

RECOMMENDED MODEL CHILD WELFARE REFORM LANGUAGE

Based on the federal law and report language (see section 2 and 3 of memo)

Category I: Statutes that include excellent language for the training of social workers and the requirement that a family be informed of the allegations against them at the initial time of contact.

Illinois

IL SB 2448 (addition to Code of 20 ILCS 505/21.5):

Section 5. The Children and Family Services Act is amended by adding Section 21.5 as follows:
(20 ILCS 505/21.5 new)

Sec. 21.5. Training; advice to subjects of investigation. The Department shall train all child protective investigators concerning the statutory and constitutional rights of individuals subject to investigation for child abuse and neglect and shall require all child protective investigators to inform individuals subject to a child abuse and neglect investigation concerning the specific complaints or allegations made against the individual.

Ohio

OH SB 185:

Amendment to Ohio Code Section 2151.421(F)(1): A representative of the public children services agency shall, at the time of initial contact with the person subject to the investigation, inform the person of the specific complaints or allegations made against the person. The information shall be given in a manner that is consistent with division (H)(1) of this section and protects the rights of the person making the report under this section.

Amendment to OC Section 5153.122(A): The training shall also include courses in the legal duties of caseworkers to protect the constitutional and statutory rights of children and families from the initial time of contact during investigation through treatment that shall include instruction regarding parents' rights and the limitations that the Fourth Amendment to the United States Constitution places upon caseworkers and their investigations.

Tennessee

TN SB 2667 (amending TCA Section 37-5-106(10)):

All child protective services workers must be trained in their legal duties to protect the constitutional and statutory rights of children and families from the initial time of contact, during the investigation, and through the treatment.

All representatives of the child protective services agency shall, at the initial time of contact with the individual who is subject to a child abuse and neglect investigation, advise the individual of the complaints or allegations made against the individual consistent with laws protecting the rights of the informant.

Virginia

VA HB 1135 (addition of Section 63.2-1516.01):

...standards of training shall include provisions regarding the legal duties of the workers in order to protect the constitutional and statutory rights and safety of children and families from the initial time of contact during investigation through treatment.

The local department shall, at the initial time of contact with the person subject to a child abuse and neglect investigation, advise such person of the complaints or allegations made against the person, in a manner that is consistent with laws protecting the rights of the person making the report or complaint.

Indiana

IN HB 1194 (amending IC 31-33-2-2):

Sec. 2. The local child protection service:

(3) must provide training to representatives of the child protective services system regarding the legal duties of the representatives, which may consist of various methods of informing the representatives of their duties, in order to protect the legal rights and safety of children and families from the initial time of contact during the investigation through treatment; and
(4) must provide training to representatives of the child protective services system regarding the constitutional rights of the child's family, including a child's guardian or custodian, that is the subject of an investigation of child abuse or neglect consistent with the Fourth Amendment to the United States Constitution and Article I, Section 11 of the Constitution of the State of Indiana.

Michigan

MI HB 5589 (amending MCL 722.628):

In the course of an investigation, at the time that a department investigator contacts an individual about whom a report has been made under this act or contacts an individual responsible for the health or welfare of a child about whom a report has been made under this act, the department investigator shall advise that individual of the department investigator's name, whom the department investigator represents, and the specific complaints or allegations made against the individual. The department shall ensure that its policies, procedures, and administrative rules ensure compliance with the provisions of this act.

All department employees involved in investigating child abuse or child neglect cases shall be trained in the legal duties to protect the state and federal constitutional and statutory rights of children and families from the initial contact of an investigation through the time services are provided.

Louisiana

LSA-R.S. 46:285(A)(2)

Legal aspects of child protection and foster care including the legal duties of the representatives, which may consist of various methods of informing such representatives of such duties, in order to protect the constitutional and statutory rights and safety of children and families from the initial time of contact during investigation through treatment.

Wyoming

SB 39 (amending Wyoming Code section 14-3-203)

- (ii) In the duty of the workers to inform the individual subject to a child abuse or neglect allegation, at the earliest opportunity during the initial contact, of the specific complaints or allegations made against the individual;
- (iii) Concerning constitutional and statutory rights of children and families from and after the initial time of contact and the worker's legal duty not to violate the constitutional and statutory rights of children and families from and after the initial time of contact;

North Dakota

ND HB 1267 (amending North Dakota Century Code §50-25.1(1))

1. The department, at the initial time of contact with an individual subject to a child abuse or neglect assessment, shall advise the individual of the specific complaints or allegations made against the individual.
2. The department shall provide training to all representatives of the child protective services system regarding the legal duties of the representatives. The training may consist of various methods of informing the representatives of these duties, to protect the legal rights and safety of children and families from the initial time of contact during assessment through treatment.
3. The department shall adopt rules to implement the requirements of this section.

Idaho

ID HB 188 (amending Idaho Code § 16-1623)

Including but not limited to:

1. Department employees whose job duties are related to the child protective services system under this chapter shall first be trained as their obligations under this chapter regarding the protection of children whose health and safety may be endangered. The curriculum shall include information regarding their legal duties, how to conduct their work in conformity with the requirements of this chapter, information regarding applicable federal and state laws with regard to the rights of the child parent and others who may be under investigation under the child

protective system, and the applicable legal and constitutional parameters within which they are to conduct their work.

2. Department employees whose job duties are related to the child protective services system shall advise the individual of the complaints or allegations made against the individual at the time of the initial contact, consistent with protecting the identity of the referrant.

Nevada

NV SB 402 (amending Nevada Revised Statutes Chapter 432B)

(a) A person who is responsible for a child's welfare and who is the subject of an investigation of alleged abuse or neglect of the child, including, without limitation, the legal rights of such a person at the time an agency which provides child welfare services:

(1) Makes initial contact with the person in the course of the investigation of alleged abuse or neglect of the child; and

2. The training provided pursuant to subsection 1 must include, without limitation, instruction concerning the state and federal constitutional and statutory rights of a person who is responsible for a child's welfare and who is:

(a) The subject of an investigation of alleged abuse or neglect of a child; or

(b) A party to a proceeding concerning the alleged abuse or neglect of a child pursuant to NRS 432B.410 to 432.590, inclusive.

(I) A person who is responsible for a child's welfare and who is the subject of an investigation of alleged abuse or neglect of a child, including, without limitation, the legal rights of such a person at the time an agency which provides child welfare services makes initial contact with the person in the course of the investigation and at the time the agency takes the child for placement in protective custody, and the legal right of such a person to be informed of any allegation of abuse or neglect of a child which is made against the person at the initial time of contact with the person by the agency...

Washington

WA SB 5922 (amending RCW 26.44.100, 13.34.138, 26.44.015, 26.44.020, 74.13.031, and 13.34.050)

(2) The department shall notify the parent, guardian, or legal custodian of a child of any allegations of child abuse or neglect made against such person at the initial point of contact with such person, in a manner consistent with the laws maintaining the confidentiality of the persons making the complaints or allegations. Investigations of child abuse and neglect should be conducted in a manner that will not jeopardize the safety or protection of the child or the integrity of the investigation process.

The department shall provide training to all department personnel who conduct investigations under this section that shall include, but is not limited to, training regarding the legal duties of the department from the initial time of contact during investigation through treatment in order to protect children and families.

New Hampshire

Amends RSA 169-C:34

VI. At the first contact in person, any person investigating a report of abuse or neglect on behalf of the department shall verbally inform the parents of a child suspected of being a victim of abuse or neglect of the specific nature of the charges and that they are under no obligation to allow a social worker or state employee on their premises or surrender their children to interviews unless that social worker or state employee is in possession of a court order to that effect. Upon receiving such information, the parent shall sign a written acknowledgement indicating that the information required under this paragraph was provided by the person conducting the investigation. The parent and department shall each retain a copy of the acknowledgment.

Category II: Statutes that include excellent language for the training of social workers, but inadequate language for the initial notification requirement. The key phrase missing is notification "at initial time of contact."

Iowa

IA HB 2327 (amending Section 232.71B of the Iowa Code):

If a parent is alleged to have committed the child abuse, the notice shall inform the parents regarding the complaint or allegation made regarding the parent. The parents shall be informed in a manner that protects the confidentiality rights of an individual who reported the child abuse or provided information as part of the assessment process.

The training of a child protection worker shall include but is not limited to the worker's legal duties to protect the constitutional and statutory rights of a child and the child's family members throughout the child or family members' period of involvement with the department beginning with the child abuse report and ending with the department's closure of the case. The curriculum used for the training shall specifically include instruction on the fourth amendment to the Constitution of the United States and parents' legal rights.

Category III: States with excellent language regarding social worker training, but no language requiring initial notification.

Texas

TX H.B. 1 (2003) (Tex. Fam. Code § 151.005.):

"It is the intent of the Legislature that the training curriculum for CPS Caseworkers funded out of Strategy A.1.2, Child and Family Services, include instruction in the Fourth Amendment to the U.S. Constitution and parents' rights."

Arizona

AZ SB 1004 (amending Section 8-802 of the Arizona Code)

“E.All child protective services workers shall be trained in their duty to protect the legal rights of children and families from the time of the initial contact through treatment. The training for child protective services workers shall also include instruction on the legal rights of parents and the requirements for legal search and seizure by law enforcement officers.”

Alaska

AK HB 408 (amending AS 47.17.033)

(j) The training required under (c) of this section must address the constitutional and statutory rights of children and families that apply throughout the investigation and department intervention. The training must inform department representatives of the applicable legal duties to protect the rights and safety of a child and the child's family.

Category IV: Statutes that have no language requiring training of social workers, but have excellent language requiring initial notification.

Oklahoma

OK HB 2718 (amending 10 O.S. 2001):

At the initial time of contact with a parent or other person responsible for a child's health, safety, or welfare who is the subject of an investigation pursuant to the Oklahoma Child Abuse Reporting and Prevention Act, the child protective services worker shall advise such person of the specific complaint or allegation made against the person.

Arkansas

AR SB 392 2005 (amending Arkansas Code § 12-12-503)

At the initial time of contact with the alleged offender, the investigator shall advise the alleged offender of the allegations made against the alleged offender in a manner that is consistent with the laws protecting the rights of the person who made the report.

Minnesota

Minnesota Statutes Annotated § 626.556 subsection 10(i)

At the initial contact, the local child welfare agency or the agency responsible for assessing or investigating the report must inform the alleged offender of the complaints or allegations made against the individual in a manner consistent with laws protecting the rights of the person who made the report. The interview with the alleged offender may be postponed if it would jeopardize an active law enforcement investigation.

Mississippi

HB 1121, section 3 (amending Section 43-21-353 Mississippi Code of 1972)

In the course of an investigation, at the initial time of contact with the individual(s) about whom a report has been made under this Youth Court Act or with the individual responsible for the health or welfare of a child about whom a report has been made under this chapter, the Department of Human Services shall inform the individual of the complaints or allegations made against the individual. Consistent with subsection (4), the identity of the person who reported his or her suspicion shall not be disclosed.

Category V: Statutes that include inadequate language for the training of social workers, but have excellent language for the initial notification requirement.

California

CA A.B. 2749 (amending Section 11167 of the California Penal Code):

e) Notwithstanding the confidentiality requirements of this section, a representative of a child protective services agency performing an investigation that results from a report of suspected child abuse or neglect made pursuant to Section 11166, at the time of the initial contact with the individual who is subject to the investigation, shall advise the individual of the complaints or allegations against him or her, in manner that is consistent with laws protecting the identity of the reporter under this article.

Cal.Welf. & Inst.Code § 16206

(c) The training provided pursuant to this section shall include all of the following:

(13) The legal duties of a child protective services social worker, in order to protect the legal rights and safety of children and families from the initial time of contact during investigation through treatment.