

Section 28-720

Cases; central register; classification.

All cases entered into the central register of child protection cases maintained pursuant to section 28-718 shall be classified as one of the following:

(1) Court substantiated, if a court of competent jurisdiction has entered a judgment of guilty against the subject of the report of child abuse or neglect upon a criminal complaint, indictment, or information or there has been an adjudication of jurisdiction of a juvenile court over the child under subdivision (3)(a) of section 43-247 which relates or pertains to the report of child abuse or neglect;

(2) Court pending, if a criminal complaint, indictment, or information or a juvenile petition under subdivision (3)(a) of section 43-247, which relates or pertains to the subject of the report of abuse or neglect, has been filed and is pending in a court of competent jurisdiction; or

(3) Inconclusive, if the department's determination of child abuse or neglect against the subject of the report of child abuse or neglect was made, by a preponderance of the evidence, based upon an investigation pursuant to section 28-713.

Source:

Laws 1979, LB 505, § 8

Laws 2005, LB 116, § 11

Effective date September 4, 2005.

Section 28-720.01

Unfounded reports; how treated.

All reports of child abuse or neglect which are not under subdivision (1), (2), or (3) of section 28-720 shall be considered unfounded and shall be maintained only in the tracking system of child protection cases pursuant to section 28-715 and not in the central register of child protection cases maintained pursuant to section 28-718.

Source:

Laws 2005, LB 116, § 12

Effective date September 4, 2005.

~Revised Statutes Cumulative Supplement, 2006

Section 28-721

Central register; record; amend, expunge, or remove.

At any time, the department may amend, expunge, or remove from the central register of child protection cases maintained pursuant to section 28-718 any record upon good cause shown and upon notice to the subject of the report of child abuse or neglect.

Source:

Laws 1979, LB 505, § 9;
Laws 2005, LB 116, § 13;
Laws 2007, LB296, § 38.
Operative date July 1, 2007

~Revised Statutes Supplement, 2007

Section 28-722***Central register; subject of report; access to information.***

Upon request, a subject of the report of child abuse or neglect or, if such subject is a minor or otherwise legally incompetent, the guardian or guardian ad litem of the subject, shall be entitled to receive a copy of all information contained in the central register of child protection cases maintained pursuant to section 28-718 pertaining to his or her case. The department shall not release data that would be harmful or detrimental or that would identify or locate a person who, in good faith, made a report of child abuse or neglect or cooperated in a subsequent investigation unless ordered to do so by a court of competent jurisdiction.

Source:

Laws 1979, LB 505, § 10
Laws 2005, LB 116, § 14
Effective date September 4, 2005.

~Revised Statutes Cumulative Supplement, 2006

Section 28-723***Subject of report; request to amend, expunge, or remove information; denied; hearing; decision; appeal.***

At any time subsequent to the completion of the department's investigation, the subject of the report of child abuse or neglect may request the department to amend, expunge identifying information from, or remove the record of the report from the central register of child protection cases maintained pursuant to section 28-718. If the department refuses to do so or does not act within thirty days, the subject of the report of child abuse or neglect shall have the right to a fair hearing within the department to determine whether the record of the report of child abuse or neglect should be amended, expunged, or removed on the grounds that it is inaccurate or that it is being maintained in a manner inconsistent with the Child Protection Act. Such fair hearing shall be held within a reasonable time after the subject's request and at a reasonable place and hour. In such hearings, the burden of proving the accuracy and consistency of the record shall be on the department. A juvenile court finding of child abuse or child neglect shall be presumptive evidence that the report was not unfounded. The hearing shall be conducted by the head of the department or his or her designated agent, who is hereby authorized and empowered to order the amendment, expunction, or removal of the record to make it accurate or consistent with the requirements of the act. The decision shall be made in writing, at the close of the hearing, or within thirty days thereof, and shall state the reasons upon which it is based. Decisions of the department may be appealed under the provisions of the Administrative Procedure Act.

Laws 1979, LB 505, § 11;

Laws 1982, LB 522, § 6;

Laws 2005, LB 116, § 15.

Cross References:

Administrative Procedure Act, see section 84-920.

Annotations:

The Department of Health and Human Services Regulation and Licensure must prove the accuracy and consistency of a central registry report of child abuse or neglect by a preponderance of the evidence in a hearing to expunge, amend, or remove a report under this section. *Benitez v. Rasmussen*, 261 Neb. 806, 626 N.W.2d 209 (2001).

~Revised Statutes Cumulative Supplement, 2006

Section 28-724

Record; amendment, expunction, or removal; notice.

Written notice of any amendment, expunction, or removal of any record in the central register of child protection cases maintained pursuant to section 28-718 shall be served upon the subject of the report of child abuse or neglect. The department shall inform any other individuals or agencies which received such record of any amendment, expunction, or removal of such record.

Source:

Laws 1979, LB 505, § 12

Laws 1982, LB 522, § 7

Laws 2005, LB 116, § 16

Effective date September 4, 2005.

~Revised Statutes Cumulative Supplement, 2006

Section 28-725

Information, report; confidential; violation; penalty.

All information of the department concerning reports of child abuse or neglect of noninstitutional children, including information in the tracking system of child protection cases maintained pursuant to section 28-715 or records in the central register of child protection cases maintained pursuant to section 28-718, and all information of the department generated as a result of such reports or records, shall be confidential and shall not be disclosed except as specifically authorized by the Child Protection Act and sections 28-734 to 28-739 or other applicable law. The subject of the report of child abuse or neglect may authorize any individual or organization to receive the following information from the central register of child protection cases maintained pursuant to section 28-718 which relates or pertains to him or her: (1) The date of the alleged child abuse or

neglect; and (2) the classification of the case pursuant to section 28-720. Permitting, assisting, or encouraging the unauthorized release of any information contained in such reports or records shall be a Class V misdemeanor.

Source:

Laws 1979, LB 505, § 13

Laws 1982, LB 522, § 8

Laws 2002, LB 642, § 7

Laws 2005, LB 116, § 17

Effective date September 4, 2005.

~Revised Statutes Cumulative Supplement, 2006

Section 28-726

Information; access.

Except as provided in this section and sections 28-722 and 28-734 to 28-739, no person, official, or agency shall have access to information in the tracking system of child protection cases maintained pursuant to section 28-715 or in records in the central register of child protection cases maintained pursuant to section 28-718 unless in furtherance of purposes directly connected with the administration of the Child Protection Act. Such persons, officials, and agencies having access to such information shall include, but not be limited to:

- (1) A law enforcement agency investigating a report of known or suspected child abuse or neglect;
- (2) A county attorney in preparation of a child abuse or neglect petition or termination of parental rights petition;
- (3) A physician who has before him or her a child whom he or she reasonably suspects may be abused or neglected;
- (4) An agency having the legal responsibility or authorization to care for, treat, or supervise an abused or neglected child or a parent, a guardian, or other person responsible for the abused or neglected child's welfare who is the subject of the report of child abuse or neglect;
- (5) Any person engaged in bona fide research or auditing. No information identifying the subjects of the report of child abuse or neglect shall be made available to the researcher or auditor;
- (6) The State Foster Care Review Board when the information relates to a child in a foster care placement as defined in section 43-1301. The information provided to the state board shall not include the name or identity of any person making a report of suspected child abuse or neglect;
- (7) The designated protection and advocacy system authorized pursuant to the Developmental Disabilities Assistance and Bill of Rights Act of 2000, 42 U.S.C. 15001, as the act existed on January 1, 2005, and the Protection and Advocacy for Mentally Ill Individuals Act, 42 U.S.C. 10801, as the act existed on September 1, 2001, acting upon a complaint received from or on behalf of a person with developmental disabilities or mental illness;
- (8) The person or persons having custody of the abused or neglected child in situations of alleged out-of-home child abuse or neglect; and
- (9) For purposes of licensing providers of child care programs, the Department of Health and Human Services.

Source:

Laws 1979, LB 505, § 14;
Laws 1982, LB 522, § 9;
Laws 1988, LB 463, § 47;
Laws 1990, LB 1222, § 1;
Laws 1992, LB 643, § 2;
Laws 1994, LB 1035, § 7;
Laws 1997, LB 119, § 4;
Laws 2001, LB 214, § 2;
Laws 2002, LB 642, § 8;
Laws 2005, LB 116, § 18;
Laws 2007, LB296, § 39.
Operative date July 1, 2007

~Revised Statutes Supplement, 2007

Section 28-727

Report; person making; receive summary of findings and actions; when.

Upon request, a physician or the person in charge of an institution, school, facility, or agency making a legally mandated report of child abuse or neglect pursuant to section 28-711 shall receive a summary of the findings of and actions taken by the department in response to his or her report. The amount of detail such summary contains shall depend on the source of the report of child abuse or neglect and shall be established by regulations of the department.

Source:

Laws 1979, LB 505, § 15
Laws 1982, LB 522, § 10
Laws 2005, LB 116, § 19
Effective date September 4, 2005.