**Section 431.30 Maintenance of Records**

a) The Department, through its institutions, facilities and various offices shall maintain a record on all persons receiving services from the Department, either directly or through the purchase of services, and on all persons for whom a child abuse or neglect report has been indicated or unfounded, or for whom a decision about the report has not yet been made. Upon request from the subjects of the report, the Department may keep records of unfounded reports of child abuse or neglect to prevent future harassment of the subjects. Additionally, in accordance with ANCRA Section 7.17, the Department may maintain case records containing identifying information related to child abuse or neglect reports.

b) The retention schedule for indicated, unfounded, undetermined and pending child abuse and neglect records is based on the seriousness of the allegations described in 89 Ill. Adm. Code 300, Appendix B, as follows:

1) 50 Years

All reports where allegations regarding the death of the child subject (Allegation #1/#51) or sexual penetration (Allegation #19) were indicated shall be retained for 50 years after the report was indicated.

2) 20 Years

A) The following allegations involving the serious physical injury, sexual molestation or sexual exploitation of the child subject shall be retained for 20 years.

|  |  |
| --- | --- |
| #2/#52 | Head Injuries |
| #4/#54 | Internal Injuries |
| #5/#55 | Burns/Scalding (Third Degree Burns Only) |
| #7/#57 | Wounds |
| #9/#59 | Bone Fractures (Multiple or Spiral Fractures Only) |
| #16 | Torture |
| #18 | Diseases Transmitted Sexually |
| #20 | Sexual Exploitation |
| #21 | Sexual Molestation |
| #81 | Failure to Thrive |
| #83 | Malnutrition |
| #85 | Medical Neglect of Disabled Infants |

B) The following allegations may be retained for 20 years, depending on the seriousness of the injury.

|  |  |
| --- | --- |
| #6/#56 | Poison/Noxious Substances |
| #9/#59 | Bone Fractures (Other than Multiple or Spiral Fractures) |
| #11/#61 | Cuts, Bruises, Welts, Abrasions and Oral Injuries |
| #12/#62 | Human Bites |
| #13/#63 | Sprains, Dislocations |
| #14 | Tying/Close Confinement |
| #15/#65 | Substance Misuse |
| #75 | Abandonment/Desertion |
| #79 | Medical Neglect |

C) The following factors shall be used to determine whether to retain any of the allegations in subsection (b)(2)(B) for 20 years:

i) Extent of the injuries. Are the injuries limited to one spot on the child's body or are there multiple injuries on many parts of the child's body?

ii) Long-term effects of the injuries. Will the child be left with scars, deformities or permanent disabilities?

iii) Medical treatment required. Does the child require hospitalization, surgery, emergency medical treatment or other major medical treatment as a result of the injuries?

iv) Pattern or chronicity of injuries. Is there an ongoing history or pattern of harsh punishment or neglect that resulted in injury? Are there severe injuries at different stages of healing?

D) If none of the factors in subsection (b)(2)(C) are present, the allegations shall be retained for 5 years.

3) 5 Years

The following indicated allegations shall be retained for 5 years.

|  |  |
| --- | --- |
| #17/#67 | Mental Injury |
| #10/#60 | Substantial Risk of Physical Injury |
| #22 | Substantial Risk of Sexual Injury |
| #74 | Inadequate Supervision |
| #76 | Inadequate Food |
| #77 | Inadequate Shelter |
| #78 | Inadequate Clothing |
| #82 | Environmental Neglect |
| #84 | Lock-Out |

4) Subsequent Indicated Reports

All subsequent indicated reports involving any of the same subjects or the sibling or offspring shall be maintained after the last report was indicated in accordance with retention periods specified in this Section.

5) Unfounded Allegations

A) All identifying information concerning records of unfounded reports involving the death (Allegation #1/#51), sexual abuse (Allegations #18, #19, #20, #21) or serious physical injury (e.g., Allegations #2/#52, #4/#54, #5/#55, #7/#57, #9/#59) of a child shall be maintained in the State Central Register for 3 years after the date the final finding report is entered. All identifying information about all other unfounded reports shall be retained by the SCR for 12 months after the date the final finding report is entered. Notwithstanding anything in this subsection (b)(5)(A), whenever a subsequent report is received concerning a subject of an existing unfounded report, the unfounded report shall be retained until the new investigation is completed or for 12 months, whichever is later.

B) If the alleged perpetrator or caretaker requests, in writing, within 10 days after the date on the SCR-generated notice, that a record of the unfounded report be retained as evidence of false reporting, the SCR computer and hard copy files and the local index shall be maintained. Written requests postmarked more than 10 days after the date on the SCR notice and oral requests, that are not confirmed in writing, shall not be honored. The child abuse and neglect investigative file shall also be maintained. SCR will notify the local investigative unit when to destroy records of these unfounded false reports.

6) Pending and Undetermined Reports

Child abuse and neglect reports that are pending or undetermined shall remain in the SCR computer and hard copy files, the local index, and the child abuse and neglect investigative file until a decision is reached.

c) The retention schedule for indicated child abuse and neglect records involving juvenile perpetrators (persons under the age of 18 years) is as follows:

1) If, after an investigation, reports are indicated and children between the ages of 10 and 18 are determined to be the perpetrator, reports that carry a 5 year retention schedule will be expunged from the State Central Register after 5 years or at the perpetrator's 21st birthday, whichever is sooner.

2) In the event that the same child between the ages of 10 and 18 is determined to be an indicated perpetrator of another report that requires a 5 year retention schedule, the information concerning the previous reports and the subsequent report will be maintained at the State Central Register for a period of 5 years after the date of the subsequent report or until the perpetrator's 21st birthday, whichever is sooner.

3) Reports that carry a 20 or 50 year retention schedule will be expunged from the State Central Register after 5 years or at the perpetrator's 23rd birthday, whichever is sooner.

4) In the event that same child between the ages of 10 and 18 is subsequently determined to be an indicated perpetrator of an allegation carrying a 20 or 50 year retention schedule, the information concerning the previous reports and the subsequent report will be maintained at the State Central Register for a period of 5 years after the date of the subsequent report or until the perpetrator's 23rd birthday, whichever is sooner.

d) All retained records shall be of a confidential nature and shall not be made available to the general public, except as provided for in Section 431.85.

(Source: Amended at 39 Ill. Reg. 7253, effective May 7, 2015)