



# Members Brief

An informational brief prepared by the LSC staff for members and staff of the Ohio General Assembly

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## Investigating Child Abuse and Neglect Reports

Child abuse or neglect reports must be made to a public children services agency (PCSA) or a peace officer, who must follow procedures prescribed by law. PCSAs must investigate all reports and notify alleged perpetrators of allegations. Additionally, Ohio law establishes and governs the use of a Uniform Statewide Automated Child Welfare Information System (SACWIS) and the establishment of memorandums of understanding among county officials with respect to their duties and minimizing the number of times a child who is the subject of a report is interviewed.

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### Introduction

Under Ohio law, reports of child abuse or neglect are to be made to the public children services agency (PCSA) or a peace officer in the county where the child resides or where the

abuse or neglect is occurring or has occurred.<sup>1</sup> A PCSA is a county agency that administers child welfare services. In some counties, the PCSA is a children services board. In others, the county department of job and family services serves that role. A county also may designate another government agency or a private entity.<sup>2</sup>

For a child who is an inmate in the custody of a state correctional institution, reports are to be made to the State Highway Patrol.<sup>3</sup>

## **Receipt and investigation of reports**

### **Receipt of report by PCSA or peace officer**

A peace officer who receives a report of child abuse or neglect must refer the report to the appropriate PCSA, unless an arrest is made at the time of the report and the PCSA is contacted. A peace officer cannot remove a child who is the subject of a report from the child's parents, stepparents, guardian, or other custodian without first consulting the PCSA, unless, in the judgment of the officer and, if applicable, the physician who made the report, immediate removal is essential to protect the child.

A PCSA that receives a report of child abuse or neglect is not required to cross-report a case to local law enforcement.<sup>4</sup>

### **PCSA investigation**

On receiving the report, the PCSA must first determine whether a child is living in a domestic violence or homeless shelter. If the child is living in a shelter, the PCSA must follow certain procedures prescribed by law. A PCSA generally must investigate each report within 24 hours of receiving it to determine (1) the circumstances surrounding the injuries, abuse, or neglect or the threat of injury, abuse, or neglect, (2) the cause of the injuries, abuse, neglect, or threat, and (3) the person or persons responsible. The investigation must be made in cooperation with the law enforcement agency and in accordance with the county child abuse and neglect memorandum of understanding (see below).

The PCSA must report each case to the Uniform Statewide Automated Child Welfare Information System (SACWIS, see below) and submit a written report of its investigation to law enforcement. In addition, the PCSA must make any recommendations to the county prosecuting attorney or city director of law that it considers necessary to protect any children who are brought to its attention.<sup>5</sup>

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<sup>1</sup> R.C. 2151.421(A)(1)(a) and (B). For more information about reporting known or suspected child abuse or neglect, including whom the law designates as mandatory reporters, see the Members Brief, [Child Abuse or Neglect Reporting](#).

<sup>2</sup> R.C. 5153.01(A) and 5153.02.

<sup>3</sup> R.C. 5120.173.

<sup>4</sup> R.C. 2151.421(E) and (F); see, *O'Toole v. Denihan*, 118 Ohio St.3d 374, 384 (2008).

<sup>5</sup> R.C. 2151.421(G).

## County memorandum of understanding

Each PCSA must prepare a memorandum of understanding that sets forth the normal operating procedure used by all concerned officials in executing their respective responsibilities. Two of the memorandum's primary goals are (1) eliminating all unnecessary interviews of a child who is the subject of a report and (2) when feasible, providing for only one interview of the child.

The memorandum must include, among other items, (1) the roles and responsibilities for handling emergency and nonemergency cases of abuse and neglect and (2) standards and procedures for handling and coordinating investigations, addressing the categories of persons who may interview the children, and methods for interviewing children.

The memorandum must be signed by the county's juvenile judge, county's peace officer, all chief municipal peace officers, other law enforcement officers handling child abuse and neglect cases, prosecuting attorney, humane society, and, if applicable, the county department of job and family services and each participating member of the children's advocacy center.<sup>6</sup>

## SACWIS

### Use, access, and data entry

SACWIS, established and maintained by the Ohio Department of Job and Family Services (ODJFS), contains records regarding investigations of children and families and children's care in out-of-home care, care and treatment provided to children and families, and other information related to children and families required by law.<sup>7</sup>

No person may access or use information contained in SACWIS, except as permitted by law. The information contained in SACWIS may be accessed or entered only as follows:<sup>8</sup>

1. ODJFS, PCSAs, Title IV-E agencies, prosecuting attorneys, private child placing agencies, and private noncustodial agencies may access or enter the information when it is directly connected with assessment, investigation, or services regarding a child or family or permitted by law;
2. A person may access or enter information in a manner, to the extent, and for the purposes authorized by ODJFS rules. For example, ODJFS rules require a Title IV-E juvenile court to enter information on the services provided to any child at risk of abuse and neglect when Title IV-E reimbursement is being requested.

### Confidentiality

All information contained in or obtained from SACWIS is confidential. The information is not subject to disclosure under Ohio's public records law or the law governing state or local agency personal information systems.<sup>9</sup>

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<sup>6</sup> R.C. 2151.421(K).

<sup>7</sup> R.C. 5101.13(A).

<sup>8</sup> R.C. 5101.132, 5101.133, and 5101.134; Ohio Administrative Code 5101:2-33-70(L).

<sup>9</sup> R.C. 5101.131.

## Penalties

Any person who accesses or uses information contained in, or discloses information obtained from, SACWIS is guilty of a fourth degree misdemeanor. Additionally, each PCSA must have administrative penalties, up to and including dismissal from employment, for unauthorized access, disclosure, or use of data in SACWIS.<sup>10</sup>

## Notification of allegations

### Person subject to investigation

A PCSA representative must, at the time of initial contact with the person alleged to have inflicted abuse or neglect on the child, inform the person of the specific complaints or allegations made against the person. The PCSA cannot provide the person with any information identifying the reporter, witness statements, or police or other investigative reports. A PCSA must advise the person, in writing, of the disposition of the investigation.<sup>11</sup>

### Involving out-of-home care entity

No later than the end of the day following the day a PCSA receives a report of child abuse or neglect that allegedly occurred in or involved an out-of-home care entity,<sup>12</sup> the PCSA must provide written notice of the allegations and the alleged perpetrator's name in the report to the entity's chief administrative officer, unless that person is named as an alleged perpetrator. In that case, the PCSA must provide the written notice to the entity's owner or governing board.

No later than three days after the PCSA makes a disposition of an investigation relating to an out-of-home care entity, the PCSA must send written notice of the disposition to the entity's chief administrative officer and the owner or governing board. The PCSA cannot provide witness statements or police or other investigative reports.<sup>13</sup>

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<sup>10</sup> R.C. 5101.99(C); Ohio Administrative Code 5101:2-33-70(G).

<sup>11</sup> R.C. 2151.421(G)(1) and (I)(5).

<sup>12</sup> "Out-of-home care" means detention facilities; shelter facilities; certified children's crisis care facilities; certified foster homes; placement in a prospective adoptive home prior to a final adoption decree; organizations; child daycare centers; types A and B family daycare homes; child care provided by in-home aides; group home providers; group homes; institutions; residential facilities; residential and day camps; public and chartered nonpublic schools; educational service centers; hospitals; and medical clinics that are responsible for the care, physical custody, or control of children (R.C. 2151.011(B)(28)). The same procedure applies to a nonchartered nonpublic school if the alleged child abuse or neglect, or alleged threat of abuse or neglect, allegedly occurred in or involved the school and the alleged perpetrator holds a certificate, permit, or license issued by the State Board of Education (R.C. 2151.421(O)(1)(a)).

<sup>13</sup> R.C. 2151.421(O)(2) and (3).