

§4008. Records; confidentiality; disclosure

1. Confidentiality of records and information. All department records that contain personally identifying information and are created or obtained in connection with the department's child protective activities and activities related to a child while in the care or custody of the department, and all information contained in those records, are confidential and subject to release only under the conditions of subsections 2 and 3.

Within the department, the records are available only to and may be used only by appropriate departmental personnel and legal counsel for the department in carrying out their functions.

Any person who receives department records or information from the department may use the records or information only for the purposes for which that release was intended.

[PL 2007, c. 485, §1 (AMD); PL 2007, c. 485, §2 (AFF).]

1-A. Disclosure. The department may determine that for the purposes of disclosure under this section records are limited to only records created by the department in connection with its duties under this chapter.

[PL 2021, c. 176, §5 (NEW).]

2. Optional disclosure of records. The department may disclose relevant information in the records to the following persons:

A. An agency or person investigating or participating on a team investigating a report of child abuse or neglect when the investigation or participation is authorized by law or by an agreement with the department; [PL 1987, c. 511, Pt. B, §1 (RPR).]

A-1. A law enforcement agency, to the extent necessary for reporting, investigating and prosecuting an alleged crime, the victim of which is a department employee, an employee of the Attorney General's Office, an employee of any court or court system, a person mandated to report suspected abuse or neglect, a person who has made a report to the department, a person who has provided information to the department or an attorney, guardian ad litem, party, participant, witness or prospective witness in a child protection proceeding; [PL 2005, c. 300, §3 (NEW).]

A-2. An administrator of a social media service, to the extent authorized by a court for reporting, investigating or removing a threat or serious intimidation attempt directed against an employee of the department, an employee of the Attorney General's office, a guardian ad litem or an officer of any court or court system. The information remains confidential and the social media service may not redisclose any of the information provided by the department. For the purposes of this subsection, "social media service" means an electronic medium or service through which users create, share and view user-generated content; [PL 2021, c. 148, §1 (NEW).]

B. [PL 1983, c. 327, §3 (RP).]

C. A physician treating a child whom he reasonably suspects may be abused or neglected; [PL 1979, c. 733, §18 (NEW).]

D. A child named in a record who is reported to be abused or neglected, or the child's parent or custodian, or the subject of the report, with protection for identity of reporters and other persons when appropriate; [PL 1987, c. 744, §3 (AMD).]

D-1. A parent, custodian or caretaker of a child when the department believes the child may be at risk of harm from the person who is the subject of the records or information, with protection for identity of reporters and other persons when appropriate; [PL 2005, c. 300, §4 (NEW).]

D-2. A party to a child protection proceeding, when the records or information is relevant to the proceeding, with protection for identity of reporters and other persons when appropriate; [PL 2005, c. 300, §4 (NEW).]

E. A person having the legal responsibility or authorization to evaluate, treat, educate, care for or supervise a child, parent or custodian who is the subject of a record, or a member of a panel appointed by the department to review child deaths and serious injuries, or a member of the Domestic Abuse Homicide Review Panel established under Title 19-A, section 4013, subsection 4. This includes a member of a treatment team or group convened to plan for or treat a child or family that is the subject of a record. This may also include a member of a support team for foster parents, if that team has been reviewed and approved by the department; [PL 2005, c. 300, §5 (AMD).]

E-1. [PL 2007, c. 371, §3 (RP).]

F. Any person engaged in bona fide research, provided that no personally identifying information is made available, unless it is essential to the researcher and the commissioner or the commissioner's designee gives prior approval. If the researcher desires to contact a subject of a record, the subject's consent shall be obtained by the department prior to the contact; [PL 1989, c. 270, §2 (RPR).]

G. Any agency or department involved in licensing or approving homes for, or the placement of, children or dependent adults, with protection for identity of reporters and other persons when appropriate; [PL 1989, c. 270, §3 (RPR).]

H. Persons and organizations pursuant to Title 5, section 9057, subsection 6, and pursuant to chapter 857; [PL 1989, c. 270, §4 (RPR); PL 1989, c. 502, Pt. A, §76 (RPR); PL 1989, c. 878, Pt. A, §62 (RPR).]

I. The representative designated to provide child welfare services by the tribe of an Indian child as defined by the federal Indian Child Welfare Act, 25 United States Code, Section 1903, or a representative designated to provide child welfare services by an Indian tribe of Canada; [PL 2007, c. 140, §5 (AMD).]

J. A person making a report of suspected abuse or neglect. The department may only disclose that it has not accepted the report for investigation, unless other disclosure provisions of this section apply; [PL 2015, c. 194, §1 (AMD); PL 2015, c. 198, §1 (AMD).]

K. The local animal control officer or the animal welfare program of the Department of Agriculture, Conservation and Forestry established pursuant to Title 7, section 3902 when there is a reasonable suspicion of animal cruelty, abuse or neglect. For purposes of this paragraph, "cruelty, abuse or neglect" has the same meaning as provided in Title 34-B, section 1901, subsection 1, paragraph B; [PL 2015, c. 494, Pt. A, §21 (AMD).]

L. A person, organization, employer or agency for the purpose of carrying out background or employment-related screening of an individual who is or may be engaged in:

(1) Child-related activities or employment; or

(2) Activities or employment relating to adults with intellectual disabilities, autism, related conditions as set out in 42 Code of Federal Regulations, Section 435.1010 or acquired brain injury; and [PL 2015, c. 494, Pt. A, §22 (RPR).]

M. The personal representative of the estate of a child named in a record who is reported to be abused or neglected. [PL 2015, c. 494, Pt. A, §23 (NEW).]
[PL 2021, c. 148, §1 (AMD).]

3. Mandatory disclosure of records. The department shall disclose relevant information in the records to the following persons:

A. The guardian ad litem of a child, appointed pursuant to section 4005, subsection 1; [PL 2005, c. 300, §8 (AMD).]

A-1. The court-appointed guardian ad litem or attorney of a child who is the subject of a court proceeding involving parental rights and responsibilities, grandparent visitation, custody, guardianship or involuntary commitment. The access of the guardian ad litem or attorney to the records or information under this paragraph is limited to reviewing the records in the offices of the department. Any other use of the information or records during the proceeding in which the guardian ad litem or attorney is appointed is governed by paragraph B; [PL 2009, c. 38, §1 (AMD).]

B. A court on its finding that access to those records may be necessary for the determination of any issue before the court or a court requesting a home study from the department pursuant to Title 18-C, section 9-304 or Title 19-A, section 905. Access to such a report or record is limited to counsel of record unless otherwise ordered by the court. Access to actual reports or records is limited to in camera inspection, unless the court determines that public disclosure of the information is necessary for the resolution of an issue pending before the court; [PL 2017, c. 402, Pt. C, §60 (AMD); PL 2019, c. 417, Pt. B, §14 (AFF).]

C. A grand jury on its determination that access to those records is necessary in the conduct of its official business; [PL 1983, c. 327, §4 (AMD); PL 1983, c. 470, §12 (AMD).]

D. An appropriate state executive or legislative official with responsibility for child protection services, provided that no personally identifying information may be made available unless necessary to that official's functions; [PL 2001, c. 439, Pt. X, §2 (AMD).]

E. The protection and advocacy agency for persons with disabilities, as designated pursuant to Title 5, section 19502, in connection with investigations conducted in accordance with Title 5, chapter 511. The determination of what information and records are relevant to the investigation must be made by agreement between the department and the agency; [PL 1991, c. 630, §2 (AMD).]

F. The Commissioner of Education when the information concerns teachers and other professional personnel issued certificates under Title 20-A, persons employed by schools approved pursuant to Title 20-A or any employees of schools operated by the Department of Education; [PL 2001, c. 696, §18 (AMD).]

G. The prospective adoptive parents. Prior to a child being placed for the purpose of adoption, the department shall comply with the requirements of Title 18-C, section 9-304, subsection 3 and section 8205; [PL 2017, c. 402, Pt. C, §61 (AMD); PL 2019, c. 417, Pt. B, §14 (AFF).]

H. Upon written request, a person having the legal authorization to evaluate or treat a child, parent or custodian who is the subject of a record. This includes a member of a treatment team or group convened to plan for or treat a child or family that is the subject of a record; [PL 2003, c. 673, Pt. Z, §3 (AMD).]

I. Any government entity that needs such information in order to carry out its responsibilities under law to protect children from abuse and neglect. For purposes of this paragraph, "government entity" means a federal entity, a state entity of any state, a local government entity of any state or locality or an agent of a federal, state or local government entity; [PL 2007, c. 371, §4 (AMD).]

J. To a juvenile court when the child who is the subject of the records has been brought before the court pursuant to Title 15, Part 6; [PL 2013, c. 293, §1 (AMD).]

K. A relative or other person whom the department is investigating for possible custody or placement of the child; [PL 2015, c. 381, §1 (AMD).]

L. To a licensing board of a mandated reporter, in the case of a mandated reporter under section 4011-A, subsection 1 who appears from the record or relevant circumstances to have failed to make a required report. Any information disclosed by the department personally identifying a licensee's

client or patient remains confidential and may be used only in a proceeding as provided by Title 5, section 9057, subsection 6; and [PL 2015, c. 381, §2 (AMD).]

M. Law enforcement authorities for entry into the National Crime Information Center database of the Federal Bureau of Investigation and to a national information clearinghouse for missing and exploited children operated pursuant to 42 United States Code, Section 5773(b). Information disclosed pursuant to this paragraph is limited to information on missing or abducted children or youth that is required to be disclosed pursuant to 42 United States Code, Section 671(a)(35)(B). [PL 2015, c. 381, §3 (NEW).]

[PL 2017, c. 402, Pt. C, §§60, 61 (AMD); PL 2019, c. 417, Pt. B, §14 (AFF).]

3-A. Confidentiality. The proceedings and records of the child death and serious injury review panel created in accordance with section 4004, subsection 1, paragraph E are confidential and are not subject to subpoena, discovery or introduction into evidence in a civil or criminal action. The commissioner shall disclose conclusions of the review panel upon request, but may not disclose data that is otherwise classified as confidential.

[PL 1993, c. 294, §4 (NEW).]

4. Unlawful dissemination; penalty. A person is guilty of unlawful dissemination if the person knowingly disseminates records that are determined confidential by this section, in violation of the mandatory or optional disclosure provisions of this section. Unlawful dissemination is a Class E crime that, notwithstanding Title 17-A, section 1604, subsection 1, paragraph E, is punishable by a fine of not more than \$500 or by imprisonment for not more than 30 days.

[PL 2019, c. 113, Pt. C, §67 (AMD).]

5. Retention of unsubstantiated child protective services records. Except as provided in this subsection, the department shall retain unsubstantiated child protective services case records for no more than 5 years following a finding of unsubstantiation and then expunge unsubstantiated case records from all departmental files or archives unless a new referral has been received within the 5-year retention period. An expunged record or unsubstantiated record that should have been expunged under this subsection may not be used for any purpose, including admission into evidence in any administrative or judicial proceeding.

[PL 2017, c. 472, §1 (AMD).]

6. Disclosing information; establishment of fees; rules. The department may charge fees for searching and disclosing information in its records as provided in this subsection.

A. The department may charge fees for the services listed in paragraph B to any person except the following:

- (1) A parent in a child protection proceeding, an attorney who represents a parent in a child protection proceeding or a guardian ad litem in a child protection proceeding when the parent, attorney or guardian ad litem requests the service for the purposes of the child protection proceeding;
- (2) An adoptive parent or prospective adoptive parent who requests information in the department's records relating to the child who has been or might be adopted;
- (3) A person having the legal authorization to evaluate or treat a child, parent or custodian who is the subject of a record, including a member of a treatment team or group convened to plan for or treat a child or family that is the subject of a record; the information in the record must be requested for the purpose of evaluating or treating the child, parent or custodian who is the subject of the record;
- (4) Governmental entities of this State that are not engaged in licensing; and

(5) Governmental entities of any county or municipality of this State that are not engaged in licensing.

An order by a court for disclosure of information in records pursuant to subsection 3, paragraph B must be deemed to have been made by the person requesting that the court order the disclosure. [PL 2015, c. 194, §4 (AMD).]

B. The department may charge fees for the following services:

- (1) Searching its records to determine whether a particular person is named in the records;
- (2) Receiving and responding to a request for disclosure of information in department records, whether or not the department grants the request; and
- (3) Disclosing information in department records. [PL 2015, c. 194, §4 (AMD).]

C. The department shall adopt rules governing requests for the services listed in paragraph B. Those rules may provide for a mechanism for making a request, the information required in making a request, the circumstances under which requests will be granted or denied and any other matter that the department determines necessary to efficiently respond to requests for disclosure of information in the records. The rules must establish a list of specified categories of activities or employment for which the department may provide information for background or employment-related screening pursuant to subsection 2, paragraph L. Rules adopted pursuant to this paragraph are routine technical rules pursuant to Title 5, chapter 375, subchapter 2-A. [PL 2015, c. 194, §4 (AMD).]

D. The department shall establish a schedule of fees by rule. The schedule of fees may provide that certain classes of persons are exempt from the fees, and it may establish different fees for different classes of persons. All fees collected by the department must be deposited in the General Fund. Rules adopted pursuant to this paragraph are routine technical rules pursuant to Title 5, chapter 375, subchapter 2-A. [PL 2003, c. 673, Pt. W, §1 (NEW).]

E. A governmental entity that is engaged in licensing may charge an applicant for the fees imposed on it by the department for searching and disclosing information in its records. [PL 2015, c. 194, §4 (AMD).]

F. This subsection may not be construed to permit or require the department to make a disclosure in any particular case. [PL 2003, c. 673, Pt. W, §1 (NEW).]
[PL 2015, c. 194, §4 (AMD).]

7. Appeal of denial of disclosure of records. A parent, legal guardian, custodian or caretaker of a child who requests disclosure of information in records under subsection 2 and whose request is denied may request an administrative hearing to contest the denial of disclosure. The request for hearing must be made in writing to the department. The department shall conduct hearings under this subsection in accordance with the requirements of Title 5, chapter 375, subchapter 4. The issues that may be determined at hearing are limited to whether the nondisclosure of some or all of the information requested is necessary to protect the child or any other person. The department shall render after hearing without undue delay a decision as to whether some or all of the information requested should be disclosed. The decision must be based on the hearing record and rules adopted by the commissioner. The decision must inform the requester that the requester may file a petition for judicial review of the decision within 30 days of the date of the decision. The department shall send a copy of the decision to the requester by regular mail to the requester's most recent address of record.
[PL 2015, c. 501, §2 (NEW).]

SECTION HISTORY

PL 1979, c. 733, §18 (NEW). PL 1983, c. 327, §§3-5 (AMD). PL 1983, c. 354, §§1,2 (AMD). PL 1983, c. 470, §§12,13 (AMD). PL 1983, c. 783, §4 (AMD). PL 1985, c. 495, §18 (AMD).

PL 1985, c. 506, §§A43-45 (AMD). PL 1985, c. 739, §§5,6 (AMD). PL 1987, c. 511, §§A3,B1 (AMD). PL 1987, c. 714, §§5-7 (AMD). PL 1987, c. 744, §§3-7 (AMD). PL 1989, c. 118 (AMD). PL 1989, c. 270, §§2-5 (AMD). PL 1989, c. 483, §A33 (AMD). PL 1989, c. 502, §§A76,77,D18 (AMD). PL 1989, c. 700, §A89 (AMD). PL 1989, c. 857, §58 (AMD). PL 1989, c. 878, §§A62,63 (AMD). PL 1991, c. 630, §§2-4 (AMD). PL 1993, c. 294, §§3, 4 (AMD). PL 1993, c. 686, §8 (AMD). PL 1993, c. 686, §13 (AFF). PL 1995, c. 391, §2 (AMD). PL 1995, c. 694, §§D38,39 (AMD). PL 1995, c. 694, §E2 (AFF). PL 2001, c. 439, §X2 (AMD). PL 2001, c. 696, §§17-20 (AMD). PL 2003, c. 673, §§W1,Z2-4 (AMD). PL 2005, c. 300, §§2-9 (AMD). PL 2007, c. 140, §§5-7 (AMD). PL 2007, c. 335, §1-3 (AMD). PL 2007, c. 335, §5 (AFF). PL 2007, c. 371, §§3-6 (AMD). PL 2007, c. 473, §1 (AFF). PL 2007, c. 485, §1 (AMD). PL 2007, c. 485, §2 (AFF). PL 2009, c. 38, §1 (AMD). PL 2011, c. 657, Pt. W, §5 (REV). PL 2013, c. 293, §§1-3 (AMD). PL 2015, c. 194, §§1-4 (AMD). PL 2015, c. 198, §§1-3 (AMD). PL 2015, c. 381, §§1-3 (AMD). PL 2015, c. 494, Pt. A, §§21-23 (AMD). PL 2015, c. 501, §§1, 2 (AMD). PL 2017, c. 402, Pt. C, §§60, 61 (AMD). PL 2017, c. 402, Pt. F, §1 (AFF). PL 2017, c. 472, §1 (AMD). PL 2019, c. 113, Pt. C, §67 (AMD). PL 2019, c. 417, Pt. B, §14 (AFF). PL 2021, c. 148, §1 (AMD). PL 2021, c. 176, §5 (AMD).

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§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; [PL 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 [PL 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. [PL 2009, c. 38, §2 (AMD).]

D. [PL 2009, c. 38, §2 (RP).]

[PL 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.

[PL 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; [PL 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; [PL 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; [PL 1997, c. 328, §1 (NEW).]

D. Whether any report of abuse or neglect regarding the child has been substantiated as maintained by the department; [PL 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; [PL 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 [PL 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. [PL 1997, c. 328, §1 (NEW).]

[PL 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. [PL 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. [PL 1997, c. 328, §1 (NEW).]

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

[PL 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.

[PL 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.

[PL 1997, c. 328, §1 (NEW).]

SECTION HISTORY

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

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§4087-A. Ombudsman program

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Ombudsman" means the director of the program and persons employed or volunteering to perform the work of the program. [PL 2001, c. 439, Pt. X, §5 (NEW).]

B. "Program" means the ombudsman program established under this section. [PL 2001, c. 439, Pt. X, §5 (NEW).]
[PL 2001, c. 439, Pt. X, §5 (NEW).]

2. Program established. The ombudsman program is established as an independent program within the Executive Department to provide ombudsman services to the children and families of the State regarding child welfare services provided by the Department of Health and Human Services. The program shall consider and promote the best interests of the child involved, answer inquiries and investigate, advise and work toward resolution of complaints of infringement of the rights of the child and family involved. The program must be staffed, under contract, by an attorney or a master's level social worker who must have experience in child development and advocacy, and support staff as determined to be necessary. The program shall function through the staff of the program and volunteers recruited and trained to assist in the duties of the program.
[PL 2001, c. 439, Pt. X, §5 (NEW); PL 2003, c. 689, Pt. B, §6 (REV).]

3. Contracted services. The program shall operate by contract with a nonprofit organization that the Executive Department determines to be free of potential conflict of interest and best able to provide the services on a statewide basis. The ombudsman may not be actively involved in state-level political party activities or publicly endorse, solicit funds for or make contributions to political parties on the state level or candidates for statewide elective office. The ombudsman may not be a candidate for or hold any statewide elective or appointive public office.
[PL 2001, c. 439, Pt. X, §5 (NEW).]

4. Services. The program shall provide services directly or under contract. The first priority in the work of the program and any contract for ombudsman services must be case-specific advocacy services. In performing services under this section, the program, as it determines to be appropriate, may create and maintain records and case-specific reports. Any work on systems improvements or lobbying must be adjunctive to case-specific activities. The program may:

A. Provide information to the public about the services of the program through a comprehensive outreach program. The ombudsman shall provide information through a toll-free telephone number or numbers; [PL 2001, c. 439, Pt. X, §5 (NEW).]

B. Answer inquiries, investigate and work toward resolution of complaints regarding the performance and services of the department and participate in conferences, meetings and studies that may improve the performance of the department; [PL 2001, c. 439, Pt. X, §5 (NEW).]

C. Provide services to persons to assist them in protecting their rights; [PL 2001, c. 439, Pt. X, §5 (NEW).]

D. Inform persons of the means of obtaining services from the department; [PL 2001, c. 439, Pt. X, §5 (NEW).]

E. Provide information and referral services; [PL 2001, c. 439, Pt. X, §5 (NEW).]

F. Analyze and provide opinions and recommendations to agencies, the Governor and the Legislature on state programs, rules, policies and laws; [PL 2001, c. 439, Pt. X, §5 (NEW).]

G. Determine what types of complaints and inquiries will be accepted for action by the program and adopt policies and procedures regarding communication with persons making inquiries or complaints and the department; [PL 2001, c. 439, Pt. X, §5 (NEW).]

H. Apply for and utilize grants, gifts and funds for the purpose of performing the duties of the program; and [PL 2001, c. 439, Pt. X, §5 (NEW).]

I. Collect and analyze records and data relevant to the duties and activities of the program and make reports as required by law or determined to be appropriate. [PL 2001, c. 439, Pt. X, §5 (NEW).]

[PL 2005, c. 410, §1 (AMD).]

4-A. Information for parents in child protective cases. The program, in consultation with appropriate interested parties, shall provide information about child protection laws and procedures to parents whose children are the subject of child protective investigations and cases under this chapter. The providing of the information under this subsection does not constitute representation of parents. Parents may seek and receive information regardless of whether they are represented by legal counsel. The information must be provided free of charge to parents.

The program shall report annually to the joint standing committee of the Legislature having jurisdiction over judiciary matters, starting February 1, 2003, on the provision of information required by this subsection.

This subsection does not create new rights or obligations concerning the provision of legal advice or representation of parents. Failure to provide information under this subsection does not create a cause of action or have any effect on a child protective proceeding.

[PL 2001, c. 696, §36 (NEW).]

5. Access to persons, files and records. As necessary for the duties of the program, the ombudsman has access to the files and records of the department, without fee, and to the personnel of the department for the purposes of investigation of an inquiry or complaint. The ombudsman may also enter the premises of the department for the purposes of investigation of an inquiry or complaint without prior notice. The program shall maintain the confidentiality of all information or records obtained under this subsection.

[PL 2001, c. 439, Pt. X, §5 (NEW).]

6. Confidentiality of records. Information held by or records or case-specific reports maintained by the program are confidential. Disclosure may be made as allowed or required in accordance with the provisions of section 4008, subsections 2 and 3. Unlawful dissemination is subject to the provisions of section 4008, subsection 4.

[PL 2005, c. 410, §2 (RPR).]

7. Liability. Any person who in good faith submits a complaint or inquiry to the program pursuant to this section is immune from any civil or criminal liability. For the purpose of any civil or criminal proceedings, there is a rebuttable presumption that any person acting pursuant to this section did so in good faith. The ombudsman and employees and volunteers in the program are employees of the State for the purposes of the Maine Tort Claims Act.

[PL 2001, c. 439, Pt. X, §5 (NEW).]

8. Penalties. A person who intentionally obstructs or hinders the lawful performance of the ombudsman's duties commits a Class E crime. A person who penalizes or imposes a restriction on a person who makes a complaint or inquiry to the ombudsman as a result of that complaint or inquiry commits a Class E crime. The Attorney General shall enforce this subsection under Title 5, section 191.

[PL 2001, c. 439, Pt. X, §5 (NEW).]

9. Information. Beginning January 1, 2002, information about the services of the program and any applicable grievance and appeal procedures must be given to all children and families receiving child welfare services from the department and from all persons and entities contracting with the department for the provision of child welfare services.

[PL 2001, c. 439, Pt. X, §5 (NEW).]

10. Report. The program shall report to the Governor, the department and the Legislature before January 1st each year on the activities and services of the program, priorities among types of inquiries and complaints that may have been set by the program, waiting lists for services, the provision of outreach services and recommendations for changes in policy, rule or law to improve the provision of services.

[PL 2001, c. 439, Pt. X, §5 (NEW).]

11. Oversight. The joint standing committee of the Legislature having jurisdiction over health and human services matters shall review the operations of the program and may make recommendations to the Governor regarding the contract for services under this section. The committee may submit legislation that it determines necessary to amend or repeal this section.

[PL 2001, c. 439, Pt. X, §5 (NEW).]

SECTION HISTORY

PL 2001, c. 439, §X5 (NEW). PL 2001, c. 696, §36 (AMD). PL 2003, c. 20, §EEE1 (AMD). PL 2003, c. 689, §B6 (REV). PL 2005, c. 410, §§1,2 (AMD).

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§4013. Maine Commission on Domestic and Sexual Abuse

4. Domestic Abuse Homicide Review Panel. The commission shall establish the Domestic Abuse Homicide Review Panel, referred to in this subsection as the "panel," to review the deaths of persons who are killed by family or household members as defined by section 4002.

A. The chair of the commission shall appoint members of the panel who have experience in providing services to victims of domestic and sexual abuse and shall include at least the following: the Chief Medical Examiner, a physician, a nurse, a law enforcement officer, the Commissioner of Health and Human Services, the Commissioner of Corrections, the Commissioner of Public Safety, a judge as assigned by the Chief Justice of the Supreme Judicial Court, a representative of the Maine Prosecutors Association, an assistant attorney general responsible for the prosecution of homicide cases designated by the Attorney General, an assistant attorney general handling child protection cases designated by the Attorney General, a victim-witness advocate, a mental health service provider, a facilitator of a certified domestic violence intervention program under section 4014 and 3 persons designated by a statewide coalition for family crisis services. Members who are not state officials serve a 2-year term without compensation, except that of those initially appointed by the chair, 1/2 must be appointed for a one-year term. [PL 2021, c. 174, §10 (AMD).]

B. The panel shall recommend to state and local agencies methods of improving the system for protecting persons from domestic and sexual abuse, including modifications of laws, rules, policies and procedures following completion of adjudication. [PL 2001, c. 240, §2 (AMD).]

C. The panel shall collect and compile data related to domestic and sexual abuse, including data relating to deaths resulting from domestic abuse when the victim was pregnant at the time of death. [PL 2005, c. 88, Pt. A, §1 (AMD).]

D. In any case subject to review by the panel, upon oral or written request of the panel, any person that possesses information or records that are necessary and relevant to a homicide review shall as soon as practicable provide the panel with the information and records. Persons disclosing or providing information or records upon the request of the panel are not criminally or civilly liable for disclosing or providing information or records in compliance with this paragraph. [PL 1997, c. 507, §3 (NEW); PL 1997, c. 507, §4 (AFF).]

E. The proceedings and records of the panel are confidential and are not subject to subpoena, discovery or introduction into evidence in a civil or criminal action. The commission shall disclose conclusions of the review panel upon request, but may not disclose information, records or data that are otherwise classified as confidential. [PL 1997, c. 507, §3 (NEW); PL 1997, c. 507, §4 (AFF).]

The commission shall submit a report on the panel's activities, conclusions and recommendations to the joint standing committee of the Legislature having jurisdiction over judiciary matters by January 30, 2002 and biennially thereafter.

[PL 2021, c. 174, §10 (AMD).]

SECTION HISTORY

PL 1995, c. 694, §B2 (NEW). PL 1995, c. 694, §E2 (AFF). PL 1997, c. 507, §§2,3 (AMD). PL 1997, c. 507, §4 (AFF). PL 2001, c. 240, §2 (AMD). PL 2003, c. 689, §B7 (REV). PL 2005, c. 88, §A1 (AMD). PL 2005, c. 397, §A14 (AMD). PL 2009, c. 257, §1 (AMD). PL 2019, c. 188, §1 (AMD). PL 2021, c. 174, §§9, 10 (AMD).

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