

## 22 §4008-A. CHILD ABUSE AND NEGLECT INVESTIGATIONS; DISCLOSURE

## 22 §4008-A. CHILD ABUSE AND NEGLECT INVESTIGATIONS; DISCLOSURE

**1. Disclosure permitted.** Notwithstanding any other provision of law, the commissioner, with the advice of the Attorney General, may disclose information as set forth in this section regarding the abuse or neglect of a child and the investigation of and any services related to the abuse and neglect if the commissioner determines that such disclosure is not contrary to the best interests of the child, the child's siblings or other children in the household and any one of the following factors is present:

- A. The alleged perpetrator of the abuse or neglect has been charged with committing a crime related to the allegation of abuse or neglect maintained by the department; [1997, c. 328, §1 (NEW).]
- B. A judge, a law enforcement agency official, a district attorney or another state or local investigative agency or official has publicly disclosed, as required by law in the performance of official duties, the provision of child welfare services or the investigation by child welfare services of the abuse or neglect of the child; or [2009, c. 38, §2 (AMD).]
- C. An individual who is the parent, custodian or guardian of the victim or a child victim over 14 years of age has made a prior knowing, voluntary, public disclosure. [2009, c. 38, §2 (AMD).]
- D. [2009, c. 38, §2 (RP).]

[ 2009, c. 38, §2 (AMD) .]

**1-A. Disclosure required.** The commissioner shall make public disclosure of the findings or information pursuant to this section in situations where child abuse or neglect results in a child fatality or near fatality, with the exception of circumstances, as determined with the advice of the Attorney General or appropriate district attorney, in which disclosure of child protective information would jeopardize a criminal investigation or proceeding.

[ 2009, c. 38, §3 (NEW) .]

**2. Information.** For the purposes of this section, the following information may be disclosed:

- A. The name and age of the abused or neglected child. If the child is under 13 years of age, the guardian ad litem must agree with the commissioner to release the information. If the child is 13 years of age or older, the guardian ad litem and the child must agree with the commissioner to release the information; [1997, c. 328, §1 (NEW).]
- B. The determination by the local child protective service or the state agency that investigated the alleged abuse or neglect and the findings of the applicable investigating agency upon which the determination was based; [1997, c. 328, §1 (NEW).]
- C. Identification of child protective or other services provided or actions, if any, taken regarding the child and the child's family; [1997, c. 328, §1 (NEW).]
- D. Whether any report of abuse or neglect regarding the child has been substantiated as maintained by the department; [1997, c. 328, §1 (NEW).]
- E. Any actions taken by child protective services in response to reports of abuse or neglect of the child to the department, including, but not limited to, actions taken after every report of abuse or neglect of the child and the dates of the reports; [1997, c. 328, §1 (NEW).]
- F. Whether the child or the child's family has received care or services from the child welfare services prior to every report of abuse or neglect of the child; and [1997, c. 328, §1 (NEW).]

G. Any extraordinary or pertinent information concerning the circumstances of the abuse or neglect of the child and the investigation of the abuse or neglect, if the commissioner determines the disclosure is consistent with the public interest. [1997, c. 328, §1 (NEW).]

[ 1997, c. 328, §1 (NEW) .]

**3. Limitations.** The following limitations apply to information disclosed pursuant to this section.

A. Information released prior to the completion of the investigation of a report must be limited to a statement that a report is under investigation. [1997, c. 328, §1 (NEW).]

B. If there has been a prior disclosure pursuant to paragraph A, information released in a case in which the report has not been substantiated is limited to the statement that the investigation has been completed and the report has not been substantiated. [1997, c. 328, §1 (NEW).]

C. If the report has been substantiated, information may be released pursuant to subsection 2. [1997, c. 328, §1 (NEW).]

D. The disclosure may not identify or provide any identifying description of the source of the report, and may not identify the name of the abused or neglected child's siblings, the parent or other person legally responsible for the child or any other members of the child's household, other than the subject of the report. [1997, c. 328, §1 (NEW).]

[ 1997, c. 328, §1 (NEW) .]

**4. Considerations.** In determining pursuant to subsection 1 whether disclosure would be contrary to the best interests of the child, the child's siblings or other children in the household, the commissioner shall consider the privacy of the child and the child's family and the effects that disclosure may have on efforts to reunite and provide services to the family.

[ 1997, c. 328, §1 (NEW) .]

**5. Other releases and disclosure.** Except as it applies directly to the cause of the abuse or neglect of the child, nothing in this section authorizes the release or disclosure of the substance or content of any psychological, psychiatric, therapeutic, clinical or medical reports, evaluations or similar materials or information pertaining to the child or the child's family.

[ 1997, c. 328, §1 (NEW) .]

#### SECTION HISTORY

1997, c. 328, §1 (NEW). 2009, c. 38, §§2, 3 (AMD).

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