

32A-4-33. Confidentiality; records; penalty. (New Mexico State Law)

- A. All records concerning a party to a neglect or abuse proceeding; including social records, diagnostic evaluation, psychiatric or psychological reports, videotapes, transcripts and audio recordings of a child's statement of abuse, or medical reports, that are in the possession of the court or the department as the result of a neglect or abuse proceeding or that were produced or obtained during an investigation in anticipation of an incident to a neglect or abuse proceeding shall be confidential and closed to the public.
- B. The records described in Subsections A of this section shall be opened to inspection only by:
- (1) court personnel;
 - (2) court appointed special advocates;
 - (3) the child's guardian ad litem;
 - (4) department personnel;
 - (5) any local substitute care review board or any agency contracted to implement local substitute care review boards;**
 - (6) law enforcement officials except when use immunity is granted pursuant to Section 332-4-11 (32A-4-11) NASA 1978;
 - (7) district attorneys, except when use immunity is granted pursuant to Section 32-4-11 (32A-4-11) NASA 1978;
 - (8) any state government services in any state;
 - (9) those persons or entities of an Indian Tribe specifically authorized to inspect the records pursuant to the federal Indian Child Welfare Act of 1978 or any other regulations promulgated thereunder;
 - (10) a foster parent, if the records are those of a child currently placed with that foster parent or a child being considered for placement with that foster parent and the records concern the social, medical, psychological or educational needs of the child;
 - (11) school personnel involved with the child if the records concern the child's social or educational needs;
 - (12) health care or mental health professionals involved in the evaluation or treatment of the child, the child's parents, guardian, custodian, or other family members;
 - (13) protection and advocacy representatives pursuant to the federal Development Disabilities assistance and Bill of rights act and the federal Protection and Advocacy for Mentally Ill Individuals Act of 1991;
 - (14) children's safehouse organizations conducting investigatory interviews of children on behalf of a law enforcement agency or the department and;
 - (15) any other person or entity, by order of the court, having a legitimate interest in the case or the work of the court.
- C. A parent, guardian or legal custodian whose child has been the subject of an investigation of abuse or neglect where no petition has been filed shall have the right to inspect any medical report, psychological evaluation, law enforcement reports or other investigative or diagnostic evaluation; provided that any identifying information related to the reporting party or any other party providing information shall be deleted. The parent, guardian or legal custodian shall also have the right to the results of the investigation and the right to petition the court for full access to all department records and information except those records and information the department finds would be likely to endanger the life or safety of any person providing information to the department.
- D. Whoever intentionally or unlawfully releases any information or records closed to the public pursuant to the Abuse and Neglect Act (this article) or releases or makes other unlawful use of records in violation of that act is guilty of a petty misdemeanor and shall be sentenced pursuant to the provisions of Section 31-19-1 NASA 1978.
- E. When a child's death is allegedly caused by abuse or neglect, the department may release information about the case after consultation with and the consent of the district attorney.

If the party requesting information is not one of the specified "approved" parties, records should not be divulged without a court order - a subpoena is not sufficient.

CONFIDENTIALITY STATEMENT

I, the undersigned do hereby acknowledge and promise to abide by the confidentiality requirements governing Citizen Review Board review of children in the custody of the Children, Youth, and Families Department, as per the Children's Code, 32A-4-33 NASA 1978, as amended. I further understand that should I, intentionally or unintentionally, release information or records closed to the public, or make any other unlawful use of records, I would be guilty of a petty misdemeanor under 31-19-1 NASA 1978.

Date: _____ Name: _____ Board # _____

FORM TO BE SIGNED BY ALL CRB BOARD MEMBERS