

**2010 Tennessee Code
Title 37 - Juveniles
Chapter 2 - Placement of Juveniles
Part 4 - Foster Care
37-2-408 - Confidentiality of plans and records.**

37-2-408. Confidentiality of plans and records.

(a) All records, reports, permanency plans, reviews and reports of the foster care review boards or any material prepared in connection with the planning, placement or care of a child in the care or custody of the department of children's services or in foster care with any agency or person pursuant to this part, shall be confidential and shall not be a public record and shall be disclosed only for the purposes directly related to the administration of this part, or as permitted pursuant to the provisions of § 37-1-409 or § 37-1-612, or as otherwise determined by the department of children's services to be reasonably necessary or reasonably required and as directly related to the provision of any services needed by the child.

(b) A violation of this section is a Class B misdemeanor.

[Acts 1976, ch. 731, § 6; T.C.A., § 37-1507; 1996, ch. 1079, § 114.]

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**1994 US Code Title 42 -THE PUBLIC
HEALTH AND WELFARE CHAPTER 67 -
CHILD ABUSE PREVENTION AND
TREATMENT AND ADOPTION REFORM**

SUBCHAPTER I -GENERAL PROGRAM

Sec. 5106a -Grants to States for child abuse and neglect prevention and treatment programs

§5106a. Grants to States for child abuse and neglect prevention and treatment programs ***(a) Development and operation grants***

The Secretary, acting through the Center, shall make grants to the States, based on the population of children under the age of 18 in each State that applies for a grant under this section, for purposes of assisting the States in improving the child protective service system of each such State in—

- (1) the intake and screening of reports of abuse and neglect through the improvement of the receipt of information, decisionmaking, public awareness, and training of staff;
- (2)(A) investigating such reports through improving response time, decisionmaking, referral to services, and training of staff;
- (B) creating and improving the use of multidisciplinary teams and interagency protocols to enhance investigations; and
- (C) improving legal preparation and representation;

(3) case management and delivery services provided to families through the improvement of response time in service provision, improving the training of staff, and increasing the numbers of families to be served;

(4) enhancing the general child protective system by improving assessment tools, automation systems that support the program, information referral systems, and the overall training of staff to meet minimum competencies; or

(5) developing, strengthening, and carrying out child abuse and neglect prevention, treatment, and research programs.

Not more than 15 percent of a grant under this subsection may be expended for carrying out paragraph (5). The preceding sentence does not apply to any program or activity authorized in any of paragraphs (1) through (4).

(b) Eligibility requirements

In order for a State to qualify for a grant under subsection (a) of this section, such State shall—

(1) have in effect a State law relating to child abuse and neglect, including—

(A) provisions for the reporting of known and suspected instances of child abuse and neglect; and

(B) provisions for immunity from prosecution under State and local laws for persons who report instances of child abuse or neglect for circumstances arising from such reporting;

(2) provide that upon receipt of a report of known or suspected instances of child abuse or neglect an investigation shall be initiated promptly to substantiate the accuracy of the report, and, upon a finding of abuse or neglect, immediate steps shall be taken to protect the health and welfare of the abused or neglected child and of any other child under the same care who may be in danger of abuse or neglect;

(3) demonstrate that there are in effect throughout the State, in connection with the enforcement of child abuse and neglect laws and with the reporting of suspected instances of child abuse and neglect, such—

(A) administrative procedures;

(B) personnel trained in child abuse and neglect prevention and treatment;

(C) training procedures;

(D) institutional and other facilities (public and private); and

(E) such related multidisciplinary programs and services,

as may be necessary or appropriate to ensure that the State will deal effectively with child abuse and neglect cases in the State;

(4) provide for—

(A) methods to preserve the confidentiality of all records in order to protect the rights of the child and of the child's parents or guardians, including methods to ensure that disclosure (and redisclosure) of information concerning child abuse or neglect involving specific individuals is made only to persons or entities that the State determines have a need for such information directly related to purposes of this subchapter and subchapters III and V of this chapter; and

(B) requirements for the prompt disclosure of all relevant information to any Federal, State, or local governmental entity, or any agent of such entity, with a need for such information in order to carry out its responsibilities under law to protect children from abuse and neglect;

(5) provide for the cooperation of law enforcement officials, courts of competent jurisdiction, and appropriate State agencies providing human services;

(6) provide that in every case involving an abused or neglected child which results in a judicial proceeding a guardian ad litem shall be appointed to represent the child in such proceedings;

(7) provide that the aggregate of support for programs or projects related to child abuse and neglect assisted by State funds shall not be reduced below the level provided during fiscal year 1973, and set forth policies and procedures designed to ensure that Federal funds made available under this subchapter and subchapters III and V of this chapter for any fiscal year shall be so used as to supplement and, to the extent practicable, increase the level of State funds which would, in the absence of Federal funds, be available for such programs and projects;

(8) provide for dissemination of information, including efforts to encourage more accurate reporting, to the general public with respect to the problem of child abuse and neglect and the facilities and prevention and treatment methods available to combat instances of child abuse and neglect;

(9) to the extent feasible, ensure that parental organizations combating child abuse and neglect receive preferential treatment; and

(10) have in place for the purpose of responding to the reporting of medical neglect (including instances of withholding of medically indicated treatment from disabled infants with life-threatening conditions), procedures or programs, or both (within the State child protective services system), to provide for—

(A) coordination and consultation with individuals designated by and within appropriate health-care facilities;

(B) prompt notification by individuals designated by and within appropriate health-care facilities of cases of suspected medical neglect (including instances of withholding of medically indicated treatment from disabled infants with life-threatening conditions); and

(C) authority, under State law, for the State child protective service system to pursue any legal remedies, including the authority to initiate legal proceedings in a court of competent jurisdiction, as may be necessary to prevent the withholding of medically indicated treatment from disabled infants with life-threatening conditions.

(c) State program plan

To be eligible to receive a grant under this section, a State shall submit every four years a plan to the Secretary that specifies the child protective service system area or areas described in subsection (a) of this section that the State intends to address with funds received under the grant. The plan shall describe the current system capacity of the State in the relevant area or areas from which to assess programs with grant funds and specify the manner in which funds from the State's programs will be used to make improvements. The plan required under this subsection shall contain, with respect to each area in which the State intends to use funds from the grant, the following information with respect to the State:

(1) Intake and screening

(A) Staffing

The number of child protective service workers responsible for the intake and screening of reports of abuse and neglect relative to the number of reports filed in the previous year.

(B) Training

The types and frequency of pre-service and in-service training programs available to support direct line and supervisory personnel in report-taking, screening, decision-making, and referral for investigation.

(C) Public education

An assessment of the State or local agency's public education program with respect to—

- (i) what is child abuse and neglect;
- (ii) who is obligated to report and who may choose to report; and
- (iii) how to report.

(2) Investigation of reports

(A) Response time

The number of reports of child abuse and neglect filed in the State in the previous year where appropriate, the agency response time to each with respect to initial

investigation, the number of substantiated and unsubstantiated reports, and where appropriate, the response time with respect to the provision of services.

(B) Staffing

The number of child protective service workers responsible for the investigation of child abuse and neglect reports relative to the number of reports investigated in the previous year.

(C) Interagency coordination

A description of the extent to which interagency coordination processes exist and are available Statewide,¹ and whether protocols or formal policies governing interagency relationships exist in the following areas—

- (i) multidisciplinary investigation teams among child welfare and law enforcement agencies;
- (ii) interagency coordination for the prevention, intervention and treatment of child abuse and neglect among agencies responsible for child protective services, criminal justice, schools, health, mental health, and substance abuse; and
- (iii) special interagency child fatality review panels, including a listing of those agencies that are involved.

(D) Training

The types and frequency of pre-service and in-service training programs available to support direct line and supervisory personnel in such areas as investigation, risk assessment, court preparation, and referral to and provision of services.

(E) Legal representation

A description of the State agency's current capacity for legal representation, including the manner in which workers are prepared and trained for court preparation and attendance, including procedures for appealing substantiated reports of abuse and neglect.

(3) Case management and delivery of ongoing family services

For children for whom a report of abuse and neglect has been substantiated and the children remain in their own homes and are not currently at risk of removal, the State shall assess the activities and the outcomes of the following services:

(A) Response time

The number of cases opened for services as a result of investigation of child abuse and neglect reports filed in the previous year, including the response time with respect to the provision of services from the time of initial report and initial investigation.

(B) Staffing

The number of child protective service workers responsible for providing services to children and their families in their own homes as a result of investigation of reports of child abuse and neglect.

(C) Training

The types and frequency of pre-service and in-service training programs available to support direct line and supervisory personnel in such areas as risk assessment, court preparation, provision of services and determination of case disposition, including how such training is evaluated for effectiveness.

(D) Interagency coordination

The extent to which treatment services for the child and other family members are coordinated with child welfare, social service, mental health, education, and other agencies.

(4) General system enhancement

(A) Automation

A description of the capacity of current automated systems for tracking reports of child abuse and neglect from intake through final disposition and how personnel are trained in the use of such system.

(B) Assessment tools

A description of whether, how, and what risk assessment tools are used for screening reports of abuse and neglect, determining whether child abuse and neglect has

occurred, and assessing the appropriate level of State agency protection and intervention, including the extent to which such tool is used statewide and how workers are trained in its use.

(C) Information and referral

A description and assessment of the extent to which a State has in place—

(i) information and referral systems, including their availability and ability to link families to various child welfare services such as homemakers, intensive family-based services, emergency caretakers, home health visitors, daycare and services outside the child welfare system such as housing, nutrition, health care, special education, income support, and emergency resource assistance; and

(ii) efforts undertaken to disseminate to the public information concerning the problem of child abuse and neglect and the prevention and treatment programs and services available to combat instances of such abuse and neglect.

(D) Staff capacity and competence

An assessment of basic and specialized training needs of all staff and current training provided staff. Assessment of the competencies of staff with respect to minimum knowledge in areas such as child development, cultural and ethnic diversity, functions and relationship of other systems to child protective services and in specific skills such as interviewing, assessment, and decisionmaking relative to the child and family, and the need for training consistent with such minimum competencies.

(5) Innovative approaches

A description of—

(A) research and demonstration efforts for developing, strengthening, and carrying out child abuse and neglect prevention, treatment, and research programs, including the interagency efforts at the State level; and

(B) the manner in which proposed research and development activities build on existing capacity in the programs being addressed.

(d) Waivers

(1) General rule

Subject to paragraph (3) of this subsection, any State which does not qualify for assistance under subsection (a) of this section may be granted a waiver of any requirement under paragraph (2) of this subsection—

(A) for a period of not more than one year, if the Secretary makes a finding that such State is making a good faith effort to comply with any such requirement, and for a second one-year period if the Secretary makes a finding that such State is making substantial progress to achieve such compliance; or

(B) for a nonrenewable period of not more than two years in the case of a State the legislature of which meets only biennially, if the Secretary makes a finding that such State is making a good faith effort to comply with such requirement.

(2) Extension

(A) Subject to paragraph (3) of this subsection, any State whose waiver under paragraph (1) expired as of the end of fiscal year 1986 may be granted an extension of such waiver, if the Secretary makes a finding that such State is making a good faith effort to comply with the requirements under subsection (b) of this section—

(i) through the end of fiscal year 1988; or

(ii) in the case of a State the legislature of which meets biennially, through the end of the fiscal year 1989 or the end of the next regularly scheduled session of such legislature, whichever is earlier.

(B) This provision shall be effective retroactively to October 1, 1986.

(3) Requirements under subsection (b)(10)

No waiver under paragraph (1) or (2) may apply to any requirement under subsection (b)(10) of this section.

(e) Reduction of funds in case of failure to obligate

If a State fails to obligate funds awarded under subsection (a) of this section before the expiration of the 18-month period beginning on the date of such award, the next award made to such State under this section after the expiration of such period shall be reduced by an amount equal to 2 the amount of such unobligated funds unless the Secretary determines that extraordinary reasons justify the failure to so obligate.

(f) Restrictions relating to child welfare services

Programs or projects relating to child abuse and neglect assisted under part B of title IV of the Social Security Act [42 U.S.C. 620 et seq.] shall comply with the requirements set forth in paragraphs (1)(A), (2), (4), (5), and (10) of subsection (b) of this section.

(g) Compliance and education grants

The Secretary is authorized to make grants to the States for purposes of developing, implementing, or operating—

- (1) the procedures or programs required under subsection (b)(10) of this section;
- (2) information and education programs or training programs designed to improve the provision of services to disabled infants with life-threatening conditions for—
 - (A) professional and paraprofessional personnel concerned with the welfare of disabled infants with life-threatening conditions, including personnel employed in child protective services programs and health-care facilities; and
 - (B) the parents of such infants; and
- (3) programs to assist in obtaining or coordinating necessary services for families of disabled infants with life-threatening conditions, including—
 - (A) existing social and health services;
 - (B) financial assistance; and
 - (C) services necessary to facilitate adoptive placement of any such infants who have been relinquished for adoption.

(Pub. L. 93–247, title I, §107, formerly §8, as added Pub. L. 100–294, title I, §101, Apr. 25, 1988, 102 Stat. 110; renumbered title I, §107, Pub. L. 101–126, §3(a)(1), (2), Oct. 25, 1989, 103 Stat. 764; amended Pub. L. 102–295, title I, §114(a)–(c), May 28, 1992, 106 Stat. 192, 195; Pub. L. 102–586, §9(b), Nov. 4, 1992, 106 Stat. 5037.)

References in Text

The Social Security Act, referred to in subsec. (f), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended. Part B of title IV of the Social Security Act is classified generally to part B (§620 et seq.) of subchapter IV of chapter 7 of this title. For complete classification of this Act to the Code, see section 1305 of this title and Tables.

Amendments

1992—Subsec. (a). Pub. L. 102–295, §114(a), amended subsec. (a) generally. Prior to amendment, subsec. (a) read as follows: “The Secretary, through the Center, is authorized to make grants to the States for purposes of assisting the States in developing, strengthening, and carrying out child abuse and neglect prevention and treatment programs.”

Subsec. (b)(4). Pub. L. 102–586 amended par. (4) generally. Prior to amendment, par. (4) read as follows: “provide for methods to preserve the confidentiality of all records in order to protect the rights of the child and of the child's parents or guardians;”.

Subsec. (c). Pub. L. 102–295, §114(b), added subsec. (c). Former subsec. (c) redesignated (d).

Subsec. (d). Pub. L. 102–295, §114(b)(1), redesignated subsec. (c) as (d). Former subsec. (d) redesignated (e).

Subsec. (d)(1). Pub. L. 102–295, §114(c), which directed the amendment of subsec. (d) by substituting “subsection (a) of this section” for “this subsection” in provisions preceding subparagraph (A), was executed by making the substitution the second place that phrase appeared in introductory provisions of par. (1) of subsec. (d) to reflect the probable intent of Congress.

Subsecs. (e) to (g). Pub. L. 102–295, §114(b)(1), redesignated subsecs. (d) to (f) as (e) to (g), respectively.

Effective Date of 1992 Amendment

Section 114(d) of Pub. L. 102–295, as amended by Pub. L. 103–171, §9(a), Dec. 2, 1993, 107 Stat. 1994, provided that: “The amendments described in subsections (a) and (b) [amending this section] are made upon the date of the enactment of this Act [May 28, 1992]. Such amendments take effect on October 1 of the first fiscal year for which ,000,000 or more is made available under subsection (a)(2)(B)(ii) of section 114 of the Child Abuse Prevention and Treatment Act [section 5106h(a)(2)(B)(ii) of this title] (as amended by section 117 of this Act). Prior to such amendments taking effect, section 107(a) of the Child Abuse Prevention and Treatment Act [subsec. (a) of this section], as in effect on the day before the date of the enactment of this Act, continues to be in effect.”

[Pub. L. 103–171, §9(b), Dec. 2, 1993, 107 Stat. 1994, provided that: “The amendments made by subsection (a) [amending section 114(d) of Pub. L. 102–295, set out above] take effect on September 30, 1993.”]

Congressional Findings

Section 9(a) of Pub. L. 102–586 provided that: “The Congress finds that—

“(1) circumstances surrounding the death of a young boy named Adam Mann in New York City prompted a shocking documentary focusing on the inability of child protection services to protect suffering children;

“(2) the documentary described in paragraph (1) showed the serious need for systemic changes in our child welfare protection system;

“(3) thorough, coordinated, and comprehensive investigation will, it is hoped, lead to the prevention of abuse, neglect, or death in the future;

“(4) an undue burden is placed on investigation due to strict Federal and State laws and regulations regarding confidentiality;

“(5) while the Congress recognizes the importance of maintaining the confidentiality of records pertaining to child abuse, neglect, and death, often the purpose of confidentiality laws and regulations are [sic] defeated when they have the effect of protecting those responsible;

“(6) comprehensive and coordinated interagency communication needs to be established, with adequate provisions to protect against the public disclosure of any detrimental information need to be established [sic];

“(7) certain States, including Georgia, North Carolina, California, Missouri, Arizona, Minnesota, Oklahoma, and Oregon, have taken steps to establish by statute interagency, multidisciplinary fatality review teams to fully investigate incidents of death believed to be caused by child abuse or neglect;

“(8) teams such as those described in paragraph (7) should be established in every State, and their scope of review should be expanded to include egregious incidents of child abuse and neglect before the child in question dies; and

“(9) teams such as those described in paragraph (7) will increase the accountability of child protection services.”

Section Referred to in Other Sections

This section is referred to in sections 5106b, 5106c, 5106h of this title.

1 So in original. Probably should not be capitalized.

2 So in original. Probably should be “to”.

Counsel on Accreditation

RPM 6.02

Case records are maintained and disposed of in a manner that protects privacy and confidentiality, and the organization:

- a. maintains case records for at least seven years after case closing for adults, unless otherwise mandated by law;
- b. maintains case records for minors until the age of majority or seven years after case closing, whichever is longer; and
- c. properly disposes of records in the event of the organization's dissolution.