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Children's Advocacy Institute, University of San Diego School of Law

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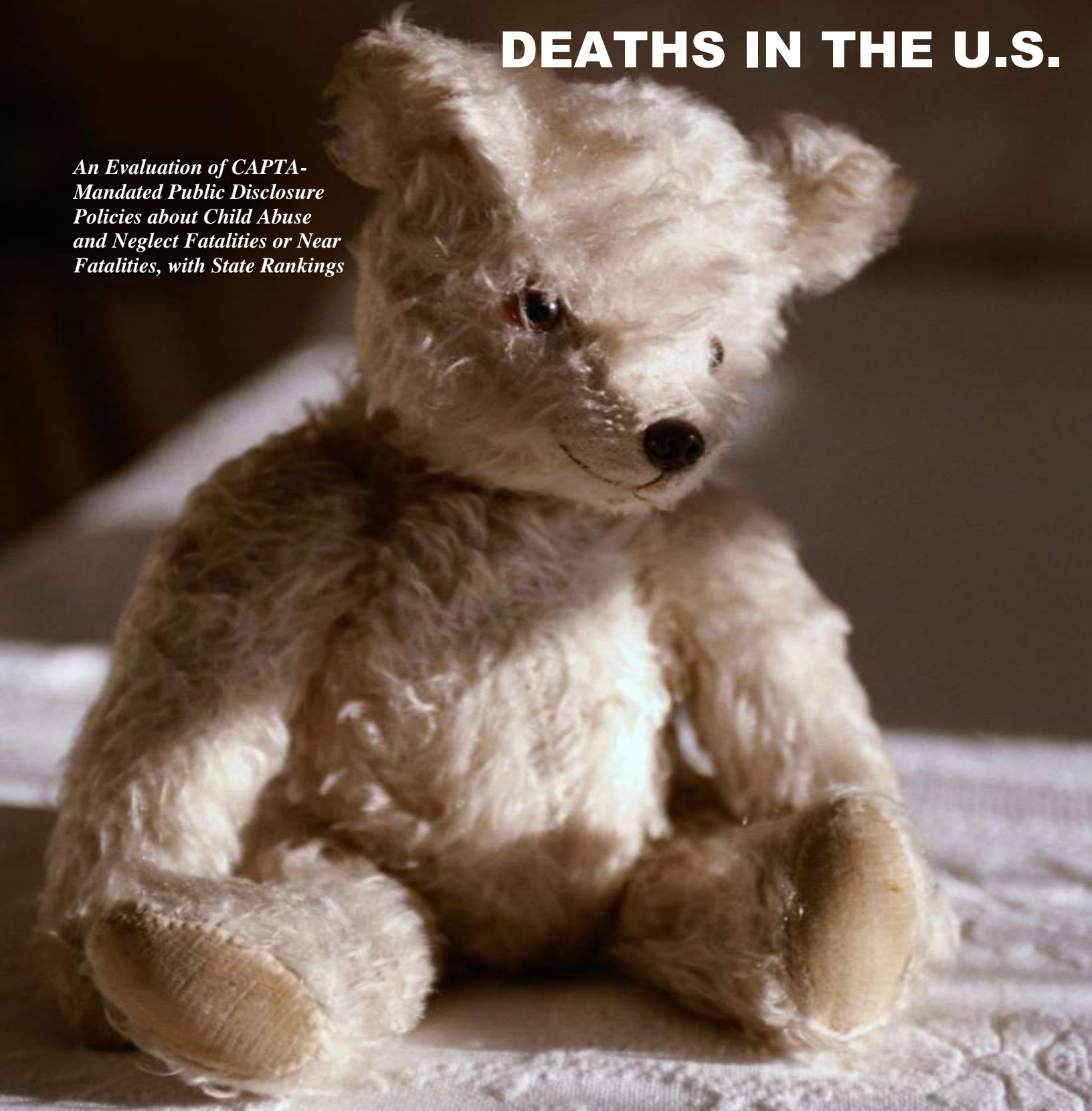
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2nd Edition

STATE SECRECY AND CHILD DEATHS IN THE U.S.

An Evaluation of CAPTA-Mandated Public Disclosure Policies about Child Abuse and Neglect Fatalities or Near Fatalities, with State Rankings





The Children's Advocacy Institute (CAI) was founded in 1989 as part of the Center for Public Interest Law at the University of San Diego (USD) School of Law. CAI's mission is to improve the health, safety, development, and well-being of children. CAI advocates in the legislature to make the law, in the courts to interpret the law, before administrative agencies to implement the law, and before the public to educate Californians on the status of children.

CAI strives to educate policymakers about the needs of children—about their needs for economic security, adequate nutrition, health care, education, quality child care, and protection from abuse, neglect, and injury. CAI's goal is to ensure that children's interests are represented effectively whenever and wherever government makes policy and budget decisions.

Robert C. Fellmeth, J.D., CAI's Executive Director, is the Price Professor of Public Interest Law at the USD School of Law and founder of both CAI and the Center for Public Interest Law. Professor Fellmeth has over 30 years of experience as a public interest law litigator, teacher, and scholar.

For more information about this report or for additional copies, please contact:

Children's Advocacy Institute

University of San Diego School of Law
5998 Alcalá Park
San Diego, CA 92110
(619) 260-4806 / Fax: (619) 260-4753
info@caichildlaw.org / www.caichildlaw.org

or

First Star

1666 K Street Northwest Suite 300
Washington, D.C. 20006
(202) 293-3703/ Fax: (202) 293-3704
info@firststar.org / www.firststar.org

***This report was funded in part by a grant
from Voices for America's Children.***

First Star was founded in 1999 as a national 501(c)(3) public charity by Peter Samuelson, a media executive who also founded the Starlight Children's Foundation, the Starbright World online network, and EDAR (Everyone Deserves a Roof), and Sherry A. Quirk, Partner at Schiff Hardin, LLP and past President and Founder of One Voice/American Coalition for Abuse Awareness. Concerned that children who were abused and neglected were in no position to advocate for themselves, Mr. Samuelson and Ms. Quirk established First Star with the goal of greatly improving life for these children. We are expert-driven, non-partisan and collaborative in all our efforts. We are a leading national advocate for children's rights.

Our mission is to improve the lives of America's abused and neglected children by strengthening their rights, illuminating systemic failures and igniting necessary reforms. We pursue our mission through research, public engagement, policy advocacy, education, litigation, and direct services.

We work towards a day when all systems entrusted with the protection of neglected and abused children do so excellently, using every available resource of skill, caring and science. We work in coalition and in partnership with others to pursue our goals. We reinvent no wheels. We work in areas where there is a strong likelihood of successful impact, and track and report on the results of our work. We continuously explore new and creative methods and opportunities to fulfill our mission. We believe that child maltreatment is not a partisan issue and work to engage people across the political spectrum to support our work. The leading experts in the field inform the content and quality of our programs.

First Star is proud to be a pro-bono client of Schiff Hardin, LLP.

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Finally, we are extremely grateful to Voices for America’s Children for supporting the work that led to the compilation and publication of this 2nd Edition. Voices is the largest network of multi-issue child advocacy organizations in the U.S. Its nonprofit, nonpartisan network spans almost every state, D.C., and the U.S. Virgin Islands. Voices leads advocacy efforts at the community, state and federal levels to improve the lives of all children, especially those most vulnerable, and their families.

Executive Summary

About This Report. This 2nd edition of *State Secrecy and Child Deaths in the U.S.* grades all fifty states and the District of Columbia on their laws and regulations pertaining to public disclosure of child abuse or neglect deaths and near deaths. It includes an analysis of the elements of an effective statute and describes how each state includes or omits such features.

The federal government has determined that the good that can be gained from disclosing information about child abuse or neglect deaths or near deaths will exceed any potential harm or embarrassment that some individuals might experience as a result. Through this report, the Children's Advocacy Institute (CAI) and First Star aim to encourage each state to adopt laws that further the spirit and intent of federal law, facilitate full disclosure, and ultimately better protect children from abuse and neglect. State legislatures should formalize their policies in statutory form and agencies need to adopt binding rules to implement those laws. When states do have these predictable and enforceable policies encouraging transparency, we hope advocates within the states will use this report as a motivator to pursue appropriate remedies to ensure the proper enforcement of the state's public disclosure laws.

The Case for Public Disclosure. Child abuse or neglect leads to the death of at least 1,770 children every year,¹ and an estimated 509,300 children are seriously harmed due to abuse or neglect.² We need to be sure that we, through our child welfare systems, do everything we can to protect these children.

Just 4% of maltreatment reports result in the removal of a child from his/her home. Certainly, the removal of any child from a family is a serious decision. An error in judgment when separating a child from his or her family is fraught with mental trauma. Every jurisdiction in America imposes a series of measures designed to limit state abuses in cases of unjustified removal. But what about error in the other direction? Except for a few jurisdictions that have ombudsmen or special panels reviewing such errors in judgment, we generally have the extreme opposite—nothing. Therefore we, the citizenry, are left as the only check when children remain in abusive situations. Unfortunately, our ability to review agency failures to protect is impeded by the almost universal secrecy of the child protection process.

Ideally, we learn from our errors. Ideally, we have some accountability, particularly among public officials whose decisions may matter so profoundly to children who have no other protective remedy. In a democracy that has sensibly provided many checks for accused parents, we have only public disclosure and debate as a check on behalf of endangered children who are not protected.

The liberalization of public information about child abuse deaths has already had benefits in California, where more complete disclosure of child abuse deaths has yielded examples of system flaws (not merely the idiosyncratic error) and reforms leading to more refined and correct removal decisions. Abuse and neglect deaths are child welfare agencies' most crucial cases, and it is often only through such cases that lawmakers and the public learn of systemic inadequacies in child welfare systems.

Federal Law. The Child Abuse Prevention and Training Act (CAPTA) acknowledges that, while maintaining confidentiality of child abuse and neglect records is important, there are some cases which have been carved out from this shield of confidentiality and must be made public. Specifically, cases where child

¹ U.S. Department of Health & Human Services, Administration for Children and Families, Administration on Children, Youth and Families, Children's Bureau, *Child Maltreatment 2009* (Washington, D.C.) at 54 (http://www.acf.hhs.gov/programs/cb/stats_research/index.htm#can).

² U.S. Department of Health & Human Services, Administration for Children and Families, Office of Planning, Research and Evaluation and the Children's Bureau, *Fourth National Incidence Study of Child Abuse and Neglect (NIS-4), Report to Congress* (Washington, D.C.; 2010) at 3-22 (http://www.acf.hhs.gov/programs/opre/abuse_neglect/natl_incid/reports/natl_incid/nis4_report_congress_full_pdf_jan2010.pdf).

abuse and neglect leads or contributes to a fatality or near fatality must be made public so that they can be examined to identify needed systemic reform. Thus, CAPTA requires that states have policies that allow for public disclosure of the findings or information regarding such cases.

As of 2012, all 50 states and the District of Columbia accept CAPTA funds.³ It should follow that all states provide for public disclosure of information about cases of fatal and near-fatal child abuse and neglect. While every state now does have some identifiable public disclosure policy regarding child abuse or neglect deaths, unfortunately, a few states still do not have identifiable public disclosure policies that cover near fatalities, and many states have policies that fail to further the congressional goal of identifying systemic problems in order to implement meaningful reform.

Developments and Progress Since First Edition. Significant related events taking place since the release of the initial 2008 *State Secrecy* report include the following:

- ▶ During the process to reauthorize CAPTA in 2010, the Senate Health, Education, Labor and Pension (HELP) Committee acknowledged that not all states are in compliance with CAPTA's public disclosure mandate and called upon the Department of Health and Human Services (DHHS) Secretary to take action to develop clear guidelines in the form of regulations instructing the States of their responsibilities under CAPTA. DHHS has yet to comply with this directive and issue regulations that provide guidance and direction regarding the public disclosure of information in child abuse and neglect fatalities and near fatalities.
- ▶ In 2010, Every Child Matters formed the National Coalition to End Child Abuse Deaths, a non-partisan coalition of five organizations working to enlist Congress, the Administration, and the media to bring attention to child abuse deaths and make recommendations to reduce the number of child fatalities each year. In 2010, the Coalition hosted a Summit to End Child Abuse and Neglect Deaths in America to release its recommendations and released the second edition of its report, *We Can Do Better: Child Abuse and Neglect Deaths in America*. In 2011, the Coalition held a congressional briefing and provided witnesses and testimony for the Human Resources Subcommittee of the Committee of Ways and Means on the issue of how to reduce child abuse fatalities.
- ▶ On December 13, 2011, legislation was introduced in both the Senate and the House of Representatives that would form a National Commission on Child Abuse Deaths. The purpose of the Commission would be to develop a comprehensive national strategy for reducing child abuse fatalities and make recommendations for legislative and policy changes on the federal, state and county/local levels.
- ▶ In July 2011, the U.S. Government Accountability Office (GAO) released a report entitled, *Child Maltreatment—Strengthening National Data on Child Fatalities Could Aid in Prevention*.
- ▶ Since the release of the first *State Secrecy* Report, several states have considered and enacted changes to their public disclosure policies. However, news from the states is not all good. In California, for example, advocates believe that regulations adopted by the Department of Social Services to implement the state's child fatality disclosure law unduly and unlawfully restrict the public's access to information; litigation is pending challenging those regulations. In other states, where the public disclosure laws are relatively strong, advocates believe that agency officials are not complying in good faith with the letter or spirit of the disclosure laws and are unduly delaying or withholding the release of information.

Grading the States. The primary goal of this report is to advocate for making information about child abuse and neglect deaths available to the public in a predictable, consistent, and enforceable manner. The

³ U.S. Dept. of Health & Human Services, Administration for Children & Families, *Justification of Estimates for Appropriations Committees, Fiscal Year 2012* (Washington, D.C.) at 123–24 (http://www.acf.hhs.gov/programs/opre/acf_perfplan/ann_per/reports/2012_perf_plan.pdf).

nature of this report is to measure merely the enforceable policies each state has in place. Only statutes, regulations, and other enforceable policies have been graded.

Since the release of the initial report in 2008, 21 states amended their child abuse and neglect fatality and near fatality public disclosure policies. At least ten states meaningfully improved their policies. Some states made some modest improvements in their policies, but still have barriers in place that will greatly inhibit the public's ability to access useful information in a timely manner. A few states took steps backward with regard to their public disclosure policies since 2008. Twenty states still fall in the C range or below, including the three most populous states (California, Texas and New York).

Call to Action. CAI and First Star call on policymakers and advocates to do the following:

- ▶ Advocates must continue to work with DHHS to provide assistance in helping to formulate the regulations called for by the Senate HELP committee, and hold the Agency accountable for issuing the regulations in a timely manner; DHHS must do more to ensure state compliance with CAPTA's public disclosure requirements. Advocates must be willing to identify their state's shortcomings and demand accountability.
- ▶ NCANDS should increase the scope and longevity of the data it collects on child fatalities, following through with its stated plans and goals. Federal policymakers should mandate states to provide data to NCANDS where child abuse or neglect leads to or contributes to a death or near death. In addition, data should be included and reported regarding caregiver risk factors and longitudinal data from each state.
- ▶ It is critically important to establish best practices at every level of government, and to ensure that there are sufficient resources dedicated to carrying them out. A commission, such as the one that would be established by pending legislation, can assist in this regard.
- ▶ DHHS must implement recent GAO recommendations as to how to improve child fatality reporting on the national level.
- ▶ CAPTA should be amended to specifically require the release of more information which can reliably be used to fix systemic issues that contribute to the death or near death of any child.

Conclusion. Many states fail to properly reshift the balance between confidentiality and public disclosure required by CAPTA when a child dies or almost dies from maltreatment. Further, the exceptions, limitations, and conditions that many states impose on disclosure negate or significantly reduce the quality of the information provided.

Public exposure is a necessary step toward fixing these problems. Each year, millions of taxpayer dollars go to support child protective services investigations. Accordingly, the public has a right to know if the laws for the protection of children are being followed and its tax dollars well-spent. Child abuse deaths and near deaths reflect the system's worst failures. Until state laws require the release of accurate and unfiltered information in a timely manner, and state officials comply with those laws, we cannot identify the fault lines in the system, and we cannot begin to fix them.

The necessary changes will not occur spontaneously. But they can be made, as the updated information in this 2nd Edition illustrates. Only continued pressure from the public, media, advocates and legislators will assure that all states enact — and comply with — strong public disclosure laws regarding the findings and information of each case where abuse or neglect has contributed to a child fatality or near fatality.

INTRODUCTION

I. About This Report

This project began as an effort by the University of San Diego School of Law's Children's Advocacy Institute (CAI) and First Star to update and expand upon a 2005 document compiled by the Child Welfare Information Gateway entitled "Disclosure of Confidential Child Abuse and Neglect Records: Summary of State Laws." To do so, CAI and First Star researched and reviewed child abuse and neglect statutes and regulations state by state; asked each state's liaison officer for abuse and neglect to provide information on how the state provides for the public disclosure of child abuse and neglect fatalities and near fatalities, as required by the federal Child Abuse Prevention and Treatment Act (CAPTA); developed multi-level criteria to assess each state's level of transparency with regard to disclosure; drafted and distributed preliminary versions of each state's grade sheet to the state liaison officers, other state officials, advocates and others for review and comment; and made appropriate revisions to the criteria and scores based on the feedback received.

The initial CAI/First Star report, released in April 2008, generated substantial coverage nationally and locally, including over 200 daily newspapers featuring its highlights, conclusions, and the ranking of their respective states. The public discussions taking place after the release of the first report resulted in action in many state legislatures — with at least ten states significantly improving their public disclosure laws since the release of the initial report.

This 2nd Edition of the *State Secrecy* report reflects the changes made in those states, and more. It grades states again based on their laws and regulations pertaining to child deaths and near deaths from abuse and neglect. It includes a detailed analysis of the elements of an effective statute and describes where each state includes or omits such features.

We know that in some jurisdictions, the practice of state officials is to disclose *more* information than is required by that state's statutes and rules. But we have found such policies to be unreliable and often transitory, whereas laws and regulations form a floor for compliance throughout a state. They are potentially enforceable. Thus, a major goal of this project is to encourage state legislatures to formalize their policies in statutory form, and for agencies to adopt binding rules implementing those laws; such actions will result in transparency that leads to predictability and enforceability.

We also know that in some jurisdictions, the practice of state officials is to disclose *less* information than is required by that state's statutes and rules. Thus, another goal of this project is to encourage interested parties in those states to pursue appropriate remedies to ensure the

proper enforcement of the state’s public disclosure laws. Transparency leads to accountability which ultimately leads to more careful work and safer children.

This report also seeks to encourage states to remove restrictions that inappropriately limit access to the information made public by CAPTA. For example, some statutes provide for public disclosure in the case of a child fatality or near fatality, but indicate that release may occur only after the requester files a formal petition, identifying the child in question. The burden of requiring the filing of a petition creates a vicious cycle because the names of children in the foster care system are usually held confidential and it is extremely difficult to file a petition for the release of records for a child whose name is not known. Additionally, some states provide that information will not be released until the alleged perpetrator is criminally charged (or would have been but for the alleged perpetrator’s death). The disclosure of public information relating to these cases should not be dependent on the district attorney’s decision to prosecute, as the criminal proceedings are not relevant to the reasons underlying the importance of the disclosure of information regarding the circumstances of a child’s death.

The federal government has already determined that the good that might come from disclosing information about these tragic cases exceeds any potential harm or embarrassment that some individuals might experience as a result — and states have no basis for adopting narrow, discretionary or condition-laden policies that thwart Congressional directive or intent. Through this report, CAI and First Star aim to encourage each state to adopt laws that further the spirit and intent of CAPTA, facilitate full disclosure, and ultimately better protect children from abuse and neglect.

II. The Case for Public Disclosure of Child Abuse/Neglect Deaths and Near Deaths

The Numbers. Child abuse or neglect leads to the death of at least 1,770 children every year,⁴ and an estimated 509,300 children are seriously harmed due to maltreatment (abuse or neglect).⁵ A 2012 study from the CDC found that the total lifetime estimated costs associated with *one year* of confirmed cases of child abuse and neglect is approximately **\$124 billion**.⁶

⁴ U.S. Department of Health & Human Services, Administration for Children and Families, Administration on Children, Youth and Families, Children’s Bureau, *Child Maltreatment 2009* (Washington, D.C.) at 54 (available at http://www.acf.hhs.gov/programs/cb/stats_research/index.htm#can). According to testimony provided by Kay E. Brown, Director Education, Workforce, and Income Security for the U.S. Government Accountability Office, “[m]ore children have likely died from maltreatment than are reflected in the national estimate of 1,770 child fatalities for fiscal year 2009. Undercounting is likely due to nearly half the states reporting...data only on children already known to CPS agencies—yet not all children who die from maltreatment were previously brought to the attention of CPS.” See U.S. Government Accountability Office, *Child Fatalities from Maltreatment—National Data Could Be Strengthened* (Washington, D.C.; July 12, 2011) at 2 (available at <http://www.gao.gov/new.items/d11811t.pdf>).

⁵ U.S. Department of Health & Human Services, Administration for Children and Families, Office of Planning, Research and Evaluation and the Children’s Bureau, *Fourth National Incidence Study of Child Abuse and Neglect (NIS-4), Report to Congress* (Washington, D.C.; 2010) at 3-22 (available at http://www.acf.hhs.gov/programs/opre/abuse_neglect/natl_incid/reports/natl_incid/nis4_report_congress_full_pdf_jan2010.pdf).

⁶ Fang, X., et al. The economic burden of child maltreatment in the United States and implications for prevention. *Child Abuse & Neglect* (2012) (available at <http://www.sciencedirect.com/science/article/pii/S0145213411003140>).

The Underlying Culture. The nation is facing the largest unfunded liability (Social Security, public pensions, Medicare) in its history, at well over a projected \$50 trillion—a debt foisted on future generations. The infrastructure investment in children is declining in constant dollars, including public education.

Approximately half of the pregnancies in the U.S. are not intended.⁷ Forty percent of births are now to unwed parents.⁸ Almost 15 million U.S. children — a staggering 21% of the nation’s youth — live in families with incomes below the federal poverty level⁹ (e.g., \$18,530 a year for a family of three).

Recent studies document the negative impacts of raising children in “transitory” families (with either an absence or a sequencing of males). Meanwhile, suggestible sex and violence dominates our media and entertainment at unprecedented levels—conjoined to a culture of adult license and self-indulgence.

In terms of traditional child protection, our schools teach a wide array of subjects, from auto shop to calculus — but few provide parenting education. A high school curriculum commonly includes little to nothing about the difficulties of raising a child, the momentous responsibility, and the dangers warranting attention. Meanwhile, public authorities have been unable to stem a serious threat to appropriate parental performance—methamphetamine addiction; an increasingly common factor in the termination of parental rights as of 2011 is the brutal effect of meth addiction—its excision of maternal and paternal instincts, its addictive power, and its correlation to mental instability.

The Imbalance of Child Protection Measures. Every jurisdiction mandates the reporting of suspected child abuse by doctors, teachers and others. As we go to print, pending state and federal legislation would expand the list of mandated reporters in the wake of the child abuse tragedy at Penn State. Child protective services workers usually respond to these and other reports and can remove children who are clearly endangered. They can also leave children in place and provide what is called “family preservation” services such as home visits, parenting classes, and counseling.

The removal of any child from a family is a serious decision. An error in the direction of improvident separation of a child from his or her family is fraught with mental trauma. The system in place properly has a phalanx of checks to guard against error in that direction. Matching federal funds support child protection and foster care in all 50 states, and Congressional statutes include numerous prudent safeguards against overzealous removal. In addition, the right to parent is given

⁷ The National Campaign to Prevent Teen and Unplanned Pregnancy, *Unplanned Pregnancy in the U.S.* (May 2008) at 1.

⁸ U.S. Department of Health and Human Services, Centers for Disease Control and Prevention, *Changing Patterns of Nonmarital Childbearing in the United States* (May 2009) at 1.

⁹ National Center for Children in Poverty, *Who Are America’s Poor Children?* (March 2011) at 1.

“fundamental liberty interest” status in constitutional law. Every jurisdiction in America imposes a series of measures, such as those set forth in the left-hand column of Table 1, designed to limit state abuses in cases of unjustified removal.

These measures are not trivial, nor should they be. Indeed, only a tiny percentage of child abuse or neglect reports results in removal; in fact, even where child abuse or neglect has been substantiated, only one out of five child victims is removed from the home. For example, for FFY 2009, 3.6 million children were the subject of at least one maltreatment report; one-fifth of the children who received an investigation or alternative response were found to be victims of maltreatment; and only one out of every five substantiated child victims was removed from his/her home.¹⁰ Thus, just 4% of maltreatment reports result in the removal of a child from his/her home. The triage system anticipates the required safeguards, and the initial decision to take a child into foster care is advisedly made *in extremis*.

But what about error in the other direction? The consequences of an unjustified removal have counterparts where children clearly should have been protected but were not. The decision not to remove may mean nightly rapes or horrendous beatings to the point of near death or death. There are public agency abuses potentially in both directions—unwarranted removals, and clearly endangered children with readily apparent dire fates. Where the child protective system walks away from a child in need, there is no third party judicial review, no appointment of counsel for endangered children, no reasonable efforts to assure the child’s safety. Except for a few jurisdictions that may have ombudsmen or special panels reviewing such errors in judgment, or the occasional media splash, we generally have the extreme opposite—nothing (*see* Table 1).

Disclosure, Democratic Performance and Child Protection. In a democracy, the performance or non-performance of the state is, at least, subject to the judgment of the citizenry. We have given the momentous task of child protection to public agencies. It is difficult work. We depend upon public officials to appoint competent persons who will hopefully minimize removal errors in both directions. But also in place is an extensive system of checks within that state system to limit error in the removal direction—but not in the direction of failure to remove. It is left by default to us—the citizenry—to provide the only check in the direction of agency nonfeasance. Our ability to review agency failures to protect is impeded by the almost universal secrecy of the child protection process. Some of that concealment—but not all of it—has justification, including the sensibilities of involved children. But what of children who die from abuse or neglect? Should we not know about what happened in those cases? Are we not the primary responsible parties to judge agency policies that led to such outcomes, given the lack of other mechanisms checking errors in that direction? What can be the public policy rationale for secreting public knowledge of

¹⁰ See U.S. Department of Health & Human Services, Administration for Children and Families, Administration on Children, Youth and Families, Children’s Bureau, *Child Maltreatment 2009* (Washington, D.C.) at 20-22, 85 (available at http://www.acf.hhs.gov/programs/cb/stats_research/index.htm#can).

the causes of and circumstances surrounding those deaths? Ideally, we learn from our errors. Ideally, we have some accountability, particularly among public officials whose decisions may matter so profoundly to children who have no other protective remedy. Ideally, we are all committed to doing whatever is necessary to ensure the health and safety of our children.

Child Protection Measures Designed to Avoid or Remedy the State’s Unwarranted Removal of a Child from His/Her Home	Child Protection Measures Designed to Avoid or Remedy the State’s Failure to Make a Warranted Removal of a Child from His/Her Home
<ol style="list-style-type: none"> 1) required reasonable efforts not to remove a child (<i>e.g.</i>, to instead provide services to the family); 2) a required finding of actual child endangerment in order to remove a child; 3) a speedy initial hearing (often within 48 hours of a child’s removal) before an independent court to review the finding of child endangerment; 4) the appointment of counsel, at public expense, for the child’s parents; 5) the appointment for each child of a <i>Guardian ad Litem</i> (often and preferably also an attorney), whose interest is not the defense of an improper removal but its quick reversal where unwarranted; 6) required reasonable efforts to reunify a child who has been removed; 7) a series of hearings (jurisdiction, disposition, review, permanent placement) before the independent court to determine whether the court properly assumes care and control of the child due to dangers in the home, and the child’s continuing status (including safe child placement, continuity of education, contact with siblings, parental visitation, and progress on parental safety for reunification); 8) termination of parental rights only where court finds a parent to be unfit by clear and convincing evidence; and writ review and/or appeal to a higher court, commonly as to most of the decisions above, and always as to parental termination. 	

Table 1. Child protection measures: unwarranted removal vs. failure to make warranted removal

Perhaps the most compelling reason for public disclosure of information regarding child abuse or neglect fatalities can be found in their surprising correlation with prior reports of child endangerment and prior involvement with CPS agencies. Indeed, an examination of child deaths from abuse or neglect in California by the Children’s Advocacy Institute found that for a majority of the children who died, not only did their families have prior CPS reports, but they had prior reports substantially related to the very subsequent causes of their respective deaths.¹¹

¹¹ Riehl, Christina, *Child Fatalities and Near Fatalities – Do We Need the Details* (available at <http://caichildlaw.blogspot.com/2012/04/child-fatalities-and-near-fatalities-do.html>).

To be sure, there will be errors in any system of child protection. And decisions to remove a child may often involve close calls or suffer from imperfect information. But sometimes the choice is obvious in one direction or the other—removal or non-removal. Sometimes the danger to the child is apparent to any competent person:

- ▶ The 7-year-old child who is being starved by a parent and is now down to 40 pounds, and after a subsequent report is found in a closet in the home and down to 25 pounds.
- ▶ The child with a potentially fatal disease showing extreme symptoms and who is clearly not being treated.
- ▶ The child who shows multiple injuries from clearly violent blows, with a history of several prior injuries, living in a family with a stepfather with a long record of violent assaults.

Unfortunately, these are real examples of children who were **not** removed from their homes by Child Protective Services. But in many jurisdictions nobody will know about children such as these—outside of those who collect the bodies and perhaps, but not assuredly, those who declined to remove the children. In a democracy that has sensibly provided many checks for accused parents, we have only public disclosure and debate as a check on behalf of endangered children who are not protected.

In our initial *State Secrecy and Child Deaths in the U.S.* report in 2008, we cited the example of Nixzmary Brown, found dead on the floor of her New York apartment with two black eyes and most of her emaciated body covered by cuts and bruises. Nixzmary had been tied to a chair with duct tape and brutally beaten to death by her stepfather as punishment for stealing a cup of yogurt. The public disclosure of information regarding Nixzmary's case, indicating that caseworkers missed multiple opportunities to intervene and save her, resulted in a declaration by Mayor Michael Bloomberg that the system had failed this child, and the commencement of a system-wide overhaul of the Administration for Children's Services. Unfortunately, yet another child, Marchella Pierce, died in New York in September, 2010. Caseworkers failed to regularly visit Marchella when she was returned to her mother's home. The internal breakdowns in Marchella's case show that even though reform has occurred, transparency continues to be crucial to continue to monitor system failures. Perhaps if New York's Office of Children and Family Services had not been working to limit access to case reports, as further discussed in New York's state grade sheet, further system reforms could have occurred before Marchella's tragic death.

The liberalization of public information about child abuse deaths has had benefits in California, where legislation providing for more complete disclosure of child deaths from abuse has yielded important examples of system flaws (not merely the idiosyncratic error), and reforms leading to more refined and correct removal decisions. Since 2008, extraordinary journalists,

including Greg Moran in San Diego, Garrett Therolf in Los Angeles, and Marj Lundstrom in Sacramento, have used multiple examples of system failure leading to child deaths to spark improvement:

- ▶ In the *San Diego Union-Tribune*, Greg Moran presented the results of that newspaper's review, preceded by years of petitions in court and Public Records Act requests, of cases that "illuminate weaknesses in the system, including gaps in communication and in enforcement of regulations."¹² He reported on the lack of information exchange in the transfer of foster kids between placements that led to dangers and deaths.
- ▶ *Sacramento Bee* journalist Marjie Lundstrom reported on multiple errors by Sacramento CPS and child deaths, leading to her 2011 coverage of corrective efforts: "A searing internal review of Sacramento County's Child Protective Services has concluded that judgment errors and bias among agency workers were factors in the 2008 death of a 4 1/2-year-old foster child."¹³
- ▶ Garrett Therolf's series of stories in the *Los Angeles Times* exposed systemic flaws in the nation's largest county. His research revealed a 2008 case involving a severely abused 5-year-old boy. Eight agencies had more than 100 contacts with his family, but those findings were not shared. "When the boy was finally removed from the home, he was so malnourished that his kidneys were failing, his hands burned so badly that he could barely unclench them."¹⁴ In another case, Los Angeles County mental health and child abuse investigators visited an 11-year-old boy who had told a school counselor earlier that day that he wanted to kill himself. After speaking to the boy privately at his home, the county workers left. A few hours later, the boy hanged himself. According to Therolf, "[a] review following [the] suicide uncovered evidence that persistent communication breakdowns at the county Department of Children and Family Services may have contributed to the tragedy." For example, "[i]t was not until after [the boy] killed himself that the workers learned that the stepfather who answered the door had a long history of drug abuse and domestic violence. He was there when county officials visited, even though a court order barred him from living in the home."¹⁵ The examples and detailed documentation provided by Therolf has stimulated agency reforms.

Abuse and neglect deaths represent child welfare agencies' most tragic failures. Unfortunately, it is often only through such cases that lawmakers and the public learn of systemic inadequacies in child welfare systems. If improvements and reforms are to be achieved, it is vital

¹² Greg Moran, *Decisions, Deficiencies—and Death*, SAN DIEGO UNION-TRIBUNE (Oct. 26, 2008).

¹³ Marjie Lundstrom, *Review: CPS Errors, Bias Contributed to Child's Death*, SACRAMENTO BEE (June 25, 2010) at 1A.

¹⁴ Garrett Therolf, *Child Agency's Woes Persist; Lacking Key Details, Social Workers Leave Boy in Home Where He Later Hangs Himself*, LOS ANGELES TIMES (July 25, 2010) at A-1.

¹⁵ *Id.*

that the facts about these cases reach the public in a meaningful way. The Children’s Advocacy Institute and First Star believe that public access to the facts promotes public discourse and legislative action to protect all children.

III. Federal Law and Reporting Mechanisms

CAPTA. The federal Child Abuse Prevention and Treatment Act (CAPTA) mandates that each state, as a condition of receiving CAPTA grant funding, submit to the Secretary of Health and Human Services a state plan that describes the activities that the state will carry out using CAPTA funding. Among other things, the state plan must include

“an assurance in the form of a certification by the Governor of the State that the State has in effect and is enforcing a State law, or has in effect and is operating a statewide program, relating to child abuse and neglect that includes...**provisions which allow for public disclosure of the findings or information about the case of child abuse or neglect which has resulted in a child fatality or near fatality.**”¹⁶

This mandate reflects an understanding that the value of maintaining confidentiality of child abuse and neglect reports and records is greatly diminished in cases of fatalities and near fatalities, for in such cases it is of overwhelming importance to examine the performance of the system as a whole and to learn from any mistakes or failings.

Indeed, the U.S. Senate has reported that the CAPTA provision mandating public disclosure in these cases “ensures improved accountability of protective services and can drive appropriate and effective systemic reform.”¹⁷ The House of Representatives likewise stated that it

“is the intent of the conferees that in the case of a fatality or near-fatality resulting from child abuse or neglect, that the factual information regarding how the case was handled may be disclosed to the public in an effort to provide public accountability for the actions or inaction of public officials.”¹⁸

Thus, the Congress has determined that public disclosure of these specific cases trumps the general rule of confidentiality that generally applies to child abuse and neglect records and reports.

As of 2012, all 50 states and the District of Columbia accept CAPTA funds.¹⁹ It should follow that all states provide for public disclosure of information about cases of fatal and near-fatal child

¹⁶ 42 U.S.C. 5106a(b)(2)(A)(x).

¹⁷ U.S. Senate, *Sen. Rep. No. 378* (2010).

¹⁸ U.S. House of Representatives, *H.R. Rep. No. 104-430* (1995).

¹⁹ U.S. Dept. of Health & Human Services, Administration for Children & Families, *Justification of Estimates for Appropriations Committees, Fiscal Year 2012* (Washington, D.C.) at 123–24 (available at http://www.acf.hhs.gov/programs/opre/acf_per/plan/ann_per/reports/2012_per/plan.pdf).

abuse and neglect. As this report reveals, one improvement since our initial report in 2008 is that now each state does have some identifiable public disclosure policy regarding child abuse or neglect deaths. Unfortunately, a few states still do not have identifiable public disclosure policies that cover near fatalities, and many states have policies that fail to further the congressional goal of identifying systemic problems in order to implement meaningful reform.

In implementing the federal CAPTA statute, the Child Welfare Policy Manual interprets CAPTA's mandates on public disclosure broadly. While CAPTA does not specifically define when child abuse or neglect has resulted in a fatality or near fatality, in keeping with the spirit and intent of CAPTA, this language should be broadly interpreted to include abuse or neglect that was a significant contributing factor in the child's death or near death. Similarly, CAPTA does not specify that child abuse or neglect is limited to actions inflicted by a parent or guardian. Such a reading narrows the CAPTA language and, thus, thwarts its intent.

The Manual, which provides clarification as to proper state execution of CAPTA, directs that where CAPTA requires public disclosure of findings or information, it requires disclosure of both findings *and* other information, stating that the intent of this provision was to assure the public is informed about cases of child abuse or neglect which result in the death or near death of a child. Further, the Manual explicitly emphasizes that a state does not have discretion in whether to allow the public access to the child fatality or near fatality information; rather, the public has the discretion as to whether to access the information. A narrow reading of CAPTA — a reading favored by those who might be embarrassed by public disclosure — frustrates the statute's purposes and ignores the guidance provided by the Manual. To illustrate, the following are excerpts from the Child Welfare Policy Manual.²⁰

2. Question: The requirement for public disclosure states that "findings or information" about a case must be disclosed. Does this mean that States have the option to disclose either the findings of the case, or information which may be general in nature and address such things as practice issues rather than provide case-specific information?

Answer: No. The intent of this provision was to assure that the public is informed about cases of child abuse or neglect which result in the death or near death of a child. As with the use of the other "or's" in this provision ("child abuse or neglect" and "child fatality or near fatality"), we understand the language to be inclusive and not limiting.

Specifically, the reference to "findings or information" requires the disclosure of information about such a case even if there are no findings. Thus, when child abuse or neglect results in the death or near death of a child, the State must provide for the

²⁰ U.S. Dept. of Health and Human Services, Administration for Children & Families, *Child Welfare Policy Manual* (Washington, D.C.) at section 2.1A.4 (available at http://www.acf.hhs.gov/cwpm/programs/cb/laws_policies/laws/cwpm/policy.jsp?idFlag=2).

disclosure of the available facts. However, nothing in this provision should be interpreted to require disclosure of information which would jeopardize a criminal investigation or proceeding.

4. Question: ... Does a State have the option of disclosing information on these child fatalities and near fatalities, for example, when full disclosure may be contrary to the best interests of the child, the child's siblings, or other children in the household?

Answer: No. "Provisions which allow for public disclosure" in section 106(b)(2)(B)(x) of CAPTA means that the State must have procedures or provisions that allow the public to access findings or information about a child abuse or neglect case that results in the fatality or near fatality of a child. The State does not have discretion in whether to allow the public access to the child fatality or near fatality information; rather, the public has the discretion as to whether to access the information. In other words, the State is not required to provide the information to the public unless requested, but may not withhold the facts about a case unless doing so would jeopardize a criminal investigation....

CAPTA acknowledges that, while maintaining confidentiality of child abuse and neglect records is important, there are some cases which have been carved out from this shield of confidentiality and must be made public. Specifically, cases where child abuse and neglect leads or contributes to a fatality or near fatality must be made public so that they can be examined to identify needed systemic reform.

Federal Data Collection Mechanism: The National Child Abuse and Neglect Data System.

The ability to make systemic change stems from first gathering, and then analyzing available data. The National Child Abuse and Neglect Data System (NCANDS) is a *voluntary* state data collection and reporting system created by the Department of Health and Human Services in response to the requirements of CAPTA. NCANDS collects data on child maltreatment, which generally falls into four categories: neglect, physical abuse, psychological maltreatment, and sexual abuse. While NCANDS collects information specific to child fatalities, it does not have a specific data field that identifies a case as a near fatality from maltreatment.²¹ In addition, for so long as reporting is voluntary, it is the sort of reliable source over time that can help drive meaningful reform.

In July 2011, the U.S. Government Accountability Office released a report detailing some findings and concerns it identified with regard to NCANDS (see discussion *infra*).

²¹ See U.S. Government Accountability Office, *Child Maltreatment—Strengthening National Data on Child Fatalities Could Aid in Prevention* (Washington, D.C.; July 7, 2011) at 2 (available at www.gao.gov/new.items/d11599.pdf).

A Note on Child Fatality Review Teams. In addition to requiring public disclosure of findings and information regarding child abuse or neglect fatalities and near fatalities, CAPTA also requires every state that receives CAPTA funding to maintain a citizen review panel to, among other things, review child fatalities and near fatalities. Generally, the purpose of these child fatality review teams is to collect and review data on the causes of child deaths, and to recommend changes in policies and programs that will help reduce preventable child death and injuries, and improve services to families. These entities represent a critical step forward in recognizing the importance of thorough information gathering when a child dies. Their work should be applauded.

However, these child fatality review teams tend to operate under strict confidentiality, and in most cases, the information provided by child fatality review teams to the public does not satisfy the CAPTA public disclosure requirement. These teams typically provide the public with summary information and recommendations, instead of case-specific findings and information on each child abuse or neglect death. Also, these teams typically do not investigate near fatalities. For these reasons, this Report only recognize states' child fatality review teams as meeting the CAPTA public disclosure requirement if they are required by law to provide the public with information, findings, and recommendations on each case of child abuse or neglect that leads or contributes to a child fatality or near fatality.²²

IV. Developments and Progress Since First Edition

CAPTA Reauthorization of 2010. A great deal has changed in the national landscape between the publication of the first edition of this report and now. Most significantly, the Child Abuse Prevention and Treatment Act was reauthorized in 2010.²³ Leading up to the reauthorization, CAI and First Star, along with the many organizations belonging to the National Child Abuse Coalition, urged policymakers to strengthen and clarify CAPTA's provisions regarding child fatality and near fatality reporting and public disclosure. In 2008, the organizations provided testimony to the Senate Health, Education, Labor and Pension (HELP) Committee advocating for CAPTA amendments to:

- ▶ clarify that states are required to release findings and information in child abuse or neglect cases involving either a fatality or a near fatality;
- ▶ clarify that public disclosure of such findings and information is mandatory;
- ▶ clarify that states cannot grant themselves discretion to withhold findings or information through restrictive conditions and limitations; and

²² This position mirrors that taken by the U.S. Department of Health and Human Services, Administration for Children & Families, in its *Child Welfare Policy Manual*, Section 2.1A(4), question 3 (available at http://www.acf.hhs.gov/cwpm/programs/cb/laws_policies/laws/cwpm/policy_dsp.jsp?citID=68).

²³ Public Law 111-320.

- ▶ add language to direct the scope and nature of the information authorized for release.²⁴

Although the statutory CAPTA language was not so amended in the 2010 reauthorization, the HELP Committee Report acknowledged what CAI and First Star's 2008 *State Secrecy* report made clear — that not all states are in compliance with CAPTA's public disclosure requirements and that states must do better. In calling upon DHHS to take action to remedy this situation, the Committee adopted the following Report language:

The committee believes that the duty of child protective services, required in CAPTA Sec. 106(b)(2)(x), to provide for the mandatory public disclosure of information about a case of child abuse or neglect which has resulted in a child fatality or near fatality ensures improved accountability of protective services and can drive appropriate and effective systemic reform. **However, the committee is aware that not all States are in compliance with these CAPTA requirements. The committee calls upon the Secretary of Health and Human Services to develop clear guidelines in the form of regulations instructing the States of the responsibilities under CAPTA to release public information in cases of child maltreatment fatalities and near fatalities, and to provide technical assistance to States in developing the appropriate procedures for full disclosure of information and findings in these cases.**²⁵

It is now up to the U.S. Department of Health and Human Services to comply with this directive and draft and issue regulations that provide guidance and direction regarding the public disclosure of information in child abuse and neglect fatalities and near fatalities. At this writing, however, DHHS has not issued such regulations and there is no indication that such regulations are imminent. Congress must continue to urge DHHS to follow through with the directives in the Committee Report. In addition, the advocacy community must continue to work with DHHS to ensure the issuance of these regulations and to hold it accountable for its actions or inactions.

Formation of National Coalition to End Child Abuse Deaths. In 2010, Every Child Matters formed the National Coalition to End Child Abuse Deaths, a non-partisan coalition of five organizations working to enlist Congress, the Administration, and the media to bring attention to child abuse deaths and make recommendations to reduce the number of child fatalities each year.²⁶ In December 2010, the Coalition hosted the "Summit to End Child Abuse and Neglect Deaths in America" to release its recommendations, which include developing a national, multi-agency strategy for stopping maltreatment deaths; increasing current federal spending on child protection

²⁴ See First Star and Children's Advocacy Institute, *Testimony Submitted by First Star and the Children's Advocacy Institute to the Subcommittee on Children and Families (Committee on Health, Education, Labor and Pensions/HELP), U.S. Senate, Regarding the Reauthorization of the Child Abuse Prevention and Treatment Act* (June 26, 2008) (available at www.caichildlaw.org/Misc/CAPTA_SENATE_TESTIMONY.pdf).

²⁵ U.S. Senate, *Sen. Rep. 111-378* (Dec. 18, 2010) (available at <http://www.gpo.gov/fdsys/pkg/CRPT-111srpt378/pdf/CRPT-111srpt378.pdf>) (emphasis added).

²⁶ See www.everychildmatters.org/home/coalition.

by three to five billion dollars; engaging in child welfare financing reform; amending current federal and state confidentiality laws, originally intended to protect living child victims from publicity, but which have become a hindrance to a better public understanding of child abuse and neglect fatalities; standardizing data collection about maltreatment deaths to lead to quality national statistics; fully funding state child death review teams; developing a public education campaign to encourage public reporting of child abuse and neglect and to enlist communities in the protection of children; and developing a model protocol to ensure civil and criminal legal proceedings related to child abuse and neglect are closely coordinated with relevant agencies.²⁷

Also in 2010, the Coalition released the second edition of its report, *We Can Do Better: Child Abuse and Neglect Deaths in America*.²⁸ In 2011, the Coalition held a congressional briefing and provided witnesses and testimony for the Human Resources Subcommittee of the Committee of Ways and Means on the issue of how to reduce child abuse fatalities.

GAO Study. In July 2011, the U.S. Government Accountability Office (GAO) released a report entitled, *Child Maltreatment—Strengthening National Data on Child Fatalities Could Aid in Prevention*.²⁹ In this report, the first of its kind in decades, GAO aimed to address the extent to which DHHS collects and reports comprehensive information on child abuse fatalities; challenges states face in collecting and reporting such information; and the assistance that DHHS provides to states in collecting and reporting this data.³⁰ GAO identified three major areas of concern:

- ▶ As noted above, it is widely accepted that the number of child maltreatment fatalities calculated by NCANDS each year represents only a fraction of abuse and neglect deaths each year: “[u]ndercounting is likely due to nearly half the states reporting to NCANDS data only on children already known to CPS agencies—yet not all children who die from maltreatment were previously brought to the attention of CPS.”³¹ Although the U.S. Department of Health and Human Services (DHHS) encourages states to gather information on child maltreatment fatalities from non-CPS sources, nearly half of states report that they do not do so.³² According to GAO, NCANDS could capture a much more accurate record of fatalities if it required reporting and for states to synthesize data from multiple sources such as CPS, death certificates, state child agency records, child death review boards and law enforcement reports; one peer-reviewed study found that more than 90% of the child fatality cases could be identified by linking any two of the data sources.³³

²⁷ See www.everychildmatters.org/home/coalition/coalition-recommendations.

²⁸ See www.everychildmatters.org/storage/documents/pdf/reports/wcdv2.pdf.

²⁹ See U.S. Government Accountability Office, *Child Maltreatment—Strengthening National Data on Child Fatalities Could Aid in Prevention* (Washington, D.C.; July 7, 2011) (hereinafter *GAO Report*) (available at www.gao.gov/new.items/d11599.pdf).

³⁰ See U.S. Government Accountability Office, *Child Fatalities from Maltreatment—National Data Could Be Strengthened; Statement of Kay E. Brown, Director, Education, Workforce and Income Security* (Washington, D.C.; July 12, 2011) at 1 (hereinafter *Statement of Kay Brown*) (available at <http://www.gao.gov/new.items/d11811t.pdf>).

³¹ *Id.*, at 2.

³² *Id.*

³³ *Id.*, at 3.

- ▶ Another factor contributing to the underreporting of child fatalities in NCANDS is the inconsistency in state definitions of maltreatment and different standards for substantiating maltreatment, making it hard to gather national data that is consistent and meaningful.³⁴
- ▶ The GAO also noted that although DHHS provides ongoing assistance to states for reporting child maltreatment fatality data, state officials have indicated a need for additional assistance collecting data on child fatalities and near fatalities from maltreatment and using this information for prevention efforts.³⁵

At the report's conclusion, the GAO recommended that the Secretary of HHS take steps to:

- (1) further strengthen data quality, such as by identifying and sharing states' best practices and helping address differences in state definitions and interpretation of maltreatment;
- (2) expand available information on the circumstances surrounding child fatalities from maltreatment;
- (3) improve information sharing on the circumstances surrounding child fatalities from maltreatment; and
- (4) estimate the costs and benefits of collecting national data on near fatalities.³⁶

In response to the GAO findings, DHHS acknowledged that data on child maltreatment deaths could be greatly improved upon, and noted that it is considering adding a field to identify and track cases of near fatalities.³⁷

Introduction of the Protect Our Kids Act in Congress. On December 13, 2011, legislation was introduced in both the Senate and the House of Representatives that would form a National Commission on Child Abuse Deaths.³⁸ The purpose of the Commission would be to develop a comprehensive national strategy for reducing child abuse fatalities and make recommendations for legislative and policy changes on the federal, state and county/local levels. This Commission would draw further much-needed attention to the issue and provide useful tools to ensure that government on all levels devote more time and resources to implementing meaningful reform.

CDC Study on the Economic Burden of Child Abuse in America. A CDC study published in February 2012 entitled, "*The Economic Burden of Child Maltreatment in the United States and Implications for Prevention*", found that the total lifetime estimated financial costs associated with

³⁴ *Id.*

³⁵ *Id.*, at 5.

³⁶ *GAO Report, supra* note 29, at 35.

³⁷ *Statement of Kay Brown, supra* note 30, at 5.

³⁸ S. 1984, Protect our Kids Act of 2011, introduced by Senator John Kerry (D-MA) on December 13, 2011 and available at <http://www.govtrack.us/congress/bills/112/s1984/text>, and H.R. 3653, Protect our Kids Act of 2011, introduced by Representative Lloyd Doggett (D-TX) on December 13, 2011 and available at <http://www.govtrack.us/congress/bills/112/hr3653/text>.

one year of confirmed cases of child maltreatment is approximately \$124 billion.³⁹ That is a figure that should cause alarm at every level of our society.

Published in *Child Abuse and Neglect, The International Journal*, the study looked at confirmed child maltreatment cases—1,740 fatal and 579,000 non-fatal—for a 12-month period. Findings show each death for which child maltreatment was a contributing factor had a lifetime cost of about \$1.3 million, almost all of it in money that the child would have earned over a lifetime if he or she had lived. The lifetime cost for each victim of child maltreatment who lived was \$210,012, which is comparable to other costly health conditions such as stroke or type 2 diabetes.⁴⁰ This report, putting a dollar figure on the costs of child abuse underscores the need for greater transparency in child welfare — so we can quickly identify systemic failures to put a stop to as much child abuse as possible.

Recent State Actions. Since April 2008, several states have considered and enacted changes to their public disclosure policies to, among other things, make their policies (1) applicable to fatalities *and* child fatalities where abuse or neglect leads to or contributes to the fatality or near fatality; (2) mandatory; (3) more enforceable; and/or (4) more specific with regard to the types of information that will be made available to the public. Some of the more significant positive state-based reform includes the following:

- ▶ **Arizona:** The Arizona Legislature amended its public disclosure policy in 2008 (Laws 2008, Ch. 279 and Laws 2008, Ch. 280) and 2009 (Laws 2009, Ch. 69) to, among other things, provide more specificity with regard to the types of information that will be disclosed. The Arizona Legislature also amended its policy regarding public access to child abuse/neglect proceedings in 2008 (Laws 2008, Ch. 278) and 2009 (Laws 2009, Ch. 154).
- ▶ **Arkansas:** The Arkansas State Legislature amended its public disclosure policy in 2009 (Acts 2009, No. 675) and 2011 (Acts 2011, No. 591) to make the disclosure of information mandatory, and to provide substantial specificity to the types of information that will be disclosed.
- ▶ **Georgia:** In 2009, the Georgia General Assembly amended O.C.G.A. § 49-5-41 to make that provision applicable to child fatalities and near fatalities, remove some severely restrictive conditional language regarding the ease of access to information, and revise the scope of information authorized for release. The General Assembly also amended O.C.G.A. § 15-11-78 to make abuse/neglect hearings presumptively open to the general public.
- ▶ **Maine:** In 2009, the Maine Legislature amended 22 M.R.S. § 4008-A to add subdivision 1-A, mandating the public disclosure of findings or information about a child abuse or neglect fatality or near fatality.

³⁹ Fang, X., et al., *The economic burden of child maltreatment in the United States and implications for prevention*, CHILD ABUSE & NEGLECT (2012) (available at <http://www.sciencedirect.com/science/article/pii/S0145213411003140>).

⁴⁰ *Id.*

- ▶ **Pennsylvania:** On June 10, 2008, the Pennsylvania General Assembly amended Senate Bill 1147 to add language to 23 Pa. C.S. § 6343 regarding department reviews and reports of child abuse fatalities and near fatalities, and the release of specified information to the public regarding those reviews and reports (2008 Pa. ALS 33). That measure was signed by the Governor on July 3, 2008.
- ▶ **South Dakota:** In 2009, the South Dakota Legislative Assembly amended § 26-8A-13 to mandate disclosure of findings or information regarding child abuse or neglect fatalities and near fatalities and to revise the scope of information authorized for release (2009 S.D. ALS 136).
- ▶ **Tennessee:** In 2008, the Tennessee General Assembly amended § 37-5-107 to mandate the release of information regarding any case that results in a child fatality or near fatality (2008 Tenn. ALS 1146).
- ▶ **Utah:** In 2011, H.B. 215 (L. 2011, ch. 343, § 3) made various amendments to Utah Code Ann. § 62A-16-302, including explicitly requiring the Division of Child and Family Services to allow public disclosure of the findings or information relating to a case of child or abuse that results in a child fatality or near fatality.

However, news from the states is not all good. In California, for example, advocates believe that regulations adopted by the Department of Social Services to implement the state’s child fatality disclosure law⁴¹ unduly and unlawfully restrict the public’s access to information; litigation is pending challenging those regulations.⁴² In some other states, where the public disclosure laws are relatively strong, advocates believe that agency officials are not complying in good faith with the letter or spirit of the disclosure laws and are unduly delaying or withholding the release of information.

V. Grading the States

Scope and Methodology of Grading. This Report is an update of the 2008 joint report of the Children’s Advocacy Institute and First Star, *State Secrecy and Child Deaths in the U.S.* Like the first report, the focus of this update is the specific public disclosure policies in each state regarding information on child fatalities and near fatalities where abuse and neglect has led to a child’s death or near death.⁴³ To update the grades of each state, CAI and First Star researched and reviewed child abuse and neglect statutes, regulations, and written policies; drafted and distributed preliminary versions of each state’s Report Card to the state’s liaison officer for abuse and neglect,

⁴¹ SB 39 (Migden) (Ch. 468, Statutes of 2007) (available at http://www.leginfo.ca.gov/cgi-bin/postquery?bill_number=sb_39&sess=0708&house=B&author=migden).

⁴² *Butterfield v. Lightbourne and DSS*, San Diego County Superior Court Case No. 37-2011-00097858-CU-MC-CTL (see www.cachildlaw.org/SB39_Lawsuit.htm for more information).

⁴³ Most states have child fatality review commissions, or comparable entities, that are charged with looking into all child deaths. As explained above, we only recognize states’ child fatality review commissions as meeting the CAPTA requirements in their mandate requires them to make case specific findings and information available to the public.

state representatives, and state advocates for comment; and made appropriate revisions to the criteria and scores based on comments from those contacted.

The primary goal of this report is to advocate for making information about child abuse and neglect deaths available to the public in a predictable, consistent, and enforceable manner. The nature of this report is to measure merely the enforceable policies each state has in place. As mentioned above, only statutes, regulations, and other enforceable policies have been graded. Some states periodically disclose information far beyond that which is required by their public disclosure policies. They are to be commended and we encourage the legislators to pass laws that codify their state practice. More troubling, however, is the trend we found of good disclosure policies that are not being implemented. It has become clear to CAI and First Star that, while we have seen many improvements in state policies since the first Report, our work is far from complete. In subsequent reports, we will focus on states' actual practices regarding the release of findings and information regarding fatalities and near fatalities due to abuse and neglect. If this type of grading occurred today, many more states would find that they actually have failing grades.

Summary of Findings. Since the release of the initial report in 2008, 21 states amended their child abuse and neglect fatality and near fatality public disclosure policies. At least ten states meaningfully improved their policies. Some states made some modest improvements in their policies, but still have barriers in place that will greatly inhibit the public's ability to access useful information in a timely manner. A few states actually took steps backward with regard to their abuse and neglect fatality and near fatality public disclosure policies since the release of the initial report. Twenty states still fall in the C range or below, including the three most populous states (California, Texas and New York).

Revised Criteria. In an effort to continue to provide the best tool possible, some slight modifications have been made to the grading criteria since the 2008 report. The primary modifications were made to Criterion #5 – analyzing whether a state's dependency courts are open or closed to the public. States vary widely with respect to how they handle the opening or closing of dependency courts. To assure uniform application of this criterion, we delineated various examples of state statutes and assigned point totals to the example statutes.⁴⁴

VI. Call to Action

DHHS Compliance with CAPTA Committee Report. As noted earlier, the Senate HELP Committee issued clear instructions to DHHS when CAPTA was reauthorized in 2010 directing them to issue regulations to all states making clearer and more specific the fatality and near-fatality reporting data required by the statute and offering technical assistance in collecting such data. It

⁴⁴ See Appendix A.

has been more than a year since the law's passage, and thus far, no regulations have been issued. Furthermore, DHHS has made it abundantly clear that they have no intention of issuing these regulations. Several members of Congress have pledged to put pressure on DHHS to follow through with the Committee report. Advocates must continue to work with the Agency to provide assistance in helping to formulate these regulations, and hold it accountable for its compliance or non-compliance.

Enforcement of CAPTA Reporting Requirements. Federal mandates carry little weight if they are not enforced. States must know that if they do not comply with specified conditions when accepting federal funds, there will be consequences — including the loss of such funding until they come into compliance. DHHS must do more to ensure state compliance with CAPTA's public disclosure requirements and hold states accountable when they fail to meet the conditions of funding. Advocates must be willing to shine the light upon their state's shortcomings and demand accountability. Where states are receiving high grades in this report, it appears that the state legislators have done their job. The baton is now passed to local advocates who must seek to enforce the statutes — either through effective regulations or through court mandates. Since advocates do not promulgate regulations, judicial enforcement may become a critical enforcement mechanism. To the extent that a statute forecloses such enforcement, it is particularly troubling. For the next edition of this Report, CAI and First Star will study this question and will further evaluate the criteria to determine the extent to which grading should more significantly reflect statutory lack of standing for enforcement.

NCANDS Reform. NCANDS should increase the scope and longevity of the data it collects on child fatalities, following through with its stated plans and goals. Federal policymakers should mandate states to provide data to NCANDS where child abuse or neglect leads to or contributes to a death or near death. In addition, data should be included and reported regarding caregiver risk factors and longitudinal data from each state.

Establishment of National Commission on Child Abuse Deaths. The establishment of a Commission, such as the one that would be established by the Protect Our Kids Act of 2011, would help maintain public attention and pressure on all levels of government to take action to ultimately reduce the incidence of child abuse or neglect fatalities. It is critically important to establish best practices at every level of government, and to ensure that there are sufficient resources dedicated to carrying them out. Such a Commission can assist in this regard.

GAO Report Recommendations. As described above, the GAO issued recommendations to DHHS as to how to improve child fatality reporting on the national level. DHHS should heed these recommendations and work to implement them in a timely fashion, with the assistance of the advocacy community and states.

CAPTA Reform. The CAPTA Reauthorization Act of 2010 extends CAPTA funding for five years, through 2015, at which time it will again come up for reauthorization. At that time, it is critical that the statutory language is amended to clarify and strengthen the disclosure and reporting language pertaining to child fatalities and near fatalities. Hopefully, this Report, the results of implementing the GAO's recommendations, the work of the Presidential Commission, the improved data collection by NCANDS, and the efforts of the National Coalition to End Child Abuse Deaths will all contribute to providing data proving that we can be doing more to protect vulnerable children, and that CAPTA's provisions must be clarified and strengthened. Specifically, CAPTA should be amended to require the release of more information which can reliably be used to fix the systemic issues that contributed to the death or near death of any child. Regrettably, an unknown number of children will needlessly die or suffer serious injury from abuse or neglect between now and 2015.

VII. Conclusion

Many states fail to properly reshift the balance between confidentiality and public disclosure required by CAPTA when a child dies or almost dies from maltreatment. Further, the exceptions, limitations, and conditions that many states impose on disclosure often negate or significantly reduce the quality of the information provided.

The current undue emphasis on confidentiality only masks problems inherent in child protection systems. Public exposure is a necessary step toward fixing these problems. Each year, millions of taxpayer dollars go to support child protective services investigations. Accordingly, the public has a right to know if the laws for the protection of children are being followed and its tax dollars well-spent. Child abuse deaths and near deaths reflect the system's worst failures. Until state laws require the release of accurate and unfiltered information in a timely manner, and state officials comply with those laws, we cannot identify the fault lines in the system, and we cannot begin to fix them.

Some tragic incidents are widely publicized and may lead to changes in the child welfare system. However, those changes are usually knee-jerk responses that address only the specific factors present in an individual case. Enhanced public disclosure of all child abuse and neglect deaths and near deaths enables the public, child advocates, and policymakers to work together to understand comprehensive trends and craft more thoughtful, comprehensive reforms that will help reduce or prevent the occurrence of future tragedies.

The necessary changes will not occur spontaneously. But they can be made, as the updated information in this 2nd Edition illustrates. Only continued pressure from the public, media, advocates and legislators will assure that all states enact — and comply with — strong public disclosure laws regarding the findings and information of each case where abuse or neglect has contributed to a child fatality or near fatality.

Elements of a Good Public Disclosure Policy

- ▶ There is a written statewide policy.
- ▶ The policy is codified in statute.
- ▶ The policy covers cases of child abuse or neglect death and near death.
- ▶ The policy is mandatory.
- ▶ The policy contains no vague exceptions, limitations, or conditions on the availability of the information.
- ▶ The public is explicitly entitled to receive information including but not limited to the cause of and circumstances regarding the fatality or near fatality; the age and gender of the child; information describing any previous reports made to and investigations conducted by the child welfare agency regarding the child and/or the child's family, and the results of any such investigations; and information describing any services provided or actions taken by the child welfare agency on behalf of the child and/or the child's family, before and after the fatality or near fatality.

METHODOLOGY

This report presents a national evaluation of each state’s level of transparency with respect to the information released to the public following child fatalities and near-fatalities resulting from abuse or neglect. The grading system is based on multi-level criteria; specifically (1) does the state have an official policy regarding the disclosure to the public of findings or information about the case of child abuse or neglect which has resulted in a child fatality or near fatality, (2) is that policy codified in statute, (3) what is the ease of access to the information (and whether there are conditions precedent that must take place in order for the information to be made available), (4) what is the scope of information released (what types of information is made available, what are the exceptions and the latitude for exclusion), and (5) what is the background level of transparency (*i.e.*, the level of confidentiality maintained by the state’s juvenile courts). The criteria was developed and approved by a panel of child welfare attorneys and child advocates.

CAI and First Star researched each state’s public disclosure laws and policies to determine what, if any, changes had occurred since the initial *State Secrecy* report was published in 2008. CAI then drafted and distributed a preliminary report card to state-based individuals such as state liaison officers, agency officials, child advocates, members of child fatality review panels, etc., and solicited their comments and feedback. When appropriate, CAI and First Star revised the grade sheet information and/or noted the comments or feedback as illumination information.

It is the authors’ intention to conduct periodic updates of this evaluation. Accordingly, each grade is subject to adjustment based on future developments in case law, statutory amendments, and clarification by state officials.

GRADING SYSTEM

97–100	A+
93–96	A
90–92	A–
87–89	B+
83–86	B
80–82	B–
77–79	C+
73–76	C
70–72	C–
67–69	D+
63–66	D
60–62	D–
59 AND BELOW	F

GRADE CRITERIA OVERVIEW

I. State Policy for Public Disclosure (0–40 points)

Does the state have an articulated, official policy regarding the disclosure to the public of findings or information about cases of child abuse or neglect which have resulted in a child fatality or near fatality?

II. Policy Codified in Statute (0–10 points)

Is the state's policy on the release of information on cases of child deaths and near deaths resulting from abuse or neglect codified in statute, or is it contained in regulation or written (or oral) policy? Policies codified in statute provide more permanency and enforceability.

III. Ease of Access to the Information (0–20 points)

Does the policy use mandatory or permissive language regarding the disclosure of information? Is the release of information contingent on conditions precedent (*e.g.*, the filing of criminal charges or a court petition, having the death be a matter of public record, being able to specify the identity of the child involved, or the existence of prior agency involvement with the child or family)?

IV. Scope of Information Released (0–20 points)

What is the scope of information authorized for release? Is it narrow, does it have some breadth, does it have substantial breadth, or is it vague and unclear? Does the policy include exceptions that inhibit or decrease the type of information that will be released (*e.g.*, exceptions that prohibit disclosure where it would be contrary to the best interests of the child, a sibling, or parent; would interfere with the privacy of the child, sibling, or parent; or would be likely to result in an emotional or mental reaction)?

V. Open vs. Closed Abuse/Neglect Proceedings (0–10 points)

Does the state allow public access to Dependency Court (abuse/neglect) proceedings? Such access enhances the public's ability to hold parties accountable for their acts and omissions, and to determine when systemic and/or specific problems exist in the child protection system that can be addressed through appropriate reforms.

*For more information on the grade criteria,
please see Appendix A.*

1st and 2nd Editions

State Grades

Jurisdiction	1 st Edition (April 2008)		2 nd Edition (April 2012)	
Alabama	82	B-	85	B
Alaska	76	C	74	C
Arizona	86	B	98	A+
Arkansas	70	C-	90	A-
California	92	A-	79	C+
Colorado	65	D	68	D+
Connecticut	80	B-	72	C-
Delaware	74	C	64	D
District of Columbia	82	B-	87	B+
Florida	89	B+	89	B+
Georgia	50	F	86	B
Hawaii	81	B-	83	B
Idaho	82	B-	83	B
Illinois	87	B+	87	B+
Indiana	90	A-	97	A+
Iowa	92	A-	92	A-
Kansas	86	B	83	B
Kentucky	70	C-	73	C
Louisiana	70	C-	75	C
Maine	69	D+	96	A
Maryland	59	F	74	C
Massachusetts	60	D-	75	C
Michigan	82	B-	82	B-
Minnesota	84	B	83	B
Mississippi	82	B-	85	B
Missouri	80	B-	80	B-
Montana	58	F	58	F
Nebraska	77	C+	77	C+
Nevada	95	A	98	A+
New Hampshire	95	A	94	A
New Jersey	82	B-	79	C+
New Mexico	54	F	66	D
New York	89	B+	77	C+
North Carolina	76	C	74	C
North Dakota	64	D	79	C+
Ohio	79	C+	82	B-
Oklahoma	77	C+	80	B
Oregon	90	A-	92	A-
Pennsylvania	10	F	97	A+
Rhode Island	72	C-	84	B
South Carolina	74	C	75	C
South Dakota	59	F	85	B
Tennessee	55	F	87	B+
Texas	77	C+	76	C
Utah	10	F	90	A-
Vermont	54	F	72	C-
Virginia	71	C-	81	B-
Washington	83	B	83	B
West Virginia	80	B-	80	B-
Wisconsin	65	D	82	B-
Wyoming	67	D+	70	C-

2nd Edition

GRADE DISTRIBUTION

Grade	Jurisdictions
A+	Arizona, Indiana, Nevada, Pennsylvania
A	Maine, New Hampshire
A-	Arkansas, Iowa, Oregon, Utah
B+	District of Columbia, Florida, Illinois, Tennessee
B	Alabama, Georgia, Hawaii, Idaho, Kansas, Minnesota, Mississippi, Oklahoma, Rhode Island, South Dakota, Washington
B-	Michigan, Missouri, Ohio, Virginia, West Virginia, Wisconsin
C+	California, Nebraska, New Jersey, New York, North Dakota
C	Alaska, Kentucky, Louisiana, Maryland, Massachusetts, North Carolina, South Carolina, Texas
C-	Connecticut, Vermont, Wyoming
D+	Colorado
D	Delaware, New Mexico
F	Montana

2nd Edition

POINT DISTRIBUTION

Jurisdiction	Criteria I	Criteria II	Criteria III	Criteria IV	Criteria V	Total
Alabama	40	10	10	20	5	85
Alaska	40	10	6	10	8	74
Arizona	40	10	20	20	8	98
Arkansas	40	10	20	20	0	90
California	40	8	8	17.5	5	78.5
Colorado	30	7	15	7.5	8	67.5
Connecticut	40	10	10	10	2	72
Delaware	40	10	4	10	0	64
District of Columbia	40	10	20	12	5	87
Florida	40	10	17	11.5	10	88.5
Georgia	40	10	20	6	10	86
Hawaii	40	7	20	11.5	4	82.5
Idaho	40	10	20	10	2.5	82.5
Illinois	40	10	20	12	5	87
Indiana	40	10	20	20	7	97
Iowa	40	10	20	12	10	92
Kansas	40	10	20	3.5	9	82.5
Kentucky	40	10	6	12	5	73
Louisiana	40	10	10	10	5	75
Maine	40	10	20	20	6	96
Maryland	40	10	12	12	0	74
Massachusetts	40	10	20	3.5	1	74.5
Michigan	40	10	18	3.5	10	81.5

Jurisdiction	Criteria I	Criteria II	Criteria III	Criteria IV	Criteria V	Total
Minnesota	40	10	4	20	9	83
Mississippi	40	10	20	10	5	85
Missouri	40	10	10	10	10	80
Montana	40	10	2	3.5	2	57.5
Nebraska	40	10	10	7.25	10	77.25
Nevada	40	10	20	20	8	98
New Hampshire	40	10	20	20	4	94
New Jersey	40	10	10	12	7	79
New Mexico	30	7	15	9	5	66
New York	40	10	12	7.25	8	77.25
North Carolina	40	10	4	12	7.5	73.5
North Dakota	40	10	20	7.25	2	79.25
Ohio	40	9	18	8	7	82
Oklahoma	40	10	4	20	6	80
Oregon	40	10	20	12	10	92
Pennsylvania	40	10	20	20	7	97
Rhode Island	40	10	20	12	2	84
South Carolina	40	10	10	10	5	75
South Dakota	40	10	20	10	5	85
Tennessee	40	10	20	10	7	87
Texas	30	7	15	15	9	76
Utah	40	10	20	10	10	90
Vermont	40	10	10	10	2	72
Virginia	40	7	20	12	2	81
Washington	40	10	16	7.25	10	83.25
West Virginia	40	10	20	10	0	80
Wisconsin	40	10	20	7.25	5	82.25
Wyoming	40	3	10	12	5	70

ALABAMA

Grade: B

<p>I. Is there a state policy regarding public disclosure of findings or information about child abuse or neglect which has resulted in a child fatality or near fatality? Yes.</p>	<p>40 out of 40</p>
<p>II. Is the state policy codified in statute? Yes (Ala. Code § 26-14-8(c)(12)).</p>	<p>10 out of 10</p>
<p>III. What is the ease of access to the information? It is unclear whether Alabama’s policy is mandatory or permissive, so it is being graded as if it is permissive. The reports and records of child abuse and neglect and related information or testimony “shall be confidential, and shall not be used or disclosed for any purposes other than...[f]or public disclosure of the findings or information about the case of child abuse or neglect which has resulted in a child fatality or near fatality” (Ala. Code § 26-14-8(c)(12)).</p>	<p>10 out of 20</p>
<p>IV. What is the scope of information authorized for release? Alabama’s policy has substantial breadth. The only type of information explicitly exempt from disclosure is information identifying by name persons other than the victim (Ala. Code § 26-14-8(c)(12)). Information that is available includes all information in the written report; record of the final disposition of the report, including services offered and services accepted; and the plan for rehabilitative treatment (Ala. Code § 26-14-8(b)). The written reports are required to state, if known, the name of the child and his/her whereabouts, the names and addresses of the parents, guardian or caretaker, the character and extent of the child’s injuries, the evidence of previous injuries to the child and any other pertinent information which might establish the cause of such injury or injuries, and the identity of the person or persons responsible for the injuries (Ala. Code § 26-14-5).</p>	<p>20 out of 20</p>
<p>V. Are child abuse/neglect proceedings open? Ala. Code §12-15-129 provides that the general public shall be excluded from dependency hearings and “only the parties, their counsel, witnesses, and other persons requested by a party shall be admitted. Other persons as the court finds to have a proper interest in the case or in the work of the court may be admitted by the court on the condition that the persons refrain from divulging any information which would identify the child or family involved.”</p>	<p>5 out of 10*</p>
<p><i>*See the refined Criterion V scoring guidelines in Appendix A.</i></p>	<p>85 points</p>

What’s changed in Alabama since the 1st Edition of *State Secrecy and Child Deaths in the U.S.* was released in April 2008? In the April 2008 State Secrecy Report, Alabama’s score was 82, earning it a B–. No changes to Alabama’s laws were identified; however, minor refinements to Criterion V scoring guidelines resulted in a slightly modified score.

ALASKA

Grade: C

<p>I. Is there a state policy regarding public disclosure of findings or information about child abuse or neglect which has resulted in a child fatality or near fatality? Yes.</p>	<p>40 out of 40</p>
<p>II. Is the state policy codified in statute? Yes (Alaska Stat. § 47.10.093).</p>	<p>10 out of 10</p>
<p>III. What is the ease of access to the information? Alaska’s statutory language is permissive, with moderately restrictive conditional language. The Commissioner of Health and Social Services or the Commissioner of Administration, as appropriate, “may disclose to the public, upon request,” confidential information when “abuse or neglect has resulted in the fatality or near fatality of a child who is the subject of one or more reports of harm under AS 47-17” (Alaska Stat. § 47.10.093(i)).</p>	<p>6 out of 20</p>
<p>IV. What is the scope of information authorized for release? Alaska’s policy is vague and unclear. It lacks specificity, noting only that the department may publicly disclose information pertaining to a child or an alleged perpetrator named in a report of harm, or pertaining to a household member of the child or the alleged perpetrator, if the information relates to a determination, if any, made by the department regarding the nature and validity of a report of harm or to the department’s activities arising from its investigation of the report (Alaska Stat. §47.10.093(j)). The Commissioner must withhold disclosure of the child’s name, picture, or other information that would readily lead to the identification of the child if the department determines that the disclosure would be contrary to the best interests of the child, the child’s siblings, or other children in the child’s household (Alaska Stat. § 47.10.093(j)(1)).</p>	<p>10 out of 20</p>
<p>V. Are child abuse/neglect proceedings open? Alaska Stat. § 47.10.070 provides that unless prohibited by federal or state law, court order, or court rule, hearings are open to the public. The initial court hearing is closed and subsequent hearings may be closed upon a specific and justified finding of the court.</p>	<p>8 out of 10*</p>
<p><i>*See the refined Criterion V scoring guidelines in Appendix A.</i></p>	
<p>74 points</p>	

What’s changed in Alaska since the 1st Edition of *State Secrecy and Child Deaths in the U.S.* was released in April 2008? In the April 2008 State Secrecy Report, Alaska’s score was 76, earning it a C. No changes to Alaska’s laws were identified; however, minor refinements to Criterion V scoring guidelines resulted in a slightly modified score.



ARIZONA

Grade: A+

<p>I. Is there a state policy regarding public disclosure of findings or information about child abuse or neglect which has resulted in a child fatality or near fatality? Yes.</p>	<p>40 out of 40</p>
<p>II. Is the state policy codified in statute? Yes (Ariz. Rev. Stat. § 8-807).</p>	<p>10 out of 10</p>
<p>III. What is the ease of access to the information? Arizona’s statutory language is mandatory. The department “shall” provide information regarding a case of child abuse, abandonment or neglect that has resulted in a fatality or near fatality (Ariz. Rev. Stat. § 8-807(F)(2)).</p>	<p>20 out of 20</p>
<p>IV. What is the scope of information authorized for release? Arizona’s policy has substantial breadth. Information released includes the name, age and city of the child; whether there had been reports, or any current or past cases of abuse, abandonment or neglect involving the child and the current alleged abusive or neglectful parent, guardian or custodian; and actions taken by child protective services in response to the fatality or near fatality of the child. (Ariz. Rev. Stat. § 8-807 (F)(2)(a).) Additional information shall be made available upon request unless the county attorney believes the release would cause a specific, material harm to a criminal investigation. (Ariz. Rev. Stat. § 8-807(F)(2)(b).)</p>	<p>20 out of 20</p>
<p>V. Are child abuse/neglect proceedings open? Pursuant to Ariz. Rev. Stat. § 8-525, proceedings are open to the public. For good cause shown, the court may order any proceeding to be closed to the public. At the first hearing, the court shall ask the parties if there are any reasons the proceeding should be closed. In considering whether to close the proceeding to the public, the court shall consider whether doing so is in the child’s best interest; whether an open proceeding would endanger the child’s physical or emotional well-being or the safety of any other person; the privacy rights of the child, child’s siblings, parents, guardians, caregivers and any other person whose privacy rights the court determines need protection; whether all parties have agreed to allow the proceeding to be open; the child’s wishes, if the child is at least twelve years of age; and whether an open proceeding could cause specific material harm to a criminal investigation. At the beginning of a hearing that is open to the public, the court shall, among other things, admonish all attendees that they are prohibited from disclosing any information that may identify the child and the child’s siblings, parents, guardians and caregivers, and any other person whose identity will be disclosed during the proceeding.</p>	<p>8 out of 10*</p>
<p><i>*See the refined Criterion V scoring guidelines in Appendix A.</i></p>	<p>98 points</p>

What’s changed in Arizona since the 1st Edition of *State Secrecy and Child Deaths in the U.S.* was released in April 2008? In the April 2008 State Secrecy Report, Arizona’s score was 86, earning it a B. Since then, the Arizona Legislature amended its public disclosure policy in 2008 (Laws 2008, Ch. 279 and Laws 2008, Ch. 280) and 2009 (Laws 2009, Ch. 69) to, among other things, provide more specificity with regard to the types of information that will be disclosed. The Arizona Legislature also amended its policy regarding public access to child abuse/neglect proceedings in 2008 (Laws 2008, Ch. 278) and 2009 (Laws 2009, Ch. 154).



Illuminating Information:

- ▶ Arizona’s Child Protective Services Agency (CPS) has recently begun to strengthen its relationship with media representatives, including filing a joint motion with a media entity to provide a reporter access to CPS so that the press (and through the press, the public) can gain a better understanding of CPS investigations through “ride-alongs” and other visits and interactions with CPS staff.

ARKANSAS

Grade: **A-**

<p>I. Is there a state policy regarding public disclosure of findings or information about child abuse or neglect which has resulted in a child fatality or near fatality? Yes.</p>	<p>40 out of 40</p>
<p>II. Is the state policy codified in statute? Yes (Ark. Code Ann. § 12-18-1101 <i>et seq.</i> (regarding fatalities) and § 12-18-1105 <i>et seq.</i> (regarding near fatalities); see also Ark. Code Ann. §§ 9-28-120).</p>	<p>10 out of 10</p>
<p>III. What is the ease of access to the information? Arkansas’ statutory language is mandatory. Upon request, the Department of Human Services “shall” release specified information to the general public when an investigative determination is true on a report of a fatality or near fatality of a child (Ark. Code Ann. §§ 12-18-1102, 12-18-1106). Additionally, other specified information “shall” be released upon request while investigations on fatalities or near fatalities are pending (Ark. Code Ann. §§ 12-18-1101, 12-18-1105).</p>	<p>20 out of 20</p>
<p>IV. What is the scope of information authorized for release? Arkansas’ disclosure policy has substantial breadth. The initial notice of a reported fatality or near fatality of a child shall state the age, race, and gender of the child; date of the child’s death or incident; allegations or preliminary cause of death or incident; county and placement of the child at time of incident; generic relationship of the alleged offender to the child; agency conducting the investigation; legal action by the department; and services offered or provided by the department now and in the past. The notice of a fatality of a child shall also include the name of the child. The department shall not put on the web page any information on siblings of the child or attorney-client communications (Ark. Code Ann. §§ 9-28-120).</p> <p>Information that shall be released when the investigative determination is true on a report of a fatality includes a summary of previous child maltreatment investigations; a summary of the current child maltreatment investigation, including the nature and extent of the child’s present and past injuries, medical information pertaining to the death, all risk and safety assessments completed on the child, information about criminal charges (if known), and any action taken by the Department of Human Services of Crimes Against Children Division of the Department of Arkansas State Police, including personnel action and licensing action (Ark. Code Ann. § 12-18-1102).</p> <p>Information that shall be released when the investigative determination is true on a report of a near fatality includes a nonidentifying summary of any previous child maltreatment investigations; a nonidentifying summary of the current child maltreatment investigation, including the nature and extent of the child’s present and past injuries and medical information pertaining to the incident, information about criminal charges (if known), and any action taken by the Department of Human Services or the Crimes Against Children Division of the Department of Arkansas State Policy, including personnel action and licensing action (Ark. Code Ann. § 12-18-1106). The Department of Human Services shall not release information on siblings of the child, attorney-client communications, or any information if release of such information would jeopardize a criminal investigation (Ark. Code Ann. §§ 12-18-1104, 12-18-1108).</p>	<p>20 out of 20</p>
<p>V. Are child abuse/neglect proceedings open? All hearings involving allegations and reports of child maltreatment and all hearings involving cases of children in foster care shall be closed (Ark. Code Ann. § 9-27-325(i)(1)).</p>	<p>0 out of 10*</p>
<p><i>*See the refined Criterion V scoring guidelines in Appendix A.</i></p>	
<p>90 points</p>	

What’s changed in Arkansas since the 1st Edition of *State Secrecy and Child Deaths in the U.S.* was released in April 2008? In the April 2008 State Secrecy Report, Arkansas’ score was 70, earning it a C-. Since then, the Arkansas State Legislature amended its public disclosure policy in 2009 (Acts 2009, No. 675) and 2011 (Acts 2011, No. 591).



Illuminating Information:

- ▶ Over the past few years, Arkansas has made a concerted effort to improve assessing child fatalities. Advocates report that implementation of Arkansas’ new policies on public disclosure is going well however continued monitoring is needed because the policy is so new.

CALIFORNIA

Grade: C+

<p>I. Is there a state policy regarding public disclosure of findings or information about child abuse or neglect which has resulted in a child fatality or near fatality? Yes.</p>	<p>40 out of 40</p>
<p>II. Is the state policy codified in statute? Yes as to fatalities (Cal. Welf. & Inst. Code §10850.4, Gov. Code § 6252.6). No as to near fatalities (policy is contained in Department of Social Services (DSS) All County Letter No. 08-13 & 10-06).</p>	<p>8 out of 10</p>
<p>III. What is the ease of access to the information? California’s policy regarding information on fatalities is mandatory with severely restrictive conditions. California’s statute requires release of some information, upon request, when there is a “reasonable suspicion that the fatality was caused by abuse or neglect” (Cal. Welf. & Inst. Code § 10850.4 (a)) and, upon request, the release of more probative information upon the completion of the investigation of abuse or neglect that has led to a child’s death (Cal. Welf. & Inst. Code § 10850.4(c)). According to the statute, “[a]buse or neglect is determined to have led to a child’s death” if a county child protective services agency determines that the abuse or neglect was substantiated; a law enforcement investigation concludes that abuse or neglect occurred; or a coroner or medical examiner concludes that the child who died had suffered abuse or neglect. However, when it comes to releasing the more probative information, California’s implementing regulations impose the additional requirement that either (1) the child resided with his/her parent or guardian, <i>and the abuse and/or neglect was inflicted by the parent or guardian</i>; or (2) the child resided in foster care, <i>and the abuse and/or neglect was inflicted by the foster parents</i> (California Code of Regulations, Reg. 31-502.33, 31-502.34, 31-502.35). California’s “All County Letter” policy regarding the release of information on abuse or neglect death and near fatalities is mandatory (the report “shall” be available to the public upon request).</p>	<p>8 out of 20</p>
<p>IV. What is the scope of information authorized for release? California’s policy regarding abuse or neglect deaths has substantial breadth. Within five business days of learning that a child fatality has occurred in the county and that there is a reasonable suspicion that the fatality was caused by abuse or neglect, the information to be disclosed includes the age and gender of the child; the date of death; whether the child was in foster care or in the home of his or her parent or guardian at the time of death; and whether an investigation is being conducted by a law enforcement agency or the county child welfare agency (Cal. Welf. & Inst. Code § 10850.4(a)). If upon completion of the investigation into the child’s death it is confirmed that abuse or neglect occurred, the following documents are also available: all previous referrals of abuse or neglect of the deceased child while living with his/her parent or guardian; the emergency response referral information form and the emergency response notice of referral disposition form completed by the county child welfare agency relating to the abuse or neglect that caused the death of the child; any cross reports completed by the county child welfare agency to law enforcement relating to the deceased child; all risk and safety assessments completed by the county child welfare services agency relating to the deceased child; all health care records of the deceased child, excluding mental health records, related to the child’s death and previous injuries reflective of a pattern of abuse or neglect; and copies of police reports about the person against whom the child abuse or neglect was substantiated. Additional documents are available if the child’s death occurred while the child was in foster care (Cal. Welf. & Inst. Code § 10850.4(c)). The custodian of records must redact the names, addresses, telephone numbers, ethnicity, religion, or any other identifying information of any person or institution, other than the county or DSS, that is mentioned in the released documents (Cal. Welf. & Inst. Code § 10850.4(e)); however, for children who die from abuse or neglect while in foster care, Cal. Gov. Code § 6252.6 authorizes the release of the child’s name to the public upon request. California’s policy regarding near deaths caused by abuse or neglect, as contained in DSS’ All County Letter No. 08-13 (March 14, 2008) (which also pertains to deaths), is narrow. Regarding near fatalities, data collected in DSS’ “Statement of Findings and Information” is limited to the child’s age and gender, the date of the near fatality, where the child resided at the time of the incident, whether law enforcement or CWS/probation conducted the investigation, and whether a physician, law enforcement, or CWS/Probation determined that it was caused by abuse/neglect. The form</p>	<p>17.5 out of 20</p>

explicitly prohibits counties from providing any narrative regarding the case.	
V. Are child abuse/neglect proceedings open? Cal. Welf. & Inst. Code § 346 provides unless otherwise requested by a parent or guardian and consented to or requested by the minor concerning whom the petition has been filed, the public shall not be admitted to a juvenile court hearing. The judge or referee may nevertheless admit such persons as he deems to have a direct and legitimate interest in the particular case or the work of the court.	5 out of 10*
<i>*See the refined Criterion V scoring guidelines in Appendix A.</i>	79 points <i>(rounded up from 78.5)</i>

What’s changed in California since the 1st Edition of *State Secrecy and Child Deaths in the U.S.* was released in April 2008? In the April 2008 State Secrecy Report, California’s score was 92 (*rounded up from 91.5*) earning it an A–. Since then, California has released implementing regulations (California Code of Regulations, Reg. 31-502.33, 31-502.34, 31-502.35) which place several severely restrictive limitations on the mandatory release of information regarding child fatalities, such as specific requirements regarding the child’s residence as it relates to the perpetrator of the abuse.



Illuminating Information:

- ▶ Under California’s statutory scheme, abuse or neglect is determined to have led to a child’s death if either (1) “[a] county child protective services agency determines that the abuse or neglect was substantiated” (2) “[a] law enforcement investigation concludes that abuse or neglect occurred” or (3) “[a] coroner or medical examiner concludes that the child who died had suffered abuse or neglect. California’s regulations, however, insert a requirement that the evident abuse and neglect suffered by the child be ruled to be what caused the child’s death before information can be released.
- ▶ DSS’ 2010 All County Letter No. 10-06 requires counties to complete and submit a “Statement of Findings and Information” to DSS for cases of child fatalities and near fatalities only when it “is determined” that the incident occurred as a result of abuse or neglect. For child fatalities that are “suspected” to be the result of child abuse and/or neglect, counties are still required to release limited information upon public request. There is no requirement for release of information regarding near fatalities unless and until the near fatality is determined to be the result of child abuse or neglect.
- ▶ While California’s policies are somewhat problematic, their implementation has even greater challenges. In Los Angeles County, for example, the Office of Independent Review found a “pattern of non-disclosure” where blanket objections to the release of information were lodged in 17 of 19 cases in 2009 and 2010, leading to the non-disclosure of information. CAI is pleased that the *Los Angeles Times* and the Los Angeles Board of Supervisors have continued to look into the problem of non-disclosure but we are concerned that this pattern may not be limited to Los Angeles County.
- ▶ Across the state of California, public disclosure of findings and information about child abuse or neglect which has resulted in a child fatality has caused scrutiny of systemic problems. At a County level, Sacramento County, Los Angeles County, and others have accepted responsibility where appropriate and are making changes to problematic child welfare policies.
- ▶ In Los Angeles County (the county with the largest foster care population in the nation), the Presiding Judge of the Juvenile Court issued a local court order in early 2012 clarifying when the press and public may have access to dependency court proceedings. Local press has utilized this clarification to gain access to dependency courts and give the public information on the Dependency Court process.

COLORADO

Grade: D+

<p>I. Is there a state policy regarding public disclosure of findings or information about child abuse or neglect which has resulted in a child fatality or near fatality? Yes, as to fatalities. No, as to near fatalities.</p>	<p>30 out of 40</p>
<p>II. Is the state policy codified in statute? Yes, as to fatalities (Colo. Rev. Stat. § 26-1-139). No, as to near fatalities.</p>	<p>7 out of 10</p>
<p>III. What is the ease of access to the information? Colorado’s policy, regarding deaths only, is mandatory. A case-specific executive summary, absent confidential information, of each child fatality reviewed, “shall” be posted by the Colorado state child fatality prevention review team on the state’s website (Colo. Rev. Stat. § 26-1-139(4)(i)(III)).</p>	<p>15 out of 20</p>
<p>IV. What is the scope of information authorized for release? Colorado’s policy, regarding deaths only, is vague and unclear. Information to be disclosed includes a case-specific executive summary, absent confidential information, of each child fatality reviewed, with no further specificity as to types of information will be released (Colo. Rev. Stat. § 26-1-139(4)(i)(III)). Although the Department of Human Services is mandated to promulgate rules specifying the content of these executive summaries, among other reports (Colo. Rev. Stat. § 26-1-139(4)(i)), it does not appear that the agency has taken such action to date.</p>	<p>7.5 out of 20</p>
<p>V. Are child abuse/neglect proceedings open? Pursuant to Colo. Rev. Stat. § 19-1-106(2), the general public shall not be excluded unless the court determines that it is in the best interest of the child or of the community to exclude the general public, and, in such event, the court shall admit only such persons as have an interest in the case or the work of the court, including persons whom the district attorney, the county or city attorney, the child, or the parents, guardian, or other custodian of the child wish to be present.</p>	<p>8 out of 10*</p>
<p><i>*See the refined Criterion V scoring guidelines in Appendix A.</i></p>	<p>68 points <i>(rounded up from 67.5)</i></p>

What’s changed in Colorado since the 1st Edition of *State Secrecy and Child Deaths in the U.S.* was released in April 2008? In the April 2008 State Secrecy Report, Colorado’s score was 65, earning it a D. In April 2011, Colorado enacted House Bill 1181 which recognizes the importance and community responsibility to mitigate the deaths of children in Colorado due to abuse or neglect. Specifically, new C.R.S. § 26-1-139 provides for a multidisciplinary team to conduct in-depth case reviews after a child fatality that involves a suspicion of abuse or neglect and where the child or family has had previous involvement, that was directly related to the fatality, with a county department within two years prior to the fatality. The review team shall develop an Annual Child Fatality Review Report, absent confidential information, summarizing the child fatality reviews conducted by the team during the previous year. The team shall post the Annual Fatality Review Report on the State Department’s web site. Furthermore, a case-specific executive summary, absent confidential information, of each child fatality reviewed shall be posted on the State Department’s web site. These statutory changes have been reflected above in Criteria II, III and IV.



Illuminating Information:

- ▶ After the deaths of thirteen children who had been involved with the system in 2007, Colorado Governor Bill Ritter formed the Child Welfare Action Committee to recommend systemwide changes. In 2010, the committee recommended several changes, including a statewide training academy for caseworkers and supervisors, and a proposal to overhaul Colorado’s entire child welfare system to give more power to the state and less autonomy to the counties.
- ▶ According to the Denver Post, in the five-year period of 2007–12, “43 Colorado children died from abuse or neglect after entering the child welfare program. Every one of those deaths was marked by a policy violation or sparked concern in the way the case was handled by county social workers. Investigations completed by the Colorado Department of Human Services since 2007 indicate that social workers in 18 counties repeatedly failed

to complete basic functions—such as interviews or follow-ups on assessments—in 43 cases where a child later died from abuse or neglect” (Jordan Steffen, *System Fails Young Victims*, Denver Post (Jan. 29, 2012) at 17A).

- ▶ Colorado is working on moving toward openness and transparency. State policy is to release final fatality reports when those reports are requested. These reports include a review of any prior family history with any State Department within the previous five years, information regarding the circumstances of the child’s death, and any county non-compliance with rules and/or regulations. Colorado advocates are working toward amending state rules to reflect this increased policy of openness.
- ▶ Colorado advocates are also working toward increasing transparency regarding near fatalities. They are hoping to pass legislation this year that would include the review of near fatalities in their internal review process.
- ▶ Colorado has launched a child protection ombudsman program which will help facilitate a process for independent and impartial review of family and community concerns about the child welfare system and case-specific concerns. While this is one step toward reviewing errors made by the child welfare system, it cannot take the place of public disclosure which can sensibly lead to thorough accountability.



CONNECTICUT

Grade: C-

<p>I. Is there a state policy regarding public disclosure of findings or information about child abuse or neglect which has resulted in a child fatality or near fatality? Yes.</p>	<p>40 out of 40</p>
<p>II. Is the state policy codified in statute? Yes (Conn. Gen. Stat. § 17a-28(d)).</p>	<p>10 out of 10</p>
<p>III. What is the ease of access to the information? Connecticut’s policy is permissive. The department “may” disclose records to any individual, when the information or findings concern an incident of abuse or neglect that resulted in a child or youth fatality or near fatality of a child or youth (Conn. Gen. Stat. § 17a-28(h)(16)).</p>	<p>10 out of 20</p>
<p>IV. What is the scope of information authorized for release? Connecticut’s policy is vague and unclear. It provides that information or findings may be disclosed in general terms, but provides no further specificity regarding what type of information will be released (Conn. Gen. Stat. § 17a-28(h)(16)).</p>	<p>10 out of 20</p>
<p>V. Are child abuse/neglect proceedings open? Pursuant to Conn. Gen. Stat. § 46b-122, proceedings are closed, and the judge may exclude any person whose presence is not necessary.</p>	<p>2 out of 10*</p>
<p><i>*See the refined Criterion V scoring guidelines in Appendix A.</i></p>	<p>72 points</p>

What’s changed in Connecticut since the 1st Edition of *State Secrecy and Child Deaths in the U.S.* was released in April 2008? In the April 2008 State Secrecy Report, Connecticut’s score was 80, earning it a B-. In 2011, the Connecticut General Assembly amended Conn. Gen. Stat. § 17a-28 to, among other things, revise state law regarding the disclosure of information about child abuse or neglect fatalities or near fatalities to make it discretionary instead of mandatory (2011, P.A. 11-167, § 1.)



Illuminating Information

- ▶ Some Connecticut state advocates have been engaging in a campaign to further open their dependency courts. For example, Connecticut recently concluded a pilot program to increase public access to proceedings in which a child is alleged to be uncared for, neglected, abused or dependent or is the subject of a petition for termination of parental rights, with the judge retaining authority to order on a case-by-case basis that such proceeding be kept closed (former Conn. Gen. Stat. § 46b-122(b)).

DELAWARE

Grade: D

I. Is there a state policy regarding public disclosure of findings or information about child abuse or neglect which has resulted in a child fatality or near fatality? Yes.	40 out of 40
II. Is the state policy codified in statute? Yes (31 Del. C. § 323(a)).	10 out of 10
III. What is the ease of access to the information? Delaware’s policy is mandatory, with a severely restrictive condition . The Child Deaths, Near Deaths, and Stillbirth Commission “shall release” information and findings resulting from reviews of child deaths and near deaths due to abuse and neglect (31 Del. C. §323(a)). However, “[s]aid release of information and findings shall occur at the completion of prosecution” (31 Del. C. §323(a)). Thus, the policy does not require the release of any information to the public until the completion of a prosecution, regardless of whether or not the release of certain information would jeopardize the prosecution. Further, the policy fails to provide guidance on when the information and findings will be released if there is no prosecution in a case.	4 out of 20
IV. What is the scope of information authorized for release? Delaware’s statutory provision regarding the scope of release is vague and unclear , providing that “the Commission shall release summary information and findings resulting from reviews of child deaths and near deaths due to abuse and neglect” (31 Del. C. § 323(a)), with no further clarification or specification.	10 out of 20
V. Are child abuse/neglect proceedings open? Proceedings are closed (10 Del. C. § 1063(a)).	0 out of 10*
*See the refined Criterion V scoring guidelines in Appendix A.	
64 points	

What’s changed in Delaware since the 1st Edition of *State Secrecy and Child Deaths in the U.S.* was released in April 2008? In the April 2008 State Secrecy Report, Delaware’s score was 74, earning it a C. Since then, Delaware amended 31 Del. C. §323(a) to require that, in addition to the Commission’s release of system-wide recommendations to the public, “the Commission shall release summary information and findings resulting from reviews of child deaths and near deaths due to abuse and neglect.” While this amendment was a positive step toward complying with CAPTA disclosure requirement requiring the scope of information released, the amendment limited the public’s ease of access to this information by providing that the release of such information and findings “shall occur at the completion of prosecution.”



Illuminating Information:

- ▶ Many states’ public disclosure policies provide that the district attorney (or comparable prosecuting attorney) can decide to withhold certain information if its release would jeopardize an investigation or prosecution; CAI and First Star consider that type of language to be appropriate and reasonable, and this Report does not regard such provisions as imposing a restrictive condition (*i.e.*, no points are deducted from Criterion #3 based on such language). However, the language adopted by Delaware in 2008 is unduly and severely restrictive in that it applies a blanket hold on all information and findings regarding a child’s death or near death (regardless of whether or not its release would interfere with an investigation or prosecution) until the completion of a prosecution—which in some cases might be several years after the incident. Further, while the Child Death, Near Death, and Stillbirth Commission (CDNDSC) Policy and Procedure, Final Procedure Policy 1 requires “every six months, the CDNDSC staff will communicate with the Office of Attorney General to establish if any cases are ready to be released for final review,” the provision fails to specifically provide any guidance on when the summary information and findings will be released if there is no prosecution in a particular case. Delaware advocates report that in practice the Office of the Attorney General will decide to release information in those cases where prosecution will not occur. We encourage Delaware to incorporate this practice into its enforceable statutory scheme.

- ▶ In practice, all deaths and near deaths of children due to abuse or neglect are published on Delaware’s Child Death, Near Death, and Still Birth Commission website for public disclosure. This certainly makes access to the reports very easy when the reports are completed. The reports themselves are fairly detailed and include recommendations for system improvements. We encourage Delaware advocates to pursue amendments to the state’s enforceable provisions to reflect this positive practice.

DISTRICT OF COLUMBIA

Grade: B+

<p>I. Is there a state policy regarding public disclosure of findings or information about child abuse or neglect which has resulted in a child fatality or near fatality? Yes.</p>	<p>40 out of 40</p>
<p>II. Is the state policy codified in statute? Yes (D.C. Code § 4-1303.32).</p>	<p>10 out of 10</p>
<p>III. What is the ease of access to the information? District of Columbia’s policy is mandatory. A disclosing official “shall” upon written request by any person, and may upon his or her own initiative, disclose to the public the findings and information related to a child fatality or near fatality (D.C. Official Code § 4-1303.32(a)(1)).</p>	<p>20 out of 20</p>
<p>IV. What is the scope of information authorized for release? District of Columbia’s policy has substantial breadth, with a moderate substantive limitation. The term “findings and information” means all public records in the possession of any officer or agency of the District that pertain to a child fatality or near fatality, or that are compiled, received, or created in the course of any investigation, assessment, or review conducted in connection with a child fatality or near fatality; and written summary that includes, to the extent possible, all of the following information pertaining to a child fatality or near fatality: the name of the child, except that the name of the child shall not be disclosed in a case of a near fatality unless the name has otherwise previously been disclosed; the name of the parent or other person legally responsible for the child, except that the name of the parent or other person legally responsible for the child shall not be disclosed in a case of a near fatality unless the name has otherwise previously been disclosed; confirmation of the receipt of all reports, accepted or not accepted, by an agency of the District for investigation or assessment of suspected child abuse, neglect, or maltreatment, including confirmation that investigations or assessments were conducted; the results of the investigations or assessments; a description of the conduct of the most recent investigation or assessment and the services rendered; and a statement of the basis for the agency’s determination; the basis for any finding of either abuse or neglect, including the results of any review of a community child protection team or any public agency; identification of child protective or other services provided to or any actions taken by any agency regarding the child, including the dates, outcomes, and results of any services provided and any actions taken; any actions taken by any agency in response to reports or allegations of abuse or neglect of the child, including the dates, outcomes, and results of any actions taken; and other pertinent information concerning the circumstances of any abuse or neglect of the child and the investigation of such abuse or neglect (D.C. Code 4-1303.31(5)). A moderate substantive limitation allow information to be withheld if its release would likely endanger the emotional well-being of the child who is the subject of the findings and information or a child who is a sibling of such child or has shared the same household as such child (D.C. Official Code § 4-1303.32(a)(2)(A)).</p>	<p>12 out of 20</p>
<p>V. Are child abuse/neglect proceedings open? Pursuant to D.C. Official Code § 16-2316(e)(2)-(3), proceedings are closed except to necessary individuals. However, the Family Division may admit such other persons (including members of the press) as have a proper interest in the case or the work of the court on condition that they refrain from divulging information identifying the child or members of the child’s family involved in the proceedings.</p>	<p>5 out of 10*</p>
<p><i>*See the refined Criterion V scoring guidelines in Appendix A.</i></p>	<p>87 points</p>

What’s changed in the District of Columbia since the 1st Edition of *State Secrecy and Child Deaths in the U.S.* was released in April 2008? In the April 2008 State Secrecy Report, the District of Columbia’s score was 82, earning it a grade of B–. No changes to the District of Columbia’s laws were identified; however, minor refinements to Criterion V scoring guidelines resulted in a slightly modified score.

FLORIDA

Grade: B+

<p>I. Is there a state policy regarding public disclosure of findings or information about child abuse or neglect which has resulted in a child fatality or near fatality? Yes.</p>	<p>40 out of 40</p>
<p>II. Is the state policy codified in statute? Yes (Fla. Stat. §§ 39.202, 39.2021(2)).</p>	<p>10 out of 10</p>
<p>III. What is the ease of access to the information? Florida’s policy regarding deaths only is mandatory (access to such records “shall” be granted) (Fla. Stat. §§ 39.202(2)(o)).</p> <p>Florida’s policy, regarding records of serious bodily injury to a child due to abuse or neglect is permissive, with a moderately restrictive condition (the Department “may” petition the court for an order for immediate public release of the records) (Fla. Stat. §§ 39.2021(2)).</p>	<p>17 out of 20</p>
<p>IV. What is the scope of information authorized for release? Florida’s policy, regarding deaths only, has some breadth. The policy provides that accessible records include records held by the department concerning reports of child abandonment, abuse, or neglect, including reports made to the central abuse hotline and all records generated as a result of such reports (Fla. Stat. §§ 39.202(2)(o)).</p> <p>Florida’s policy, regarding cases involving serious bodily injury to a child, is narrow. The agency may withhold the name of child, and may release limited summary information including a confirmation that an investigation was conducted; a description of procedural activities undertaken; and date and summary of any judicial proceedings (Fla. Stat. §§ 39.2021(2)).</p>	<p>11.5 out of 20</p>
<p>V. Are child abuse/neglect proceedings open? Pursuant to Fla. Stat. § 39.507(2), proceedings are open to the general public. However, the judge may close proceedings in the interest of the child.</p>	<p>10 out of 10*</p>
<p><i>*See the refined Criterion V scoring guidelines in Appendix A.</i></p>	<p>89 points <i>(rounded up from 88.5)</i></p>

What’s changed in Florida since the 1st Edition of *State Secrecy and Child Deaths in the U.S.* was released in April 2008? In the April 2008 State Secrecy Report, Florida’s score was 89, earning it a B+. No changes to Florida’s laws were identified.

Illuminating Information:

- Findings and information about the child abuse death of ten-year-old Nubia Barahona led Florida policymakers to introduce HB 803, legislation which would include new training programs for abuse hotline workers, establish a unified database for abuse reports, and require that families being considered for foster child placement undergo a background screening through the child welfare system, as well as a local and statewide criminal background check.

GEORGIA

Grade: **B**

<p>I. Is there a state policy regarding public disclosure of findings or information about child abuse or neglect which has resulted in a child fatality or near fatality? Yes.</p>	<p>40 out of 40</p>
<p>II. Is the state policy codified in statute? Yes (O.C.G.A. § 49-5-41).</p>	<p>10 out of 10</p>
<p>III. What is the ease of access to the information? Georgia’s policy requires mandatory disclosure. Any adult requesting information regarding investigations by the department of a governmental child protective agency regarding the findings or information about the case of child abuse or neglect that results in a child fatality or near fatality “shall have reasonable access to such records concerning reports of child abuse.” (O.C.G.A. § 49-5-41(a)).</p>	<p>20 out of 20</p>
<p>IV. What is the scope of information authorized for release? Georgia’s policy is vague and unclear with a moderate restriction. The information authorized for disclosure is limited to “the available facts and findings” with no further clarification or description (O.C.G.A. § 49-5-41(a)(6)). The moderate restriction is that information will not be released if it is made confidential by another provision of the law (O.C.G.A. § 49-5-41(e)).</p>	<p>6 out of 20</p>
<p>V. Are child abuse/neglect proceedings open? Pursuant to O.C.G.A. § 15-11-78, proceedings are presumptively open to the general public. However the court “may refuse to admit a person to a hearing...upon making a finding ...that the person’s presence at the hearing would: (1) Be detrimental to the best interest of a child who is a party to the proceeding; (2) Impair the fact-finding process; or (3) Be otherwise contrary to the interest of justice.” (O.C.G.A. § 15-11-78). A judge may order the media not to release identifying information concerning any child or family members or foster parent or other caretaker of a child involved in hearings open to the public (O.C.G.A § 15-11-78(i)).</p>	<p>10 out of 10*</p>
<p><i>*See the refined Criterion V scoring guidelines in Appendix A.</i></p>	<p>86 points</p>

What’s changed in Georgia since the 1st Edition of *State Secrecy and Child Deaths in the U.S.* was released in April 2008? In the April 2008 State Secrecy Report, Georgia’s score was 50, earning it a grade of F. In 2009, the Georgia General Assembly amended O.C.G.A. § 49-5-41 to make that provision applicable to child fatalities and near fatalities, remove some severely restrictive conditional language regarding the ease of access to information, and revise the scope of information authorized for release. The General Assembly also amended O.C.G.A. § 15-11-78 to make abuse/neglect hearings presumptively open to the general public.



HAWAII

Grade: **B**

<p>I. Is there a state policy regarding public disclosure of findings or information about child abuse or neglect which has resulted in a child fatality or near fatality? Yes.</p>	<p>40 out of 40</p>
<p>II. Is the state policy codified in statute? No. Hawaii’s policy is contained in administrative rule (Title 17, Chapter 1601, § 17-1601-6(16)(D)).</p>	<p>7 out of 10</p>
<p>III. What is the ease of access to the information? Hawaii’s policy is mandatory. Disclosure of all or a portion of the record without consent or court order “shall be authorized” when made pursuant to a legitimate state purpose, which includes disclosure to the public when the child named in a report is missing, has suffered a near fatality, been critically injured, or has died (Title 17, Chapter 1601, § 17-1601-6(16)(D)).</p>	<p>20 out of 20</p>
<p>IV. What is the scope of information authorized for release? Hawaii’s policy regarding fatalities has some breadth, providing that child death review information that does not contain any information that would permit identification of any person shall be public records (Haw. Rev. Stat. § 321-345). The term child death review information means information regarding the child and child’s family, including but not limited to social, medical, and legal histories; death and birth certificates; law enforcement investigative data; medical examiner or coroner investigative data; parole and probation information and records; information and records of social service agencies; educational records; and health care institution information.</p> <p>Hawaii’s policy regarding near fatalities is vague and unclear, authorizing the release of all or a portion of the record, and providing no further specificity regarding what types of information will be disclosed (Title 17, Chapter 1601, § 17-1601-6).</p>	<p>11.5 out of 20</p>
<p>V. Are child abuse/neglect proceedings open? Pursuant to Haw. Rev. Stat. § 571-41(b), proceedings are closed except to individuals who have a direct interest in the case. Upon request by a party, hearings initiated pursuant to chapter 587A may be opened to the public if a judge determines that doing so would be in the best interests of the child (Haw. Rev. Stat. § 571-41(b)(1)).</p>	<p>4 out of 10*</p>
<p><i>*See the refined Criterion V scoring guidelines in Appendix A.</i></p>	<p>83 points <i>(rounded up from 82.5)</i></p>

What’s changed in Hawaii since the 1st Edition of *State Secrecy and Child Deaths in the U.S.* was released in April 2008? In the April 2008 State Secrecy Report, Hawaii’s score was 81, earning it a grade of B–. No changes to Hawaii’s laws were identified; however, minor refinements to Criterion V scoring guidelines resulted in a slightly modified score.

IDAHO

Grade: B

I. Is there a state policy regarding public disclosure of findings or information about child abuse or neglect which has resulted in a child fatality or near fatality? Yes.	40 out of 40
II. Is the state policy codified in statute? No, but Idaho’s policy is contained in an administrative rule that is subject to a comprehensive process that includes review and approval by the Idaho Legislature in order to become final and enforceable (IDAPA 16.05.01.210).	10 out of 10
III. What is the ease of access to the information? Idaho’s policy is mandatory . Information regarding child fatalities or near fatalities “is required” to be made public by CAPTA (IDAPA 16.05.01.210).	20 out of 20
IV. What is the scope of information authorized for release? Idaho’s policy is vague and unclear , authorizing the release of information regarding child fatalities or near fatalities but providing no further specificity regarding what types of information will be disclosed (IDAPA 16.05.01.210).	10 out of 20
V. Are child abuse/neglect proceedings open? Pursuant to Idaho Code Ann. § 16-1613(1), proceedings are closed except to individuals who have a direct interest in the case.	2.5 out of 10*
<i>*See the refined Criterion V scoring guidelines in Appendix A.</i>	83 points <small>(rounded up from 82.5)</small>

What’s changed in Idaho since the 1st Edition of *State Secrecy and Child Deaths in the U.S.* was released in April 2008? In the April 2008 State Secrecy Report, Idaho’s score was 82, earning it a grade of B–. No changes to Idaho’s laws were identified; however, minor refinements to Criterion V scoring guidelines resulted in a slightly modified score.



Illuminating Information:

- ▶ In 2008, Idaho advocates worked to pass House Bill 511 to provide greater transparency regarding child abuse and neglect fatalities. The Department of Health and Welfare supported that legislation, which would have established a Statewide Child Mortality Review Team that would have produced additional information related to fatalities. Unfortunately, this legislative effort was defeated. In 2011, Idaho advocates drafted legislation to re-establish a child fatality review team; the draft legislation is being circulated among legislators for their input and consideration.
- ▶ Idaho’s Director of the Department of Health and Welfare is initiating a new child death review process. A review will be held whenever the death of a child is suspected or confirmed to have resulted from abuse, neglect, suicide, or under suspicious circumstances, and the deceased child or their family was previously referred to, received a safety assessment from, or received other child protection or adoption services through the regional Child and Family Services Program. The panel may also review other child deaths that do not meet these criteria at the request of law enforcement or a medical provider. The child death reviews will be conducted by a multidisciplinary team and recommendations will be published and made available to the public.

ILLINOIS

Grade: B+

<p>I. Is there a state policy regarding public disclosure of findings or information about child abuse or neglect which has resulted in a child fatality or near fatality? Yes.</p>	<p>40 out of 40</p>
<p>II. Is the state policy codified in statute? Yes (325 ILCS 5/4.2).</p>	<p>10 out of 10</p>
<p>III. What is the ease of access to the information? Illinois' policy is mandatory. If the Department receives from the public a request for information relating to a case of child abuse or neglect involving the death or serious life-threatening injury of a child, the Director shall consult with the State's Attorney in the county of venue and release the report related to the case (325 ILCS 5/4.2(b)). Further, no later than six months after the date of the death or serious life-threatening injury of the child, the Department shall notify specified policymakers upon the completion of the report and shall submit an annual cumulative report to the Governor and the General Assembly incorporating cumulative data about the reports and including appropriate findings and recommendations; these reports shall be made available to the public after completion or submittal (325 ILCS 5/4.2(c)).</p>	<p>20 out of 20</p>
<p>IV. What is the scope of information authorized for release? Illinois' policy has substantial breadth, with a moderately restrictive substantive limitation. The policy provides that the disclosable report shall include the cause of death or serious life-threatening injury, whether from natural or other causes; any extraordinary or pertinent information concerning the circumstances of the child's death or serious life-threatening injury; identification of child protective or other social services provided or actions taken regarding the child or his or her family at the time of the death or serious life-threatening injury or within the preceding 5 years; any action or further investigation undertaken by the Department since the death or serious life-threatening injury of the child; as appropriate, recommendations for State administrative or policy changes; and whether the alleged perpetrator of the abuse or neglect has been charged with committing a crime related to the report and allegation of abuse or neglect. Any information provided by an adult subject of a report that is released about the case in a public forum shall be subject to disclosure upon a public information request. Information about the case shall also be subject to disclosure upon consent of an adult subject. Information about the case shall also be subject to disclosure if it has been publicly disclosed in a report by a law enforcement agency or official, a State's Attorney, a judge, or any other State or local investigative agency or official. A moderately restrictive substantive limitation allows the Director to redact from the information disclosed to the public information that may cause mental harm to a sibling or another child living in the household (325 ILCS 5/4.2(b)).</p>	<p>12 out of 20</p>
<p>V. Are child abuse/neglect proceedings open? Proceedings are closed to the general public except for the news media, the victim, and individuals with a direct interest in the case (705 ILCS 405/1-5(6)).</p>	<p>5 out of 10*</p>
<p><i>*See the refined Criterion V scoring guidelines in Appendix A.</i></p>	<p>87 points</p>

What's changed in Illinois since the 1st Edition of *State Secrecy and Child Deaths in the U.S.* was released in April 2008? In the April 2008 State Secrecy Report, Illinois' score was 87, earning it a grade of B+. No changes to Illinois' laws were identified.



Illuminating Information:

- ▶ Illinois currently has a legislative proposal pending in which the Illinois Child Death Review Team is requesting to expand the criterion for mandated reviews. The current criterion mandates reviews when the deceased child is the subject of a previous DCFS case or investigation. The requested criterion change would include mandating reviews, not only when the deceased child is the subject, but also when the family or a family member is the subject of an open case or investigation. The expanded criterion also includes reviewing a case when it is unfounded for death by abuse or neglect. There are certainly cases that are worthy of reviews by the Child Death Review Team where siblings or parents are the subjects of investigations instead of the deceased child. Unfounded death cases allow the Child Death Review Team to understand these findings and compare them to cases of indicated findings.

INDIANA

Grade: **A+**

I. Is there a state policy regarding public disclosure of findings or information about child abuse or neglect which has resulted in a child fatality or near fatality? Yes.	40 out of 40
II. Is the state policy codified in statute? Yes (Ind. Code Ann § 31-33-18-1.5).	10 out of 10
III. What is the ease of access to the information? Indiana’s policy is mandatory . When a person requests a record, the entity having control of the record “shall immediately transmit” a copy of the record to the court exercising juvenile jurisdiction in the county in which the death or near fatality of the child occurred (Ind. Code Ann § 31-33-18-1.5(e)). The court “shall” disclose the record upon payment of the reasonable expenses of copying the record (Ind. Code Ann § 31-33-18-1.5(g)).	20 out of 20
IV. What is the scope of information authorized for release? Indiana’s policy has substantial breadth . The information disclosed must include a summary of the report of abuse or neglect and a factual description of the contents of the report; the date of birth and gender of the child; the cause of the fatality or near fatality, if the cause has been determined; whether the department had any contact with the child or the perpetrator before the fatality or near fatality, and, if the department had contact, the following: the frequency of the contact with the child or the perpetrator before the fatality or near fatality and the date on which the last contact occurred before the fatality or near fatality; a summary of the status of the child’s case at the time of the fatality or near fatality, including: (i) whether the child’s case was closed by the department before the fatality or near fatality; and (ii) if the child’s case was closed as described under item (i), the date of closure and the reasons that the case was closed (Ind. Code Ann § 31-33-18-1.5(i)).	20 out of 20
V. Are child abuse/neglect proceedings open? Pursuant to Ind. Code Ann. § 31-32-6-2, proceedings are open; the juvenile court shall determine whether the public should be excluded from a proceeding.	7 out of 10*
<i>*See the refined Criterion V scoring guidelines in Appendix A.</i>	
97 points	

What’s changed in Indiana since the 1st Edition of *State Secrecy and Child Deaths in the U.S.* was released in April 2008?
 In the April 2008 State Secrecy Report, Indiana’s score was 90, earning it a grade of A. In 2009, the Indiana General Assembly amended Ind. Code Ann § 31-33-18-1.5 to expand and clarify the scope of information authorized for release to the public following a child abuse or neglect fatality or near fatality.



Illuminating Information:

- ▶ Although Indiana has made great strides in its reporting requirements pursuant to CAPTA, advocates continue to have concerns and there certainly is still room for improvement in their child welfare system:
 - In 2010, legislators created a DCS ombudsman office to report directly to the governor and investigate complaints involving DCS. Unfortunately, the ombudsman’s public reports contain only general trends and non-identifying information about specific cases. Currently pending in the General Assembly, SB 270 (Yoder) would provide more staffing for the ombudsman office and introduce a “DCS evaluation committee” to evaluate and make recommendations concerning DCS.
 - While juvenile courtrooms in Indiana are currently open, advocates within the state encourage even more openness of information, indicating that “confidentiality is secret”.
 - SB 286 (Lawson), currently pending in the General Assembly, would allow DCS, upon the request of an interested person, to expunge information relating to an unsubstantiated assessment of child abuse or neglect at any time, if DCS determines that the probative value of the information does not justify its retention in the records of DCS. Senator John Broden sought amendments to SB 286 that would require DCS to wait at least three years before expunging unsubstantiated reports; however, that amendment was not adopted into the language of SB 286.

IOWA

Grade: **A-**

<p>I. Is there a state policy regarding public disclosure of findings or information about child abuse or neglect which has resulted in a child fatality or near fatality? Yes.</p>	<p>40 out of 40</p>
<p>II. Is the state policy codified in statute? Yes (Iowa Code § 235A.15(9)-(11)).</p>	<p>10 out of 10</p>
<p>III. What is the ease of access to the information? Iowa’s policy is mandatory. If the department receives from a member of the public a request for information relating to a case of founded child abuse involving a fatality or near fatality to a child, the director shall consult with the county attorney and “shall” disclose information relating to the case (Iowa Code § 235A.15(9)).</p>	<p>20 out of 20</p>
<p>IV. What is the scope of information authorized for release? Iowa’s policy has substantial breadth, with a moderately restrictive substantive limitation. While it does not explicitly authorize the release of the child’s name, it does provide that the release shall include any relevant child abuse information and the department’s response and findings; whether the child was utilizing social services at time of incident or within the preceding five-year period; any recommendations made by the department to the county attorney or juvenile court; if applicable, a summary of an evaluation of the department’s responses in the case (Iowa Code § 235A.15(10)). However, a substantive limitation authorizes the director to withhold information he/she reasonably believes is likely to cause mental harm to a sibling of the child or to another child residing in the child’s household (Iowa Code § 235A.15(9)(d)).</p>	<p>12 out of 20</p>
<p>V. Are child abuse/neglect proceedings open? Pursuant to Iowa Code § 232.92, proceedings are open to the public, but may be closed in the interest of the child.</p>	<p>10 out of 10*</p>
<p><i>*See the refined Criterion V scoring guidelines in Appendix A.</i></p>	
<p>92 points</p>	

What’s changed in Iowa since the 1st Edition of *State Secrecy and Child Deaths in the U.S.* was released in April 2008? In the April 2008 State Secrecy Report, Iowa’s score was 92, earning it a grade of A-. No changes to Iowa’s laws were identified.



KANSAS

Grade: B

<p>I. Is there a state policy regarding public disclosure of findings or information about child abuse or neglect which has resulted in a child fatality or near fatality? Yes.</p>	<p>40 out of 40</p>
<p>II. Is the state policy codified in statute? Yes (Kan. Stat. Ann. 38-2212(f)).</p>	<p>10 out of 10</p>
<p>III. What is the ease of access to the information? Kansas’ policy is mandatory. In the event that child abuse or neglect results in a child fatality or near fatality, the reports or records of a child alleged or adjudicated to be in need of care received by the Secretary, a law enforcement agency or any juvenile intake and assessment worker “shall” become a public record and subject to disclosure (Kan. Stat. Ann. § 38-2212(f)(1)).</p>	<p>20 out of 20</p>
<p>IV. What is the scope of information authorized for release? Kansas’ policy is vague and unclear, with a severe substantive limitation. The policy provides that “reports and records” shall become a public record, but provides no specificity regarding what types of information will be released. The policy states that privileged information remains privileged. A severe substantive limitation allows records to be withheld if release would affect the privacy of child or the child’s siblings, parents or guardians (Kan. Stat. Ann. § 38-2212(f)(1)).</p>	<p>3.5 out of 20</p>
<p>V. Are child abuse/neglect proceedings open? Pursuant to Kan. Stat. Ann. § 38-2247, proceedings are open unless the court determines that closed proceedings would be in the best interest of the child or necessary to protect the privacy rights of parents. Upon agreement of interested parties and the court, other persons may be admitted.</p>	<p>9 out of 10*</p>
<p><i>*See the refined Criterion V scoring guidelines in Appendix A.</i></p>	<p>83 points <i>(rounded up from 82.5)</i></p>

What’s changed in Kansas since the 1st Edition of *State Secrecy and Child Deaths in the U.S.* was released in April 2008? In the April 2008 State Secrecy Report, Kansas’ score was 86, earning it a grade of B. In 2010, Kansas enacted Senate Bill No. 460 (L. 2010, ch. 75, § 8), which made various changes to Kan. Stat. Ann. § 38-2212. Kansas’ score for Criterion IV has been corrected to 3.5 based on the fact that the state’s policy is vague and unclear with a severe substantive limitation.



KENTUCKY

Grade: C

<p>I. Is there a state policy regarding public disclosure of findings or information about child abuse or neglect which has resulted in a child fatality or near fatality? Yes.</p>	<p>40 out of 40</p>
<p>II. Is the state policy codified in statute? Yes (Ky.Rev. Stat. Ann. § 620.050(12)).</p>	<p>10 out of 10</p>
<p>III. What is the ease of access to the information? Kentucky’s policy is permissive, with moderately restrictive conditional language. Information “may” be publicly disclosed by the Cabinet for Human Resources in a case where child abuse or neglect has resulted in a child fatality or near fatality. However, the Cabinet only conducts internal reviews of cases where the Cabinet had prior involvement with the child or family (Ky. Rev. Stat. Ann. § 620.050(12)(b)).</p>	<p>6 out of 20</p>
<p>IV. What is the scope of information authorized for release? Kentucky’s policy has some breadth. Although silent as to the release of the name of child, the policy states that the summary prepared by the Cabinet shall include its actions and any policy or personnel changes taken or to be taken, including the results of appeals, as a result of the findings from the internal review; and any cooperation, assistance, or information from any agency of the state or any other agency, institution, or facility providing services to the child or family that were requested and received by the cabinet during the investigation of a child fatality or near fatality (Ky. Rev. Stat. Ann. § 620.050(12)(b)). When an adult who is the subject of information made confidential publicly reveals or causes to be revealed any significant part of the confidential matter or information, the confidentiality is presumed voluntarily waived, and confidential information and records about the person making or causing the public disclosure, not already disclosed but related to the information made public, may be disclosed (Ky. Rev. Stat. Ann. § 620.050(13)).</p>	<p>12 out of 20</p>
<p>V. Are child abuse/neglect proceedings open? Pursuant to Ky. Rev. Stat. Ann. § 610.070(3), proceedings are closed to the general public. The court may admit persons with a direct interest in the case or in the work of the court and others agreed to by the child and his attorney.</p>	<p>5 out of 10*</p>
<p><i>*See the refined Criterion V scoring guidelines in Appendix A.</i></p>	<p>73 points</p>

What’s changed in Kentucky since the 1st Edition of *State Secrecy and Child Deaths in the U.S.* was released in April 2008? In the April 2008 State Secrecy Report, Kentucky’s score was 70, earning it a grade of C–. No changes to Kentucky’s laws were identified; however, minor refinements to Criterion V scoring guidelines resulted in a slightly modified score.



Illuminating Information:

- ▶ Local advocates, and specifically newspaper publishers, have challenged Kentucky’s withholding of information regarding child abuse and neglect fatalities and near fatalities. In the cases of *Lexington H-L Services, Inc. and The Courier-Journal, Inc. vs. Cabinet for Health and Family Services*, Franklin Circuit Court Case No. 09-CI-1742 and *The Courier-Journal, Inc. and Lexington H-L Services, Inc. vs. Cabinet for Health and Family Services*, Franklin Circuit Court Case No. 11-CI-00141, the Franklin Circuit Court held that when public disclosure is permitted under the Cabinet’s enabling legislation (e.g., Rev. Stat. Ann. § 620.050), it is required to be released under the Open Records Act (KRS 61.872(1)). In December, 2011, the state began releasing redacted documents about more than 80 children who were killed or nearly killed from neglect and abuse in 2009 and 2010. Although litigation continues regarding what must be released and what information may be redacted, review of these documents found a lack of consistency in how the Cabinet conducts internal reviews when a child is killed or nearly killed. These two lawsuits and their subsequent release of documents have served as a catalyst to bring state advocates together to participate in the Kentucky Summit to End Child Abuse Deaths. At this Summit, about 250 Kentucky judges, lawmakers, child advocates and social workers came together to rank improved transparency and accountability from state child protection officials as the top priority when it comes to preventing child abuse deaths and serious injuries.
- ▶ In January 2012, Rep. Susan Westrom (D-Lexington) filed two bills to improve Kentucky’s laws on transparency. House Bill 239 calls on the Kentucky Supreme Court to institute a pilot project to open proceedings of child abuse and neglect and termination of parental rights. So far, the bill has passed the House with unanimous support and is now in the Senate where it has stalled in the past. House Bill 200, if passed, would provide more

outside scrutiny of child abuse and neglect deaths and clarify what constitutes abuse. It would also require the cabinet to classify abuse if the perpetrator is a parent, guardian, a relative over 17, or a partner of the child's parent or guardian; under the current implementation of Kentucky law, a death can be classified as an abuse or neglect death only if the perpetrator is a parent or guardian. However, "the bill does not define what information officials must release under the state open-records law about child abuse deaths and serious injuries, as the sponsor...initially had intended"; instead, she "will refer the issue to a proposed task force that would take a broad look at state laws affecting juveniles before the next legislative session" (Deborah Yetter, *Kentucky House Panel Passes Bill Ratcheting Up Scrutiny on Child Abuse Deaths*, "The Courier-Journal" (Mar. 1, 2012).



LOUISIANA

Grade: C

I. Is there a state policy regarding public disclosure of findings or information about child abuse or neglect which has resulted in a child fatality or near fatality? Yes.	40 out of 40
II. Is the state policy codified in statute? Yes (La. R.S. 46:56).	10 out of 10
III. What is the ease of access to the information? Louisiana’s policy is permissive . Public disclosure of summary information contained in the child abuse or neglect records of the Department of Social Services “may” be made when there has been a child fatality or near fatality in which abuse or neglect was medically determined by an examining physician to be a contributing factor in the cause of death or near fatality (La. R.S. 46:56(F)(9)).	10 out of 20
IV. What is the scope of information authorized for release? Louisiana’s policy is vague and unclear . The policy provides only that “limited public disclosure of summary information” contained in child abuse or neglect records is authorized, with no further specificity (La. R.S. 46:56(F)(9)).	10 out of 20
V. Are child abuse/neglect proceedings open? Pursuant to La. Child. Code. Ann. Art 407, proceedings are closed to the general public but the court may admit any person who has a proper interest in the proceedings or work of the court.	5 out of 10*
<i>*See the refined Criterion V scoring guidelines in Appendix A.</i>	75 points

What’s changed in Louisiana since the 1st Edition of *State Secrecy and Child Deaths in the U.S.* was released in April 2008? In the April 2008 State Secrecy Report, Louisiana’s score was 70, earning it a grade of C–. No changes to Louisiana’s laws were identified; however, minor refinements to Criterion V scoring guidelines resulted in a slightly modified score.



Illuminating Information:

- ▶ Although La. R.S. 46:56(F)(9) does not include any specificity regarding the types of “summary information” that may be publicly disclosed in cases of child abuse or neglect fatalities or near fatalities, state officials informed the authors that language in a separate provision is used as a guideline when releasing information under 46:56(F)(9). This separate provision, which discusses disclosure under other circumstances, provides that disclosure may include information indicating whether or not the department has a report, which has been determined to be justified pursuant to Article 615 of the Children's Code, in its possession concerning the child or person who is the subject of the information request, as well as the status of the investigation, the determination made by the department, and any action taken by the department (La. R.S. 46:56(F)(10)(b)).

MAINE

Grade: **A**

<p>I. Is there a state policy regarding public disclosure of findings or information about child abuse or neglect which has resulted in a child fatality or near fatality? Yes.</p>	<p>40 out of 40</p>
<p>II. Is the state policy codified in statute? Yes (22 M.R.S. § 4008-A).</p>	<p>10 out of 10</p>
<p>III. What is the ease of access to the information? Maine’s policy requires mandatory disclosure. “The commissioner shall make public disclosure of the findings or information” in cases of child abuse or neglect fatalities or near fatalities (22 M.R.S. § 4008-A)(1-A)).</p>	<p>20 out of 20</p>
<p>IV. What is the scope of information authorized for release? Maine’s policy contains substantial breadth. Information that may be disclosed includes the “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”, as well as “[i]dentification of child protective or other services provided or actions, if any, taken regarding the child and the child’s family; ...[w]hether any report of abuse or neglect regarding the child has been substantiated as maintained by the department; ...[a]ny 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; ...[w]hether 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 ...[a]ny 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” (22 M.R.S. § 4008-A)(2)).</p>	<p>20 out of 20</p>
<p>V. Are child abuse/neglect proceedings open? Pursuant to Me. Rev. Stat. Ann. Title 22, § 4007(1), proceedings are closed to the public unless the court orders otherwise.</p>	<p>6 out of 10*</p>
<p><i>*See the refined Criterion V scoring guidelines in Appendix A.</i></p>	<p>96 points</p>

What’s changed in Maine since the 1st Edition of *State Secrecy and Child Deaths in the U.S.* was released in April 2008? In the April 2008 State Secrecy Report, Maine’s score was 69, earning it a grade of D+. In 2009, the Maine Legislature amended 22 M.R.S. § 4008-A to add subdivision 1-A, mandating the public disclosure of findings or information in child abuse or neglect fatalities or near fatalities.



MARYLAND

Grade: C

<p>I. Is there a state policy regarding public disclosure of findings or information about child abuse or neglect which has resulted in a child fatality or near fatality? Yes.</p>	<p>40 out of 40</p>
<p>II. Is the state policy codified in statute? Yes (Md. Human Services Code Ann. § 1-203).</p>	<p>10 out of 10</p>
<p>III. What is the ease of access to the information? Maryland’s policy is mandatory with a moderately restrictive limitation. The local director or Secretary of Human Resources “shall, on request” disclose information when a child named in a report of abuse or neglect has suffered a fatality or near fatality (Md. Human Services Code Ann. § 1-203(b)(1)). However, a moderately restrictive limitation provides that the Maryland law “does not grant a right to any person to receive the information” described below (Md. Human Services Code Ann. § 1-203(g)).</p>	<p>12 out of 20</p>
<p>IV. What is the scope of information authorized for release? Maryland’s policy has substantial breadth, with a moderately restrictive substantive limitation. Information that shall be disclosed includes the name of child; the date of report; findings made at the conclusion of the investigation, and the disposition based on those findings; services provided; the number of referrals for professional services; any prior adjudication as a child in need of assistance; the status of any case involving the child at the time of the fatality or near fatality; a summary of the facts and the cause of death reported by the medical examiner; and any information concerning the circumstances of abuse/neglect and investigation (Md. Ann. Code art. HU, § 1-203(d)). A moderately restrictive substantive limitation is that information disclosed is “limited to actions or omissions of the local department, the Department of Human Resources, or an agent of the Department of Human Resources” (Md. Human Services Code Ann. § 1-203(b)(1)(i)).</p>	<p>12 out of 20</p>
<p>V. Are child abuse/neglect proceedings open? Pursuant to Md. Code Ann. Cts. & Jud. Proc. § 3-810(b)(2), the general public is excluded from proceedings that involve the discussion of confidential information from the child abuse and neglect report and record, or any information obtained from the child welfare agency concerning a child or family who is receiving Title IV-B child welfare services or Title IV-E foster care or adoption assistance.</p>	<p>0 out of 10*</p>
<p><i>*See the refined Criterion V scoring guidelines in Appendix A.</i></p>	<p>74 points</p>

What’s changed in Maryland since the 1st Edition of *State Secrecy and Child Deaths in the U.S.* was released in April 2008? In the April 2008 State Secrecy Report, Maryland’s score was 59, earning it a grade of F. In 2010, the Maryland General Assembly amended Md. Human Services Code Ann. § 1-203 to mandate the public disclosure of information when a child named in a report of abuse or neglect has suffered a fatality or near fatality, and to revise the scope of information authorized for release (see Acts 2010, c. 637, § 1, eff. Oct. 1, 2010; Acts 2010, c. 638, § 1, eff. Oct. 1, 2010). However, although making its policy mandatory, the Maryland General Assembly also added language stating that Maryland’s new disclosure policy does not grant any person the right to receive the information described in the statute (Md. Human Services Code Ann. § 1-203(g)) and limits the information disclosed “to actions or omissions of the local department, the Department of Human Resources, or an agent of the Department of Human Resources” (Md. Human Services Code Ann. § 1-203(b)(1)(i)).



Illuminating Information:

- ▶ Although on paper Maryland’s public disclosure law has marginally improved since the 1st Edition of this report was released in 2008, some advocates contend that Maryland’s actual public disclosure practices have in fact worsened in many respects, including the following:
 - After the enactment of the 2010 amendments mandating the release of this information to the public, the Maryland Department of Human Resources refused requests from advocates to adopt formal regulations implementing the new law. Advocates contend that by not properly adopting regulations implementing the 2010 amendments, the Department is frustrating CAPTA’s requirement and not ensuring that information is made available to the public in a predictable, consistent and enforcement manner.

- When developing the form that is used for disclosure of the information to the public, the Department did not provide any opportunity for advocates or the general public to submit comments or suggestions regarding its format or content.
- When responding to a request for child abuse or neglect fatality or near fatality information as required by Maryland's new law, the Department indicated that it was conditioning release of the information on the completion of the appeal process available to individuals found responsible for indicated or unsubstantiated child abuse or neglect. This stance does not appear to be authorized by or in furtherance of Maryland's new statutory language.
- In the U.S. Department of Health & Human Services' Administration on Children, Youth and Families report *Child Maltreatment 2009*, Maryland reported having 17 fatalities resulting from child abuse or neglect during FFY 2009; while the exact figure is unknown, many more children undoubtedly suffered near fatalities due to child abuse or neglect. However, in response to First Star's April 2011 request for information on fatalities and near fatalities resulting from child abuse or neglect during the preceding six-month period (following the Oct. 1, 2010 effective date of Maryland's amended disclosure law), Maryland's Department of Human Resources has to date provided First Star with information on just three fatalities and no near fatalities. Such a response casts serious doubt on the Department's willingness to properly comply with either CAPTA's longstanding public disclosure mandate or Maryland's own recent statutory amendments in this regard.



MASSACHUSETTS

Grade: **C**

I. Is there a state policy regarding public disclosure of findings or information about child abuse or neglect which has resulted in a child fatality or near fatality? Yes.	40 out of 40
II. Is the state policy codified in statute? Yes (M.G.L.A. 38 § 2A).	10 out of 10
III. What is the ease of access to the information? The policy is mandatory . The state fatality review team “shall” provide the public with annual written reports (M.G.L.A. 38 § 2A(b)).	20 out of 20
IV. What is the scope of information authorized for release? The policy is vague and unclear with a severe substantive limitation . The policy provides for the disclosure of “annual written reports” but is substantively limited because the reports only provide “the state team’s findings and recommendations” (M.G.L.A. 38 §2A(b)(ix)).	3.5 out of 20
V. Are child abuse/neglect proceedings open? All hearings except those relating to court orders to not resuscitate or to withdraw life-sustaining medical treatment for children in custody of the department shall be closed to the general public. Names of the persons before the court in these proceedings can’t be published. (Mass. Ann. Laws ch. 119 § 38.)	1 out of 10*
<i>*See the refined Criterion V scoring guidelines in Appendix A.</i>	75 points <small>(rounded up from 74.5)</small>

What’s changed in Massachusetts since the 1st Edition of *State Secrecy and Child Deaths in the U.S.* was released in April 2008? In the April 2008 State Secrecy Report, Massachusetts’ score was 60, earning it a grade of D–. In July 2008, the Massachusetts legislature rewrote Ch. 38, § 2A to, among other things, require that its state fatality review team also investigate and make recommendation regarding near fatalities and open dependency proceedings in very limited circumstances.



Illuminating Information:

- ▶ The Child Welfare Law, Chapter 176 of the Acts of 2008, created the Office of the Child Advocate, which reviews fatalities and near fatalities of children receiving services from executive agencies.



MICHIGAN

Grade: B-

<p>I. Is there a state policy regarding public disclosure of findings or information about child abuse or neglect which has resulted in a child fatality or near fatality? Yes.</p>	<p>40 out of 40</p>
<p>II. Is the state policy codified in statute? Yes (MCLS §§722.627c, 722.627d).</p>	<p>10 out of 10</p>
<p>III. What is the ease of access to the information? Michigan’s policy regarding fatalities is mandatory (the director “shall” release specified information in a child abuse or neglect case in which a child who was a part of the case had died (MCLS § 722.627c)), and its policy regarding near fatalities is permissive (the director “may” release specified information regarding cases involving sexual abuse, serious injury, or life threatening harm (MCLS § 722.627d(2)(b)(vi)).</p>	<p>18 out of 20</p>
<p>IV. What is the scope of information authorized for release? Michigan’s policy is narrow, with a severely restrictive substantive limitation. The policy defines “specified information” to mean information in a children’s protective services case record related specifically to the department’s actions in responding to a complaint of child abuse or neglect (MCLS § 722.622(y)). A severely restrictive substantive limitation authorizes information to be withheld if its release conflicts with the best interest of the child to whom the specified information relates (MCLS § 722.627d(2)(b)).</p>	<p>3.5 out of 20</p>
<p>V. Are child abuse/neglect proceedings open? Pursuant to Mich. Comp. Laws Serv. § 712A.17(7), proceedings are open to public. Upon motion of a party or a victim, the court may close the hearing of a case to members of the general public during the testimony of a juvenile witness or the victim if the court finds that closing the hearing is necessary to protect the welfare of the juvenile witness or the victim.</p>	<p>10 out of 10*</p>
<p><i>*See the refined Criterion V scoring guidelines in Appendix A.</i></p>	<p>82 points <i>(rounded up from 81.5)</i></p>

What’s changed in Michigan since the 1st Edition of *State Secrecy and Child Deaths in the U.S.* was released in April 2008? In the April 2008 State Secrecy Report, Michigan’s score was 82, earning it a grade of B-. No changes were identified to Michigan’s laws.



Illuminating Information:

- ▶ In 2011, Michigan adopted significant modifications to their Child Protection Law to allow for increased public disclosure specific to child fatalities (MCLS § 722.627 Sec. 7b(11)). This amendment requires the department to establish and maintain a registry of statistical information regarding children’s deaths that shall be accessible to the public and includes statistical information covering (a) the number of children who died while under court jurisdiction for child abuse or neglect regardless of placement setting, (b) the number of children who died as a result of child abuse or neglect after a parent had one or more child protective services complaints within the two years preceding the child’s death and the category dispositions of those complaints, (c) the total number of children as identified in subdivisions (a) and (b) who died in the preceding year, and (d) the child protective services disposition of the fatality. While CAI and First Star commend the efforts of Michigan to take a systemic look at child fatalities and near fatalities, CAPTA and its implementing manual specifically require that case findings and information, not aggregate statistics, be released for public disclosure. While Michigan’s grade is not affected by these changes, we commend the work of Michigan advocates to reduce child fatalities and near fatalities.

MINNESOTA

Grade: B

<p>I. Is there a state policy regarding public disclosure of findings or information about child abuse or neglect which has resulted in a child fatality or near fatality? Yes.</p>	<p>40 out of 40</p>
<p>II. Is the state policy codified in statute? Yes (MSA § 626.556, Subd. 11d).</p>	<p>10 out of 10</p>
<p>III. What is the ease of access to the information? Minnesota’s policy is mandatory with severely restrictive conditional language. The public agency “shall” disclose to the public, upon request, the findings and information related to a child fatality or near fatality, if a person is criminally charged with having caused the child fatality or near fatality or a county attorney certifies that a person would have been charged with having caused the child fatality or near fatality but for that person’s death (M.S.A. § 626.556, Subd. 11d(b)).</p>	<p>4 out of 20</p>
<p>IV. What is the scope of information authorized for release? Minnesota’s policy has substantial breadth. It provides that the term “findings and information” means a written summary that includes the dates, outcomes, results of any actions taken or services rendered; results of any review of child mortality panel or any public agency; results of investigations; description of conduct of most recent investigation and services rendered; and the basis for the agency’s determination (M.S.A. § 626.556, Subd. 11d(c)). The provisions are silent as to release of the name of child.</p>	<p>20 out of 20</p>
<p>V. Are child abuse/neglect proceedings open? Pursuant to Minn. Rule of Court 27.01, absent exceptional circumstances, hearings in juvenile protection matters are presumed accessible to public. The closure of any hearing shall be noted on the record and reasons for closure given.</p>	<p>9 out of 10*</p>
<p><i>*See the refined Criterion V scoring guidelines in Appendix A.</i></p>	
<p>83 points</p>	

What’s changed in Minnesota since the 1st Edition of *State Secrecy and Child Deaths in the U.S.* was released in April 2008? In the April 2008 State Secrecy Report, Minnesota’s score was 84, earning it a grade of B. No changes to Minnesota’s laws were identified; however, minor refinements to Criterion V scoring guidelines resulted in a slightly modified score.



MISSISSIPPI

Grade: B

<p>I. Is there a state policy regarding public disclosure of findings or information about child abuse or neglect which has resulted in a child fatality or near fatality? Yes.</p>	<p>40 out of 40</p>
<p>II. Is the state policy codified in statute? Yes (Miss. Code Ann. 43-21-261).</p>	<p>10 out of 10</p>
<p>III. What is the ease of access to the information? Mississippi’s policy appears to be mandatory. It provides that in every case where there is any indication or suggestion of either abuse or neglect and a child’s physical condition is medically labeled as medically “serious” or “critical” or a child dies, confidentiality provisions “shall not apply” (Miss. Code Ann. § 43-21-261(18)).</p>	<p>20 out of 20</p>
<p>IV. What is the scope of information authorized for release? Mississippi’s policy is narrow. The policy provides for disclosure of the name and address of the child, but explicitly limits other pertinent information to verification of case status (no case or involvement, case exists, open or active case, case closed); if a case exists, the type of report or case (physical abuse, neglect, etc.); date of intake and investigations; and case disposition (substantiated or unsubstantiated) (Miss. Code Ann. § 43-21-261(17)).</p>	<p>10 out of 20</p>
<p>V. Are child abuse/neglect proceedings open? Pursuant to Miss. Code Ann. § 43-21-203(6), proceedings are closed to the general public. The court may admit persons with direct interest in the work of the court.</p>	<p>5 out of 10*</p>
<p><i>*See the refined Criterion V scoring guidelines in Appendix A.</i></p>	<p>85 points</p>

What’s changed in Mississippi since the 1st Edition of *State Secrecy and Child Deaths in the U.S.* was released in April 2008? In the April 2008 State Secrecy Report, Mississippi’s score was 82, earning it a grade of B–. No changes to Mississippi’s laws were identified; however, minor refinements to Criterion V scoring guidelines resulted in a slightly modified score.



MISSOURI

Grade: B–

I. Is there a state policy regarding public disclosure of findings or information about child abuse or neglect which has resulted in a child fatality or near fatality? Yes.	40 out of 40
II. Is the state policy codified in statute? Yes (Mo. Rev. Stat. 210.150(5)).	10 out of 10
III. What is the ease of access to the information? Missouri’s policy is permissive . The release of findings or information about cases which resulted in a child fatality or near fatality “is at the sole discretion” of the director of the department of social services, based upon a review of the potential harm to other children within the immediate family (Mo. Rev. Stat. § 210.150(5)).	10 out of 20
IV. What is the scope of information authorized for release? Missouri’s policy is vague and unclear . It authorizes the release of “findings or information about cases which resulted in a child fatality or near fatality”, but provides no further specificity regarding what type of information will be disclosed (Mo. Rev. Stat. § 210.150(5)).	10 out of 20
V. Are child abuse/neglect proceedings open? Pursuant to Mo. Rev. Stat. § 211.319(1), proceedings are open to the public. The court may exclude certain persons if it is in the welfare and best interests of the child or for exceptional circumstances.	10 out of 10*
<i>*See the refined Criterion V scoring guidelines in Appendix A.</i>	80 points

What’s changed in Missouri since the 1st Edition of *State Secrecy and Child Deaths in the U.S.* was released in April 2008? In the April 2008 State Secrecy Report, Missouri’s score was 80, earning it a grade of B–. No changes to Missouri’s laws were identified.



Illuminating Information:

- ▶ In cases of child death, Missouri has a Child Fatality Review Program State Panel. “The Director of the Department of Social Services shall appoint a state child fatality review panel, which shall meet biannually to provide oversight and make recommendations to the Department of Social Services, State Technical Assistance Team.” (Mo. Rev. Stat. § 210.195.) This panel allows for non-identifying information such as the child’s age, race, gender, manner and cause of death to be captured in data and annually reported to the public via reports published on the internet. CAI and First Star commend Missouri’s efforts to address the systemic issues raised when a child death occurs but we encourage Missouri to require the release of specified findings and information about child abuse or neglect fatalities or near fatalities.

MONTANA

Grade: F

<p>I. Is there a state policy regarding public disclosure of findings or information about child abuse or neglect which has resulted in a child fatality or near fatality? Yes.</p>	<p>40 out of 40</p>
<p>II. Is the state policy codified in statute? Yes (Mont. Code Ann. § 41-3-205).</p>	<p>10 out of 10</p>
<p>III. What is the ease of access to the information? Montana’s policy is permissive with severely restrictive conditional language. Records, including case notes, correspondence, evaluations, videotapes, and interviews, unless otherwise protected or unless disclosure of the records is determined to be detrimental to the child or harmful to another person who is a subject of information contained in the records, “may” be disclosed, but only to persons or entities meeting one of 26 classifications, none of which include the general public (Mont. Code Ann. § 41-3-205(3)).</p>	<p>2 out of 20</p>
<p>IV. What is the scope of information authorized for release? Montana’s policy is narrow, with a severely restrictive substantive limitation. For example, disclosure to the news media is limited to the “confirmation of factual information regarding how the case was handled” (Mont. Code Ann. § 41-3-205(3)(p)). A severely restrictive substantive limitation authorizes disclosure to be withheld if release is found to violate the privacy rights of the child, child’s parent, or guardian (Mont. Code Ann. § 41-3-205(3)(p)).</p>	<p>3.5 out of 20</p>
<p>V. Are child abuse/neglect proceedings open? Pursuant to Mont. Code Ann. § 40-6-120, proceedings are closed except to necessary individuals.</p>	<p>2 out of 10*</p>
<p><i>*See the refined Criterion V scoring guidelines in Appendix A.</i></p>	<p>58 points <i>(rounded up from 57.5)</i></p>

What’s changed in Montana since the 1st Edition of *State Secrecy and Child Deaths in the U.S.* was released in April 2008? In the April 2008 State Secrecy Report, Montana’s score was 58, earning it a grade of F. No changes to Montana’s laws were identified.



Illuminating Information:

- ▶ In 2009 an advocacy group filed an action seeking public dissemination of a final report discussing the results of an investigation of allegations of abuse and neglect at a childcare agency. The Supreme Court of Montana upheld Mont Code Ann. § 41-3-205(7), which provided a mechanism for the court to evaluate on a case-by-case basis whether the public’s right to know exceeded the individual right to privacy. The advocacy group was permitted to distribute the report with all references to staff and members at the agency redacted.



NEBRASKA

Grade: C+

<p>I. Is there a state policy regarding public disclosure of findings or information about child abuse or neglect which has resulted in a child fatality or near fatality? Yes.</p>	<p>40 out of 40</p>
<p>II. Is the state policy codified in statute? Yes (R.R.S. Neb. 81-3126).</p>	<p>10 out of 10</p>
<p>III. What is the ease of access to the information? Nebraska’s policy is permissive. The chief executive officer or director “may” disclose information regarding child abuse or neglect and the investigation of and any services related to the child abuse and neglect if the information is related to a child fatality or near fatality (R.R.S. Neb. § 81-3126(2)).</p>	<p>10 out of 20</p>
<p>IV. What is the scope of information authorized for release? Nebraska’s policy has substantial breadth with a severely restrictive substantive limitation. Information that may be disclosed includes, but is not limited to, child placement, whether in-home or out-of-home, terms of contact, hearing dates, the reason for removal from parents or placement, the number of placements and type, permanency objectives, court-ordered services or other services provided by the division, and status of the court process. A severely restrictive substantive limitation authorizes disclosure to be withheld if the chief executive officer or director determines that disclosure is contrary to the best interests of the child, the child’s siblings, or other children in the household (R.R.S. Neb § 81-3126(2)).</p>	<p>7.25 out of 20</p>
<p>V. Are child abuse/neglect proceedings open? Pursuant to R.R.S. Neb. § 24-1001, proceedings are open to the general public.</p>	<p>10 out of 10*</p>
<p><i>*See the refined Criterion V scoring guidelines in Appendix A.</i></p>	<p>77 points <i>(rounded down from 77.25)</i></p>

What’s changed in Nebraska since the 1st Edition of *State Secrecy and Child Deaths in the U.S.* was released in April 2008? In the April 2008 State Secrecy Report, Nebraska’s score was 77, earning it a grade of C+. No changes to Nebraska’s laws were identified.



Illuminating Information:

- ▶ According to one Nebraska official, the state’s Child Death Review Team has encouraged that law enforcement agencies train and use the Attorney General’s Office’s child death investigation protocol; however, a barrier to implementation has been lack of resources for training.



NEVADA

Grade: **A+**

<p>I. Is there a state policy regarding public disclosure of findings or information about child abuse or neglect which has resulted in a child fatality or near fatality? Yes.</p>	<p>40 out of 40</p>
<p>II. Is the state policy codified in statute? Yes (Nev. Rev. Stat. Ann. § 432B.175).</p>	<p>10 out of 10</p>
<p>III. What is the ease of access to the information? Nevada’s policy is mandatory. Data or information concerning reports and investigations thereof “must be made available” to any member of the general public upon request if the child who is the subject of a report of abuse or neglect suffered a fatality or near fatality (Nev. Rev. Stat. Ann. § 432B.175(1)).</p>	<p>20 out of 20</p>
<p>IV. What is the scope of information authorized for release? Nevada’s policy has substantial breadth. The data or information which must be disclosed includes, without limitation, a summary of the report of abuse or neglect and a factual description of the contents of the report; the date of birth and gender of the child; the date that the child suffered the fatality or near fatality; the cause of the fatality or near fatality, if such information has been determined; whether the child welfare services agency had any contact with the child or a member of the child’s family or household before the fatality or near fatality and, if so, the frequency of any contact or communication with the child or a member of the child’s family or household before the fatality or near fatality and the date on which the last contact or communication occurred before the fatality or near fatality, whether the agency provided any child welfare services to the child or to a member of the child’s family or household before or at the time of the fatality or near fatality; whether the agency made any referrals for child welfare services for the child or for a member of the child’s family or household before or at the time of the fatality or near fatality, whether the agency took any other actions concerning the welfare of the child before or at the time of the fatality or near fatality, and a summary of the status of the child’s case at the time of the fatality or near fatality, including, without limitation, whether the child’s case was closed by the agency which provides child welfare services before the fatality or near fatality and, if so, the reasons that the case was closed; and whether the agency, in response to the fatality or near fatality, has provided or intends to provide child welfare services to the child or to a member of the child’s family or household, has made or intends to make a referral for child welfare services for the child or for a member of the child’s family or household; and has taken or intends to take any other action concerning the welfare and safety of the child or any member of the child’s family or household (Nev. Rev. Stat. Ann. § 432B.175(1)(a)-(f)).</p>	<p>20 out of 20</p>
<p>V. Are child abuse/neglect proceedings open? Pursuant to Nev. Rev. Stat. Ann. §432B.430(1)(a), (2)(a), counties with over 400,000 have open proceedings unless a closed proceeding is in the best interest of the child. Counties with under 400,000 have closed proceedings unless an open proceeding is in the best interest of the child.</p>	<p>8 out of 10*</p>
<p><i>*See the refined Criterion V scoring guidelines in Appendix A.</i></p>	<p>98 points</p>

What’s changed in Nevada since the 1st Edition of *State Secrecy and Child Deaths in the U.S.* was released in April 2008? In the April 2008 State Secrecy Report, Nevada’s score was 95, earning it a grade of A. No changes to Nevada’s laws were identified; however, minor refinements to Criterion V scoring guidelines resulted in a slightly modified score.



Illuminating Information:

- ▶ While the authors commend Nevada for having adopted a strong public disclosure policy regarding child abuse or neglect fatalities and near fatalities, other aspects of the state’s child protection and foster care system might be in serious need of reform. In April 2010, the National Center for Youth Law (NCYL), along with co-counsel Morrison & Foerster and Wolfenzon, Schulman & Rolles filed suit against Nevada and Clark county officials, claiming that they are failing to protect the health and safety of children in foster care; the lawsuit seeks money damages for 13 children named in the lawsuit, as well as system improvements for several classes of children that represent more than half of the 3,600 children in foster care in Clark County, which encompasses Las Vegas. In October 2010, the Nevada District Court dismissed NCYL’s lawsuit, and NYCL appealed to the Ninth Circuit.

NCYL argued in its appeal that the District Court erroneously denied foster children the legal protections to which they are entitled. NCYL is seeking review of the District Court's holding that neither the federal Adoption Assistance Act nor CAPTA create a private right of action for plaintiffs to assert constitutional and statutory violations. Additionally, plaintiffs are asking for reversal of the Court's finding that defendants were entitled to qualified immunity because plaintiffs did not establish that the constitution protects certain rights asserted in the lawsuit, such as adequate health screenings and monitoring of psychotropic drug use. Plaintiffs are also seeking a reversal of the Court's holding that they did not show that the failure to engage in other activities, such as legally mandated visits with foster children, violates the constitutional duty to protect foster children from harm. On February 13, 2012, the Ninth Circuit heard oral argument in this appeal; at the time of this writing no decision has been issued.



NEW HAMPSHIRE

Grade: A

<p>I. Is there a state policy regarding public disclosure of findings or information about child abuse or neglect which has resulted in a child fatality or near fatality? Yes.</p>	<p>40 out of 40</p>
<p>II. Is the state policy codified in statute? Yes (NH RSA 126-A:5(XII)).</p>	<p>10 out of 10</p>
<p>III. What is the ease of access to the information? New Hampshire’s policy is mandatory. The Commissioner shall, upon request, publicly disclose specified information regarding the abuse or neglect of a child if there has been a fatality or near fatality resulting from abuse or neglect of a child (NH RSA § 126-A:5(XII)(a)).</p>	<p>20 out of 20</p>
<p>IV. What is the scope of information authorized for release? New Hampshire’s policy has substantial breadth. Information that shall be released includes the date of report; the statutory basis and supporting allegations of any such report; whether any such report was referred to the district office and if so, the priority assigned to it; the date it was referred to district for assessment; for each report, the date and means by which contact was made with the family, any collateral contact made as part of investigation, the date the assessment was finished, the fact that the department’s investigation resulted in finding of abuse/neglect and basis for the finding, and services and actions taken; and any extraordinary or pertinent information concerning circumstances of abuse or neglect (when the Commissioner determines disclosure is consistent with the public interest) (NH RSA § 126-A:5(XII)(c)).</p>	<p>20 out of 20</p>
<p>V. Are child abuse/neglect proceedings open? Pursuant to N.H. Rev. Stat. Ann. § 169-C:14, proceedings are closed except to necessary individuals. Only such persons as the parties, their witnesses, counsel and representatives of the agencies present to perform their official duties shall be admitted, except that other persons invited by a party may attend, with the court’s prior approval.</p>	<p>4 out of 10*</p>
<p><i>*See the refined Criterion V scoring guidelines in Appendix A.</i></p>	<p>94 points</p>

What’s changed in New Hampshire since the 1st Edition of *State Secrecy and Child Deaths in the U.S.* was released in April 2008? In the April 2008 State Secrecy Report, New Hampshire’s score was 95, earning it a grade of A. No changes to New Hampshire’s laws were identified; however, minor refinements to Criterion V scoring guidelines resulted in a slightly modified score.

NEW JERSEY

Grade: C+

<p>I. Is there a state policy regarding public disclosure of findings or information about child abuse or neglect which has resulted in a child fatality or near fatality? Yes.</p>	<p>40 out of 40</p>
<p>II. Is the state policy codified in statute? Yes (N.J. Rev. Stat. 9:6-8.10a).</p>	<p>10 out of 10</p>
<p>III. What is the ease of access to the information? New Jersey’s policy is permissive. The department “may” disclose to the public the findings or information about a case of child abuse or neglect which has resulted in a child fatality or near fatality (N.J. Rev. Stat. § 9:6-8.10a(f)).</p>	<p>10 out of 20</p>
<p>IV. What is the scope of information authorized for release? New Jersey’s policy has substantial breadth with a moderately restrictive substantive limitation. If there is an ongoing investigation, the department may release the name of child; the date of incident; the living arrangement of the child at the time of the incident; information on other possible child victims; the nature of incident; the status of involvement with the child prior to the incident; actions taken to protect the child; and the name of the office supervising the child’s case. If the investigation is closed and substantiated, the department may release the child’s current medical condition or date of death; the child’s current living situation; the details about the incident; whether it was determined that another child was abused as well; and the type of services provided by the division, including referrals. (N.J.A.C. 10:133G-4.4; 4.5; 4.6). A moderately restrictive substantive limitation authorizes information to be withheld if release is likely to endanger the emotional well-being of a child) (N.J. Rev. Stat. § 9:6-8.10a(f)).</p>	<p>12 out of 20</p>
<p>V. Are child abuse/neglect proceedings open? Pursuant to N.J. Stat. § 9:6-8.43(b), proceedings are open but may be closed to the general public.</p>	<p>7 out of 10*</p>
<p><i>*See the refined Criterion V scoring guidelines in Appendix A.</i></p>	
<p>79 points</p>	

What’s changed in New Jersey since the 1st Edition of *State Secrecy and Child Deaths in the U.S.* was released in April 2008? In the April 2008 State Secrecy Report, New Jersey’s score was 82, earning it a grade of B-. No changes to New Jersey’s laws were identified; however, minor refinements to Criterion V scoring guidelines resulted in a slightly modified score.



NEW MEXICO

Grade: D

<p>I. Is there a state policy regarding public disclosure of findings or information about child abuse or neglect which has resulted in a child fatality or near fatality? Yes, as to fatalities. No, as to near fatalities.</p>	<p>30 out of 40</p>
<p>II. Is the state policy codified in statute? Yes, as to fatalities (N.M. Stat. Ann. 32A-4-33.1). No, as to near fatalities.</p>	<p>7 out of 10</p>
<p>III. What is the ease of access to the information? New Mexico’s policy is mandatory but it only pertains to fatalities. The department “shall” release specified information after learning that a child fatality has occurred and that there is reasonable suspicion that the fatality was caused by abuse or neglect (N.M. Stat. Ann. § 32A-4-33.1A).</p>	<p>15 out of 20</p>
<p>IV. What is the scope of information authorized for release? New Mexico’s policy, which pertains to fatalities only, has some breadth. Within five business days of learning that a child fatality has occurred and there is a reasonable suspicion that the fatality was caused by abuse or neglect, information to be released includes the age and gender of the child; the date of death; whether the child was in foster care or in the home of the child's parent or guardian at the time of death; and whether an investigation is being conducted by the department. Upon completion of a child abuse or neglect investigation into a child's death, if it is determined that abuse or neglect caused the child's death, additional information to be released includes a summary of the department's investigation; a law enforcement investigation report, if in the department's possession; and a medical examiner's report, if in the department's possession (N.M. Stat. Ann. 32A-4-33.1).</p>	<p>9 out of 20</p>
<p>V. Are child abuse/neglect proceedings open? Pursuant to N.M. Stat. Ann. §32A-4-20(B)-(D) proceedings are closed except to the necessary individuals. Accredited representatives of the news media shall be allowed to be present at the closed hearings but they must refrain from divulging information that would identify any child involved in the proceedings or the parent, guardian or custodian of that child. A child who is the subject of an abuse and neglect proceeding and is present at a hearing may object to the presence of the media. The court may then exclude the media if it finds that the presence of the media is contrary to the best interests of the child.</p>	<p>5 out of 10*</p>
<p><i>*See the refined Criterion V scoring guidelines in Appendix A.</i></p>	<p>66 points</p>

What’s changed in New Mexico since the 1st Edition of *State Secrecy and Child Deaths in the U.S.* was released in April 2008? In the April 2008 State Secrecy Report, New Mexico’s score was 54, earning it a grade of F. In 2009, the New Mexico Legislature added section 32A-4-33.1 to its Children’s Code, mandating the release of certain information in the case of a child abuse or neglect fatality. The Legislature also deleted a provision which previously required release of information only after consultation with and the consent of the district attorney. Also, a 2009 amendment to section 32A-4-20, regarding the public’s ability to access child abuse/neglect proceedings, added language stating that “[a] child who is the subject of an abuse and neglect proceeding and is present at a hearing may object to the presence of the media. The court may exclude the media if it finds that the presence of the media is contrary to the best interests of the child.”

NEW YORK

Grade: C+

<p>I. Is there a state policy regarding public disclosure of findings or information about child abuse or neglect which has resulted in a child fatality or near fatality? Yes.</p>	<p>40 out of 40</p>
<p>II. Is the state policy codified in statute? Yes (NY CLS Soc Serv 422-a for near fatalities, and NY CLS Soc Serv 20(5) for fatalities).</p>	<p>10 out of 10</p>
<p>III. What is the ease of access to the information? New York’s policy regarding fatalities is mandatory with moderately conditional language. For the death of a child whose care and custody or custody and guardianship has been transferred to an authorized agency, or the death of a child for whom any local department of social services has an open child protective services or preventive services case, or in the case of a report made to the central register involving the death of a child, either the office of children and families services or the applicable fatality review team is required to prepare and issue a report, which shall be made available to the public (NY CLS Soc Serv § 20(5)). New York’s policy regarding near fatalities is permissive. The commissioner or a city or county social services commissioner “may” disclose information regarding the abuse or maltreatment of a child, and the investigation thereof and any services related thereto, if the child named in the report has died or the report involves the near fatality of a child (NY CLS Soc Serv § 422-a(1)(d)).</p>	<p>12 out of 20</p>
<p>IV. What is the scope of information authorized for release? New York’s policy regarding fatalities has substantial breadth with a severely restrictive substantive limitation. The report that is made available to the public must include the cause of the death, identification of child protective or other services provided or actions taken regarding the child and his/her family, any extraordinary or pertinent information concerning the circumstances of the child’s death, whether the child or the child’s family had received assistance, care, or services from the social services district prior to the child’s death, any action or further investigation taken by the department or by the local social services district since the death of the child, and, as appropriate, recommendations for local or state administrative or policy changes (NY CLS Soc Serv § 20(5)(b)). However, a severely restrictive substantive limitation allows for the nondisclosure of information if the Commissioner determines that disclosure is “contrary to the best interests of the deceased child’s siblings or other children in the household” (NY CLS Soc Serv § 20(5)(b)). New York’s policy regarding near fatalities has substantial breadth with a severely restrictive substantive limitation. The commissioner may disclose the name of child; the determination of the investigation and findings upon which the determination was based; CPS actions taken in response to reports; whether the child or family has received care or services prior to each report; and any extraordinary or pertinent information concerning circumstances of report (if the director finds release to be “consistent with public interest”) (NY CLS Soc Serv § 422-a(2)). A severely restrictive substantive limitation allows information to be withheld if disclosure is contrary to the best interest of the child, the child’s siblings or other children in the household (NY CLS Soc Serv § 422-a(1)).</p>	<p>7.25 out of 20</p>
<p>V. Are child abuse/neglect proceedings open? New York law provides that “Family Court is open to the public” (NY CLS Unif. Rules, Family Ct. § 205.4(a)). “[T]he general public or any person may be excluded from a courtroom only if the judge presiding in the courtroom determines, on a case-by-case basis based upon supporting evidence, that such exclusion is warranted in that case” based on a consideration of specified factors (NY CLS Unif. Rules, Family Ct. § 205.4(b)). <i>Ed. Note: For more information on this issue, see the Illuminating Information note below.</i></p>	<p>8 out of 10*</p>
<p>*See the refined Criterion V scoring guidelines in Appendix A.</p>	<p>77 points (rounded down from 77.25)</p>

What’s changed in New York since the 1st Edition of *State Secrecy and Child Deaths in the U.S.* was released in April 2008? In the April 2008 State Secrecy Report, New York’s score was 89, earning it a grade of B+. Although no substantive changes to New York’s laws were identified, a New York official recently alerted this Report’s authors to a provision in NY CLS Soc Serv § 20(5)(b) that allows for the nondisclosure of child abuse or neglect fatality information if the Commissioner determines that disclosure is “contrary to the best interests of the deceased child’s

siblings or other children in the household.” The authors respectfully contend that in cases of child abuse or neglect fatalities or near fatalities, CAPTA does not allow states to engage in such a determination, nor does it allow states to withhold information based on these grounds, as is clearly illustrated in the following excerpt from the DHHS, Administration for Children and Families, Child Welfare Policy Manual, section 2.1A.4 (emphasis added):

4. Question:....Does a State have the option of disclosing information on these child fatalities and near fatalities, for example, when full disclosure may be contrary to the best interests of the child, the child's siblings, or other children in the household?

Answer: No....[T]he State must have procedures or provisions that allow the public to access findings or information about a child abuse or neglect case that results in the fatality or near fatality of a child. The State does not have discretion in whether to allow the public access to the child fatality or near fatality information; rather, the public has the discretion as to whether to access the information. In other words, the State is not required to provide the information to the public unless requested, but may not withhold the facts about a case unless doing so would jeopardize a criminal investigation....

Such a provision constitutes a severely restrictive substantive limitation, and thus New York’s score for the Criterion IV was reduced. Also, minor refinements to Criterion V scoring guidelines resulted in a slightly modified score.



Illuminating Information:

- ▶ As is noted above, New York law allows child abuse or neglect fatality information to be withheld if the Commissioner determines that disclosure is “contrary to the best interests of the deceased child’s siblings or other children in the household” (NY CLS Soc Serv § 20(5)(b)). In a New York State Office of Children & Family Services (OCFS) Local Commissioners Memorandum dated September 26, 2008, OCFS interpreted this “best interest determination” to apply to “all fatality reports requested to be released by OCFS regardless of whether the request is for a child-specific report or a more general request for multiple reports” (see 08-OCFS-LCM-14).
- ▶ A February 28, 2012 article by the *New York Times* chronicled the history of New York’s public disclosure law, otherwise known as “Elisa’s Law” in tribute to a 6-year-old girl who was killed by her drug addict mother in 1995. The law was supposed to provide for the public disclosure of information in cases involving an abused or neglected child’s death. However, the *Times* reported that “for the last five years, the state’s Office of Children and Family Services has been working quietly and persistently to limit access to those case reports, which in most instances are the only record of the circumstances leading up to the deaths.” The *Times* notes that OCFS issued the September 2008 policy after it was unsuccessful in its attempts to amend the law in 2007. The *Times* reported that in one recent year, two-thirds of the child abuse or neglect fatality reports involved homes with multiple children, meaning that OCFS’ policy would allow officials to withhold information in as many cases. (See Jo Craven McGinty, *State Keeps Death Files of Abused Children Secret*, NEW YORK TIMES (Feb. 29, 2012).)
- ▶ A November 2011 article by the *New York Times* revealed that although New York State’s Family Courts were ordered to be open to the public in 1997, today those courts are “essentially, almost defiantly, closed to the general public.” The *Times* reported that some courtrooms are locked, others are marked with “stop” or “do not enter” signs, and court personnel bar visitors attempting to enter courtrooms. In response to the newspaper’s findings, at least one court official claimed that she planned a review of the situation, and one supervising judge sent the other judges in her court “a new copy of a two-year-old memorandum reminding them that the court was to be open.” (See William Glaberson, *New York Family Courts Say Keep Out, Despite Order*, NEW YORK TIMES (Nov. 17, 2011).) In December 2011, New York court officials issued a memorandum confirming that “[c]ourtrooms in the Family Court are open to the public” and directing courts to be “mindful of the presumption of open access before excluding any person from a Family Court proceeding.” The memorandum also set forth general guidelines to help ensure public access to those proceedings:
 - in a respectful manner, court staff may ask each person who seeks entrance to a courtroom if they are a party, witness, or otherwise associated with a specific calendared case;
 - a person who wishes to observe the proceedings will be permitted to sit in the courtroom subject to the limitations of courtroom capacity;
 - courtroom staff will inform the judge if there is a member of the press or an observer in the courtroom and whether or not he or she has any role in the case;

- when a case is called, the judge may advise the parties that there is an observer in the courtroom and ask if anyone has an objection; and
- on a case-by-case basis, prior to ordering exclusion, the judge must make findings, based upon supporting evidence, that the exclusion is warranted. The judge may consider the factors enumerated within Rule 205.4.



NORTH CAROLINA

Grade: C

<p>I. Is there a state policy regarding public disclosure of findings or information about child abuse or neglect which has resulted in a child fatality or near fatality? Yes.</p>	<p>40 out of 40</p>
<p>II. Is the state policy codified in statute? Yes (N.C. Gen. Stat. 7B-2902).</p>	<p>10 out of 10</p>
<p>III. What is the ease of access to the information? North Carolina’s policy is mandatory with severely restrictive conditional language. The public agency “shall” disclose to the public, upon request, the findings and information related to a child fatality or near fatality, if a person is criminally charged with having caused a child fatality or near fatality, or the district attorney has certified that a person would be charged with having caused the child fatality or near fatality but for that person’s prior death (N.C. Gen. Stat. § 7B-2902(b)).</p>	<p>4 out of 20</p>
<p>IV. What is the scope of information authorized for release? North Carolina’s policy has substantial breadth with a moderately restrictive substantive limitation. The findings and information disclosed is defined as a written summary which includes dates, outcomes, results of any actions taken or services rendered; the results of any review of child mortality panel or any public agency; the results of the investigations; a description of the conduct of the most recent investigation and services rendered and the basis for the department’s decision (N.C. Gen. Stat. § 7B-2902(a)(2)). Provisions are silent as to release of the name of the child. A substantive limitation authorizes disclosure to be withheld if release is likely to cause mental harm (N.C. Gen. Stat. § 7B-2902(d)(2)).</p>	<p>12 out of 20</p>
<p>V. Are child abuse/neglect proceedings open? Pursuant to N.C. Gen. State. §7B-801, proceedings are open. The court has discretion to determine whether proceedings shall be closed to the public. No hearing or part of a hearing shall be closed by the court if the juvenile requests that it remain open.</p>	<p>7.5 out of 10*</p>
<p><i>*See the refined Criterion V scoring guidelines in Appendix A.</i></p>	<p>74 points <i>(rounded up from 73.5)</i></p>

What’s changed in North Carolina since the 1st Edition of *State Secrecy and Child Deaths in the U.S.* was released in April 2008? In the April 2008 State Secrecy Report, North Carolina’s score was 76, earning it a grade of C. No changes to North Carolina’s laws were identified; however, minor refinements to Criterion V scoring guidelines resulted in a slightly modified score.



NORTH DAKOTA

Grade: C+

<p>I. Is there a state policy regarding public disclosure of findings or information about child abuse or neglect which has resulted in a child fatality or near fatality? Yes.</p>	<p>40 out of 40</p>
<p>II. Is the state policy codified in statute? Yes (N.D. Cent. Code § 50-25.1-04.1).</p>	<p>10 out of 10</p>
<p>III. What is the ease of access to the information? North Dakota’s policy is mandatory. The child protection team “shall” make available information reflecting the disposition of reports of institutional child abuse, neglect, or death resulting from abuse or neglect (N.D. Cent. Code § 50-25.1-04.1(2)).</p>	<p>20 out of 20</p>
<p>IV. What is the scope of information authorized for release? North Dakota’s policy has substantial breadth, with a severely restrictive substantive limitation. It authorizes the release of “information reflecting the disposition of reports of institutional child abuse, neglect, or death,” and explicitly provides only for the nondisclosure of the identity of persons reporting and of the children and parents of children involved (N.D. Cent. Code § 50-25.1-04.1(2)). A severely restrictive substantive limitation provides that information is released only with regard to cases of institutional child abuse or neglect (N.D. Cent. Code § 50-25.1-04.1(2)), defined as situations of known or suspected child abuse or neglect when the institution responsible for the child’s welfare is a residential child care facility, a treatment or care center for individuals with intellectual disabilities, a public or private residential educational facility, a maternity home, or any residential facility owned or managed by the state or a political subdivision of the state (N.D. Cent. Code § 50-25.1-02(9)).</p>	<p>7.25 out of 20</p>
<p>V. Are child abuse/neglect proceedings open? Pursuant to N.D. Cent. Code § 27-20-24(5), proceedings are closed except to necessary individuals.</p>	<p>2 out of 10*</p>
<p><i>*See the refined Criterion V scoring guidelines in Appendix A.</i></p>	
<p>79 points <i>(rounded down from 79.25)</i></p>	

What’s changed in North Dakota since the 1st Edition of *State Secrecy and Child Deaths in the U.S.* was released in April 2008? In the April 2008 State Secrecy Report, North Dakota’s score was 59, earning it a grade of F. Although no changes to North Dakota’s laws were identified, scoring changes reflect the fact that North Dakota’s policy covers incidents of abuse, neglect, or death resulting from abuse or neglect, which would include near fatalities as well as fatalities.



Illuminating Information:

- ▶ Although the North Dakota provisions cited above are limited to cases of institutional child abuse or neglect, the laws are not limited to only deaths or near deaths, and would thus encompass any types of abuse or neglect.

OHIO

Grade: B-

<p>I. Is there a state policy regarding public disclosure of findings or information about child abuse or neglect which has resulted in a child fatality or near fatality? Yes.</p>	<p>40 out of 40</p>
<p>II. Is the state policy codified in statute? Yes, as to fatalities: ORC Ann. § 5153.171 et seq. No, as to near fatalities: Ohio’s policy is not codified in statute, but is contained in a regulation (Ohio Admin. Code § 5101:2-33-21(D)(3)).</p>	<p>9 out of 10</p>
<p>III. What is the ease of access to the information? Ohio’s policy regarding fatalities is mandatory. In cases where the prosecuting attorney intends to prosecute a person for causing the child’s death, the director “shall release” information the prosecutor determines may be released and no other information (ORC Ann. § 5153.171(A)(1)) and in cases where the prosecuting attorney does not intend to prosecute a person for causing the child’s death, the director “shall release” specified information (ORC Ann. § 5153.171(A)(2)).</p> <p>Ohio’s policy regarding near fatalities is mandatory with moderately restrictive conditional language. Upon obtaining the written authorization of its director, the public children’s service agency “shall” promptly provide public disclosure of the findings or information about the case of child abuse or neglect which has resulted in either a child fatality or a near fatality that, as certified by a physician, places the child in serious or critical condition (Ohio Admin. Code, § 5101:2-33-21(D)(4)).</p>	<p>18 out of 20</p>
<p>IV. What is the scope of information authorized for release? Ohio’s policy regarding fatalities has substantial breadth with a severely restrictive substantive limitation. Information released includes the child’s name, a summary report of the chronology of abuse or neglect reports, the status of any investigations, services provided to the child, and actions taken by a public children services agency in response to any report of abuse or neglect (ORC Ann. § 5153.172(A)). However, the director shall not disclose any information if a judge determines that disclosing the information would not be in the best interest of a sibling of the deceased child or another child residing in the household of the deceased child (ORC Ann. § 5153.173).</p> <p>Ohio’s policy regarding near fatalities is vague and unclear. It authorizes the release of findings or information but provides no further specificity regarding what type of information will be disclosed (Ohio Admin. Code, § 5101:2-33-21(D)(4)).</p>	<p>8 out of 20</p>
<p>V. Are child abuse/neglect proceedings open? Pursuant to Ohio Rev. Code Ann. § 2151.35(A)(1), proceedings are open. The court may exclude the general public if it holds a separate hearing to determine whether it is appropriate.</p>	<p>7 out of 10*</p>
<p><i>*See the refined Criterion V scoring guidelines in Appendix A.</i></p>	<p>82 points</p>

What’s changed in Ohio since the 1st Edition of *State Secrecy and Child Deaths in the U.S.* was released in April 2008? In the April 2008 State Secrecy report, Ohio’s score was 79, earning it a grade of C+. However, the originally published report included minor scoring errors which have been corrected above; also, minor refinements to Criterion V scoring guidelines resulted in a slightly modified score.

OKLAHOMA

Grade: B-

<p>I. Is there a state policy regarding public disclosure of findings or information about child abuse or neglect which has resulted in a child fatality or near fatality? Yes.</p>	<p>40 out of 40</p>
<p>II. Is the state policy codified in statute? Yes (10A Okl. St. 1-6-105).</p>	<p>10 out of 10</p>
<p>III. What is the ease of access to the information? Oklahoma’s policy is mandatory with severely restrictive conditional language. The Department of Human Services, the district attorney, the district court clerk, the judge having jurisdiction over the case, and the Oklahoma Commission on Children and Youth, upon request, “shall release” certain information to the public; however, a severely restrictive condition provides that such release will happen after the date the person responsible for the child has been criminally charged (10A Okl. St. § 1-6-105(C)(1), (D)(1)).</p>	<p>4 out of 20</p>
<p>IV. What is the scope of information authorized for release? Oklahoma’s policy has substantial breadth. The information that may be disclosed includes confirmation as to whether a report has been made and whether an investigation has begun; a summary of previous reports; dates and outcome of any investigations or actions taken by the department in response to previous reports; specific recommendation made to the district attorney and any subsequent action taken; dates of any judicial proceedings prior to death; recommendations submitted at judicial proceedings; and rulings of the court (10A Okl. St. § 1-6-105(C)).</p>	<p>20 out of 20</p>
<p>V. Are child abuse/neglect proceedings open? Pursuant to 10A Okl. St. §10A 1-4-503, proceedings are closed except to necessary individuals. The judge may order the court to be opened to the public. Proceedings shall be private unless specifically ordered by the judge to be conducted in public, but persons having a direct interest in the case shall be admitted, except as otherwise determined by the court.</p>	<p>6 out of 10*</p>
<p><i>*See the refined Criterion V scoring guidelines in Appendix A.</i></p>	
<p>80 points</p>	

What’s changed in Oklahoma since the 1st Edition of *State Secrecy and Child Deaths in the U.S.* was released in April 2008? In the April 2008 State Secrecy Report, Oklahoma’s score was 77, earning it a C+. A 2011 measure that took effect on November 1, 2011, among other things, revised 10A Okl. St. § 1-6-105(B) to delete language limiting the release of information regarding prior investigations to those that that occurred within the last three years concerning the child, or within one year after the death or near death (2011 OK. HB 2136). However, because the 2011 amendments retain the severely restrictive conditional language contained in § 1-6-105 (limiting the release of information to cases where a personal responsible for the child has been charged by information or indicting with committing a crime resulting in the death or near death of the child), no change was warranted in Oklahoma’s grade for Criterion III. Some other citations from the April 2008 report have changed due to nonsubstantive 2009 legislation that renumbered relevant statutes (Laws 2009, ch. 233 (HB 2028), §§ 75, 272, eff. May 21, 2009).



Illuminating Information:

- ▶ During October 2011, media outlet KJRH reported that—after a series of recent deaths of children in Department of Human Services (DHS) custody—Oklahoma lawmakers were expressing concern regarding DHS’ failure to respond to or implement recommendations and suggestions made in a 2008 audit of the management of DHS and its handling of child abuse and child abuse deaths. One lawmaker, Rep. Richard Morrisette, proposed placing a petition on the 2012 ballot to change the structure of the agency. KJRH also noted that Speaker of the House Kris Steele had also formed a task force to devise recommendations for DHS reform.

OREGON

Grade: **A-**

I. Is there a state policy regarding public disclosure of findings or information about child abuse or neglect which has resulted in a child fatality or near fatality? Yes.	40 out of 40
II. Is the state policy codified in statute? Yes (ORS § 419B.035).	10 out of 10
III. What is the ease of access to the information? Oregon’s policy is mandatory . The Department of Human Services “shall” make records available to any person, upon request, if the reports or records requested regard an incident in which a child, as the result of abuse, died or suffered serious physical injury (ORS § 419B.035(1)(i)).	20 out of 20
IV. What is the scope of information authorized for release? Oregon’s policy has some breadth . It authorizes the release of “reports or records.” A regulation adopted by Oregon Department of Human Services, Children, Adults and Families Division defines the term record as “a record, file, paper, or communication and includes but is not limited to any writing or recording of information including automated records and printouts, handwriting, typewriting, printing, photostating, photographing, magnetic tapes, videotapes or other documents” (OAR 413-010-0010 (12)).	12 out of 20
V. Are child abuse/neglect proceedings open? Pursuant to Or. Const. art. I, § 10, proceedings are open to the general public.	10 out of 10*
<i>*See the refined Criterion V scoring guidelines in Appendix A.</i>	92 points

What’s changed in Oregon since the 1st Edition of *State Secrecy and Child Deaths in the U.S.* was released in April 2008? In the April 2008 State Secrecy Report, Oregon’s score was 90, earning it a grade of A-. No changes to Oregon’s laws were identified; however, scoring changes reflect the fact that regulatory language does provide some level of specificity with regard to the scope of information that is authorized for release.



PENNSYLVANIA

Grade: A+

<p>I. Is there a state policy regarding public disclosure of findings or information about child abuse or neglect which has resulted in a child fatality or near fatality? Yes.</p>	<p>40 out of 40</p>
<p>II. Is the state policy codified in statute? Yes (23 Pa. C.S. § 6343).</p>	<p>10 out of 10</p>
<p>III. What is the ease of access to the information? Pennsylvania’s disclosure policy is mandatory. Upon the completion of the department’s report, it “shall” be made available to the public (23 Pa. C.S. § 6343(c)(4)).</p>	<p>20 out of 20</p>
<p>IV. What is the scope of information authorized for release? Pennsylvania’s disclosure policy has substantial breadth. The department shall release a written report on any child abuse fatality or near fatality that summarizes “the circumstances of the child’s fatality or near fatality; the nature and extent of its review; statutory and regulatory compliance by the county agency...; its findings; and recommendations for reducing the likelihood of future child fatalities and near fatalities resulting from child abuse” (23 Pa. C.S. § 6343(c)(1)). When the department's report is made available to the public, identifying information shall be removed from the contents of the report except for disclosure of “the identity of a deceased child; if the child was in the custody of a public or private agency, the identity of the agency; the identity of the public or private agency under contract with a county agency to provide services to the child and the child's family in the child's home prior to the child's death or near fatality; and the identity of any county agency that convened a child fatality or near fatality review team in respect to the child” (23 Pa. C.S. § 6343(c)(4)).</p>	<p>20 out of 20</p>
<p>V. Are child abuse/neglect proceedings open? Pursuant to Pa. Const. Art. 1, § 11 “all courts shall be open.” A 2003 superior court decision held that “while there is a rebuttable constitutional presumption that juvenile dependency proceedings are open to the public, our courts possess an inherent power to control access to their proceedings and may deny access when appropriate. Once an interested party seeks access, however, the party seeking to keep the proceedings closed may rebut the presumption of openness by demonstrating that: (1) closure serves a compelling governmental interest, and (2) no less restrictive means to serve that interest exists” (<i>In the Interest of M.B.</i>, 2003 PA Super 76, 819 A.2d 59 (2003)).</p>	<p>7 out of 10*</p>
<p>*See the refined Criterion V scoring guidelines in Appendix A.</p>	<p>97 points</p>

What’s changed in Pennsylvania since the 1st Edition of *State Secrecy and Child Deaths in the U.S.* was released in April 2008? In the April 2008 State Secrecy Report, Pennsylvania’s score was 10, earning it a grade of F. On June 10, 2008, the Pennsylvania General Assembly amended Senate Bill 1147 to add language to 23 Pa. C.S. § 6343 regarding department reviews and reports of child abuse fatalities and near fatalities, and the release of specified information to the public regarding those reviews and reports (2008 Pa. ALS 33). That measure was signed by the Governor on July 3, 2008.



Illuminating Information:

- ▶ The information reflected above assumes that under Pennsylvania law, severe neglect can be interpreted as abuse.

RHODE ISLAND

Grade: **B**

<p>I. Is there a state policy regarding public disclosure of findings or information about child abuse or neglect which has resulted in a child fatality or near fatality? Yes.</p>	<p>40 out of 40</p>
<p>II. Is the state policy codified in statute? Yes (R.I. Gen. Laws 42-72-8). See also DCYF Policy 100.0165(C)(1), Child Fatality and Near Fatality Response, Version 2 (Nov. 16, 2009).</p>	<p>10 out of 10</p>
<p>III. What is the ease of access to the information? Although Rhode Island’s statute is permissive (the director “may” disclose the findings or other information about a case as the director deems necessary in a case of child abuse or neglect which has resulted in a child fatality or near fatality (R.I. Gen. Laws § 42-72-8(c)), the Rhode Island Department of Children, Youth and Families has adopted a mandatory policy regarding such release (the Department “will provide for the disclosure of available facts to the public about a child abuse or neglect case that results in a child's fatality or near fatality”) (DCYF Policy 100.0165(C)(1), Child Fatality and Near Fatality Response, Version 2 (Nov. 16, 2009)).</p>	<p>20 out of 20</p>
<p>IV. What is the scope of information authorized for release? Although Rhode Island’s statute is vague and unclear, authorizing the release of “findings or other information” but providing no further specificity regarding what type of information will be disclosed (R.I. Gen. Laws § 42-72-8(c)), the Rhode Island Department of Children, Youth and Families has adopted a disclosure policy that has some breadth. Specifically, DCYF will release the following available information to the public, providing that nothing disclosed would be likely to compromise the integrity of a criminal investigation or proceeding: the fact that a report has been made concerning the alleged victim child; whether an investigation has been initiated; the result of the completed investigation or information about such a case if there are no findings; and dates and outcomes of child abuse or neglect investigations concerning the alleged victim child (DCYF Policy 100.0165(C)(2), Child Fatality and Near Fatality Response, Version 2 (Nov. 16, 2009)).</p>	<p>12 out of 20</p>
<p>V. Are child abuse/neglect proceedings open? Pursuant to R.I. Gen. Laws § 14-1-30, proceedings are closed except to necessary individuals.</p>	<p>2 out of 10*</p>
<p><i>*See the refined Criterion V scoring guidelines in Appendix A.</i></p>	
<p>84 points</p>	

What’s changed in Rhode Island since the 1st Edition of *State Secrecy and Child Deaths in the U.S.* was released in April 2008? In the April 2008 State Secrecy Report, Rhode Island’s score was 72, earning it a grade of C–. The score presented above reflects the additional disclosure-related information contained in Department of Children, Youth and Family Policy 100.0165(C), Child Fatality and Near Fatality Response, Version 2 (Nov. 16, 2009).



SOUTH CAROLINA

Grade: C

<p>I. Is there a state policy regarding public disclosure of findings or information about child abuse or neglect which has resulted in a child fatality or near fatality? Yes.</p>	<p>40 out of 40</p>
<p>II. Is the state policy codified in statute? Yes (S.C. Ann. § 63-7-1990(G) and (H); (H) explicitly applies to deaths only).</p>	<p>10 out of 10</p>
<p>III. What is the ease of access to the information? South Carolina’s policy is permissive. The director “may” disclose to the media information contained in child protective services records (S.C. Code Ann. § 63-7-1990(G) and “is authorized” to prepare and release reports of the results of the department’s investigations into the deaths of children in its custody or receiving child welfare services at the time of death (arguably, such release would be to the public) (S.C. Code Ann. § 63-7-1990(H)).</p>	<p>10 out of 20</p>
<p>IV. What is the scope of information authorized for release? South Carolina’s policy is narrow. Disclosure is explicitly limited to discussion of the department’s activities in handling the case including information placed in the public domain by other public officials, a criminal prosecution, the alleged perpetrator or the attorney for the alleged perpetrator, or other public judicial proceedings (S.C. Code Ann. § 63-7-1990(G)). S.C. Code Ann. § 63-7-1990(H) limits available information to the results of the department’s investigations into the deaths of children in its custody or receiving child welfare services at the time of death.</p>	<p>10 out of 20</p>
<p>V. Are child abuse/neglect proceedings open? Pursuant to S.C. Code Ann. § 63-3-590, proceedings are closed except to necessary individuals and persons interested in the work of the court. When and if challenged by the public or the press, the decision of a judge to close any proceeding must be supported by findings which explain the balancing of interests and the need for closure of the proceeding (<i>Ex parte Columbia Newspapers, Inc.</i> (1985) 286 S.C. 116, 118-19, 333 S.E. 2d 337, 338).</p>	<p>5 out of 10*</p>
<p><i>*See the refined Criterion V scoring guidelines in Appendix A.</i></p>	<p>75 points</p>

What’s changed in South Carolina since the 1st Edition of *State Secrecy and Child Deaths in the U.S.* was released in April 2008? In the April 2008 State Secrecy Report, South Carolina’s score was 74, earning it a grade of C. No substantive changes to South Carolina’s laws were identified; however, minor refinements to Criterion V scoring guidelines resulted in a slightly modified score. Also, some citations have changed due to 2008 legislation that transferred and reorganized provisions in South Carolina’s Children’s Code (2008 S.C. Acts 361).

SOUTH DAKOTA

Grade: B

<p>I. Is there a state policy regarding public disclosure of findings or information about child abuse or neglect which has resulted in a child fatality or near fatality? Yes.</p>	<p>40 out of 40</p>
<p>II. Is the state policy codified in statute? Yes (S.D. Codified Laws § 26-8A-13).</p>	<p>10 out of 10</p>
<p>III. What is the ease of access to the information? South Dakota’s disclosure policy is mandatory. Upon written request, the Department of Social Services “shall” release findings or information regarding the abuse or neglect of a child that resulted in a fatality or near fatality of a child unless the release of the information would jeopardize a pending criminal investigation (S.D. Codified Laws § 26-8A-13).</p>	<p>20 out of 20</p>
<p>IV. What is the scope of information authorized for release? South Dakota’s policy is narrow. Information disclosed includes the “findings or information regarding the abuse or neglect of a child that resulted in a fatality or near fatality” (S.D. Codified Laws § 26-8A-13), which shall relate only to “the acts of child abuse or neglect that caused the fatality or near fatality of the child” (S.D. Codified Laws § 26-8A-13).</p>	<p>10 out of 20</p>
<p>V. Are child abuse/neglect proceedings open? Pursuant to S.D. Codified Laws § 26-7A-36, proceedings are closed unless the court finds a compelling reason to open the court to the public.</p>	<p>5 out of 10*</p>
<p><i>*See the refined Criterion V scoring guidelines in Appendix A.</i></p>	
<p>85 points</p>	

What’s changed in South Dakota since the 1st Edition of *State Secrecy and Child Deaths in the U.S.* was released in April 2008? In the April 2008 State Secrecy Report, South Dakota’s score was 59, earning it a grade of F. Legislation passed by the South Dakota Legislative Assembly in 2009 amended § 26-8A-13 to mandate disclosure of findings or information regarding child abuse or neglect fatalities and near fatalities, and to revise the scope of information authorized for release (2009 S.D. ALS 136).



TENNESSEE

Grade: B+

I. Is there a state policy regarding public disclosure of findings or information about child abuse or neglect which has resulted in a child fatality or near fatality? Yes.	40 out of 40
II. Is the state policy codified in statute? Yes (Tenn. Code Ann. § 37-5-107(4)).	10 out of 10
III. What is the ease of access to the information? Tennessee’s disclosure policy is mandatory . The department “shall” release information to provide for the public disclosure of information about any case that results in a child fatality or near fatality (Tenn. Code Ann. § 37-5-107(c)(4)).	20 out of 20
IV. What is the scope of information authorized for release? Tennessee’s disclosure policy is vague and unclear . Tennessee law requires the department to release “information about any case that results in a child fatality or near fatality” (Tenn. Code Ann. § 37-5-107 (c)(4)), but provides no further clarifying information regarding what types of information will be released.	10 out of 20
V. Are child abuse/neglect proceedings open? Proceedings are open unless the court rules otherwise (Tenn. Code Ann. § 37-1-124(a), Tenn. R. Juv. P. Rule 27).	7 out of 10*
<i>*See the refined Criterion V scoring guidelines in Appendix A.</i>	87 points

What’s changed in Tennessee since the 1st Edition of *State Secrecy and Child Deaths in the U.S.* was released in April 2008? In the April 2008 State Secrecy Report, Tennessee’s score was 55, earning it a grade of F. Legislation enacted by the Tennessee General Assembly in 2008 amended § 37-5-107 to mandate the release of information regarding any case that results in a child fatality or near fatality (2008 Tenn. ALS 1146).



Illuminating Information:

- ▶ In 2010, Tennessee established the “Second Look Commission” to conduct an in-depth examination of “bad results” cases—cases where a child known to the child protection system was abused a second time. The Commission will make recommendations, covering many different areas, to the General Assembly on how to improve the state’s child protection system. Some of the areas to be examined are:
 - The reporting, investigating and referring of alleged severe child abuse cases by state agencies and others.
 - The risk of severe child abuse victims being returned to the custody of the child's abuser or placed by the state in an environment where the child is at risk of being abused a second or subsequent time.
 - The procedures used by juvenile courts and courts exercising jurisdiction over criminal and civil child abuse, neglect and endangerment cases.
 - The laws, rules, or guidelines used to determine whether or not an alleged perpetrator of severe child abuse is to be prosecuted.
 - The causes of severe child abuse in Tennessee and any preventative measures that would reduce the number of severe child abuse cases in the state.
 - The manner in which severe child abuse data is collected and used by multiple agencies within the state.
 - The representation provided to severe child abuse victims, including but not limited to, representation provided by attorneys, guardians and advocates.

TEXAS

Grade: C

<p>I. Is there a state policy regarding public disclosure of findings or information about child abuse or neglect which has resulted in a child fatality or near fatality? Yes, as to fatalities. No, as to near fatalities.</p>	<p>30 out of 40</p>
<p>II. Is the state policy codified in statute? Yes, as to fatalities (Tex. Fam. Code 261.203). No, as to near fatalities.</p>	<p>7 out of 10</p>
<p>III. What is the ease of access to the information? Texas' policy, regarding deaths only, is mandatory. "Not later than the fifth day after the date the department receives a request for information about a child fatality with respect to which the department is conducting an investigation of alleged abuse or neglect, the department shall release" specified information. If, after a child abuse or neglect investigation is completed, the department determines a child's death was caused by abuse or neglect, the department "shall promptly release" additional specified information (Tex. Fam. Code § 261.203(a)).</p>	<p>15 out of 20</p>
<p>IV. What is the scope of information authorized for release? Texas' policy, regarding deaths only, has substantial breadth. The information includes, among other things, the age and sex of the child, the date of death, whether the state was managing conservator of the child at the time of the child's death; who's care the child was in at the time of his/her death; a summary of previous reports of abuse or neglect pertaining to the deceased child or another child living in the same household; a description of services provided by the department to the family, etc. (Tex. Fam. Code §261.203(a), (b)).</p>	<p>15 out of 20</p>
<p>V. Are child abuse/neglect proceedings open? Pursuant to Tex. Fam. Code § 105.003(b), proceedings are open unless after the agreement of all parties, the court may limit attendance at the hearing to only those persons who have a direct interest in the suit or in the work of the court.</p>	<p>9 out of 10*</p>
<p><i>*See the refined Criterion V scoring guidelines in Appendix A.</i></p> <p style="text-align: right;">76 points</p>	

What's changed in Texas since the 1st Edition of *State Secrecy and Child Deaths in the U.S.* was released in April 2008? In the April 2008 State Secrecy Report, Texas' score was 77, earning it a grade of C+. No changes to Texas' laws were identified; however, minor refinements to Criterion V scoring guidelines resulted in a slightly modified score.



Illuminating Information:

- ▶ According to one Texas official, "although there is not a requirement in state statute regarding public disclosure of near fatalities, Texas' practice has been, and continues to be, to share limited information to the public upon request by the media about cases involving critical injuries sustained by children that are a result of abuse or neglect where Child Protective Services has been involved."

UTAH

Grade: **A-**

<p>I. Is there a state policy regarding public disclosure of findings or information about child abuse or neglect which has resulted in a child fatality or near fatality? Yes.</p>	<p>40 out of 40</p>
<p>II. Is the state policy codified in statute? Yes (Utah Code Ann. § 62A-16-302(6)).</p>	<p>10 out of 10</p>
<p>III. What is the ease of access to the information? Utah’s policy is mandatory, stating that the Division of Child and Family Services “shall”, to the extent required by the federal Child Abuse Prevention and Treatment Act, allow public disclosure of the findings or information relating to a case of child abuse or neglect that results in a child fatality or near fatality (Utah Code Ann. § 62A-16-302(6)).</p>	<p>20 out of 20</p>
<p>IV. What is the scope of information authorized for release? Utah’s policy is vague and unclear, providing for disclosure of “findings or information” (Utah Code Ann. § 62A-16-302(6)); the Utah Division of Child and Family Services has interpreted that to mean a “brief written outline of information regarding the case” that “will include available facts and information about the case”, with no further specificity (Utah Child and Family Services Administrative Guidelines 080.9, Public Disclosure of Information on Fatality and Near Fatalities Related to Abuse/ Neglect).</p>	<p>10 out of 20</p>
<p>V. Are child abuse/neglect proceedings open? Pursuant to Utah Code Ann. §78A-6-114(1)(a), proceedings are open to the general public. The court may exclude individuals in the interest of the child.</p>	<p>10 out of 10*</p>
<p><i>*See the refined Criterion V scoring guidelines in Appendix A.</i></p>	<p>90 points</p>

What’s changed in Utah since the 1st Edition of *State Secrecy and Child Deaths in the U.S.* was released in April 2008? In the April 2008 State Secrecy Report, Utah’s score was 10, earning it a grade of F. In 2011, H.B. 215 (L. 2011, ch. 343, § 3) made various amendments to Utah Code Ann. § 62A-16-302, including explicitly requiring the Division of Child and Family Services to allow public disclosure of the findings or information relating to a case of child or abuse that results in a child fatality or near fatality. Additionally, the statutory citation in Criterion V changed due to 2008 legislation that renumbered certain statutes (L. 2008, ch. 3, § 380).



VERMONT

Grade: C-

<p>I. Is there a state policy regarding public disclosure of findings or information about child abuse or neglect which has resulted in a child fatality or near fatality? Yes.</p>	<p>40 out of 40</p>
<p>II. Is the state policy codified in statute? Yes (33 V.S.A. § 306(c)).</p>	<p>10 out of 10</p>
<p>III. What is the ease of access to the information? Vermont’s disclosure policy is permissive. The commissioner “may” publicly disclose the findings or information about any case of child abuse or neglect that has resulted in the fatality or near fatality of a child (33 V.S.A. § 306(c)).</p>	<p>10 out of 20</p>
<p>IV. What is the scope of information authorized for release? Vermont’s policy is vague and unclear. It authorizes the release of the “findings or information about any case of child abuse or neglect that has resulted in the fatality or near fatality of a child”, with no further specificity regarding the types of information that will be released (33 V.S.A. § 306(c)).</p>	<p>10 out of 20</p>
<p>V. Are child abuse/neglect proceedings open? Pursuant to 33 V.S.A. §5110, proceedings are closed except to people the court finds to have a proper interest in the case. No publicity will be allowed unless the child, the GAL and the child’s parent consent.</p>	<p>2 out of 10*</p>
<p><i>*See the refined Criterion V scoring guidelines in Appendix A.</i></p>	<p>72 points</p>

What’s changed in Vermont since the 1st Edition of *State Secrecy and Child Deaths in the U.S.* was released in April 2008? In the April 2008 State Secrecy Report, Vermont’s score was 54, earning it a grade of F. Legislation enacted by the Vermont General Assembly in 2009 amended 33 V.S.A. § 306(c) to apply to child abuse or neglect near fatalities as well as fatalities (2009, No. 1, § 50).



VIRGINIA

Grade: B-

<p>I. Is there a state policy regarding public disclosure of findings or information about child abuse or neglect which has resulted in a child fatality or near fatality? Yes.</p>	<p>40 out of 40</p>
<p>II. Is the state policy codified in statute? No, Virginia’s policy is not codified in statute, but is contained in regulation (22 VAC 40-910-100).</p>	<p>7 out of 10</p>
<p>III. What is the ease of access to the information? Virginia’s disclosure policy is mandatory. Agencies “must” release the information to the public (22 VAC 40-910-100(B)(3)(b)(2)).</p>	<p>20 out of 20</p>
<p>IV. What is the scope of information authorized for release? Virginia’s disclosure policy has substantial breadth, with a moderately restrictive substantive limitation. Information that may be released includes the fact that a report was made; whether an investigation was initiated; results of completed investigations; whether previous reports were made and a summary of those previous reports; dates and outcome of any investigations or actions taken by agency in response to previous reports; and the agency’s activities in handling the case (22 VAC 40-910-100(B)(3)(b)(2)(a)-(e)). A moderately restrictive substantive limitation allows information to be withheld if it is likely to endanger the emotional well-being of a child (22 VAC 40-910-100(B)(3)(b)(2)).</p>	<p>12 out of 20</p>
<p>V. Are child abuse/neglect proceedings open? Pursuant to Va. Code Ann. § 16.1-302, proceedings are closed. The general public shall be excluded and only such persons as the judge deems proper shall be admitted.</p>	<p>2 out of 10*</p>
<p><i>*See the refined Criterion V scoring guidelines in Appendix A.</i></p>	<p>81 points</p>

What’s changed in Virginia since the 1st Edition of *State Secrecy and Child Deaths in the U.S.* was released in April 2008? In the April 2008 State Secrecy Report, Virginia’s score was 71, earning it a grade of C-. Changes made in 2009 to 22 VAC 40-910-100 made Virginia’s public disclosure policy mandatory instead of permissive (Virginia Register Volume 26, Issue 1, eff. October 14, 2009).



WASHINGTON

Grade: B

<p>I. Is there a state policy regarding public disclosure of findings or information about child abuse or neglect which has resulted in a child fatality or near fatality? Yes.</p>	<p>40 out of 40</p>
<p>II. Is the state policy codified in statute? Yes (Rev. Code Wash. § 74.13.500).</p>	<p>10 out of 10</p>
<p>III. What is the ease of access to the information? Washington’s policy regarding deaths is mandatory, and its policy regarding near deaths is mandatory with severely restrictive conditional language. The secretary “shall” disclose information regarding the abuse or neglect of a child, the investigation of the abuse, neglect, or near fatality of a child, and any services related to the abuse or neglect of a child if the child named in the report has died and the child’s death resulted from abuse or neglect (Rev. Code Wash. § 74.13.500(1)(d)).</p> <p>For near fatalities, the secretary “shall” disclose information if one of the following factors is present: the subject of the report has been charged in an accusatory instrument with committing a crime related to a report maintained by the department in its case and management information system; the investigation of the abuse or neglect of the child by the department or the provision of services by the department has been publicly disclosed in a report required to be disclosed in the course of their official duties, by a law enforcement agency or official, a prosecuting attorney, any other state or local investigative agency or official, or by a judge of the superior court; there has been a prior knowing, voluntary public disclosure by an individual concerning a report of child abuse or neglect in which such individual is named as the subject of the report (Rev. Code Wash. § 74.13.500(1)(a)–(c)). Except for child fatalities, requests for information shall specifically identify the case about which information is sought and the facts that support a determination that one of the factors set forth in (a)–(c) are present (Rev. Code Wash. § 74.13.500(3)).</p>	<p>16 out of 20</p>
<p>IV. What is the scope of information authorized for release? Washington’s policy has substantial breadth with a severely restrictive substantive limitation. Disclosable information includes the name of the abused or neglected child; the determination made by the department of the referrals, if any, for abuse or neglect; identification of child protective or other services provided or actions, if any, taken regarding the child and his/her family as a result of any such report or reports (including administrative reports of fatality, fatality review reports, case files, inspection reports, and reports relating to social work practice issues); and any actions taken by the department in response to reports of abuse or neglect of the child. A severely restrictive substantive limitation allows information to be withheld if the secretary finds “disclosure is contrary to the best interests of the child, the child’s siblings, or other children in the household” (Rev. Code Wash. § 74.13.500(2)).</p>	<p>7.25 out of 20</p>
<p>V. Are child abuse/neglect proceedings open? Pursuant to Rev. Code Wash. § 13.34.115, all proceedings shall be public unless the judge determines that a public hearing is contrary to the best interests of the child.</p>	<p>10 out of 10*</p>
<p><i>*See the refined Criterion V scoring guidelines in Appendix A.</i></p>	<p>83 points <i>(rounded down from 83.25)</i></p>

What’s changed in Washington since the 1st Edition of *State Secrecy and Child Deaths in the U.S.* was released in April 2008? In the April 2008 State Secrecy Report, Washington’s score was 83, earning it a grade of B. In 2011, SHB 1105 was enacted to require that child fatality review reports completed pursuant to RCW 74.13.640 are subject to public disclosure and must be posted on the public website, except that confidential information may be redacted consistent with the requirements of RCW 13.50.100, 68.50.105, 74.13.500 through 74.13.525, Chapter 42.56 RCW, and other applicable state and federal laws (RCW 74.13.640(d)).

Illuminating Information

- ▶ Washington currently posts statistics on child abuse fatalities on its website and pursuant to legislation enacted in 2011, will be posting child fatality review reports completed pursuant to RCW 74.13.640.

WEST VIRGINIA

Grade: B–

<p>I. Is there a state policy regarding public disclosure of findings or information about child abuse or neglect which has resulted in a child fatality or near fatality? Yes.</p>	<p>40 out of 40</p>
<p>II. Is the state policy codified in statute? Yes (W. Va. Code § 49-7-1).</p>	<p>10 out of 10</p>
<p>III. What is the ease of access to the information? West Virginia’s policy is mandatory. In the event of a child fatality or near fatality due to child abuse and neglect, information relating to such fatality or near fatality “shall be made public” by the department of health and human resources, as specified (W. Va. Code § 49-7-1(d)).</p>	<p>20 out of 20</p>
<p>IV. What is the scope of information authorized for release? West Virginia’s policy is vague and unclear. It authorizes the release of information related to a fatality or near fatality, but provides no further specificity regarding what type of information will be disclosed (W. Va. Code § 49-7-1(d)).</p>	<p>10 out of 20</p>
<p>V. Are child abuse/neglect proceedings open? Pursuant to W. Va. Prac. Proc., Rule 6, proceedings are not open to the general public.</p>	<p>0 out of 10*</p>
<p><i>*See the refined Criterion V scoring guidelines in Appendix A.</i></p>	<p>80 points</p>

What’s changed in West Virginia since the 1st Edition of *State Secrecy and Child Deaths in the U.S.* was released in April 2008? In the April 2008 State Secrecy Report, West Virginia’s score was 80, earning it a grade of B–. No changes were identified to West Virginia’s laws.



WISCONSIN

Grade: B-

<p>I. Is there a state policy regarding public disclosure of findings or information about child abuse or neglect which has resulted in a child fatality or near fatality? Yes.</p>	<p>40 out of 40</p>
<p>II. Is the state policy codified in statute? Yes (Wis. Stat. § 48.981(7)(cm)).</p>	<p>10 out of 10</p>
<p>III. What is the ease of access to the information? Wisconsin’s policy is mandatory. The subunit of the department that received the report of suspected incident of death or serious injury or an incident of egregious abuse or neglect “shall” prepare and transmit to the governor and to the appropriate standing committees of the legislature and make available to the public a summary report that contains specified information (Wis. Stat. § 48.981(7)(cm)).</p>	<p>20 out of 20</p>
<p>IV. What is the scope of information authorized for release? Wisconsin’s policy has substantial breadth with a severely restrictive substantive limitation. If the child was residing in his/her home when the incident of death or serious injury or the incident of egregious abuse or neglect occurred, the summary report shall contain: information about the child including age, gender, race or ethnicity, description of the child’s family, any special needs of the child, a summary of all involvement of the child’s parents and of the person suspected of the abuse or neglect in any incident reported, a summary of any actions taken by the agency with respect to the child, the date of the incident and suspected cause. If the child was placed in an out-of-home placement at the time of the incident of death or serious injury or incident of egregious abuse or neglect, the summary report shall contain: the child’s age, gender, race or ethnicity, any special needs, a description of the out-of-home placement and all other residents, a licensing history of the out of home placement, the date of the incident. However, the severely restrictive substantive limitation provides that the disclosure may not include “[a]ny information the disclosure of which would not be in the best interests of the child who is the subject of the summary report, any member of the child’s family, any member of the child’s household who is a child, or any caregiver of the child, as determined by the subunit of the department that received the information, after consultation with the agency that reported the incident of death or serious injury or the incident of egregious abuse or neglect, the district attorney of the county in which the incident occurred, or the court of that county, and after balancing the interest of the child, family or household member, or caregiver in avoiding the stigma that might result from disclosure against the interest of the public in obtaining that information” (Wis. Stat. § 48.981(7)(cm)(6)(d)).</p>	<p>7.25 out of 20</p>
<p>V. Are child abuse/neglect proceedings open? Pursuant to Wis. Stat. §48.299(1)(a), the general public shall be excluded from proceedings unless a public hearing is demanded by the child through his counsel. Except in a specified type of proceeding, any person the court finds to have a proper interest in the case or in the work of the court, including a member of the bar, may be admitted by the court.</p>	<p>5 out of 10*</p>
<p><i>*See the refined Criterion V scoring guidelines in Appendix A.</i></p>	<p>82 points <i>(rounded down from 82.25)</i></p>

What’s changed in Wisconsin since the 1st Edition of *State Secrecy and Child Deaths in the U.S.* was released in April 2008? In the April 2008 State Secrecy Report, Wisconsin’s score was 65, earning it a grade of D. In 2009 the Wisconsin Legislature amended § 48.981 to make the release of specified information mandatory instead of permissive and to remove severely restrictive conditional language that impacted the ease of accessing the information (2009 Wis. ALS 78).



Illuminating Information:

- ▶ Officials from the Wisconsin Department of Children and Families, Division of Safety and Permanence (DSP) objected to the state’s score for Criterion IV above. They correctly note that Wisconsin law allows for the disclosure of a broad range of information regarding child abuse or neglect fatalities or near fatalities. The authors concur that Wisconsin law on this point has substantial breadth, and the findings in Criterion IV so note. However, in addition to providing a very broad scope of disclosable information, Wisconsin law also provides a very broad exception that allows for the nondisclosure of any information the disclosure of which would not be in the best interests of the child who is the subject of the summary report, any member of the child’s family, any member of the child’s household who is a child, or any caregiver of the child, as determined by the subunit of the department that received the information, after consultation with the agency that reported the incident of death or serious injury or the incident of egregious abuse or neglect, the district attorney of the county in which the incident occurred, or the court of that county, and after balancing the interest of the child, family or household member, or caregiver in avoiding the stigma that might result from disclosure against the interest of the public in obtaining that information (Wis. Stat. § 48.981(7)(cm)(6)(d)). The authors respectfully contend that CAPTA does not allow states to engage in such a balancing test, nor does it allow states to withhold information based on these grounds, and that this provision imposes a severely restrictive substantive limitation on Wisconsin’s otherwise commendably broad public disclosure law. Removal of the *ultra vires* language in Wis. Stat. § 48.981(7)(cm)(6)(d) would significantly improve Wisconsin’s public disclosure law — and would thus result in a significantly improved score in this Report.
- ▶ Although this Report determines grades based exclusively on a state’s duly adopted and publicly-enforceable statutes, regulations, and rules, the authors do commend Wisconsin on its current practice of posting public notifications and accompanying summary reports on its website (available at http://dcf.wisconsin.gov/children/CPS/public_disclosure/default.htm).



WYOMING

Grade: C-

<p>I. Is there a state policy regarding public disclosure of findings or information about child abuse or neglect which has resulted in a child fatality or near fatality? Yes.</p>	<p>40 out of 40</p>
<p>II. Is the state policy codified in statute? No, but Wyoming’s policy is contained in Department of Family Services Rule 4469 and Department of Family Services Policy 3.19.</p>	<p>3 out of 10</p>
<p>III. What is the ease of access to the information? Wyoming’s policy appears to be permissive, providing that an annual report is to be submitted to the Department containing non-identifying information and recommendations regarding cases of all major injuries/fatalities appearing to have resulted from child abuse or neglect (Department of Family Services Rule 4469). Department policy to date has been to make these reports available to the public; however, no language mandating that release could be identified.</p>	<p>10 out of 20</p>
<p>IV. What is the scope of information authorized for release? Wyoming’s policy has some breadth, providing information regarding the cause of the major injury or fatality, whether there was any prior involvement with the child protection system, subsequent actions taken by the authorities, and disposition of the investigation and judicial proceedings, where applicable.</p>	<p>12 out of 20</p>
<p>V. Are child abuse/neglect proceedings open? Pursuant to Wyo. Stat. Ann. § 14-3-424(b), proceedings are closed except to necessary individuals and persons interested in the work of the court.</p>	<p>5 out of 10*</p>
<p><i>*See the refined Criterion V scoring guidelines in Appendix A.</i></p>	
<p>70 points</p>	

What’s changed in Wyoming since the 1st Edition of *State Secrecy and Child Deaths in the U.S.* was released in April 2008? In the April 2008 State Secrecy Report, Wyoming’s score was 67, earning it a grade of D+. No changes to Wyoming’s laws were identified; however, minor refinements to Criterion V scoring guidelines resulted in a slightly modified score.



Illuminating Information:

- ▶ Department policy to date has been to make the annual reports which are submitted to the Department and contain non-identifying information regarding cases of all major injuries/fatalities appearing to have resulted from child abuse or neglect available to the public; however, no language mandating that release could be identified.



Appendix A

Explanation of Grade Criteria

Criteria # 1: Is there a state policy on the public disclosure of information regarding a case of child abuse or neglect that results in death or near death?

Point Range: 0–40

Explanation:

DESCRIPTION OF POLICY	MAXIMUM POINTS
Policy covers death and near death	40
Policy covers death only	30
No identifiable policy	0

Criteria # 2: Is the state’s policy on the release of information on cases of child deaths and near deaths resulting from abuse or neglect codified in statute, or is it contained in regulation or written (or oral) policy?

Point Range: 0–10

Explanation:

- 10 points maximum will be given if the state has a policy addressing cases of death and near death which is **codified in statute**, which provides permanency and enforceability.
- 7 points maximum will be given if the state has a policy addressing cases of death and near death which is contained in an **agency-adopted regulation**.
- 3 points maximum will be given if the state has a policy addressing cases of death and near death which is contained in an **agency policy or guideline**.

For policies addressing only cases of death, or where a state has different policies for cases of death and near death, the following point structure applies. Note that these scores may be cumulative (*e.g.*, a state that has a policy addressing cases of death that is codified in statute and a policy addressing cases of near death that is set forth in agency policy or guideline would receive a 7 + 1, for a total grade of 8 points).

DESCRIPTION OF POLICY	MAXIMUM POINTS		
	CODIFIED IN STATUTE	AGENCY-ADOPTED REGULATION	AGENCY POLICY OR GUIDELINE
Policy covers death and near death	10	7	3
Policy covers death only	7	5	2
Policy covers near death only	3	2	1
No identifiable policy	0		

Criteria # 3: What is the public’s ease of access to the information?

Point Range: 0–20

Explanation:

- 20 points maximum will be given if the state’s disclosure policy addresses cases of death and near death and clearly uses **mandatory** language (the state “shall” or “must” disclose).
- 10 points maximum will be given if the state’s disclosure policy addresses cases of death and near death and uses **permissive** language (the state “may” or “is permitted” to disclose).

Points are deducted from the above maximums where there is a condition placed on the release of the information (classified as either (1) a moderately restrictive condition or (2) a severely restrictive or multiple condition(s)).

For policies that address only cases of death, or where states have different policies for cases of death and near death, the following point structure applies. Note that these scores may be cumulative (e.g., a state that has a mandatory policy with no conditions addressing cases of death and a permissive policy with no conditions addressing cases of near death would receive a 15 + 3, for a total grade of 18 points).

DESCRIPTION OF POLICY	MAXIMUM POINTS					
	Mandatory			Permissive		
Conditions?	None	Moderate	Severe or multiple	None	Moderate	Severe or multiple
Policy covers death and near death	20	12	4	10	6	2
Policy covers death only	15	9	3	7	4	1
Policy covers near death only	5	3	1	3	2	1
No identifiable policy	0					

Examples of moderately restrictive conditions:

- the requestor must petition a court or otherwise obtain court authorization or approval of disclosure request
- the child must have been subject of one or more reports of harm
- the agency must have had prior involvement with the child or the child’s family
- disclosure must be authorized by the district attorney or comparable official

Examples of severely restrictive conditions:

- the requestor must be able to specify the identity of the child
- criminal charges must be filed
- the death must first be a matter of public record
- the requestor must meet specified criteria, none of which is being a member of the general public
- the requestor must obtain both the approval of the prosecutor and court authorization
- the abuse or neglect was inflicted by the parent, guardian or foster parents

Criteria # 4: What is the scope of information that will be released?

Point Range: 0–20

Explanation:

- 20 points maximum will be given for a state policy that has **substantial breadth**. A state’s scope has substantial breadth if it requires the disclosure of many of the following types of information: the cause of and circumstances regarding the fatality or near fatality; the age and gender of the child; information describing any previous reports made to and investigations conducted by the child welfare agency regarding the child and/or the child’s family, and the results of any such investigations; and information describing any services provided or actions taken by the child welfare agency on behalf of the child and/or the child’s family, before and after the fatality or near fatality.
- 12 points maximum will be given for a state policy that has **some breadth**. A state’s scope has some breadth if it authorizes the release of some, but not many, of the types of information described above.
- 10 points maximum will be given if a state policy is **narrow**. A state’s scope is considered narrow if it explicitly limits disclosure to one or two types of information.
- 10 points maximum will be given if a state policy is **vague and unclear**. A state’s policy is vague and unclear if it provides no specificity (*i.e.*, there is no clear indication of what type of information is released upon request), but also provides no explicit limitations on what will be disclosed.

Points are deducted from the above maximums where there is a substantive limitation on the information that will be released (classified as either (1) a moderately restrictive substantive limitation or (2) a severely restrictive or multiple substantive limitation(s)).

For policies that address only cases of death, or where states have different policies for cases of death and near death, the following point structure applies. Note that these scores may be cumulative (*e.g.*, a state that has a narrow policy with no substantive limitations addressing cases of death and a vague and unclear policy with no substantive limitations addressing cases of near death would receive a maximum of 7.5 + 2.5, for a total possible grade of 10 points).

DESCRIPTION OF POLICY	MAXIMUM POINTS								
	Substantial Breadth			Some Breadth			Narrow OR Vague and Unclear		
Substantive Limitations?	None	Moderate	Severe or Multiple	None	Moderate	Severe or Multiple	None	Moderate	Severe or Multiple
Policy covers death and near death	20	12	7.25	12	7.25	4.25	10	6	3.5
Policy covers death only	15	9	5.5	9	5.5	3.25	7.5	4.5	2.75
Policy covers near death only	5	3	1.75	3	1.75	1	2.5	1.5	0.75
No policy or policy fails to provide information, findings and recommendations on each case of fatal or near-fatal child abuse or neglect	0								

Examples of moderately restrictive substantive limitations:

- information disclosure of which is likely to result in an emotional or mental reaction
- information that is otherwise confidential, exempt, or privileged
- information disclosed is limited to actions or omissions of the state or local agency

Examples of severely restrictive substantive limitations:

- information disclosure of which would be contrary to the best interests of the child
- information disclosure of which would interfere with the privacy of the child, sibling, or parent
- information disclosure of which would jeopardize the well-being of a person named in the report if that concern outweighs the public’s interest in the disclosure of that information
- information disclosed includes only summary reports and no case-specific information or findings

Criteria # 5: Are the state’s dependency courts open or closed to the public?

Point Range: 0–10

Explanation:

- Up to 10 points will be given to a state having an open or presumably open dependency court system, which provides greater public access to information about the efficacy of the child welfare system. Examples:

<u>Points</u>	<u>Sample provisions</u>
10	presumptively open unless court finds it to be in the best interests of the child to close
9	presumptively open unless court finds it necessary to close to protect privacy rights of parents
9	presumptively open unless court finds exceptional circumstances to close
9	presumptively open unless all parties agree to close and court agrees to limit attendance
8	presumptively open in larger counties; presumptively closed but subject to being opened in smaller counties
8	presumptively open with multiple good cause bases for closing
8	presumptively open with broad good cause basis for closing
8	presumptively open unless court makes specific and justified findings but all initial hearings closed
7.5	presumptively open with broad and unspecified authority to close, except if child requests proceedings to be open
7	presumptively open with broad and unspecified authority to close

- Up to 6 points will be given to a state if its dependency court is presumptively closed but subject to being opened to some extent under specified conditions. Examples:

<u>Points</u>	<u>Sample provisions</u>
6	presumptively closed with broad authority to open
5	presumptively closed but news media is admitted
5	presumptively closed but court may admit such persons as it deems to have a direct and legitimate interest in the work of the court
5	presumptively closed unless court finds compelling reason to open
4	presumptively closed unless a party requests proceedings to be open and the court agrees
3	presumptively closed but child agrees to open proceedings
2.75	presumptively closed but challengers are entitled to have court specify explicit reasons for closing on the record
2.5	presumptively closed except to those deemed to be interested parties or persons
2	presumptively closed except to those deemed to be necessary or proper parties or persons
2	presumptively closed except in exceptional circumstances

- 0 points will be given to a state with a closed dependency court system.

Appendix B

State Liaison Officers for Child Abuse and Neglect

<p>Alabama Department of Human Resources Sue Ash Family Services Division 50 North Ripley Street Montgomery, AL 36130-1801 Phone: (334) 353-1045 Fax: (334) 242-0939 Sue.ash@dhr.alabama.gov</p>	<p>Alaska Dep't of Health and Social Services Natalie Powers, MSW Office of Children's Services 130 Seward Street Fairbanks, AK 99801 Phone: (907) 465-2104 Fax: (907) 465-3397 natalie.powers@alaska.gov</p>	<p>Arizona Department of Economic Security Linda Johnson Admin. for Children, Youth and Families 1789 W Jefferson St., 3rd Fl, Site Code 940A Phoenix, AZ 85007 Phone: (602)542-2358 Fax: (602)542-3330 lindajohnson@azdes.gov</p>
<p>Arkansas Department of Human Services Chris Price Division of Children and Family Services PO Box 1437 -- Slot S-569 Little Rock, AR 72203-1437 Phone: (501) 682-1554 Fax: (501) 682-6968 chris.price@arkansas.gov</p>	<p>California Department of Social Services Lee Ann Kelly Office of Child Abuse Prevention 744 P Street MS 11-82 Sacramento, CA 95814 Phone: (916) 651-6960 Fax: (916) 651-6328 LeeAnn.Kelly@dss.ca.gov</p>	<p>Colorado Department of Human Services Ruby Richards Division of Child Welfare 1575 Sherman Street Denver, CO 80203 Phone: (303) 866-3258 Fax: (303) 866-4629 ruby.richards@state.co.us</p>
<p>Connecticut Department of Children and Families Stacey Gerber Child Welfare Services 505 Hudson Street Hartford, CT 06106-7107 Phone: (860) 550-6397 Fax: (860) 566-7947 Stacey.Gerber@ct.gov</p>	<p>Delaware Dep't of Services for Children, Youth and Their Families Linda Shannon Off. of Children Serv/Div. of Family Services 1825 Faulkland Road--Room 246 Wilmington, DE 19805 Phone: (302)633-2663 Fax: (302)633-2652 linda.shannon@state.de.us</p>	<p>District of Columbia Children and Family Services Administration Virginia L. Monteiro Off. of Planning, Policy & Program Support 955 L'Enfant Plaza North, Suite P 101 Washington, DC 20024 Phone: (202) 724-7058 Fax: (202) 727-5619 virginia.monteiro@dc.gov</p>
<p>Florida Dep't of Children and Families John S. Harper Child Protective Invest. & Intervention Unit 1317 Winewood Boulevard Tallahassee, FL 32399-0700 Phone: (850) 922-3862 john_harper@dcf.state.fl.us</p>	<p>Georgia Department of Human Services Susan Denney Off. of the Deputy Dir., Programs & Policy 533 Highway 29 N Newnan, GA 30263 Phone: (404) 387-1913 (770) 254-7558 swdenney@dhr.state.ga.us</p>	<p>Hawaii Department of Human Services Cynthia Goss Social Services Division 810 Richards Street--Suite 400 Honolulu, HI 96813 Phone: (808)586-5925 Fax: (808)586-4806 cgoss@dhs.hawaii.gov</p>
<p>Idaho Department of Health and Welfare Shirley Alexander Division of Family and Community Services 450 West State Street, 5th Floor -- PO Box 83720 Boise, ID 83720-0036 Phone: (208) 334-6618 Fax: (208) 334-6699 alexande@dhw.idaho.gov</p>	<p>Illinois Dep't of Children and Family Serv. George Vennikandam Division of Child Protection 10 West 35th Street Chicago, IL 60616 Phone: (312) 814-8769 (217) 785-2513 Fax: (312) 814-1888 (217) 785-0395 George.vennikandam@illinois.gov</p>	<p>Indiana Department of Child Services James Payne 402 West Washington Street -- Room W-392 Indianapolis, IN 45204 Phone: (317)234-1391 Fax: (317)232-4490 james.payne@dcs.in.gov</p>
<p>Iowa Department of Human Services Trish Barto Division of Adult, Children and Family Services Hoover State Office Building--5th Floor NE Des Moines, IA 50319 Phone: (515) 281-7151 Fax: (515) 242-6248 pbarto@dhs.state.ia.us</p>	<p>Kansas Department of Social and Rehabilitation Services Jane Meschberger Division of Children and Family Services DSOB - 915 SW Harrison - Room 551-S Topeka, KS 66612-1570 Phone: (785) 296-6030 Fax: (785) 368-8159</p>	<p>Kentucky Cabinet for Health and Family Services (CHFS) Lisa A. Durbin 275 East Main Street -- 3EB Frankfort, KY 40621 Phone: (502) 564-2147 Fax: (502) 564-5995 Lisaa.durbin@ky.gov</p>
<p>Louisiana Department of Social Services Child Protection Program Willene P. Griffin Office of Community Services --C1 Section 627 Fourth Street, Room 3-222-23 Baton Rouge, LA 70822 Phone: (225) 219-6925 willene.griffin@la.gov</p>	<p>Maine Dep't of Health and Human Services Virginia S. Marriner Office of Child and Family Services 211 State Street -- Station 11 Augusta, ME 04333 Phone: (207) 287-2976 Fax: (207) 287-5282 virginia.s.marriner@maine.gov</p>	<p>Maryland Dep't of Human Resources Stephen Berry Social Services Administration, 5th Floor 311 West Saratoga Street Baltimore, MD 21201 Phone: (410) 767-7018 Fax: (410) 333-6556 sberry@dhr.state.md.us</p>
<p>Massachusetts Department of Children and Families (DCF) Liz Skinner 24 Farnsworth Street Boston, MA 02210 Phone: (617) 748-2350 liz.skinner-reilly@state.ma.us</p>	<p>Michigan Department of Human Services Zoe Lyons Grand Tower, Suite 510 P.O. Box 30037 Lansing, MI 48909 Phone: (517) 241-8297 Fax: (517)241-7047 LyonsZ2@michigan.gov</p>	<p>Minnesota Department of Human Services Erin Sullivan-Sutton Children and Family Services 444 Lafayette Road North St. Paul, MN 55155-3830 Phone: (651) 431-3835 erin.sullivan-sutton@state.mn.us</p>

<p>Mississippi Department of Human Services Patricia Shannon Division of Family and Children PO Box 352 Jackson, MS 39205 Phone: (601) 359-4495 Fax: (601) 359-4333 pshannon@mdhs.state.ms.us</p>	<p>Missouri Department of Social Services Amy Martin Children's Division 615 Howerton Court Jefferson City, MO 65102 Phone: (573) 526-8040 Fax: (573) 526-3971 Amy.L.Martin@dss.mo.gov</p>	<p>Montana Dep't of Public Health/Human Serv Janice Basso Child and Family Services Division PO Box 8005 Helena, MT 59604 Phone: (406) 841-2414 Fax: (406) 841-2487 jbasso@mt.gov</p>
<p>Nebraska Dep't of Health & Human Serv. Suzanne Schied DHHS - Children & Family Services 301 Centennial Mall South Nebraska State Office Building, 3 Lincoln, NE 68509 Phone: (402) 471-9245 suzanne.schied@nebraska.gov</p>	<p>Nevada Div. of Child and Family Services Jeffrey Radecki, Social Services Specialist III DCFS - Family Programs Office (FPO) 4108 Pecos Road, #150 Las Vegas, NV 89121 Phone: (702) 486-7633 Fax: (702) 486-7626 jradecki@dcfs.nv.gov</p>	<p>New Hampshire Dep't of Health/Human Serv Michael Donati Division for Children, Youth & Families 129 Pleasant Street, Brown Building Concord, NH 03301 Phone: (603) 271-8159 Fax: (603) 271-4729 mdonati@dhs.state.nh.us</p>
<p>New Jersey Dep't of Children and Families John Ramos, Jr. Division of Youth and Family Services PO Box 0717 Trenton, NJ 08625-0717 Phone: (609) 943-4169 Fax: (609) 292-7513 john.amos@dcf.state.nj.us</p>	<p>New Mexico Children, Youth & Families Department Mary Ellen Bearzi Protective Services Division Pera Building, Room 254 -- PO Drawer 5160 Santa Fe, NM 87502-5160 Phone: (505) 827-4490 Fax: (505) 827-7361 maryellen.bearzi@state.nm.us</p>	<p>New York State Office of Children and Family Services Judy Richards 52 Washington Street Room 331N Rensselaer, NY 12144 Phone: (518) 474-9613 Fax: (518) 402-6824 judy.richards@ocfs.state.ny.us</p>
<p>North Carolina Dep't of Health/Human Serv. Kevin Kelley Division of Social Services 325 North Salisbury Street -- MSC 2409 Raleigh, NC 27699-2409 Phone: (919) 334-1135 kevin.kelley@dhhs.nc.gov http://www.dhhs.state.nc.us/dss</p>	<p>North Dakota Dep't of Human Services Tara Lea Muhlhauser Children and Family Services Division 600 East Boulevard Avenue Bismarck, ND 58505 Phone: (701)328-3587 Fax: (701)328-3538 tmuhlhauser@nd.gov</p>	<p>Ohio Dep't of Job and Family Services Leslie McGee Protective Services P.O. Box 182709 Columbus, OH 43218-2709 Phone: (614) 466-1213 Fax: (614) 466-0164 Mcgeel@odjfs.state.oh.us</p>
<p>Oklahoma Department of Human Services Kelli Litsch Children & Family Services Division (CFSD) PO Box 25352 Oklahoma City, OK 73125 Phone: (405) 521-4365 Fax: (405) 521-2283 Kelli.Litsch@okdhs.org</p>	<p>Oregon Department of Human Services Stacey Ayers Child Protective Services 500 Summer Street NE, E-68 Salem, OR 97301 Phone: (503)945-6696 Fax: (503)378-3800 stacey.ayers@state.or.us</p>	<p>Pennsylvania Dep't of Public Welfare Cathy Utz Office of Children, Youth, and Families PO Box 2675 Harrisburg, PA 17105-2675 Phone: (717) 705-2912 Fax: (717) 705-0364 cutz@state.pa.us</p>
<p>Rhode Island Department of Children, Youth, and Families Stephanie Terry 101 Friendship Street Providence, RI 02903 Phone: (401) 528-3573 Fax: (401) 528-3595 stephanie.terry@dcyf.ri.gov</p>	<p>South Carolina Dep't of Social Services Jocelyn Goodwin Division of Human Services PO Box 1520 Columbia, SC 29202-1520 Phone: (803)898-7514 Fax: (803)898-7641 Jocelyn.goodwin@dss.sc.gov</p>	<p>South Dakota Dep't of Social Services Jaime Reiff Child Protective Services 700 Governors Drive Pierre, SD 57501 Phone: (605) 773-3227 Fax: (605) 773-6834 jaime.reiff@state.sd.us</p>
<p>Tennessee Dep't of Children's Services Carla Aaron, MSSW Cordell Hull Building 436 6th Avenue, North, 8th Floor Nashville, TN 37243-1290 Phone: (615) 741-8278 Fax: (615) 253-0069 carla.aaron@state.tn.us</p>	<p>Texas Dep't of Family and Protective Serv. Michael Martinez 701 W. 51st Street Mail Code W-157 Austin, TX 78751 Phone: (512) 438-3391 MICHAEL.MARTINEZ@dfps.state.tx.us</p>	<p>Utah Department of Human Services Marnie Maxwell Division of Child and Family Services 195 No. 1950 W. Salt Lake City, UT 84106 Phone: (801) 538-4100 mmaxwell@utah.gov</p>
<p>Vermont Dep't for Children and Families Karen Shea, MSW Family Services Division 103 South Main Street, Osgood 3 Waterbury, VT 05671 Phone: (802) 769-2053 karen.shea@state.vt.us</p>	<p>Virginia Department of Social Services Rita Katzman Child Protective Services Unit 7 North 8th Street Richmond, VA 23219 Phone: (804) 726-7554 Fax: (804) 726-7895 Rita.katzman@dss.virginia.gov</p>	<p>Washington Dep't of Social & Health Serv. Div. of Quality Mngmnt & Accountability Deborah Purce Children's Administration 1115 Washington Street SE/PO Box 45042 Olympia, WA 98504-5042 Phone: (360) 902-7788 Deborah.Purce@dshs.wa.gov</p>
<p>West Virginia Dep't of Health & Human Res. Toby Lester Children and Adult Services 350 Capitol Street -- Room 691 Charleston, WV 25301 Phone: (304) 356-4574 Fax: (304) 555-4563 Toby.D.Lester@wv.gov</p>	<p>Wisconsin Dep't of Health & Family Serv, Connie Klick Bureau of Programs and Policy PO Box 8916 Madison, WI 53708-8916 Phone: (608) 266-1489 Fax: (608) 264-6750 klickcl@dhfs.state.wi.us</p>	<p>Wyoming Department of Family Services Debra Hibbard Protective Services 2300 Capitol Avenue -- Hathaway Building, 3rd Floor Cheyenne, WY 82002-0490 Phone: (307) 777-5479 debra.hibbard@wyo.gov</p>

Appendix C

Child Welfare Resource List

Government Agencies and Private Organizations

Administration for Children & Families, U.S. Dep't of Health & Human Services — www.acf.hhs.gov/acf_about.html

American Bar Association Center on Children and the Law — <http://www.abanet.org/child/home.html>

American Professional Society on the Abuse of Children — <http://www.apsac.org>

American Public Human Services Association — <http://www.aphsa.org/Home/News.asp>

Chadwick Center For Children and Families — <http://www.ChadwickCenter.org>

Chapin Hall Center for Children — <http://www.chapinhall.org/>

Child Abuse Prevention Network — <http://www.child-abuse.com>

Child Welfare Information Gateway — www.childwelfare.gov/

Child Welfare League of America — <http://www.cwla.org/>

Childhelp® — <http://www.childhelp.org/>

Children's Advocacy Institute — www.caichildlaw.org

Children's Bureau — <http://www.acf.hhs.gov/programs/cb/>

Children's Bureau Express — <http://cbexpress.acf.hhs.gov/>

Children's Bureau: Child Maltreatment 2006 — <http://www.acf.hhs.gov/programs/cb/pubs/cm06/index.htm>

Children's Defense Fund — <http://www.childrensdefense.org>

Children's Safety Network — <http://cbexpress.acf.hhs.gov/>

First Star — www.firststar.org

Kempe Children's Center — <http://www.kempecenter.org>

National Association of Counsel for Children — www.naccchildlaw.org

National Center on Child Fatality Review — www.ican-ncfr.org/

National Center for Health Statistics — www.cdc.gov/nchs/

National Center for Injury Prevention and Control — www.cdc.gov/ncipc/

National Center for Youth Law — www.youthlaw.org

National Children's Advocacy Center — <http://www.nationalcac.org/>

National Citizen's Review Panels — www.uky.edu/SocialWork/crp/

National Foster Parent Association — <http://www.nfpainc.org>

National MCH Center for Death Review — www.childdeathreview.org

National Resource Center for Child Protective Services — <http://www.acf.hhs.gov/programs/cb/tta/nrccps.htm>

Prevent Child Abuse America — <http://www.preventchildabuse.org/>

Voices for America's Children — www.voices.org

Child Abuse Reporting Hotlines:

Childhelp National Child Abuse Hotline: 1-800-4-A-CHILD

Alabama: (334) 242-9500 / <http://www.dhr.state.al.us/page.asp?pageid=304>

Alaska: (800) 478-4444 / <http://www.hss.state.ak.us/ocs/default.htm>

Arizona: (888) SOS-CHILD (888-767-2445) / <https://www.azdes.gov/dcyf/cps/reporting.asp>

Arkansas: (800) 482-5964 / http://www.state.ar.us/dhs/chilnfam/child_protective_services.htm

California: Find hotlines for all 58 counties at <http://www.childsworld.ca.gov/res/pdf/CPSEmergNumbers.pdf>

Colorado: (303) 866-5932 / <http://www.cdhs.state.co.us/childwelfare/FAQ.htm>

Connecticut: (800) 624-5518 / (800) 842-2288 / <http://www.state.ct.us/dcf/HOTLINE.htm>

Delaware: (800) 292-9582 / <http://www.state.de.us/kids/>

District of Columbia: (202) 671-SAFE (202-671-7233) / <http://cfsa.dc.gov/cfsa/cwp/view.asp?a=3&q=520663&cfsaNav=|31319|>

Florida: (800) 96-ABUSE (800-962-2873) / <http://www.dcf.state.fl.us/abuse/>

Georgia: <http://dfcs.dhr.georgia.gov/portal/site> or call Childhelp® at (800) 422-4453

Hawaii: (808) 832-5300 / http://www.hawaii.gov/dhs/protection/social_services/child_welfare/

Idaho: (800) 926-2588 / <http://www.healthandwelfare.idaho.gov/site/3333/default.aspx>

Illinois: (800) 252-2873 / (217) 524-2606 / <http://www.state.il.us/dhcs/child/index.shtml>

Indiana: (800) 800-5556 / <http://www.in.gov/dcs/protection/dfcchi.html>

Iowa: (800) 362-2178 / http://www.dhs.state.ia.us/dhs2005/dhs_homepage/children_family/abuse_reporting/child_abuse.html

Kansas: (800) 922-5330 / http://www.srskansas.org/services/child_protective_services.htm

Kentucky: (800) 752-6200 / <http://chfs.ky.gov/dcb/dpp/childsafety.htm>

Louisiana: http://www.dss.state.la.us/departments/ocs/Reporting_Child_Abuse-Neglect.html / (800) 422-4453

Maine: (800) 963-9490 / (800) 452-1999 / <http://www.maine.gov/dhhs/bcfs/abusereporting.htm>

Maryland: <http://www.dhr.state.md.us/cps/report.htm> or call Childhelp® at (800) 422-4453

Massachusetts: (800) 792-5200 / http://mass.gov/?pageID=eohhs2terminal&L=5&L0=Home&L1=Consumer&L2=Family+Services&L3=Violence%2c+Abuse+or+Neglect&L4=Child+Abuse+and+Neglect&sid=Eeohhs2&b=terminalcontent&f=dss_c_can_reporting&csid=Eeohhs2

Michigan: http://www.michigan.gov/dhs/0,1607,7-124-5452_7119_7193-15252--,00.html or call Childhelp® at (800) 422-4453

Minnesota: Childhelp® at (800) 422-4453 / http://www.dhs.state.mn.us/main/idcplg?IdcService=GET_DYNAMIC_CONVERSION&RevisionSelectionMethod=LatestReleased&dDocName=id_000152

Mississippi: (800) 222-8000 / (601) 359-4991 / http://www.mdhs.state.ms.us/fcs_prot.html

Missouri: (800) 392-3738 / (573) 751-3448 / <http://www.dss.mo.gov/cd/rptcan.htm>

Montana: (866) 820-5437 / <http://www.dphhs.mt.gov/cfsd/index.shtml>

Nebraska: (800) 652-1999 / <http://www.hhs.state.ne.us/cha/chaindex.htm>

Nevada: (800) 992-5757 / http://dcfs.state.nv.us/DCFS_ReportSuspectedChildAbuse.htm

New Hampshire: (800) 894-5533 / (603) 271-6556 / <http://www.dhhs.state.nh.us/DHHS/BCP/default.htm>

New Jersey: (800) 835-5510 / (800) 835-5510 / (877) 652-2873 / <http://www.state.nj.us/dcf/abuse/how/>

New Mexico: (800) 797-3260 / (505) 841-6100 / <http://www.cyfd.org/report.htm>

New York: TDD: (800) 369-2437 / (800) 342-3720 / (518) 474-8740 / <http://www.ocfs.state.ny.us/main/cps/>

North Carolina: <http://www.dhhs.state.nc.us/dss/cps/index.htm> or call Childhelp® at (800) 422-4453

North Dakota: <http://www.nd.gov/dhs/services/childfamily/cps/#reporting> or call Childhelp® at (800) 422-4453

Ohio: <http://jfs.ohio.gov/county/cntydir.stm> or call Childhelp® at (800) 422-4453

Oklahoma: (800) 522-3511 / <http://www.okdhs.org/programsandservices/cps/default.htm>

Oregon: <http://www.oregon.gov/DHS/children/abuse/cps/report.shtml> or call Childhelp® at (800) 422-4453

Pennsylvania: (800) 932-0313 / <http://www.dpw.state.pa.us/ServicesPrograms/ChildWelfare/003671030.htm>

Rhode Island: (800) RI-CHILD (800-742-4453) / http://www.dcyf.ri.gov/child_welfare/index.php

South Carolina: (803) 898-7318 / <http://www.state.sc.us/dss/cps/index.html>

South Dakota: <http://dss.sd.gov/cps/protective/reporting.asp> or call Childhelp® (800) 422-4453

Tennessee: (877) 237-0004 / <http://state.tn.us/youth/childsafety.htm>

Texas: (800) 252-5400 / https://www.dfps.state.tx.us/Child_Protection/About_Child_Protective_Services/reportChildAbuse.asp

Utah: (800) 678-9399 / <http://www.hsdhcs.utah.gov>

Vermont: (800) 649-5285 / <http://www.dcf.state.vt.us/fsd/reporting/index.html>

Virginia: (800) 552-7096 / (804) 786-8536 / <http://www.dss.virginia.gov/family/cps/index.html>

Washington: TTY: (800) 624-6186 / (866) END-HARM (866-363-4276) / After hours: (800) 562-5624 / <http://www1.dshs.wa.gov/ca/safety/abuseReport.asp?2>

West Virginia: (800) 352-6513 / http://www.wvdhhr.org/bcf/children_adult/cps/report.asp

Wisconsin: <http://www.dhfs.state.wi.us/Children/CPS/cpswimap.HTM> or call Childhelp® (800) 422-4453

Wyoming: <http://dfsweb.state.wy.us/menu.htm> or call Childhelp® (800) 422-4453

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Children's Advocacy Institute

University of San Diego School of Law
5998 Alcalá Park
San Diego, CA 92110
619-260-4806
www.caichildlaw.org

First Star

1666 K Street NW Suite 300
Washington, D.C. 20006
202-293-3703
www.firststar.org

