disorder prevention and treatment, and in-home parent skill-based programs. Both of these legislative and regulatory changes reinforce the need for child welfare services to work with and to share data with other serving systems and agencies.

## **State Laws**

**C.G.S.A. § 17a-101a-114b**

**C.G.S.A. § 45a-743-757**

**C.G.S.A. § 813a**

**C.G.S.A. § 46b-124**

**C.G.S.A. § 17a-28**

Connecticut's child welfare laws generally state that all information is confidential. This includes case records of individuals, families that are served by the Department and foster parents or other individuals who receive services such as those who are subject of investigations and administrative proceedings.<sup>13</sup> Sharing of data is only permitted when the subject involves another agency. For example, the Commissioner of Children and Families, or the commissioner's designee, must notify the State's Attorney when a mandatory reporter fails to make a report<sup>14</sup> or a person makes a false report.<sup>15</sup>

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<sup>9</sup> 42 U.S.C. §675(1)(G)

<sup>10</sup> 42 U.S.C. §629m(b)(2)

<sup>11</sup> Social Security Act §§474(a)(3)(C) & (D); 474(c)

<sup>12</sup> Public Law (P.L.) 115-123

<sup>13</sup> C.G.S.A. § 17a-28

<sup>14</sup> C.G.S.A. § 17a-101a(c)

<sup>15</sup> C.G.S.A. § 17a-101e; C.G.S.A. § 17a-103

Pursuant to the federal Child and Family Services Improvement and Innovation Act and the federal Preventing Sex Trafficking and Strengthening Families Act, the Commissioner must also report to the State's Attorney when there is evidence of identity theft of a child in the custody of the state's child welfare system.<sup>16</sup> Similarly, child welfare shares information with law enforcement when a report of child abuse involves an allegation of sexual abuse or serious physical abuse, including but not limited to a report that a child has died, been sexually assaulted, suffered brain damage or loss or serious impairment of a bodily function or organ, been sexually exploited, or has suffered serious non-accidental physical injury.<sup>17</sup> When a report concerns a school employee, the report is shared with the Department of Education and the state licensing agency (if person is licensed).<sup>18</sup>

Child welfare shares information when it coordinates its investigation of reports of child abuse and child neglect in order to minimize the number of interviews of any child<sup>19</sup> or as part of a multidisciplinary team<sup>20</sup>; and when it works with other agencies to prevent, identify, and investigate child abuse and neglect, including but not limited to law enforcement, courts, schools and other state agencies providing human services.<sup>21</sup> If a child exhibits developmental or social-economic delays pursuant to screenings of children from birth to three years old to the Help Me Grow prevention program under the Office of Early Childhood.<sup>22</sup>

There are also state laws regarding the availability and confidentiality of adoption records. These laws set forth the procedure regarding the sharing of information with the parties involved in such proceedings, but not to other persons or agencies.<sup>23</sup>

Court records of cases of juvenile matters are confidential and for the use of the court, but are open to inspection or disclosure to any third party, including researchers commissioned by a state agency, upon an order of the appropriate court.<sup>24</sup> These records are available without a court order to the parties in the proceedings, including the attorneys of the parties, as well as the Department of Children and Families. Court records of juvenile matters involving delinquency proceedings may be disclosed upon a court order to any person with a legitimate interest in the information; such information shall not be further disclosed except as authorized by a subsequent court order.<sup>25</sup>

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<sup>16</sup> C.G.S.A. § 17a-114b

<sup>17</sup> C.G.S.A. § 17a-101b

<sup>18</sup> C.G.S.A. § 17a-101c; C.G.S.A. § 17a-101g(a); C.G.S.A. § 17a-101i; C.G.S.A. § 17a-101p

<sup>19</sup> C.G.S.A. § 17a-101h

<sup>20</sup> C.G.S.A. § 17a-106(a). The State's Child Advocate also has access to any information necessary to carry out its office's responsibilities. In fact, the Child Advocate has subpoena power to access such information

<sup>21</sup> C.G.S.A. § 17a-106

<sup>22</sup> C.G.S.A. § 17a-106(e)(b)

<sup>23</sup> C.G.S.A. § 45a-743

<sup>24</sup> C.G.S.A. § 46b-124(b)

<sup>25</sup> C.G.S.A. § 46b-124(e)