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Child Protection Registry 101

What is the Child Protection Registry?

Non-public database of people substantiated for child abuse or neglect

Dates back to 1992

Each record contains:

- name and personal identifier of person substantiated for child abuse or neglect
- nature of DCF's finding of abuse or neglect
- designated child protection level

Some important definitions

Substantiated report → a report of child abuse or neglect that DCF determines, after investigation, is “based upon accurate and reliable information that would lead a reasonable person to believe that the child has been abused or neglected.” 33 V.S.A. § 4912

Abused or neglected child → “child whose physical health, psychological growth and development, or welfare is harmed or is at substantial risk of harm by the acts or omissions of his or her parent or other person responsible for the child's welfare.” 33 V.S.A. § 4912

Risk of harm → “a significant danger that a child will suffer serious harm by other than accidental means, which harm would be likely to cause physical injury, or sexual abuse, including...” 33 V.S.A. § 4912

What is the purpose? Who can access?

Public may NOT access the registry

Current or potential employers may access IF:

- The person gives their permission or
- The work involves children, youth, or vulnerable adults

Others according to 33 V.S.A. § 4919, including:

- Adult/child protection agencies
- Board of Medical Practice
- State's attorneys

A person whose name is on the registry may not be able to become a foster or adoptive parent, a child care provider, an employee of a facility serving vulnerable people, or a volunteer or contractor providing services to vulnerable people.

Is placement on the Registry final?

Challenging substantiation

Person may request an administrative review of their substantiation within 14 days of being notified of their substantiation.

At the administrative review, the substantiation may be upheld, overturned, or DCF may reopen the investigation.

Expungement

Unless the person is required to be on the Sex Offender Registry, they may request a review for expungement (removal) from the Registry once a certain number of years have elapsed.

Timing for expungement review depends on when the person was substantiated and what the child protection level is.

Challenging placement on the Registry: substantiation review

Notification: when a person is substantiated for child abuse or neglect DCF must notify them that their name will be placed on the Registry, that they have a right to request a review of the substantiation determination, and the time in which the request for review must be made.



Request to appeal: person has 14 days to request an administrative review (DCF may grant extension up to 28 days for good cause).



Pending case? If there is a related case pending in the Criminal or Family Division, the administrative review may be stayed upon request of the person and the person's name is placed on the Registry in the meantime. Upon completion of related court case, the person must notify DCF of their request for review within 30 days of complete adjudication if they want a review.



substantiation review, continued

Failure to request review after adjudication = no further review required



DCF shall hold administrative review conference within 35 days of receipt of the request for review, and, at least 10 days prior to the review, provide the person with a copy of the redacted investigation files it relied upon in its substantiation



At conference (which may be by teleconference at request of person), person may present documentary evidence or other information that supports his or her position. DCF has burden of proving that it has *accurately and reliably concluded that a reasonable person would believe* that the child has been abused or neglected by that person.

Possible outcomes of substantiation review

REJECT DCF'S SUBSTANTIATION DETERMINATION

No Registry record created

DCF notifies person within 7 days of decision

PLACE SUBSTANTIATION DETERMINATION ON HOLD AND DIRECT DCF TO FURTHER INVESTIGATE

DCF notifies person within 7 days of decision

ACCEPT DCF'S SUBSTANTIATION

Registry record created immediately

DCF notifies person within 7 days of decision and advises person of the right to appeal to the Human Services Board

Appeal to Human Services Board

Within 30 days of notice of placement on the Registry, the person who is the subject of the substantiation may apply in writing to the Human Services Board for relief.

The Board shall hold a hearing within 60 days after the receipt of the request for a hearing and shall issue a decision within 30 days after the hearing. Priority is given to appeals in which there are immediate employment consequences for the person appealing the decision.

What is HSB?

The Board is a citizen's panel consisting of seven members created by the General Assembly by statute. Its duties are to act as a fair hearing board for appeals brought by individuals who are aggrieved by decisions or policies of departments and programs within the Agency of Human Services.

Exemption to hearsay rule

CHILDREN 12 AND UNDER

Not required to testify or give evidence at the hearing.

Evidence shall be admissible if time, content, and circumstances of statements provide substantial indicia of trustworthiness

CHILDREN 13-15

Exemption to the hearsay rule applies if:

1) The hearing officer determines, based on a preponderance of the evidence, that requiring the child to testify will present a substantial risk of trauma to the child, or

2) The hearing officer determines that the child is physically unavailable to testify or the Department has made diligent efforts to locate the child and was unsuccessful.

Evidence shall be admissible if the time, content, and circumstances of the statements provide substantial indicia of trustworthiness.

Challenging placement on Registry: expungement review

No right to expungement review if person is required to be on Sex Offender Registry

Otherwise, person may petition for expungement from the Registry after 3-7 years. Person bears burden of proving they are no longer a risk to the safety or wellbeing of children.

Commissioner of DCF considers several factors in deciding whether to expunge the record, including:

- the nature and circumstances of the substantiation
- the number of substantiations
- the time that has elapsed since the abuse or neglect
- any activities that would reflect upon the person's changed behavior or circumstances, such as therapy, employment, or education
- references that attest to the person's good moral character
- any other information that the Commissioner deems relevant

expungement review, continued

Within 30 days of Commissioner's decision, the person may appeal to the Human Services Board. The sole issue before the Board shall be whether the Commissioner abused their discretion in denying the petition for expungement.

Person may seek an expungement review no more than once ever 3 years



DCF is required by statute to take steps to provide reasonable notice to persons on the Registry of their right to seek an expungement of their record.

CHILD
PROTECTION
REGISTRY
101

The end