**Section 431.90 Disclosure of Personal Information Without Consent**

a) Persons Who May Receive Personal Information Without Consent

The Department shall disclose personal information to the following persons or category of persons without the consent of the individual only in accordance with the provisions of the Children and Family Services Act, Mental Health and Developmental Disabilities Confidentiality Act, the AIDS Confidentiality Act, or ANCRA, as applicable to the type of information being requested:

1) Law Enforcement Officers

A) Department child welfare staff, with approval of the immediate supervisor, shall release personal information to State's Attorneys, the Attorney General, municipal and sheriff's police (in Illinois or other jurisdictions), and the Department of State Police, when releasing the information is consistent with the best interests of the child or when the information is relevant to a pending investigation.

B) If personal information is requested by law enforcement officers other than listed in subsection (a)(1)(A), or if the information requested is not consistent with the best interests of the child served by the Department, the information may be released only by the Director of the Department or his or her designee.

2) Persons Who Have Subpoenas or Other Court Orders

A) The Department shall disclose personal information when ordered to do so by a court order. The Department shall make a good faith effort to notify the person whose records are the subject of the order that the order exists and the nature of the proceedings, unless specifically ordered by the court to not contact the subjects. The Department shall notify the court or the person obtaining the court order of the confidential nature of the information and its policies regarding personal information. In addition, the Department may take any appropriate legal actions to limit or quash the court order.

B) In the event a subpoena has been issued by a court, the Department shall make a good faith effort to contact the subject of the order as explained in subsection (a)(2)(A). If a subpoena is issued by a Clerk of the Court without any judicial involvement, the Department shall notify the person who had the subpoena issued of its policies regarding personal information and shall make a good faith effort to promptly notify the person whose information is the subject of the subpoena. The Department shall not release the information for 14 days following the receipt of the subpoena unless the person consents to the release of the records or an earlier, reasonable return date is provided in the subpoena. After 14 days have passed from the receipt of the subpoena, the Department shall release the information if releasing it is consistent with the best interests of the child.

C) When a person served by the Department is engaged in litigation against the Department, the Department shall release personal information concerning that individual or his or her children that is subject to discovery under the laws of the State of Illinois.

D) DCFS shall provide records to a court, other than juvenile court, party to a lawsuit or a party's attorney only after the Regional Counsel has reviewed the subpoena, request or order from the court and redacted confidential mental health, drug treatment and Human Immunodeficiency Virus (HIV)/Acquired Immunodeficiency Syndrome (AIDS) information and other records strictly protected by statute. The Department shall request that a protective order be entered if the court orders the release of confidential information.

1. Legislators

Only the Director of the Department shall authorize the release of the contents of case records to the Illinois legislature or its committees or commissions. Individual legislators shall not have access to case records unless they are acting under the authority given them by the law.

1. Professionals or Other Service Providers

Persons receiving services from the Department or its contractual agencies are to be informed that personal information (other than mental health information) may be shared without their consent with other service providers when it is necessary for the proper provision of services or the establishment of paternity or support for a dependent minor.

A) With the exception of mental health records, as provided for in Section 431.100, personal information may be released by Department employees acting within their official capacity to professionals who are providing services to persons served by the Department. These professionals may include psychiatrists, psychologists, physicians, social workers, homemakers, contractors with the Department, social service agencies, foster parents, child care facilities and others providing services to persons served by the Department when the information is necessary for the proper delivery of services to the persons served by the Department.

B) The Department, in releasing personal information, will limit the information released to that which is necessary to properly provide the service. The persons receiving the information shall be notified by the Department that the information is confidential and that the information is not to be further released except as is necessary for the proper delivery of service.

C) Department employees may release personal information needed to establish paternity or support for a dependent child or relative.

5) Prospective Adoptive Parents, Foster Parents and Other Caregivers

A) Prospective adoptive parents, foster parents and caregivers in other licensed child care facilities may review documents and reports in the child's case record that support the information the caseworker provided at the time of the child's placement, or information that has been received or generated regarding the child since placement.

B) The information that will be available to caregivers for review will be limited to that which relates directly to a child in that person's care, specifically education records, health and insurance records, history of placements and reasons for changes (excluding identifying information about former caregivers), the child's portion of the client service plan including visitation arrangements and all amendments and revisions relating to the child, and any known social or behavioral information including but not limited to criminal background of the child, fire setting, perpetration of sexual abuse, destructive behavior and substance abuse. Personal information about the child's parents, siblings, relatives, previous caregivers or other individuals such as members of the household in a child's previous living arrangement shall be removed or redacted from the case record prior to the caregiver's review.

C) The caregiver's review of the case record shall occur in the presence of casework staff. Once a caregiver has requested a review of a child's file, the Department or agency shall provide the opportunity to do so timely, without undue delay.

D) The supervisor shall examine the redacted record for accuracy and approve its review by the prospective adoptive parents, parents, foster parents or caregivers in other licensed facilities prior to the time the records are examined by the caregiver.

6) Court Appointed Special Advocates

Court appointed special advocates may attend the child's portion of administrative case reviews involving children for whom they are appointed as advocates and may review documents directly related to delivery of child welfare services that are in the best interests of the minor. However, court appointed special advocates are not allowed access to mental health or drug or alcohol assessment and treatment records, confidential medical records, or records of child abuse or neglect reports and investigations and may attend the parent's portion of the administrative case review only with the permission of the parents or their authorized representative.

7) Research Purposes

The release of personal information for research purposes to any source outside the agency shall only be allowed within the discretion of the Director of the Department or designee upon express written consent. The researcher shall ensure, in writing, the confidentiality of identifying information. The researcher shall not release any identifying information without the express written permission of the Director.

8) DCFS-Office of the Inspector General

Personal information shall be released to the DCFS-Office of the Inspector General when the records are pertinent to an investigation authorized under Section 35.5 of the Children and Family Services Act and involves allegations or incidents of possible misconduct, misfeasance, malfeasance, or violations of rules, procedures, or laws.

9) DCFS and Purchase of Service Agency (POS) Staff

Department and POS staff shall have access to child abuse and neglect and other case record information in the furtherance of their responsibilities under the Abused and Neglected Child Reporting Act, the Child Care Act, the Children and Family Services Act, the Juvenile Court Act and any other Act that governs child welfare. Any sharing of information between divisions of the Department or between the Department and purchase of service providers, or between purchase of service providers as necessary for case management is a transfer and not a disclosure of information.

10) Extended Family

An extended family member interviewed for relevant information during the course of an investigation by the Child Protective Service Unit may request and receive the following information about the findings and actions taken by the Child Protective Service Unit to ensure the safety of the child or children who were the subjects of the investigation:

A) name of the child who was the subject of the abuse or neglect report;

B) whether the report was indicated or unfounded;

C) whether the Department took protective custody;

D) whether a Department case has been opened for the family or children;

E) what Department services are being provided the family or children; and

F) whether a safety plan has been established.

11) State's Attorneys

State's Attorneys shall have access to child abuse or neglect and/or case record information when necessary for the discharge of their official duties during the investigation and prosecution of the abuse or neglect of a child or termination of parental rights pursuant to the Criminal Code of 2012 [720 ILCS 5] or another penal statute, the Juvenile Court Act of 1987 [705 ILCS 405], the Child Care Act of 1969 [225 ILCS 5] or ANCRA.

12) Protection and Advocacy for Mentally Ill Persons

Personal information, with the exception of mental health information, may be released to the agency designated by the Governor for administering the protection and advocacy system for mentally ill persons, in accordance with the provisions of the Protection and Advocacy for Mentally Ill Persons Act [405 ILCS 45].

13) Mandated Reporters

A mandated reporter is allowed to *receive appropriate information about the findings and actions taken by the Child Protective Service Unit in response to his/her report. The information shall include the actions taken by the Child Protective Service Unit to ensure a child's safety.* [325 ILCS 5/11.2]

14) Others Not Cited in this Section

Personal information may be released for the purposes and to persons other than those listed in this Section upon the written authorization of the Director when that authorization is not prohibited by State or federal law, regulation or rule.

b) Law Enforcement Agencies Data System (LEADS) Information in Child Protection Records

1) In accordance with Section 2605-315 of the Civil Administrative Code of Illinois [20 ILCS 2605/2605-315], the Department of Children and Family Services shall have access to LEADS information and underlying *criminal history record information as defined in the Illinois Uniform Conviction Act when necessary for the Department to perform its duties under the Abused and Neglected Child Reporting Act, the Child Care Act of 1969 and the Children and Family Services Act.* [20 ILCS 2605/2605-315]

2) LEADS printouts may not be shared outside the Department. Summaries of criminal history information included in the child protection investigation file may be forwarded to the child welfare worker as part of the investigative file. Child protection investigators and child welfare workers shall share underlying public documents on a "need to know" basis with other persons providing services when it is relevant to child protection or service decisions to be made on behalf of the child or family. (See Section 35.1 of the Child and Family Services Act.)

c) Responses to Requests for Information

1) Written Requests

A) The Department shall accept written requests for the disclosure of personal information without the consent of the concerned individuals only when the requestor has provided a notary public's attestation as to his or her identity and has included the names of the individuals about whom the information is requested. Information shall only be released in compliance with this Part.

B) The Department will provide a written response to each written request via certified mail deliverable only to the requestor.

2) Telephone Requests

A) The Department shall accept telephone requests for child abuse and neglect information only when the request comes from Department staff investigating a report of child abuse or neglect, law enforcement officials investigating a report of child abuse or neglect or determining whether a child should be taken into temporary child protective custody, physicians examining a child and the information is needed to determine whether a child is abused or neglected or to determine whether a child should be taken into temporary protective custody, and out-of-state agencies involved in a child abuse or neglect report.

B) The Department shall accept telephone requests for other personal information without the consent of the concerned individuals only if the requesting person or agency is authorized by this Part to receive the information that they are requesting.

C) The Department shall not provide information to unknown requestors at the time of the initial inquiry. Instead, Department staff shall obtain the requestor's name, type of business, an official business phone number through which his or her identity and authority to receive the information can be verified, and the phone number at his or her current location. The Department shall verify the requestor's identity and authority to receive the information by checking an official telephone listing or checking with a third party at the business office.

3) In-Person Requests

A) The Department shall accept in-person requests for the disclosure of personal information without the consent of the concerned individuals only when the requestors produce positive identification and proof of their legal authority to receive the requested information.

B) The Department will recognize only those guardians, custodians, court appointed special advocates or guardians ad litem who produce a court order appointing them to their positions. The Department will recognize only those attorneys or personal representatives who produce a written consent to release the requested information. The consent must be signed by the concerned individual and it must be notarized.

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