

**REPORT TO CONGRESS ON IMMUNITY FROM PROSECUTION FOR
PROFESSIONAL CONSULTATION IN SUSPECTED AND KNOWN INSTANCES OF
CHILD ABUSE AND NEGLECT**

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1. Introduction

Immunity from prosecution is an important issue facing professionals involved with responding to and investigating child abuse and neglect. This report provides an overview of the information collected from professionals in the field affected by immunity issues as well as a summary of state statutes on immunity. The report is required by section 110(d) of the Child Abuse Prevention and Treatment Act (CAPTA), which was added by the 2010 reauthorization of CAPTA (P.L. 111-320), and highlights key issues regarding federal laws on immunity for all reporters. The reauthorization required the Secretary of Health and Human Services (HHS) to consult with experts in healthcare, law enforcement, education, and local child welfare administration, and examine how immunity from prosecution under state and local laws and regulations facilitate or inhibit individuals cooperating, consulting, or assisting in making good faith reports of suspected child abuse or neglect. The Secretary of HHS must submit a report to the Committee on Health, Education, Labor and Pensions of the Senate and the Committee on Education and the Workforce of the House of Representatives with information about the study conducted and any recommendations for statutory or regulatory changes the Secretary deems appropriate.

This report only covers civil immunity issues for professionals involved in reporting or cooperating with an investigation of a report made where child abuse or neglect is suspected or known. This report defines “provisions for immunity from prosecution” as relating to immunity in civil cases and does not include criminal liability. This is based on a reading of section 110(d) of the CAPTA Reauthorization Act of 2010 and the congressional report accompanying P.L. 111-320, in which Senate Committee Report 111-378 indicated the study should “make recommendations for statutory or regulatory changes” on “...lawsuits filed against professionals

who cooperate or assist with the filing of a mandatory report or provide consultation services to health care providers, investigators, child welfare agencies, or law enforcement.”

2. Information/Findings Collected From Medical Practitioners

Methods

An information collection tool was developed upon request of the American Academy of Pediatrics (AAP) by a research specialist to gather data on medical professionals’ experiences consulting on, or assisting with, child abuse or neglect investigations, and any resulting civil litigation. This information collection tool was then reviewed and pretested by the AAP’s Child Abuse and Neglect Working Group (see Attachment C). The AAP asked their listserv group of pediatricians about liability issues and 544 medical practitioners responded. This was simply a convenience sample of interested physicians, and there was no intent to have the results be representative of any group.

Sample

Two-fifths (38 percent) of the respondents are pediatricians; 24 percent are pediatric specialists; 18 percent are various emergency room professionals; and 20 percent are other (e.g., pediatric ophthalmologist; neurosurgeon/surgeon; developmental pediatrician; pediatric dentist).

The respondents have varying years in practice; however most of those answering had at least 20 years of experience, with many over 30 years. Most respondents (71 percent) work in urban areas; 20 percent work in suburban neighborhoods; and nine percent work in rural areas (N=541).

Experience in Child Abuse and Neglect

The majority of medical professionals responding to this request for information (95 percent) have worked with local child protective services on child abuse or neglect investigations; only five percent have not (N=543); more than half (55 percent) have identified or treated between one and 25 child abuse/neglect victims the past year; only seven percent have not identified or treated any. Medical professionals noted they have several ways of participating in child abuse/neglect investigations. Most (90 percent) reported possible abuse/neglect; 58 percent were called as an expert witness; and 56 percent were asked to provide a second opinion. Forty percent noted they cooperated in some other way, largely providing medical examinations, treatment, or review; participating in a multi-disciplinary team, commission, or task force; conducting training, writing, and research, or providing some other input (N=85). Other consultation included sitting on a child advocacy center board, child fatality team; providing medical examinations/treatment/or review; participating in a multi-disciplinary team, commission, or task force; conducting training, writing, and research (N=37).

Experience with Consulting or Assisting

In the past 12 months, 39 percent of respondents were asked to consult or assist in an investigation between one and 25 times; 31 percent have not been asked; and five percent were asked more than 300 times. In the course of one year, two-thirds (65 percent) of the respondents say they spend about ten percent of their time on consultations; eight percent did this work full-time. Only nine percent of the respondents have declined to consult on an abuse/neglect case in the past year.

When asked why they may decline to assist in an investigation, respondents (N=156) answered that they worry about the case taking too much time away from their practice (29

percent) or being the subject of a lawsuit (19 percent); they had prior negative experiences with lawsuits (ten percent) or do not have their institution's support (nine percent). Five percent said hiring an attorney is expensive; and three percent were concerned about their malpractice rates going up. One-quarter (25 percent) of those responding to this question had other concerns, such as not feeling they had enough information about the case to assist; they had received threats or complaints about their involvement; they doubted their competence in child abuse/neglect knowledge; or they did not feel they were getting paid enough, or at all, for their involvement (N=24).

Legal Issues

Two-thirds (67 percent) of the respondents know their state immunity laws provide protection from civil liability; 33 percent do not know what laws protect them (N=409.) Close to half (47 percent) learned about state immunity laws through training; 39 percent reviewed the laws personally (N=272).

Ninety-five percent of respondents have not been sued in federal court; five percent have been sued (N=530.) The majority (94 percent) of respondents have not been sued in state court; although six percent of respondents have (N=525).

Federal cases tend to involve civil rights violations (N=24); state cases involve malpractice (N=29). Negative consequences resulting from being named in either a federal or state lawsuit are anxiety/depression or emotional stress; time taken away from practice; financial burden on themselves or their institution; and the repercussions of a negative reputation. Eight percent reported the outcome of a lawsuit impacted their willingness to consult/assist on cases in the future; 92 percent said the outcome of a lawsuit did not (N=296).

Recommendations from Respondents to Increase Likelihood of Future Participation in Child Abuse/Neglect Cases

Medical professionals were asked to suggest how to increase the likelihood they would participate in future child abuse/neglect investigations. More than one-half (55 percent) recommended that federal and state legislators expand or address loopholes in the immunity protections provided to them, 38 percent recommend increasing resources, 18 percent requested improvements in child protection systems, and six percent noted the desire for legal and court improvements.

Legal and court improvements included: strengthening immunity provisions for reporting and expanding protections for other types of case involvement; addressing suits that circumvent state immunity statutes by filing under federal civil rights law and/or malpractice; ensuring physician anonymity when reporting; and creating consistent laws across states.

Increasing resources contained two main categories: compensation and funding (36) and education and training (32). Many respondents suggested providing compensation for time and increasing funding for child protection teams/child advocacy centers. Many also suggested providing more education for physicians on legal aspects of child abuse and neglect and increasing attorney/judge knowledge about medical aspects of child abuse/neglect.

Regarding the child protective services (CPS) system, many respondents expressed the need for better ongoing communication with CPS, and for CPS to investigate more cases after the physician's report of suspected child abuse/neglect. Also reported was the need for increased resources and support for CPS.

Suggestions for improved court policies included on-time court scheduling with fewer delays and providing flexible means of court participation and testifying (such as remotely).

Analysis

The respondents were well-versed in this issue. Many of them worked closely with child abuse and child neglect victims, either through their private practice, in a hospital setting, or through their work at child advocacy or community health centers. Those responding with data had reported suspected child abuse/neglect to authorities; and more than one-half the respondents have testified as an expert witness or have been asked to provide a second opinion. The majority worked with CPS, and two-thirds spent at least ten percent of their time on child abuse consultations. Most of the respondents had 20 or more years' experience in their profession. The request for information was well received by the medical community, evidenced by the 544 individuals who responded.

Two-thirds of these professionals are aware their state laws protect them from liability when they consult or assist in child abuse/neglect investigations. However, two-fifths (39 percent) learned about these protections by reviewing the laws personally—they had not received any training.

While a minority were personally affected by being sued in a state (six percent) or federal (five percent) court, the negative consequences of that litigation is reportedly dire and include: anxiety/depression or emotional stress; time taken away from their practice; financial burden on themselves or their institution; and the repercussions of a negative reputation. In fact, some eight percent reported that the outcome of a lawsuit impacted their willingness to consult/assist on cases in the future.

3. Information from Other Organizations and Professionals

Methods

Significant efforts were made to reach out to other member organizations and professionals in the medical, education, law enforcement, and child welfare fields in several ways. To prepare to collect this information, significant research was conducted including reviewing publications on immunity issues in the child welfare field, relevant statutes and case law. After this research, information collection tools were developed using a standard protocol for obtaining medical, education, law enforcement and child welfare professionals' experiences consulting on, or assisting with, child abuse or neglect investigations, and any resulting civil litigation.

As part of the efforts to contact professionals in the medical, education, law enforcement, and child welfare fields, the following organizations were contacted:

- American Medical Association
- National Association of Chiefs of Police
- National Education Association
- American Public Human Services Association
- National Association of Public Child Welfare Administrators

Several organizations cooperated in the attempt to collect information. The representatives of the member organizations who responded reported that their members were concerned with the effects of potential litigation. The representatives indicated that while they did not have statistics on the number of lawsuits that their members experience, the fear of litigation resulting

from cooperating in a child abuse or neglect investigation was an issue for their member constituents.

The information received from the groups was based on interviews with member organizations and the results were more anecdotal in nature. Based on interviews with representatives from the other organizations, it was apparent that while other professionals are concerned with liability issues, they are not as directly affected as the pediatricians. The other professionals are more likely to be protected by existing statutes as they tend to be more involved in reporting child maltreatment rather than cooperation or consultation with actual child abuse or maltreatment investigations.

The other types of professionals agreed with the pediatricians that the fear of lawsuits and being sued does impact their work. Those interviewed provided information on the negative impact of lawsuits on their profession and agreed that consideration should be made to change statutes to provide greater protections to professionals cooperating or assisting with child abuse or maltreatment investigations.

Analysis

While information from other medical, education, law enforcement and child welfare professionals was not as accessible as that from pediatricians, the membership organizations that provided information agreed with the findings from the pediatricians. Respondents from the other professions agreed that there was a need for increased protection from liability in state laws.

4. Legal Research and Findings

Since the first state laws enacted in the 1960s related to mandated reporting of suspected child abuse or neglect, a fundamental provision of the laws was granting immunity for those reporting in good faith, even if their suspicions were incorrect. From the onset, the medical profession feared being a target for potential lawsuits, concerned about retaliation by parents who were the subject of child abuse and neglect reports. By the end of the 1970s, virtually every state had enacted legislation providing for such immunity. In CAPTA, the state grant eligibility requirement merely requires “provisions for immunity from prosecution” for those “making good faith reports”. The review of all state immunity laws disclosed that states have universally extended civil immunity to all good faith reporters. The Children’s Bureau has not provided additional guidance regarding this provision of CAPTA.

Great Variation Exists Among Current State Laws

As part of the information review conducted for this report, state legislation related to extending civil immunity for those cooperating in the child protection process was identified and analyzed. It should be noted that the provision of CAPTA that authorized this study included the words “*assisting in* making good faith reports,” and that Senate Committee Report 111-378 related to this CAPTA provision also asked for recommendations for legislative change related to those who “cooperate or assist with the filing” of a mandatory report. Given the recent national attention to the role of institutions, and those who direct institutions or perform supervisory roles in decisions concerning reports of child abuse, this “assisting in” language is very important. A common extension of immunity under state laws, beyond that granted to the person making a report in good faith, is for those who “participate in” or “assist” in the making of a report. However, there are only 22 states with laws that extend such immunity. The most

common application of the civil immunity extension is found in the laws of 34 states and the District of Columbia. This provides immunity to those who participate in an abuse or neglect-related judicial proceeding, such as testifying.

Seventeen states have laws that protect persons from civil liability for *participating in, cooperating with, assisting, or facilitating a child protective investigation*. North Carolina has had a model for this type of protection since 1979. It granted immunity to anyone who in good faith not only reported, but also a person who “*cooperates with the county department of social services in any ensuing inquiry or investigation, testifies in any judicial proceeding resulting from the report, or otherwise participates in [any program authorized under the law]*” (See Appendix A for the full citation to this statute). North Carolina law continues its broad legal protections for those actions.

Sixteen states have immunity laws that protect those who remove a child from their home pursuant to law, place a child in protective custody, otherwise hold or detain a child for their protection, or who take or accept temporary custody of a child. For example, medical professionals may hold a child in a hospital, without parental consent, when severe child abuse or neglect is suspected.

In fifteen states, medical professionals have added protections from liability for other activities. These activities are specifically, in the absence of parental consent, taking or disseminating a child’s photographs or radiology reports/x-rays of a child’s alleged injury. In ten states, performing a medical examination, medical tests or diagnostic procedures on a child, without parental consent, also are protected.

Fewer states protect anyone from civil liability for specific actions while professionally intervening or assisting in child abuse and neglect cases. These specific actions may include:

- participating in case reviews
- notifying police officers of an alleged case of child maltreatment (what is called “cross-reporting”)
- permitting a child to be interviewed (for example, at school)
- engaging in work through a Children’s Advocacy Center
- referring a case for, or recommending, judicial action in an abuse or neglect case
- disclosing what, in a child abuse or neglect case, would otherwise be confidential information, such as a child’s health records
- providing care or treatment to a child

The importance of encouraging states to extend immunity protections to professionals who assist in the government’s responsibility to protect children is reflected in several court opinions examined as part of this study. Such judicial decisions, applying relevant state laws, affirmed immunity for professionals who help collect relevant data, make critical observations, examine or treat victims, or communicate information critical to child safety-related responsibilities of child protective services agencies. The following are examples of judicial decisions:

- *Robbins v. Hamburger Home for Girls*, 38 Cal.Rptr.2d 534 (1995): Absolute immunity available under the state’s child abuse and neglect reporting act extends not only to making of initial report of child abuse, but also to the conduct giving rise to an obligation to report, such as collection of data, or observation, examination, or treatment of suspected victim performed in a professional capacity, and to subsequent communications between reporter and public authorities responsible for investigating or prosecuting child abuse.

- *Krikorian v. Barry*, 242 Cal.Rptr. 312 (1987): Licensed clinical psychologist, who was required by Penal Code § 11166 to report suspected cases of child abuse, was entitled to absolute immunity from liability for alleged professional negligence in rendering psychotherapeutic services to determine whether preschool children had been sexually abused.
- *Storch v. Silverman*, 231 Cal.Rptr. 27 (1986): Physicians who either submitted or supported the submission of a child abuse report were immune from liability in parents' subsequent action for medical malpractice and negligent infliction of emotional distress, based on an allegation that the report was not based on reasonable suspicion of child abuse.
- *Manifold v. Ragaglia*, 862 A.2d 292 (CT 2004): Doctor was making good faith report of suspected child abuse, and therefore was entitled to statutory immunity from civil liability for his alleged medical malpractice in failing to order blood test which would have negated the suspicion of child abuse, where doctor orally described to social worker from Department of Children and Families the result of his medical examination of the children and thereafter submitted written account to the Department. The doctor had not been the first person to report the suspected abuse and instead examined the children at the Department's request after anonymous caller from the office of children's pediatrician made initial report to Department.
- *Michaels v. Gordon*, 439 S.E.2d 722 (GA 1993): Psychologist to whom the child welfare agency referred suspected child abuse victim for evaluation was immune from liability under child abuse reporting statute, despite the parents' contention that the psychologist could not be considered a reporter under statute since abuse had

already been reported at the time the agency referred the child for evaluation; qualified immunity afforded by statute protects any person participating in making of report to a child welfare agency and any person participating in proceedings arising as a result of report of abuse, and is not limited to initial communication of abuse.

O.C.G.A. § 19-7-5(f).

- *Garvis v. Scholten*, 492 N.W.2d 402 (IA 1992): Since a counselor and hospital personnel acted in subjective good faith in aiding and assisting an investigation of child abuse report when they disclosed medical information about mother and father to the Department of Human Services, they were immune from any liability, civil or criminal, to mother and father.
- *Rite Aid Corp. v. Hagley*, 824 A.2d 107 (MD 2003): Child abuse reporting statutes cover more than making a report, and they recognize that individuals, other than the reporter, may play a role in the making of the report, although they may not themselves make it, and in addition, the statutes cover investigations and resulting judicial proceedings.
- *Hawley v. Nelson*, 968 F.Supp. 1372 (MO 1997): The school and the division of family services employees were protected by qualified immunity for any violation of parents' rights in conducting an interview with the son without informing parents, where parents' refusal to allow their son to attend high school on days he did not first complete his home chores and parents' practice of handcuffing son were reasonably considered to be probable cause to believe that son was being subjected to a form of neglect or abuse prohibited by state law.

Protections Provided for those Involved in Child Death Review

Using the list of state statutes on the National MCH Center for Child Death Review's policy and practice website (<http://childdeathreview.org/state.htm>), state laws that address child death review also were researched during this review process. Specifically, provisions addressing the issue of immunity from liability for those involved in any way in reviewing or responding to children's deaths suspected as being caused by abuse or neglect were identified. Fifteen states have relevant provisions, ranging from simple to broad language (see Appendix B).

The commonalities in these statutes are that persons who participate in good faith on the state or local review team, present information to the team, or who provide records or other information to the team, and who are acting without malice, are immune from liability. These persons are generally afforded immunity from both civil and criminal liability. If the confidentiality of the review process is violated, then immunity may not apply.

One state law (Delaware) says that those involved in a team's work "*...shall be immune from claims, suits, liability, damages or any other recourse, civil or criminal, arising from any act, proceeding, decision or determination undertaken or performed or recommendation made*" (See Appendix A for the full citation to this statute),

The law also says that complainants have the burden to prove malice or a lack of good faith to defeat the immunity provision. This latter requirement could be considered by any state seeking to expand its liability protections to professionals who aid in abuse and neglect cases.

An internal review of these laws was done to determine the most useful elements for protecting professionals who cooperate in child protection investigations. Based on the review, an example of a model, comprehensive state statutory language to better protect from liability

those involved in the child fatality (and near-fatality) review process might consist of the following:

Persons who attend or participate in good faith on a state or local child fatality or near-fatality review team, who educate or inform the team, or who report or provide information or records to the team, if acting without a showing of actual malice, are immune from any civil or criminal liability, or from being subjected to administrative proceeding processes, for those acts. A person is not liable for damages if they are performing any duty, function or activity of the review team. Organizations, institutions, and individuals are immune from civil or criminal liability as described above.

Additional Federal Child Abuse Law that Provides Extended Immunity Protection

In 1990, Congress passed the Victims of Child Abuse Act (VCAA) (Public Law 101-647, Title II, Section 211, codified at 42 USC §13001 et seq.). Subchapter IV of this law is entitled “Reporting Requirements” and it mandates the reporting, by listed professionals, who have reason to suspect a child has suffered child abuse, while that professional is working *on federal land or in a federally operated (or contracted) facility*.

Unlike CAPTA, the VCAA, 42 U.S.C. §13031(f), provides for “Immunity for good faith reporting *and associated actions*” (emphasis added). The full provision reads as follows:

All persons who, acting in good faith, make a report by subsection (a) of this section, or otherwise provide information or assistance in connection with a report, investigation, or legal intervention pursuant to a report, shall be immune from civil and criminal liability arising out of such actions. There shall be a presumption that any such persons acted in good faith. If a person is sued because of the person's performance of one of the above functions, and the

defendant prevails in the litigation, the court may order that the plaintiff pay the defendant's legal expenses. Immunity shall not be accorded to persons acting in bad faith.

Under VCAA, a broader set of protections from liability for professionals exist than those in CAPTA. For example:

- Making a report is protected (as in CAPTA), and providing information or assistance related to that report, aiding in an investigation, or being involved in any resulting legal intervention;
- There is a statutory presumption that persons who provide information, or otherwise assist in a case, not just reporters, are acting in good faith; and
- Recognizing that the person who reports, gives information, or assists might be sued, this law says that if that person prevails in a lawsuit, judges are authorized to order that their legal expenses be paid by the person bringing the suit.

Case Law Review

There are common themes in civil lawsuit cases where professionals were sued as a result of working on a child abuse or maltreatment cases. These themes include:

- Many cases have involved parents who asserted that child maltreatment reports violated their civil rights, including 4th and 14th Amendment claims.
- Other cases were brought under the federal Racketeer Influenced and Corrupt Organization Act (RICO) in which the reporter was alleged to have colluded or conspired with other professionals in responding, allegedly inappropriately, in child abuse or maltreatment cases.

- A number of cases involved alleged negligence in supervising children who were known to a professional or agency. Other claims included purported negligence in failing to file reports or bring cases to court as needed.
- Many actions discussed whether the alleged wrongdoer was, or was not, acting under “color of state law” (i.e., whether they were a person specifically authorized to engage in government child protective activities).
- Several Munchausen Syndrome or Munchausen Syndrome by Proxy cases (i.e., cases where it was alleged a parent had exaggerated, fabricated, and/or induced their child’s physical or other health problems) were included in the types of cases filed.
- Many parents alleged that professionals involved in these cases caused them to experience a lack of companionship by not allowing them to have ongoing contact with their children.
- Medical and psychological professionals were often sued for making improper referrals or reaching erroneous conclusions.
- There were many cases where physicians were sued for assisting or consulting on a case.
- Parents sometimes sued on the grounds of false imprisonment when children were removed from their care.
- Mandated reporters faced liability when they failed to report allegations of child abuse or neglect.

Information Gathered from Reviewing Pleadings in Civil Liability Cases

As part of the research conducted for this report, many physicians provided examples of pleadings that were used in cases involving allegations that they cooperated or assisted in cases

of child abuse or maltreatment. After reviewing the pleadings and subsequent lawsuits, most cases were dismissed at summary judgment. However, all participants reported significant costs involved to defend a lawsuit, even if that party prevails. These costs occurred as a result of higher malpractice costs, loss of time spent defending cases that were eventually dismissed, and lack of desire to do child abuse and neglect work as a result of being sued.

5. Examples of States with Immunity Protections

As indicated in the review of the statutes above (and included in Appendix A), there are a number of states that have provided varying levels of protection from liability. These include California, Delaware, North Carolina, Washington and Wyoming, each providing protection from liability for those who consult or assist on cases involving child abuse and maltreatment.

6. Conclusion and Issues for Consideration

This report identified a number of issues regarding immunity protections for professionals who consult or assist on cases involving child abuse and maltreatment. A critical issue is providing stronger protection to allow professionals to work on child maltreatment cases without fear of being sued for providing assistance to vulnerable children.

One issue is that the phrase “immunity from prosecution” may be misinterpreted as only requiring that reporters be granted protection from criminal prosecution related to having made a report in good faith. However, legal research did not find cases where someone was criminally charged with making a report of child abuse or neglect in good faith.

Another issue raised by CAPTA is that the word “making” can be reasonably construed as only applying to an individual who actually makes the report (that is, transmits it orally or in writing to a child protective services or law enforcement agency). A review of civil actions filed against professionals for involvement in the child protection process suggests good reason for fearing lawsuits based on acts that go beyond “making” a report. Physicians, teachers, police, and others often go beyond merely filing a report of suspected abuse or neglect. Follow-up with CPS and other agencies involved in a child abuse or neglect case is vital, and unfortunately does place professionals at potential risk of facing civil litigation that, regardless of outcome, can have significant costs in time, worry, and legal fees. Virtually every aspect of investigations into child abuse or neglect cases calls for independent professional judgments and decision-making that could be legally protected, as long as those actions are taken in good faith.

In reviewing federal and state statutes, language included in other statutes does provide for protection from liability, such as VCAA and in child death reviews. 42 U.S.C. §13031(f) provides for immunity for good faith reporting and associated actions which would include cooperating in an investigation. By providing these protections, professionals who work on these important cases could carry on their work with less fear of liability for their actions.

APPENDIX A

STATE LEGISLATION ON EXTENSION OF IMMUNITY TO THOSE INVOLVED IN CHILD PROTECTION CASES, OTHER THAN FOR DIRECTLY REPORTING TO CPS OR LAW ENFORCEMENT (WITH RELEVANT CASELAW)

Alabama

§ 26-14-9. Immunity from liability for actions under chapter.

Any person, firm, corporation, or official, including members of a multidisciplinary child protection team, quality assurance team, child death review team, or other authorized case review team or panel, by whatever designation, **participating in the making** of a good faith report **in an investigation or case review** authorized under this chapter or other law or department practice or **in the removal of a child** pursuant to this chapter, or **participating in a judicial proceeding** resulting therefrom, shall, in so doing, be immune from any liability, civil or criminal, that might otherwise be incurred or imposed.

Virtually every aspect of investigation into abuse allegations involving minor child called for independent judgment and decisionmaking by social workers and, thus, they were immune from suit by estate of deceased minor alleging their negligence in conducting investigation. *Love v. Davis*, 14 F.Supp.2d 1273 (N.D.Ala.1998).

Alaska

§ 47.17.050. Immunity

(a) Except as provided in (b) of this section, a person who, in good faith, makes a report under this chapter, **permits an interview** under [AS 47.17.027](#), or **participates in judicial proceedings** related to the submission of reports under this chapter, is immune from civil or criminal liability that might otherwise be incurred or imposed for making the report or permitting the interview, except that a person who knowingly makes an untimely report is not immune from civil or criminal liability based on the delay in making the report.

Arizona

§ 8-805. Immunity of participants; nonprivileged communications

A. Any person making a complaint, **or providing information or otherwise participating in the program** authorized by this article shall be immune from any civil or criminal liability by reason of such action, unless such person acted with malice or unless such person has been charged with or is suspected of abusing, abandoning or neglecting the child or children in question.

Arkansas

§ 12-18-107. Liability

(a) A person or agency required by this chapter to report suspected child maltreatment who acts in good faith in making notification, **the taking of a photograph or radiological test, or the removal of a child while exercising a seventy-two-hour hold** is immune to suit and to civil and criminal liability.

(c) A publicly supported school, facility, or institution acting in good faith by cooperating with the investigative agency under this chapter shall be immune from civil and criminal liability.

Penal Code § 11172. Immunity from liability; liability for false reports; attorney fees; failure to report

(a) No mandated reporter shall be civilly or criminally liable for any report required or authorized by this article, and this immunity shall apply even if the mandated reporter acquired the knowledge or reasonable suspicion of child abuse or neglect outside of his or her professional capacity or outside the scope of his or her employment. Any other person reporting a known or suspected instance of child abuse or neglect shall not incur civil or criminal liability as a result of any report authorized by this article unless it can be proven that a false report was made and the person knew that the report was false or was made with reckless disregard of the truth or falsity of the report, and any person who makes a report of child abuse or neglect known to be false or with reckless disregard of the truth or falsity of the report is liable for any damages caused. No person required to make a report pursuant to this article, **nor any person taking photographs** at his or her direction, shall incur any civil or criminal liability for taking photographs of a suspected victim of child abuse or neglect, or **causing photographs to be taken** of a suspected victim of child abuse or neglect, without parental consent, or for **disseminating the photographs** with the reports required by this article. However, this section shall not be construed to grant immunity from this liability with respect to any other use of the photographs.

(b) Any person, who, **pursuant to a request from a government agency investigating a report of suspected child abuse or neglect, provides the requesting agency with access to the victim** of a known or suspected instance of child abuse or neglect shall not incur civil or criminal liability as a result of providing that access.

(c)(1) The Legislature finds that even though it has provided immunity from liability to persons required or authorized to make reports pursuant to this article, that immunity does not eliminate the possibility that actions may be brought against those persons based upon required or authorized reports. In order to further limit the financial hardship that those persons may incur as a result of fulfilling their legal responsibilities, it is necessary that they **not be unfairly burdened by legal fees incurred in defending those actions**. Therefore, a mandated reporter may present a **claim to the California Victim Compensation and Government Claims Board for reasonable attorney's fees and costs incurred in any action against that person on the basis of making a report required or authorized by this article** if the court has dismissed the action upon a demurrer or motion for summary judgment made by that person, or if he or she prevails in the action. The California Victim Compensation and Government Claims Board shall allow that claim if the requirements of this subdivision are met, and the claim shall be paid from an appropriation to be made for that purpose. Attorney's fees awarded pursuant to this section shall not exceed an hourly rate greater than the rate charged by the Attorney General of the State of California at the time the award is made and shall not exceed an aggregate amount of fifty thousand dollars (\$50,000).

Absolute immunity available under Child Abuse and Neglect Reporting Act extends not only to making of initial report of child abuse, but also to conduct giving rise to obligation to report, such as **collection of data, or observation, examination, or treatment of suspected victim performed in professional capacity, and to subsequent communications between reporter and public authorities responsible for investigating or prosecuting child abuse**. *Robbins v. Hamburger Home for Girls* (App. 2 Dist. 1995) 38 Cal.Rptr.2d 534, 32 Cal.App.4th 671.

Licensed clinical psychologist, who was required by Penal Code § 11166 to report suspected cases of child abuse, was entitled to absolute immunity from liability for alleged professional negligence in **rendering psychotherapeutic services** to determine whether preschool children had been sexually abused. *Krikorian v. Barry* (App. 2 Dist. 1987) 242 Cal.Rptr. 312, 196 Cal.App.3d 1211, review denied.

Physicians who either submitted **or supported the submission of a child abuse report** were immune from liability in parents' subsequent action for medical malpractice and negligent infliction of emotional distress, based on allegation that report was not based on reasonable suspicion of child abuse. *Storch v. Silverman* (App. 2 Dist. 1986) 231 Cal.Rptr. 27, 186 Cal.App.3d 671.

Colorado

§ 19-3-309. Immunity from liability--persons reporting

Any person, other than the perpetrator, complicitor, coconspirator, or accessory, **participating in** good faith in the **making** of a report, **in the facilitation of the investigation of such a report, or in a judicial proceeding held pursuant to this title, the taking of photographs or X rays, or the placing in temporary protective custody of a child** pursuant to section 19-3-405 **or otherwise performing his duties or acting pursuant to this part 3** shall be immune from any liability, civil or criminal, or termination of employment that otherwise might result by reason of such acts of participation, unless a court of competent jurisdiction determines that such person's behavior was willful, wanton, and malicious. For the purpose of any proceedings, civil or criminal, the good faith of any such person reporting child abuse, any such person taking photographs or X rays, and any such person who has legal authority to place a child in protective custody shall be presumed.

Where officer as result of proper investigation felt that, for child's protection, she should be **removed from her mother until investigation could be made**, no court order was required, and officer was acting within scope of his authority, and it could not be said that other officers were negligent in standing by and watching officer so act. Griffin v. Pate, App.1981, 644 P.2d 51.

Connecticut

§ 17a-101e. Employers prohibited from discrimination against witness in child abuse proceeding. Penalty.

Immunity for making report of child abuse in good faith. False report of child abuse. Penalty

Section effective until Oct. 1, 2012

(b) Any person, institution or agency which, in good faith, makes, or in good faith does not make, the report pursuant to sections 17a-101a to 17a-101d, inclusive, and 17a-103 shall be immune from any liability, civil or criminal, which might otherwise be incurred or imposed and shall have the same immunity **with respect to any judicial proceeding which results from such report** provided such person did not perpetrate or cause such abuse or neglect.

Doctor was making good faith report of suspected child abuse, and therefore was entitled to statutory immunity from civil liability for his **alleged medical malpractice in failing to order blood test which would have negated the suspicion of child abuse**, where doctor **orally described to social worker from Department of Children and Families the result of his medical examination of the children and thereafter submitted written account to Department**, though doctor had not been the first person to report the suspected abuse and instead examined the children at Department's request after anonymous caller from office of children's pediatrician made initial report to Department. Manifold v. Ragaglia (2004) 862 A.2d 292, 272 Conn. 410.

Delaware

§ 908. Immunity from liability, and special reimbursement to hospitals for expenses related to certain babies

(a) Anyone **participating in** good faith in the **making** of a report **or notifying police officers pursuant to this chapter, performing a medical examination without the consent of those responsible for the care, custody and control of a child** pursuant to § 906(b)(5) of this title, **or exercising emergency protective custody** in compliance with § 907 of this title, shall have immunity from any liability, civil or criminal, that might otherwise exist, and such immunity shall extend to participation in any judicial proceeding resulting from the above actions taken in good faith. This section shall not limit the liability of any health care provider for personal injury claims due to medical negligence that occurs as a result of any examination performed pursuant to § 906(b)(3) of this title. personal injury claims due to medical negligence that occurs as a result of any examination performed pursuant to § 906(b)(3) of this title.

(b) A hospital, hospital employee or hospital volunteer which **accepts temporary emergency protective custody of a baby** pursuant to § 907A of this title is absolutely immune from civil and administrative liability for any act of commission or omission in connection with the acceptance of that temporary emergency protective custody or the provision of care for the baby when left at the hospital while said baby is in the hospital's temporary emergency protective custody except for negligence or intentional acts. If a hospital accepts temporary emergency protective custody of a baby pursuant to § 907A of this title, the State shall reimburse the hospital for eligible, medically necessary costs under the Medicaid Fee for Service Program.

District of Columbia

§ 4-1321.04. Immunity from liability.

Any person, hospital, or institution **participating in** good faith in the **making** of a report pursuant to this subchapter shall have immunity from liability, civil or criminal, that might otherwise be incurred or imposed with respect to the making of the report. Any such participation shall have the same immunity with respect to **participation in any judicial proceeding involving the report**. In all civil or criminal proceedings concerning the child or resulting from the report good faith shall be presumed unless rebutted.

Florida

39.203. Immunity from liability in cases of child abuse, abandonment, or neglect

(1)(a) Any person, official, or institution participating in good faith **in any act authorized or required by this chapter**, or reporting in good faith any instance of child abuse, abandonment, or neglect to the department or any law enforcement agency, shall be immune from any civil or criminal liability which might otherwise result by reason of such action.

Georgia

§ 19-7-5. Reports by physicians, treating personnel, institutions and others as to child abuse; failure to report suspected child abuse

(f) Any person or persons, partnership, firm, corporation, association, hospital, or other entity **participating in the making** of a report or causing a report to be made to a child welfare agency providing protective services or to an appropriate police authority pursuant to this Code section or any other law or **participating in any judicial proceeding or any other proceeding resulting therefrom** shall in so doing be immune from any civil or criminal liability that might otherwise be incurred or imposed, provided such participation pursuant to this Code section or any other law is made in good faith. Any person making a report, whether required by this Code section or not, shall be immune from liability as provided in this subsection.

Psychologist to whom **child welfare agency referred suspected child abuse victim for evaluation** was immune from liability under child abuse reporting statute, despite parents' contention that psychologist could not be considered reporter under statute since abuse had already been reported at time agency referred child for evaluation; qualified immunity afforded by statute protects any person participating in making of report to child welfare agency and any person participating in proceedings arising as a result of report of abuse, and is not limited to initial communication of abuse. O.C.G.A. § 19-7-5(f). Michaels v. Gordon, 1993, 211 Ga.App. 470, 439 S.E.2d 722, certiorari denied.

Acts which constitute "making" report within meaning of child abuse reporting statute's immunity **provision include good faith clinical investigation of bases for suspecting child abuse, as well as any participation in subsequent judicial proceedings, and immunity extends to liability premised upon alleged medical malpractice by licensed psychologist arising out of psychological evaluation of child performed as part of child welfare agency's investigation of suspected abuse of child**. O.C.G.A. § 19-7-5(f). Michaels v. Gordon, 1993, 211 Ga.App. 470, 439 S.E.2d 722, certiorari denied.

Hawaii

§ 350-3. Immunity from liability

(a) Anyone **participating in** good faith in the **making** of a report pursuant to this chapter shall have immunity from any liability, civil or criminal, that might be otherwise incurred or imposed by or as a result of the making of such report. Any such participant shall have the same immunity with respect to participation in any judicial proceeding resulting from such report.

(b) Any individual who **assumes a duty or responsibility** pursuant to [section 350-2](#) or chapter 587A shall have immunity from civil liability for **acts or omissions performed within the scope of the individual's duty or responsibility**. Nothing in this section shall limit the liability of the department, any other state agency, or any private organization for the conduct of individuals provided immunity herein.

State social workers were protected by immunity, under Hawai'i law, granting immunity to state social workers **investigating child abuse cases** for acts performed within scope of their duties, against claims asserted by parents and children for negligence, gross negligence, intentional infliction of emotional distress, social worker malpractice, and invasion of privacy, under Hawai'i law, where all claims were based on social workers taking custody of children, filing custody petition in family court, and causing child's medical examination based on alleged parental sexual abuse. [Haldeman v. Golden, 2009, 359 Fed.Appx. 777, 2009 WL 4912614](#), Unreported, certiorari denied 131 S.Ct. 86, 178 L.Ed.2d 27.

Idaho

§ 16-1606. Immunity

Any person who has reason to believe that a child has been abused, abandoned or neglected and, acting upon that belief, makes a report of abuse, abandonment or neglect as required in [section 16-1605, Idaho Code](#), shall have immunity from any liability, civil or criminal, that might otherwise be incurred or imposed. Any such participant shall have the same immunity with respect to **participation in any such judicial proceeding** resulting from such report. Any person who reports in bad faith or with malice shall not be protected by this section. Any privilege between husband and wife, or between any professional person except the lawyer-client privilege, including but not limited to physicians, counselors, hospitals, clinics, day care centers and schools and their clients shall not be grounds for excluding evidence at any proceeding regarding the abuse, abandonment or neglect of the child or the cause thereof.

Illinois

325 ILCS 5/9

5/9. Immunity from liability

§ 9. Any person, institution or agency, under this Act, **participating in** good faith in the **making** of a report or referral, **or in the investigation of such a report or referral or in the taking of photographs and x-rays or in the retaining a child in temporary protective custody or in making a disclosure of information concerning reports of child abuse and neglect** in compliance with Sections 4.2 and 11.1 of this Act or Section 4 of this Act, as it relates to disclosure by school personnel and except in cases of wilful or wanton misconduct, shall have immunity from any liability, civil, criminal or that otherwise might result by reason of such actions. For the purpose of any proceedings, civil or criminal, the good faith of any persons required to report or refer, or permitted to report, cases of suspected child abuse or neglect or permitted to refer individuals under this Act or required to disclose information concerning reports of child abuse and neglect in compliance with Sections 4.2 and 11.1 of this Act, shall be presumed. For purposes of this Section "child abuse and neglect" includes abuse or neglect of an adult resident as defined in this Act.

5/5. Temporary protective custody

§ 5. ...Any person authorized and acting in good faith in the **removal of a child** under this Section shall have immunity from any liability, civil or criminal that might otherwise be incurred or imposed as a result of such removal. Any physician authorized and acting in good faith and in accordance with acceptable medical practice in the **treatment of a child** under this Section shall have immunity from any liability, civil or criminal, that might otherwise be incurred or imposed as a result of granting permission for emergency treatment.

With respect to any child taken into temporary protective custody pursuant to this Section, the Department of Children and Family Services Guardianship Administrator or his designee shall be deemed the child's legally authorized representative for purposes of consenting to an HIV test if deemed necessary and appropriate by the Department's Guardianship Administrator or designee and obtaining and disclosing information concerning such test pursuant to the AIDS Confidentiality Act³ if deemed necessary and appropriate by the Department's Guardianship Administrator or designee and for purposes of consenting to the release of information pursuant to the Illinois Sexually Transmissible Disease Control Act⁴ if deemed necessary and appropriate by the Department's Guardianship Administrator or designee. Any person who **administers an HIV test** upon the consent of the Department of Children and Family Services Guardianship Administrator or his designee, or **who discloses the results of such tests** to the Department's Guardianship Administrator or his designee, shall have immunity from any liability, civil, criminal or otherwise, that might result by reason of such actions. For the purpose of any proceedings, civil or criminal, the good faith of any persons required to administer or disclose the results of tests, or permitted to take such actions, shall be presumed.

Indiana

31-33-6-1 Immunity from civil or criminal liability

Sec. 1. Except as provided in section 2 of this chapter, a person, other than a person accused of child abuse or neglect, who:

- (1) makes or **causes to be made** a report of a child who may be a victim of child abuse or neglect;
- (2) is a **health care provider and detains a child for purposes of causing photographs, x-rays, or a physical medical examination to be made** under IC 31-33-10;
- (3) makes any other report of a child who may be a victim of child abuse and neglect; or
- (4) **participates in any judicial proceeding or other proceeding:**
 - (A) resulting from a report that a child may be a victim of child abuse or neglect; or
 - (B) relating to the subject matter of the report;

is immune from any civil or criminal liability that might otherwise be imposed because of such actions.

Iowa

232.73. Medically relevant tests--immunity from liability

Text subject to final changes by the Iowa Code Editor for Code 2013.

A person **participating in** good faith in the **making** of a report, **photographs, or X rays, or in the performance of a medically relevant test pursuant to this chapter, or aiding and assisting in an assessment of a child abuse report** pursuant to section 232.71B, shall have immunity from any liability, civil or criminal, which might otherwise be incurred or imposed. The person shall have the same immunity with respect to participation in good faith in any judicial proceeding resulting from the report or relating to the subject matter of the report.

As used in this section and in sections 232.73A, 232.77, and 232.78, “medically relevant test” means a test that produces reliable results of exposure to cocaine, heroin, amphetamine, methamphetamine, or other illegal drugs, or combinations or derivatives of the illegal drugs, including a drug urine screen test.

Since counselor and hospital personnel acted in subjective good faith in **aiding and assisting investigation** of child abuse report when they **disclosed medical information** about mother and father to Department of Human Services, they were immune from any liability, civil or criminal, to mother and father. *Garvis v. Scholten*, 1992, 492 N.W.2d 402.

232.79. Custody without court order

3. Any person, agency, or institution acting in good faith **in the removal or keeping of a child** pursuant to this section, and any employer of or person under the direction of such a person, agency, or institution, shall have immunity from any civil or criminal liability that might otherwise be incurred or imposed as the result of such removal or keeping.

232.71B. Duties of the department upon receipt of report

6. *Facility or school visit....* The immunity granted by section 232.73 applies to acts or omissions in good faith of administrators and their facilities or school districts for **cooperating in an assessment and allowing confidential access to a child**.

38-2223. Reporting of certain abuse or neglect of children; persons reporting; reports, made to whom; penalties; immunity from liability

(f) Immunity from liability. Anyone who, without malice, **participates in the making** of a report to the secretary or a law enforcement agency relating to a suspicion a child may be a child in need of care or who **participates in any activity or investigation** relating to the report or who **participates in any judicial proceeding** resulting from the report shall have immunity from any civil liability that might otherwise be incurred or imposed.

38-2209. Confidentiality of child in need of care records; penalties; immunities

(c) Immunity. The following immunities shall apply to the disclosure of confidential information:

(1) Anyone who **participates in providing or receiving information without malice** under the provisions of K.S.A. 38-2210 through 38-2213, and amendments thereto, shall have immunity from any civil liability that might otherwise be incurred or imposed. Any such participant shall have the same immunity with respect to participation in any judicial proceedings resulting from providing or receiving information.

38-2217. Health services

(a) Physical or mental care and treatment. (1) When a child less than 18 years of age is alleged to have been physically, mentally or emotionally abused or neglected or sexually abused, no consent shall be required to medically examine the child to determine whether the child has been abused or neglected. Unless the child is alleged or suspected to have been abused by the parent or guardian, the investigating officer shall notify or attempt to notify the parent or guardian of the medical examination of the child.

(5) Any health care provider who in good faith **renders hospital, medical, surgical, mental or dental care or treatment to any child or discloses protected health information** as authorized by this section shall not be liable in any civil or criminal action for failure to obtain consent of a parent.

Kentucky

620.050 Immunity for good faith actions or reports; investigations; confidentiality of reports; exceptions; parent's access to records; sharing of information by children's advocacy centers; confidentiality of interview with child; exceptions; confidentiality of identifying information regarding reporting individual; internal review and report

(1) Anyone acting upon reasonable cause in the making of a report or acting under KRS 620.030 to 620.050 in good faith shall have immunity from any liability, civil or criminal, that might otherwise be incurred or imposed. Any such participant shall have the same immunity with respect to **participation in any judicial proceeding** resulting from such report or action. However, any person who knowingly makes a false report and does so with malice shall be guilty of a Class A misdemeanor.

(2) Any employee or designated agent of a **children's advocacy center shall be immune from any civil liability arising from performance within the scope of the person's duties** as provided in KRS 620.030 to 620.050. Any such person shall have the same immunity with respect to participation in any judicial proceeding. Nothing in this subsection shall limit liability for negligence. Upon the request of an employee or designated agent of a children's advocacy center, the Attorney General shall provide for the defense of any civil action brought against the employee or designated agent as provided under KRS 12.211 to 12.215.

(14) As a result of any report of suspected child abuse or neglect, photographs and X-rays or other appropriate medical diagnostic procedures may be taken or caused to be taken, without the consent of the parent or other person exercising custodial control or supervision of the child, as a part of the medical evaluation or investigation of these reports. These photographs and X-rays or results of other medical diagnostic procedures may be introduced into evidence in any subsequent judicial proceedings. The **person performing the diagnostic procedures or taking photographs or X-rays** shall be immune from criminal or civil liability for having performed the act. Nothing herein shall limit liability for negligence.

Louisiana

Art. 514. Immunity from civil or criminal liability

A. In the consideration of any child abuse case, a **member of a multidisciplinary team** shall not be liable for civil damages while **acting in the official scope of his duties if the member, in good faith, refers a report of alleged child abuse for investigation, conducts an investigation, makes an investigative judgment or disposition, or releases or uses information for the purpose of protecting a child.**

B. The limitation of civil liability in Paragraph A of this Article does not apply if a multidisciplinary team member acts with gross negligence or in bad faith.

Art. 611. Immunity from civil or criminal liability

A. (1) No cause of action shall exist against any:

(a) Person who in good faith makes a report, **cooperates in any investigation** arising as a result of such report, or **participates in judicial proceedings** authorized under the provisions of this Chapter.

(b) Caseworker who in good faith **conducts an investigation, makes an investigative judgment or disposition, or releases or uses information contained in the central registry for the purpose of protecting a child.**

(2) Such individuals shall have immunity from civil or criminal liability that otherwise might be incurred or imposed.

School board would be protected by immunity set forth in statute in **allowing on-site interviews** between child and child protection agency in connection with an investigation of suspected child abuse. Op. Atty. Gen., No. 88-147, April 5, 1988

Investigative and placement decisions made by the caseworkers for the Department of Social Services (DSS) following complaints that child was suffering abuse from her parents were discretionary, and thus qualified immunity was applicable to DSS, for purposes of now emancipated child's action against DSS for damages, in the absence of gross of negligence. *Anderson v. Anderson*, App. 5 Cir. 2008, 980 So.2d 15, 07-805 (La. App. 5 Cir. 2/6/08), writ denied 979 So.2d 1285, 2008-0558 (La. 5/2/08).

Art. 1575. Immunity

Any law enforcement officer reporting in good faith, exercising due care in the **making of an arrest, or providing assistance** pursuant to the provisions of Articles 1573 and 1574 shall have immunity from any civil liability that otherwise might be incurred or imposed because of the report, arrest, or assistance provided.

Art. 546. Immunity from civil or criminal liability

A. Any person or agency acting in the performance and scope of official public duties in good faith pursuant to this Chapter or **pursuant to an interagency agreement who or which discloses any confidential information regarding a child or his family** shall have immunity from any liability, civil, criminal, or otherwise, that might result by reason of the type of information disclosed.

Maine

§ 4014. Immunity from liability

1. Reporting and proceedings. A person, including an agent of the department, **participating in good faith in reporting** under this subchapter or **participating in a related child protection investigation or proceeding, including, but not limited to, a multidisciplinary team, out-of-home abuse investigating team or other investigating or treatment team**, is immune from any criminal or civil liability for the act of reporting or **participating in the investigation or proceeding.** Good faith does not include instances when a false report is

made and the person knows the report is false. Nothing in this section may be construed to bar criminal or civil action regarding perjury or regarding the abuse or neglect which led to a report, investigation or proceeding.

2. *Photographs and x rays.* A person participating in good faith in **taking photographs or x rays** under this subchapter is immune from civil liability for invasion of privacy that might otherwise result from these actions.

3. *Presumption of good faith.* In a proceeding regarding immunity from liability, there shall be a rebuttable presumption of good faith.

§ 4021. Investigations

1. *Subpoenas and obtaining criminal history.* The commissioner, his delegate or the legal counsel for the department may:

A. Issue subpoenas requiring persons to disclose or provide to the department information or records in their possession that are necessary and relevant to an investigation of a report of suspected abuse or neglect or suspicious child death, to a subsequent child protection proceeding or to a panel appointed by the department to review child deaths and serious injuries.

(1) The department may apply to the District Court to enforce a subpoena.

(2) A person who **complies with a subpoena** is immune from civil or criminal liability that might otherwise result from the **act of turning over or providing information or records to the department;**

Maryland

§ 5-620. Reports of child abuse or neglect

Any person who in good faith makes or **participates in making** a report of abuse or neglect under § 5-704, § 5-705, or § 5-705.1 of the Family Law Article or **participates in an investigation or a resulting judicial proceeding** is immune from any civil liability or criminal penalty that would otherwise result from making or participating in a report of abuse or neglect or participating in an investigation or a resulting judicial proceeding.

Child abuse reporting statutes cover **more than** making a report, and they recognize that individuals, other than the reporter, **may play a role in the making of the report, although they may not themselves make it, and in addition, the statutes cover investigations and resulting judicial proceedings.** *Rite Aid Corp. v. Hagley, 2003, 824 A.2d 107, 374 Md. 665.*

§ 5-621. Examination or treatment of abused or neglected child by physician

(a) A physician who **examines or treats a child** under § 5-712 of the Family Law Article is immune from any civil liability that may result from the **failure to obtain consent from the child's parent, guardian, or custodian** for the examination or treatment of the child.

(b) The immunity described under subsection (a) of this section extends to:

(1) Any **health care institution** with which the physician is affiliated or to which the child is brought; and

(2) Any **individual working under the control or supervision of the physician** or under the control or supervision of the health care institution.

§ 5-708. Immunity

Any person who makes or **participates in making** a report of abuse or neglect under § 5-704, § 5-705, or § 5-705.1 of this subtitle or a report of substantial risk of sexual abuse under § 5-704.1 of this subtitle or **participates in an investigation or a resulting judicial proceeding** shall have the immunity described under § 5-620 of the Courts and Judicial Proceedings Article from civil liability or criminal penalty.

Employees of local school boards **carrying out child abuse investigations** would be immune from personal liability. 76 Op.Atty.Gen. No. 91-056, Dec. 17, 1991.

§ 5-712. Medical treatment of abused child

(d) A provider who **examines or treats a child** under this section shall have the immunity from liability described under § 5-621 of the Courts and Judicial Proceedings Article.

§ 15-127. Rape and abuse victim services

(d)(1) A physician who **examines a victim** of alleged child sexual abuse under the provisions of this section is immune from any civil liability that may result from the **failure of the physician to obtain consent** from the child's parent, guardian, or custodian for the examination or treatment of the child.

(2) The immunity extends to:

- (i) **Any hospital** with which the physician is affiliated or to which the child is brought; and
- (ii) **Any individual working under the control or supervision** of the hospital.

Massachusetts

§ 51A. Reporting of suspected abuse or neglect; mandated reporters; collection of physical evidence; penalties; content of reports; liability; privileged communication

(g) No mandated reporter shall be liable in any civil or criminal action for filing a report under this section or **for contacting local law enforcement authorities or the child advocate**, if the report or contact was made in good faith, was not frivolous, and the reporter did not cause the abuse or neglect. No other person filing a report under this section shall be liable in any civil or criminal action by reason of the report if it was made in good faith and if that person did not perpetrate or inflict the reported abuse or cause the reported neglect. Any person filing a report under this section may be liable in a civil or criminal action if the department or a district attorney determines that the person filing the report may have perpetrated or inflicted the abuse or caused the neglect.

Michigan

330.1748a. Occurrence of child abuse or neglect; request for mental health records, compelling need

(3) To the extent not protected by the immunity conferred by 1964 PA 170, MCL 691.1401 to 691.1415, an individual who in good faith **gives access to mental health records or information** under this section is immune from civil or administrative liability arising from that conduct, unless the conduct was gross negligence or willful and wanton misconduct.

333.16281. Compelling need for records or information; child abuse or child neglect, substantial risk of harm; notification of investigation initiation; record privileges; immunity from civil or administrative liability; duty relating to the report of child abuse or child neglect

(3) To the extent not protected by the immunity conferred by 1964 PA 170, MCL 691.1401 to 691.1415, an individual who in good faith **provides access to medical records or information** under this section is immune from civil or administrative liability arising from that conduct, unless the conduct was gross negligence or willful and wanton misconduct.

722.625. Reporting persons, identity, immunity from liability, good faith

Sec. 5. Except for records available under section 7(2)(a), (b), and (n),¹ the identity of a reporting person is confidential subject to disclosure only with the consent of that person or by judicial process. A person acting in good faith who makes a report, **cooperates in an investigation, or assists in any other requirement of this act** is immune from civil or criminal liability that might otherwise be incurred by that action. A person making a report or assisting in any other requirement of this act is presumed to have acted in good faith. This immunity from civil or criminal liability extends only to acts done according to this act and does not extend to a negligent act that causes personal injury or death or to the malpractice of a physician that results in personal injury or death.

Minnesota

626.5561. Reporting of prenatal exposure to controlled substances

Subdivision 1. Reports required. (a) Except as provided in paragraph (b), a person mandated to report under section 626.556 - *Subd. 5. Immunity.* (a) A person making a voluntary or mandated report under subdivision 1 or **assisting in an assessment** under subdivision 2 is immune from any civil or criminal liability that otherwise might result from the person's actions, if the person is acting in good faith.

Subd. 3. Immunity from liability. A school board, its members in their official capacity, and employees of the district run by the board are immune from civil or criminal liability for reporting or **cooperating as required** under subdivision 2, if their actions required under subdivision 2 are done in good faith and with due care.

Mississippi

§ 43-21-355. Civil and criminal immunity-- Any attorney, physician, dentist, intern, resident, nurse, psychologist, social worker, family protection worker, family protection specialist, child caregiver, minister, law enforcement officer, school attendance officer, public school district employee, nonpublic school employee, licensed professional counselor or any other person **participating in the making** of a required report pursuant to Section 43-21-353 or **participating in the judicial proceeding** resulting therefrom shall be presumed to be acting in good faith. Any person or institution reporting in good faith shall be immune from any liability, civil or criminal, that might otherwise be incurred or imposed.

Missouri

210.135. Immunity from liability granted to reporting person or institution, when--exception

1. Any person, official, or institution complying with the provisions of sections 210.110 to 210.165 in the making of a report, the **taking of color photographs, or the making of radiologic examinations** pursuant to sections 210.110 to 210.165, or both such taking of color photographs and making of radiologic examinations, or the **removal or retaining a child** pursuant to sections 210.110 to 210.165, or in **cooperating with the division, or any other law enforcement agency, juvenile office, court, or child-protective service agency** of this or any other state, in any of the activities pursuant to sections 210.110 to 210.165, or any other allegation of child abuse, neglect or assault, pursuant to sections 568.045 to 568.060, shall have immunity from any liability, civil or criminal, that otherwise might result by reason of such actions. Provided, however, any person, official or institution intentionally filing a false report, acting in bad faith, or with ill intent, shall not have immunity from any liability, civil or criminal. Any such person, official, or institution shall have the same immunity with respect to **participation in any judicial proceeding** resulting from the report.

School and division of family services employees were protected by qualified immunity for any violation of parents' rights in **conducting interview** with son **without informing parents**, where parents' refusal to allow son to attend high school on days he did not first complete his home chores and parents' practice of handcuffing son were reasonably considered to be probable cause to believe that son was being subjected to form of neglect or abuse prohibited by state law. *Hawley v. Nelson*, E.D.Mo.1997, 968 F.Supp. 1372, affirmed 141 F.3d 1168.

Montana

41-3-203. Immunity from liability

(1) Anyone **investigating** or reporting any incident of child abuse or neglect under 41-3-201 or 41-3-202, **participating in resulting judicial proceedings, or furnishing hospital or medical records** as required by 41-3-202 is immune from any liability, civil or criminal, that might otherwise be incurred or imposed unless the person was grossly negligent or acted in bad faith or with malicious purpose or provided information knowing the information to be false.

Nebraska

28-716. Person participating in an investigation or making report; immune from liability; civil or criminal
Any person **participating in an investigation or the making of a report** of child abuse or neglect required by section 28-711 pursuant to **or participating in a judicial proceeding** resulting therefrom shall be immune from any liability, civil or criminal, that might otherwise be incurred or imposed, except for maliciously false statements.

Nevada

432B.160. Immunity from civil or criminal liability; presumption

1. Except as otherwise provided in subsection 2, immunity from civil or criminal liability extends to every person who in good faith:
 - (a) Makes a report pursuant to NRS 432B.220;
 - (b) **Conducts an interview or allows an interview** to be taken pursuant to NRS 432B.270;
 - (c) **Allows or takes photographs or X rays** pursuant to NRS 432B.270;
 - (d) **Causes a medical test to be performed** pursuant to NRS 432B.270;
 - (e) **Provides a record, or a copy thereof, of a medical test performed** pursuant to NRS 432B.270 to an agency which provides child welfare services to the child, a law enforcement agency that participated in the investigation of the report made pursuant to NRS 432B.220 or the prosecuting attorney's office;
 - (f) **Holds a child** pursuant to NRS 432B.400, takes possession of a child pursuant to NRS 432B.630 or **places a child in protective custody** pursuant to any provision of this chapter;
 - (g) Performs **any act pursuant to subsection 2** of NRS 432B.630;
 - (h) **Refers a case or recommends the filing of a petition** pursuant to NRS 432B.380; or
 - (i) **Participates in a judicial proceeding** resulting from a referral or recommendation.
2. The provisions of subsection 1 do not confer any immunity from liability for the negligent performance of any act pursuant to paragraph (b) of subsection 2 of NRS 432B.630.
3. In any proceeding to impose liability against a person for: (a) Making a report pursuant to NRS 432B.220; or (b) Performing any act set forth in paragraphs (b) to (i), inclusive, of subsection 1, there is a presumption that the person acted in good faith.

New Hampshire

169-C:31 Immunity From Liability.

Anyone **participating in** good faith in the **making** of a report pursuant to this chapter is immune from any liability, civil or criminal, that might otherwise be incurred or imposed. Any such participant has the same immunity with **respect to participation in any investigation by the department or judicial proceeding** resulting from such report.

New Jersey

9:6-8.20. Physicians or directors of hospitals acting under this law; immunity from liability

Any physician or director of a hospital or similar institution who **takes a child into protective custody** pursuant to this act shall have immunity from any civil and criminal liability that might otherwise be incurred or imposed. Any such person shall have the same immunity with respect **to testimony given in any judicial proceeding** resulting therefrom.

9:6-8.30. Action by the division upon emergency removal

c. Whenever a child has been removed pursuant to section 7¹ or 9² of P.L.1974, c. 119 (C.9:6-8.27 or 9:6-8.29), the division shall arrange for immediate medical screening of the child and shall have legal authority to consent to such screening. If necessary to safeguard the child's health or life, the division also is authorized to arrange for and consent to medical care or treatment of the child. Consent by the division pursuant to this subsection

shall be deemed legal and valid for all purposes with respect to any person, hospital, or other health care facility screening, examining or providing care or treatment to a child in accordance with and in reliance upon such consent. Medical reports resulting from such screening, examination or care or treatment shall be released to the division for the purpose of aiding in the determination of whether the child has been abused or neglected. Any person or health care facility acting in good faith in the **screening of, examination of or provision of care and treatment to a child or in the release of medical records** shall have immunity from any liability, civil or criminal, that might otherwise be incurred or imposed as a result of such act.

New Mexico

§ 32A-4-5. Admissibility of report in evidence; immunity of reporting person; investigation of report

B. Anyone reporting an instance of alleged child neglect or abuse or **participating in a judicial proceeding** brought as a result of a report required by Section 32A-4-3 NMSA 1978 is presumed to be acting in good faith and shall be immune from liability, civil or criminal, that might otherwise be incurred or imposed by the law, unless the person acted in bad faith or with malicious purpose.

C. After properly verifying the identity of the public official, any school personnel or other person who has the duty to report child abuse pursuant to Section 32A-4-3 NMSA 1978 shall permit a member of a law enforcement agency, including tribal police officers, an employee of the district attorney's office, an investigative interviewer for a program described in Subsection E of this section or an employee of the department, to interview a child with respect to a report without the permission of the child's parent or guardian. Any person **permitting an interview** pursuant to this subsection is presumed to be acting in good faith and shall be immune from liability, civil or criminal, that might otherwise be incurred or imposed by law, unless the person acted in bad faith or with malicious purpose.

New York

§ 419. Immunity from liability

Any person, official, or institution participating in good faith in the providing of a service pursuant to section four hundred twenty-four of this title, the making of a report, **the taking of photographs, the removal or keeping of a child pursuant to this title, or the disclosure of child protective services information** in compliance with sections twenty, four hundred twenty-two and four hundred twenty-two-a of this chapter shall have immunity from any liability, civil or criminal, that might otherwise result by reason of such actions. For the purpose of any proceeding, civil or criminal, the good faith of any such person, official, or institution required to report cases of child abuse or maltreatment or **providing a service** pursuant to section four hundred twenty-four or the **disclosure of child protective services information** in compliance with sections twenty, four hundred twenty-two and four hundred twenty-two-a of this chapter shall be presumed, provided such person, official or institution was acting in discharge of their duties and within the scope of their employment, and that such liability did not result from the willful misconduct or gross negligence of such person, official or institution.

North Carolina

§ 7B-309. Immunity of persons reporting and cooperating in an assessment

Anyone who makes a report pursuant to this Article, **cooperates with the county department of social services in a protective services assessment, testifies in any judicial proceeding** resulting from a protective services report or assessment, **or otherwise participates in the program authorized** by this Article, is immune from any civil or criminal liability that might otherwise be incurred or imposed for that action provided that the person was acting in good faith. In any proceeding involving liability, good faith is presumed.

§ 50-25.1-09. Immunity from liability

Any person, other than the alleged violator, **participating in** good faith in the **making** of a report, **assisting in an investigation or assessment, furnishing information, or in providing protective services under this chapter** or who is a **member of the child fatality review panel**, is immune from any liability, civil or criminal, except for criminal liability as provided by section 50-25.1-13, that otherwise might result from reporting the alleged case of abuse, neglect, or death resulting from child abuse or neglect. For the purpose of any proceeding, civil or criminal, the good faith of any person required to report cases of child abuse, neglect, or death resulting from abuse or neglect must be presumed.

Ohio

2151.421 Persons required to report injury or neglect; procedures on receipt of report

(G)(1)(a) Except as provided in division (H)(3) of this section, anyone or any hospital, institution, school, health department, or agency **participating in the making** of reports under division (A) of this section, anyone or any hospital, institution, school, health department, or agency **participating in good faith in the making** of reports under division (B) of this section, and **anyone participating in good faith in a judicial proceeding resulting from the reports**, shall be immune from any civil or criminal liability for injury, death, or loss to person or property that otherwise might be incurred or imposed as a result of the making of the reports or the participation in the judicial proceeding.

Oklahoma

§ 1-2-104. Immunity from civil and criminal liability--Presumption

A. Any person who, in good faith and exercising due care, reports suspected child abuse or neglect, **or who allows access to a child by persons authorized to investigate a report** concerning the child shall have immunity from any liability, civil or criminal, that might otherwise be incurred or imposed. Any such participant shall have the same immunity with respect to participation in any judicial proceeding resulting from such report.

Oregon

419B.025. Immunity from liability for good faith reports

Anyone **participating in** good faith in the **making** of a report of child abuse and who has reasonable grounds for the making thereof shall have immunity from any liability, civil or criminal, that might otherwise be incurred or imposed with respect to the making or content of such report. Any such participant shall have the same immunity with respect to participating in any judicial proceeding resulting from such report.

Statute providing qualified immunity from liability for **statements made in report to children's services division** provides immunity for statements but not actions described by statements. State v. Pierce, 1993, 120 Or.App. 234, 852 P.2d 198, review denied 317 Or. 272, 858 P.2d 1314.

Pennsylvania

§ 6318. Immunity from liability

(a) General rule.--A person, hospital, institution, school, facility, agency or agency employee that participates in good faith in the making of a report, whether required or not, **cooperating with an investigation, including providing information to a child fatality or near fatality review team, testifying in a proceeding arising out of an instance of suspected child abuse, the taking of photographs or the removal or keeping of a**

child pursuant to section 6315 (relating to taking child into protective custody), and **any official or employee of a county agency who refers a report of suspected abuse to law enforcement authorities or provides services** under this chapter, shall have immunity from civil and criminal liability that might otherwise result by reason of those actions.

(b) Presumption of good faith.--For the purpose of any civil or criminal proceeding, the good faith of a person required to report pursuant to section 6311 (relating to persons required to report suspected child abuse) and of any person required to make a referral to law enforcement officers under this chapter shall be presumed.

Rhode Island

§ 40-11-4. Immunity from liability

Any person **participating in** good faith in **making** a report pursuant to this chapter shall have immunity from any liability, civil or criminal, that might otherwise be incurred or imposed. Any participant shall have the same immunity with respect to **participation in any judicial proceeding resulting from the report**.

South Carolina

§ 63-7-390. Reporter immunity from liability.

A person required or permitted to report pursuant to Section 63-7-310 **or who participates in an investigation or judicial proceedings resulting from the report**, acting in good faith, is immune from civil and criminal liability which might otherwise result by reason of these actions. In all such civil or criminal proceedings, good faith is rebuttably presumed. Immunity under this section extends to full disclosure by the person of facts which gave the person reason to believe that the child's physical or mental health or welfare had been or might be adversely affected by abuse or neglect.

§ 63-7-750. Doctor or hospital may detain child; civil immunity.

(A) A physician or hospital to which a child has been brought for treatment **may detain the child for up to twenty-four hours without the consent of the person responsible for the child's welfare** if the physician or hospital:

- (1) has reason to believe that the child has been abused or neglected;
- (2) has made a report to a law enforcement agency and the department pursuant to Section 63-7-310, stating the time the physician notified the agency or department that the child was being detained until a law enforcement officer could arrive to determine whether the officer should take emergency physical custody of the child pursuant to Subarticle 3; and
- (3) has reason to believe that release of the child to the child's parent, guardian, custodian, or caretaker presents an imminent danger to the child's life, health, or physical safety. A hospital must designate a qualified person or persons within the hospital who shall have sole authority to detain a child on behalf of the hospital.

(B) A physician or hospital that **detains a child in good faith** as provided in this section **is** immune from civil or criminal liability for detaining the child.

South Dakota

26-8A-14. Immunity from liability

Any person or party **participating in** good faith in the **making** of a report or the **submitting of copies of medical examination, treatment, or hospitalization records** pursuant to §§ 26-8A-3 to 26-8A-8, inclusive, or pursuant to any other provisions of this chapter, is immune from any liability, civil or criminal, that might otherwise be incurred or imposed, and has the same immunity for participation in any judicial proceeding resulting from the report. Immunity also extends in the same manner to persons **requesting the taking of**

photographs and X rays pursuant to § 26-8A-16, to persons **taking the photographs and X rays, to child protection teams** established by the secretary of social services, to public officials or employees **involved in the investigation and treatment of child abuse or neglect or making a temporary placement of the child** pursuant to this chapter, or to any person who in good faith **cooperates with a child protection team or the Department of Social Services in investigation, placement, or a treatment plan**. The provisions of this section or any other section granting or allowing the grant of immunity do not extend to any person alleged to have committed an act or acts of child abuse or neglect.

Tennessee

§ 37-1-410. Privileges and immunities; actions and proceedings

(7) A person furnishing a report, **information or records as required, requested, or authorized** under this part shall have the same immunity and the same scope of immunity with respect to testimony such person may be required to give or **may give in any judicial or administrative proceeding or in any communications with the department or any law enforcement official** as is otherwise conferred by this subsection (a) upon the person for making the report of harm.

(8) If the person furnishing a report, information or records during the normal course of the person's duties as required or authorized or requested under this part is different from the person originally reporting the harm, then **the person furnishing the report, information or records shall have the same immunity and the same scope of immunity with respect to testimony** the person may be required to give or may give in any judicial or administrative proceeding or in any communications with the department or any law enforcement official as is otherwise conferred by this subsection (a) upon the person who made the original report of harm.

Texas

§ 261.106. Immunities

(a) A person acting in good faith who reports or **assists in the investigation of a report** of alleged child abuse or neglect or **who testifies or otherwise participates in a judicial proceeding** arising from a report, petition, or investigation of alleged child abuse or neglect is immune from civil or criminal liability that might otherwise be incurred or imposed.

(b) Immunity from civil and criminal liability extends to an authorized volunteer of the department or a law enforcement officer who participates at the request of the department in an investigation of alleged or suspected abuse or neglect or in an action arising from an investigation if the person was acting in good faith and in the scope of the person's responsibilities.

(c) A person who reports the person's own abuse or neglect of a child or who acts in bad faith or with malicious purpose in reporting alleged child abuse or neglect is not immune from civil or criminal liability.

Utah

§ 62A-4a-410. Immunity from liability--Exceptions

(1) Except as provided in Subsection (3), any person, official, or institution **participating in good faith in making a report, taking photographs or X-rays, assisting an investigator from the division, serving as a member of a child protection team, or taking a child into protective custody** pursuant to this part, is immune from any liability, civil or criminal, that otherwise might result by reason of those actions.

Virginia

§ 63.2-1509. Requirement that certain injuries to children be reported by physicians, nurses, teachers, etc.; penalty for failure to report

C. Any person who makes a report or **provides records or information pursuant** to subsection A or who **testifies in any judicial proceeding arising** from such report, records, or information shall be immune from any civil or criminal liability or administrative penalty or sanction on account of such report, records, information, or testimony, unless such person acted in bad faith or with malicious purpose.

§ 63.2-1512. Immunity of person making report, etc., from liability

Any person making a report pursuant to § 63.2-1509, a **complaint** pursuant to § 63.2-1510, or **who takes a child into custody** pursuant to § 63.2-1517, or **who participates in a judicial proceeding** resulting therefrom shall be immune from any civil or criminal liability in connection therewith, unless it is proven that such person acted in bad faith or with malicious intent.

Washington

26.44.060. Immunity from civil or criminal liability--Confidential communications not violated--Actions against state not affected False report, penalty

(1)(a) Except as provided in (b) of this subsection, any person **participating in** good faith in the **making** of a report pursuant to this chapter or **testifying as to alleged child abuse or neglect in a judicial proceeding** shall in so doing be immune from any liability arising out of such reporting or testifying under any law of this state or its political subdivisions.

(b) A person convicted of a violation of subsection (4) of this section shall not be immune from liability under (a) of this subsection.

(2) An administrator of a hospital or similar institution or any physician licensed pursuant to chapters 18.71 or 18.57 RCW **taking a child into custody** pursuant to RCW 26.44.056 shall not be subject to criminal or civil liability for such taking into custody.

(3) Conduct conforming with the reporting requirements of this chapter shall not be deemed a violation of the confidential communication privilege of RCW 5.60.060 (3) and (4), 18.53.200 and 18.83.110. Nothing in this chapter shall be construed as to supersede or abridge remedies provided in chapter 4.92 RCW.

(4) A person who, intentionally and in bad faith, knowingly makes a false report of alleged abuse or neglect shall be guilty of a misdemeanor punishable in accordance with RCW 9A.20.021.

(5) A person who, in good faith and without gross negligence, **cooperates in an investigation** arising as a result of a report made pursuant to this chapter, shall not be subject to civil liability arising out of his or her cooperation. This subsection does not apply to a person who caused or allowed the child abuse or neglect to occur.

West Virginia

§ 49-6A-6. Immunity from liability

Any person, official or institution **participating in good faith in any act permitted or required** by this article shall be immune from any civil or criminal liability that otherwise might result by reason of such actions.

Wisconsin

48.981. Abused or neglected children and abused unborn children

(4) Immunity from liability. Any person or institution **participating in** good faith in the **making** of a report, **conducting an investigation, ordering or taking of photographs or ordering or performing medical examinations** of a child or of an expectant mother under this section shall have immunity from any liability, civil or criminal, that results by reason of the action. For the purpose of any proceeding, civil or criminal, the good faith of any person reporting under this section shall be presumed. The immunity provided under this subsection does not apply to liability for abusing or neglecting a child or for abusing an unborn child.

Wyoming

§ 14-3-209. Immunity from liability

Any person, official, institution or agency **participating in** good faith in **any act required or permitted** by W.S. 14-3-201 through 14-3-215 is immune from any civil or criminal liability that might otherwise result by reason of the action. For the purpose of any civil or criminal proceeding, the good faith of any person, official or institution participating in any act permitted or required by W.S. 14-3-201 through 14-3-215 shall be presumed.

Appendix B

LEGISLATIVE PROVISIONS ON IMMUNITY FROM LIABILITY FOR INVOLVEMENT IN THE CHILD MALTREATMENT FATALITY REVIEW TEAM PROCESS

Alabama

Ala. Code § 26-16-90 (1997)

- Section 6. State and local team members shall be **immune from any and all civilian and criminal liability** in connection with their good faith participation on the state or local team and all activities associated therewith, provided however, this immunity shall not be available in the event any state or local team member violates the provisions of confidentiality enumerated in the legislation.

Alaska

Alaska § 12.65.120 to 12.65.140 (1998)

- Sec. 12.65.140. Records; information; meetings; confidentiality; immunity
 - (f) A person who is a member or an employee of, or who furnishes services to or advises, the state child fatality review team is **not liable for damages or other relief** in an action brought by reason of the performance of a duty, a function, or an activity of the review team.

Arkansas

Arkansas Code Title 20, Chapter 27

- 20-27-1706. Records — Confidentiality.
 - (b) Any person, agency, or entity furnishing confidential information shall **not be liable** for releasing the confidential information if the information was furnished in good faith under the provisions of this subchapter
 - (d)(1) State, local, or regional review panel members shall be **immune from civil and criminal liability** in connection with their good faith participation on the review panel and all activities related to the review panel. (2) **No civil or criminal immunity exists** if a state, local, or regional review panel member knowingly or willingly violates this subchapter.

Delaware

70 Del. Laws, c. 256, § 1

- § 324. Confidentiality of records and immunity from suit.
 - b) Members of the Commission, regional panels, Case Review Teams and Community Action Teams, and their agents or employees, shall **not be subject to, and shall be immune from, claims, suits, liability, damages or any other recourse, civil or criminal**, arising from any act, proceeding, decision or determination undertaken or performed or recommendation made, provided such persons acted in good faith and without malice in carrying out their responsibilities, authority, duties, powers and privileges of the offices conferred by this law upon them or by any other provisions of the Delaware law, federal law or regulations, or duly adopted rules and regulations of the Commission or its

regional panels or teams. Complainants shall bear the burden of proving malice or a lack of good faith to defeat the immunity provided herein.

- (c) ...No organization, institution or person furnishing information, data, reports or records to the Commission or any regional panel or team with respect to any subject examined or treated by such organizations, institution, or person, by reason of furnishing such information, **shall be liable in damages to any person or subject to any other recourse, civil or criminal.**

Florida

Florida Statute § 383.402 (1999)

- 383.402 Child Abuse Death Review; State Child Abuse Death Review Committee; local child abuse death review committees.
 - (14) ...An organization, institution, committee member, or other person who furnishes information, data, reports, or records to the state committee or a local committee is **not liable for damages to any person and is not subject to any other civil, criminal, or administrative recourse.** This subsection does not apply to any person who admits to committing a crime.

Georgia

Georgia Statute § 19-15-1 to 19-15-7 (1990)

- 19-15-6. (g) A member of a protocol committee, a review committee, or the panel **shall not be civilly or criminally liable** for any disclosure of information made by such member as authorized by this Code section.

Hawaii

Hawaii Act § 321-341 to 321-346 (1997)

- [§321-346] Immunity from liability. All agencies and individuals participating in the review of child deaths pursuant to this part **shall not be held civilly or criminally liable** for providing the information required under this part. [L 1997, c 369, pt of §1]

Indiana

(IC 31-33-24) Chapter 24. Child Fatality Review Teams

- IC 31-33-24-13 – Training. Sec. 13 (3). ... Members of a **local** child fatality review team and individuals who attend a meeting of a local child fatality review team as an invitee of the chairperson: ... (3) except when acting: (A) with malice; (B) in bad faith; or (C) with negligence; **are immune from any civil or criminal liability** that might otherwise be imposed as a result of sharing among themselves confidential matters that are before the local child fatality review team.

(IC 31-33-25) Chapter 25. Statewide Child Fatality Review Committee

- IC 31-33-25-11 (3) -Confidentiality; immunity Sec. 11. Members of the **statewide** child fatality review committee and individuals who attend a meeting of the statewide child fatality review committee as an invitee of the chairperson: ... (3) except when acting: (A) with malice; (B) in bad faith; or (C) with gross negligence; **are immune from any civil or criminal liability** that might otherwise be imposed as a result of communicating among themselves about confidential matters that

Louisiana

Louisiana Statute § 40:4019 (1992)

- 2019. Child death investigation
 - F. Records; confidentiality; prohibited disclosure and discovery. (2) The furnishing of confidential information, documents, and reports in accordance with this Section by any person, agency, or entity furnishing such information, documents, and reports **shall not expose such person, agency, or entity to liability** and shall not be considered a violation of any privileged or confidential relationship, provided the participant has acted in good faith in the reporting as required in this Section.

Massachusetts

Acts 2008. Chapter 176. AN ACT PROTECTING CHILDREN IN THE CARE OF THE COMMONWEALTH.

- SECTION 76. Said chapter 111 is hereby further amended by striking out section 24K, inserted by section 2 of chapter 356 of the acts of 2006, and inserting in place thereof the following section:-
 - Section 24L (4)(B) No caregivers, health providers, or other professionals serving children and families who provide education or report information related to the department's surveillance process **shall be liable in any civil or criminal action**, if the actions were required by this section and made in good faith.

Missouri

Missouri Statute § 210.192 (1992).

- Title: Child fatality review panel to investigate deaths--qualifications --prosecutors and circuit attorneys to organize--report on investigations--immunity from civil liability--program for prevention.
- 4. The child fatality review panel **shall enjoy such official immunity as exists at common law**.

New York

New York Statute § 20(5)(c) of Social Services Law (2006)

- 422-b. Local and regional fatality review teams.
 - 5. Members of a local or regional fatality review team, persons attending a meeting of a local or regional fatality review team, and persons who present information to a local or regional fatality review team **shall have immunity from civil and criminal liability** for all reasonable and good faith actions taken pursuant to this section, and shall not be questioned in any civil or criminal proceeding regarding any opinions formed as a result of a meeting of a local or regional fatality review team. Nothing in this section shall be construed to prevent a person from testifying as to information obtained independently of a local or regional fatality review team or which is public information.

Texas

Texas Statute § 264.501 (1995)

- § 264.510. MEETING OF REVIEW TEAM. (d) A member of a review team participating in the review of a child death **is immune from civil or criminal liability** arising from information presented in or opinions formed as a result of a meeting.

Vermont

Vermont Statute § 4917-4919 (1992)

- (d) Disclosure of information or records used or obtained in the course of providing services to prevent child abuse or neglect or to treat abused or neglected children and their families by one member of a multidisciplinary team to another member of that team shall not subject either member of the multidisciplinary team, individually, or the team as a whole, **to any civil or criminal liability** notwithstanding any other provision of law.

Wyoming

Wyoming Statute § 14-3-209 (2001)

- 14-3-209. Immunity from liability. Any person, official, institution or agency participating in good faith in any act required or permitted by W.S. 14-3-201 through 14-3-215 **is immune from any civil or criminal liability** that might otherwise result by reason of the action. For the purpose of any civil or criminal proceeding, the good faith of any person, official or institution participating in any act permitted or required by W.S. 14-3-201 through 14-3-215 shall be presumed.

Attachment C

STUDY AND REPORT TO CONGRESS ON IMMUNITY FROM PROSECUTION FOR PROFESSIONAL CONSULTATION IN SUSPECTED AND KNOWN INSTANCES OF CHILD ABUSE AND NEGLECT

Medical Professionals

Please take a few minutes to answer these confidential questions. Your answers will help policy makers better understand experiences and views you and others have about possible civil liability in cases where professionals like you consult on, or otherwise assist in, individual child abuse and neglect cases. Consulting includes reviewing medical records, reviewing the results of a physical examination, or conducting a second physical examination of an alleged victim.

This information will allow our organization's members to provide input on the frequency and impact of cooperating with child protective services (CPS) on cases, and the legal barriers to such assistance. It will help us better understand whether liability concerns may inhibit participation in the reporting process or, otherwise aiding the CPS system.

Your responses will be aggregated with all others, and you will not be identified or contacted.

Follow this link:

Please answer the questions by _____.

Thank you for your participation.

Q1 Please select the description that most closely depicts your area of expertise

- Pediatrician (1)
- Pediatric specialist--child abuse (2)
- Family practitioner/General practitioner (3)
- Emergency physician; specialty: (4) _____
- Other (5) _____

Q2 How long have you been in practice?

- 1-5 years (1)
- 6-10 years (2)
- 11-15 years (3)
- 16-20 years (4)
- 21-25 years (5)
- 26-30 years (6)
- More than 30 years; how many? (7) _____

Q3 Describe the community in which you practice medicine by selecting one of the following options:

- Urban (1)
- Suburban (2)
- Rural (3)

Child Abuse and Neglect

Q4 Have you ever worked with your local child protective services (child welfare) agency on child abuse or neglect investigations?

- Yes (1)
- No (2)

Q5 In your practice, how many times have you identified (or treated) a possible child abuse or child neglect victim, in the past 12 months?

- 0 (1)
- 1-25 (2)
- 26-50 (3)
- 51-75 (4)
- 76-100 (5)
- 101-150 (6)
- 150-200 (7)
- 200-250 (8)
- 250-300 (9)
- More than 300 (10)

Q6 In what way(s) have you participated in child abuse and neglect investigations (Check all that apply):

- In my practice, I have reported a possible abuse/neglect situation (1)
- I have been asked to provide a second opinion (either by reviewing records or conducting a physical examination) on whether a given situation constituted child abuse or neglect (2)
- I have been an expert witness in a child abuse or neglect case (3)
- I have cooperated with the child protection system in some other way (4)
- Other (5) _____

Q7 In the past 12 months, how many times have you been asked to consult or assist with your local child protection agency on an abuse or neglect investigation?

- 0 (1)
- 1-25 (2)
- 26-50 (3)
- 51-75 (4)
- 76-100 (5)
- 101-150 (6)
- 150-200 (7)
- 200-250 (8)
- 250-300 (9)
- More than 300 (10)

Q8 What percent of your time/workload/work week/work year does your answer to Q7 represent?

- 10% (1)
- 20% (2)
- 30% (3)
- 40% (4)
- 50% (5)
- 60% (6)
- 70% (7)
- 80% (8)
- 90% (9)
- 100% (10)

Legal Issues

Q10 Do you know your state laws regarding protection from liability when you consult or otherwise assist CPS in the investigation of, or follow-up with, an alleged abuse or neglect case?

- Yes (1)
- No (2)
- I don't know (3)

Q11 If yes, how did you learn about your state's legal protections?

- I reviewed it personally (1)
- I received training (2)
- I have experience from a lawsuit (3)
- Other; how? (4) _____

Q12 In the past 12 months, have you declined to consult on an abuse or neglect investigation, or otherwise assist CPS?

- Yes (1)
- No (2)

Q13 Why did you decline to participate in the investigation or otherwise assist CPS?
(Check all that apply)

- I worry about being the subject of a lawsuit (1)
- It takes too much time away from my practice/patients (2)
- I have prior negative experience with a lack of institutional support (3)
- I have prior negative experience with frivolous or unfounded lawsuits (4)
- I worry about higher malpractice insurance rates (5)
- It is expensive to hire an attorney (6)
- Other; explain (7) _____

Federal litigation

Q14 Have you been the subject of a federal civil lawsuit as a result of working on a child abuse or neglect case?

- Yes; how many? (1) _____
- No (2)

Q15 Briefly describe the basis and outcome of the most recent federal lawsuit (dismissal, settlement, summary judgment, hearing, prevailed, lost, not applicable).

Q16 Briefly describe any negative personal and/or professional consequences resulting from that federal lawsuit.

State litigation

Q17 Have you been the subject of a state civil lawsuit as the result of working on a child abuse or neglect case?

- Yes; how many? (1) _____
- No (2)

Q18 Briefly describe the basis and outcome of the most recent state lawsuit (dismissal, settlement, summary judgment, hearing, prevailed, lost, not applicable).

19 Briefly describe any negative personal or professional consequences resulting from that state lawsuit.

Q20 Did the outcome of a lawsuit impact your willingness in the future to consult or otherwise assist in future child abuse and neglect cases?

- Yes (1)
- No (2)

Q21 What could federal and/or state legislators do to increase your participation in future child abuse and neglect cases?

Thank you for your time and responses. If you are willing to participate in a telephone conversation about your experiences with liability and involvement in child abuse and neglect cases, please provide your name and contact information below.

Name _____ E-mail _____

Phone _____

The best time to reach me is _____