

Georgia's Child Abuse Registry: Good Intentions and Unintended Consequences

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Road Map

- National Overview of Child Abuse Registries Nationally
- Georgia's Child Abuse Registry
- Problems with Georgia's Child Abuse Registry
- Current State of Affairs in Georgia
- Is Georgia's Child Abuse Registry Effective?

Overview of Child Abuse Registries

What are Child Abuse Registries?

- State central database
- Contains records of abuse and neglect
- Agency policy or Statutory based*
 - Approximately 41 states have some version of a statutory-based CAR
 - 5 States have agency-based CARs (Colorado, Maine, Minnesota, West Virginia, Wisconsin)
 - 4 States are silent on the maintenance of CARs (Kentucky, New Mexico, Ohio)
 - 1 State provides for a CAR by administrative Regulation (Kansas)

*As reported by the Child Welfare Information Gateway in July 2014

*Many statutes have been found unconstitutional and/or amended since July 2014.

What's the Purpose of a Child Abuse Registry?

- “[T]o protect children and to ensure the safety of children in child care, health care, and public educational facilities.” 16 Del.C. § 921
- “Assist in identification and treatment of abused and neglected children and their families.” DC ST § 4-1302.01
- “[T]o enable abuse investigators to locate and substantiate cases.” Ga. Code Ann., § 49-5-181
- “[T]o determine the existence of prior records in order to evaluate the circumstances of the child.” American Samoa Ann. Code 45.2021
- “To license foster homes, to certify adoptive homes or to use in the department's employment decisions.” A.R.S. § 8-804.01
- “[F]or purposes of employment checks or other background checks unless it is determined that a report is to be unsubstantiated or false.” C.R.S.A. § 19-3-313.5
- “Monitor and evaluate the effectiveness of the department's' program for reporting and investigating suspected abuse, abandonment, or neglect of children...” West's F.S.A. § 39.201

Who can be placed on a Child Abuse Registry?

- This will depend on state's definitions of "child abuse," "perpetrators," "child abuser," and other similar terms.
 - Alleged Perpetrators (e.g. Indiana Ann. Code 31-33-26-6)
 - Alleged Child Abuser at least 13 years of age (e.g. Ga. Code Ann., § 49-5-182)

Definitions matter

- GEORGIA
 - Definition of “child abuse” for inclusion of the CAR is defined under the mandatory reporter statute (Ga. Code Ann., § 19-7-5(b)(4)), not the juvenile code:
 - “Child abuse” means: Physical injury or death inflicted upon a child by a parent or caretaker thereof by other than accidental means; provided, however, that physical forms of discipline may be used as long as there is no physical injury to the child; Neglect or exploitation of a child by a parent or caretaker thereof; Endangering a child; Sexual abuse of a child; or Sexual exploitation of a child.
 - Note that this means that for physical injury, death by other than accidental means and neglect or exploitation must be committed by a “parent or caretaker,” while endangering a child, sexual abuse of a child, or sexual exploitation of a child can be committed by anyone for CAR inclusion.

Children on Child Abuse Registries

Can children be placed on CARs?

Short answer: In some states, yes, and under certain circumstances

- **Alabama:** If they are a “A child's natural parent, stepparent, adoptive parent, legal guardian, custodian, or any other person who has the permanent or temporary care or custody or responsibility for the supervision of a child.” Ala. Code 1975 § 26-15-2.
- **California:** Yes, but “child abuse or neglect” does not include a mutual affray between minors. West's Ann.Cal.Penal Code § 11165.6
- **Georgia:** Yes, if at least 13 years of age. GA. Code Ann. § 49-5-183
- **Illinois:** Yes, if meets the definition of a “Person responsible for the child's welfare” 325 ILCS 5/3, Formerly cited as IL ST CH 23 ¶ 2053
- **Wisconsin:** Yes, if meets the definition of “caregiver,” which includes siblings and anyone who provides care for the child in or out of the home. W.S.A. 48.981

Reasons for Placement on a Child Abuse Registry

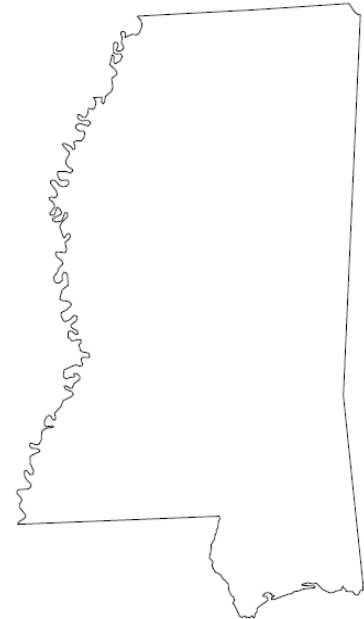
- Generally speaking, abuse or neglect
- Definitions vary by state
- Definitions vary from the Juvenile and Criminal codes

What information is on a Child Abuse Registry? CAR?

Mississippi

- The name, address, and age of each child
- The nature of the harm reported
- The name and address of the person responsible for the care of the child
- The name and address of the substantiated perpetrator of the harm reported

Miss. Code Ann. § 43-21-257



- The names and addresses of the child and his parent, guardian, or other person having custody and control of the child;
- If known, the child's age;
- The nature and possible extent of the child's injuries, abuse or maltreatment, including any evidence of previous injuries, abuse or maltreatment; and
- Any other information that the person believes may be helpful with respect to the child abuse and the identity of the perpetrator.

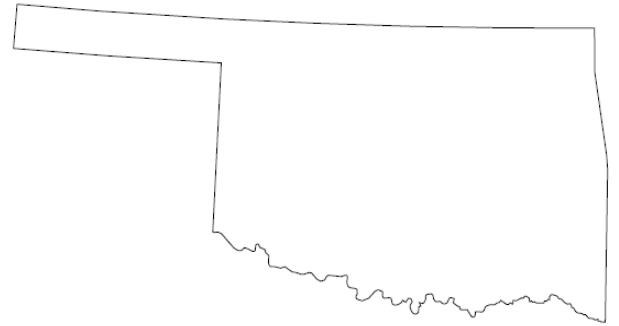
New Jersey



- All information in the written report
- A record of the final disposition of the report, including services offered and accepted
- The plan for rehabilitative treatment
- Other relevant information

10A Okl.St. Ann. § 1-2-108

Oklahoma



And then there's Pennsylvania...

- The names, Social Security numbers, age, race, ethnicity and sex of the subjects of the reports.
- The date or dates and the nature and extent of the alleged instances that created the need for protective services.
- The home addresses of the subjects of the report.
- The county in which the alleged incidents that created the need for protective services occurred.
- Family composition.
- The name and relationship to the child in question and of other persons named in the report.
- Factors contributing to the need for protective services.
- The source of the report.
- Services planned or provided.
- If the report alleges child abuse, whether the report was determined to be founded, indicated or unfounded.
- If the report alleged the child was in need of general protective services, whether the report was valid or invalid.
- If the report was accepted for services and the reasons for the acceptance.
- If the report was not accepted for services, the reason the report was not accepted and whether the family was referred to other community services.
- Information obtained by the department in relation to a perpetrator's or school employee's request to release, amend or expunge information retained by the department or the county agency.
- The progress of any legal proceedings brought on the basis of the report of suspected child abuse.
- Whether a criminal investigation has been undertaken and the result of the investigation and of any criminal prosecution.

Pennsylvania is not done yet

- In the case of an unfounded or invalid report, if it is later determined that the initial report was a false report, a notation to that effect regarding the status of the report.
- Unfounded reports of child abuse, limited to the information authorized under section 6337 (relating to disposition and expunction of unfounded reports and general protective services reports).
- Any additional information provided in section 6313(c) (relating to reporting procedure).
- Any additional demographic information that the department requires to comply with section 6342 (relating to studies of data in records).
- A family case record for each family accepted for investigation, assessment or services which shall be maintained consistent with regulatory requirements.
- With respect to cases that are not accepted for child abuse investigation or general protective services assessment or are referred to community services:
 - The reason the report was not accepted.
 - Any information provided to the referral source or the family related to other services or option available to address the report.
- Any other information that is necessary to maintain the names of persons convicted of a violation under 18 Pa.C.S. § 4906.1 (relating to false reports of child abuse) or the names of persons who made a false report of the need for general protective services.

Who has access to information in a Child Abuse Registry?

Pennsylvania Short Answer: County Agency or Law Enforcement Officials only

Information in the Statewide database may be released if a request for information is made orally or in writing and the department has done all of the following:

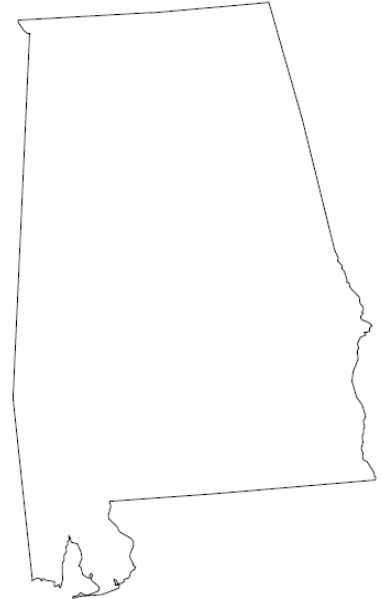
- Identified the requester, including electronic verification of the requester's identity;
- Determined whether the requester is authorized to obtain the information;
- Provided notice to the requester that access and dissemination of the information is restricted; and
- Obtained an affirmation by the requester that the request is within the scope of that person's official duties.

A county agency or law enforcement official may only request information within the Statewide database for the purpose of investigating reports of child abuse, assessing allegations that a child is in need of general protective services, providing protective services to a child or investigating a crime against a child criminal offense.

- Employers for background checks
- Police or other law enforcement for investigating child abuse
- Grand Juries
- Courts
- Researchers
- Court-appointed representatives of an abused or neglected child, including Child Attorneys and Guardian ad Litem
- Federal, State or Local Government Entities when necessary to carry out duties
- MDT and Child Fatality Review Panels

Ala.Code 1975 § 26-14-8

Alabama



- State or other government agencies investigating abuse
- State or other government agencies which license entities that have interactions with children or are responsible for providing care for children or licensed entities in this state which interact with children or are responsible for providing care for children
- A licensing entity, which may disclose information from the child abuse registry in a written notice to an applicant or licensed entity whose license is denied or revoked as a result of information found in the registry
- The Department of Early Care and Learning
- An affiliate court appointed special advocate program, such as CASA
- Any federal, federally recognized tribal, state, or local governmental entity requesting information concerning any prospective foster or adoptive parent or any adult living in the home of the prospective foster or adoptive parent
- Any child-placing agency of this state licensed to place children in foster homes or for adoption requesting information concerning any prospective foster or adoptive parent
- Any entity licensed by any other state to place children for adoption which information shall be provided at the discretion of the division

Ga. Code Ann. § 49-5-185

*Information is limited to that which would assist for investigations or for performing background checks

Some states do not have a specific list of entities/parties able to access information on a CAR. Rather, general confidentiality applies.

See, e.g. Hawaii (Haw. Rev. Stat. Ann. § 350-1.6):

- The department shall disclose to resource parents and the foster child's principal treating physician copies of the foster child's complete medical records in the department's physical custody and relevant social history within thirty days of foster placement.
- If a child is active in the child protective services system, physicians may share with other physicians, orally or in writing, or both, medical information without parental consent.
- Any records or information released to a foster child's resource parents, or the foster child's principal treating physician pursuant to subsection (a), or any information shared by one physician with another physician pursuant to subsection (b), shall remain confidential in accordance with section 350-1.4.

Georgia's Child Abuse Registry

Why Appeals are Important



What's the purpose?

- “We need to make sure we are doing everything we can to keep children safe, especially while they are in the care of others. The creation of the registry will make sure child caring agencies have access to the information they need to make the best hiring and licensing decisions.” – Bobby Cagle, Former State DFCS Director
- To enable abuse investigators to immediately identify and locate substantiated cases
- To maintain and produce aggregate statistical data of substantiated cases

Didn't we try this once?

- CPSIS – Child Protective Services Information System
- Right to hearing before Administrative Law Judge (ALJ)
- Alleged abuser not allowed to compel testimony from a child <14
- ALJ decision appealable to Superior Court
- No further appeal allowed
- State of Georgia et al. v. Bart Jackson, 269 Ga. 308 (March 20, 1998)

State v. Jackson

- Bart Jackson received notice he was reported as a confirmed child abuser
- Requested ALJ hearing
- Hearing postponed until conclusion of criminal case re 5 counts of child molestation
- Jackson tried and acquitted of all 5 counts
- DFCS wanted to keep Jackson on CPSIS as a confirmed abuser

- Jackson filed a challenge to the constitutionality of O.C.G.A. § 49-5-183.1
- Jackson argument:
 - Sixth Amendment right to compel witnesses on his behalf
 - Sixth Amendment right to confront witnesses against him
- State's argument:
 - Only reputational harm
 - No deprivation of liberty
 - Not entitled to Sixth Amendment protections
- Superior Court agreed with Jackson
- State appealed

- GA Supreme Court opinion:
 - Jackson entitled to due process protections
 - State infringement on due process must be narrowly tailored to serve a compelling state interest
 - State interest = welfare of children
 - Prohibiting children <14 from being compelled to testify NOT narrowly tailored to protect that State interest
 - O.C.G.A. § 49-5-183.1 unconstitutional on its face
 - No other arguments addressed
- O.C.G.A. § 49-5-180 – 187 later repealed

New Child Abuse Registry

- Effective July 1, 2016
- Investigator substantiates a case of child abuse or neglect
- ≤30 days – notifies DFCS of the determination
- Alleged child abuser whose case is substantiated is *immediately* entered in CPSIS
- DFCS notifies alleged abuser by certified mail
 - Inclusion on registry
 - Right to appeal determination

O.C.G.A. §§49-5-181, 49-5-183

Timelines

- ≤ 10 days - written request for hearing to DFCS
- ≤ 10 days - DFCS transmits request to Office of State Administrative Hearings (OSAH)
- ≥ 10 days of hearing - OSAH gives notice of time and place of hearing by first class mail
- ≤ 30 days of receipt of request for hearing – OSAH holds hearing
- Hearing can be postponed by mutual consent, for good cause shown, or for appointment of counsel (if alleged abuser < 18)

O.C.G.A. §49-5-183

Minors on the Registry

- Substantiated cases must be reported to the registry if the alleged child abuser is **at least 13 years old**
- Entitled to notice via certified mail, return receipt requested
- Notice of: placement on registry & right to appeal
- Rebuttable presumption of notice if the return receipt has been received by DFCS

Minor's Right to Counsel

- If accused minor has not maintained age of majority by time of hearing
- Minor entitled to representation by either
 - Parent
 - Legal guardian
 - Attorney employed by parent or guardian
- ALJ may order DFCS to apply to superior court of county where alleged abuse was committed to have counsel appointed at county's expense
- Hearing may be continued for appointment of counsel

Adult's Right to Counsel

- Notice to alleged abuser references right to counsel
- “The notice shall further inform such alleged child abuser of the procedures for obtaining the hearing and that an opportunity shall be afforded all parties to be represented by legal counsel and to respond and present evidence on all issues involved.”
- No right to court-appointed counsel for indigent adult

Ethics & Professionalism

- Minors
 - SAAG may also represent child's legal custodian
- Adults
 - Pre-hearing issues are dealt with via email
 - In OSAH context, SAAG may have to communicate directly with parent

OSAH hearing

- Conducted in accordance with Georgia Administrative Procedure Act
- Finder of fact: administrative law judge (ALJ)
- Determination: whether child abuse was committed by the alleged child abuser to justify the investigator's substantiation
- Doctrines of res judicata and collateral estoppel apply

ALJ decision

- Within 5 business days
- If there is not a preponderance of evidence that the alleged abuser committed the act of child abuse
 - ALJ orders name removed from Child Abuse Registry
- ALJ decision = final administrative decision
- Georgia Administrative Procedure Act: either party has right to judicial review

Judicial Review of ALJ Decision

- Petition for review must be filed within 10 days
- Petition filed in Superior Court of County where OSAH hearing was held
- If hearing was by telephone, file in Fulton County Superior Court
- Superior Court conducts review
- Superior Court may, upon request, hear oral argument and receive written briefs
- Renders decision within 30 days of filing of petition?

- O.C.G.A. § 50-13-19:
 - No substitute of judgment as to the weight of the evidence
 - Court may affirm, remand, reverse, or modify decision of agency
- Basis for reversal or modification: substantial rights of appellant prejudiced by
 - Administrative findings, inferences, conclusions that are...
 - In violation of constitutional or statutory provisions
 - In excess of statutory authority of the agency
 - Made upon unlawful procedure
 - Affected by other error of law
 - Clearly erroneous, arbitrary, or capricious
 - Abuse of discretion or unwarranted exercise of discretion
- No statutory restriction on right to appeal Superior Court's decision

Removal of Name from Registry

- Minors
 - At age 18
 - After 1 year if no subsequent substantiated cases
 - Upon showing of rehabilitation (by preponderance)
- Adults
 - Entitled to a hearing on expungement upon written request IF hearing was not waived after receipt of notice
 - Basis for removal: mistaken identity
 - No credible evidence that individual who requested hearing is the individual who had a substantiated case of child abuse
 - Right to judicial review

Access to Registry Information

- General public excluded from OSAH child abuse registry hearings
- Files and records relating to hearings confidential and not subject to public inspection
- Misdemeanor to provide information to unauthorized person
- Misdemeanor to obtain/attempt registry information under false pretense

Access to Registry Information

- Child abuse investigator for purpose of investigating another case of alleged child abuse
- State or other government agencies which license entities interacting/caring for children
- Licensed GA entities that interact/care for children – for purpose of licensing/employment of a specific individual

Access to Registry Information

- Licensing entity who must provide written notice to an applicant/licensed entity re denial/revocation of license resulting from registry information
- Department of Early Care and Learning - to compare to its individual records checks
- CASA – for screening of employees and volunteers
- Governor's office, General Assembly, district attorneys, and law enforcement – statistical info only

Individual Screening Requests



 CHILD PROTECTIVE SERVICES INFORMATION SYSTEM
(CHILD ABUSE REGISTRY)

Home **Screening Request** FAQ Forms Contact Us



Welcome to Child Protective Services Information System
(Child Abuse Registry)

Georgia's Division of Family and Children Services works to ensure the safety and protection of all Georgia's children. Senate Bill 138 section 11 was codified into Georgia code 49-5-182 which requires the Division of Family and Children Services to establish and maintain a registry of all substantiated cases of abuse and neglect into a centralized Child Protective Services Information System (Child Abuse Registry). The Division of Family and Children Services will enter the names of all maltreators with a substantiated case of child abuse and/or neglect on or after July 1, 2016 into the **Child Protective Services Information System (Child Abuse Registry)**.

Benefits:


- Promote a more efficient method of sharing child abuse information with other states as required by law.
- Central repository where substantiated investigated child abuse and neglected reports are stored and maintained.
- Comply with State of Georgia laws and regulations.
- Comply with the Division of Family and Children Services (DFCS) child welfare policy and practices.

GA SHINES | IDS | Accurint

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This site can be best viewed in IE 11.0 or above with 1366 X 768 screen resolution

<https://gacar.dhs.ga.gov/General/Home>

Screening Request Form



**CHILD PROTECTIVE SERVICES INFORMATION SYSTEM
(CHILD ABUSE REGISTRY) SCREENING REQUEST INFORMATION**

This form is to request a screening to check for individuals in the Child Protective Services Information System.

REQUESTOR'S ROLE

REQUESTOR ROLE:

An individual who wants to check the registry to see whether or not his/her name is listed. (Please provide Driver's License, State ID, Passport or Military ID)

A Georgia CPS investigator who has investigated or is investigating a case of possible child abuse who shall only be provided information relating to the case for purposes of using that information in such investigation.

A state or governmental agency of this state or any other state, which licenses entities that have interactions with children or are responsible for providing care for children, which shall only be provided information for purposes of licensing or an payment of a specific individual.

Licensed entities in this state, which interact with children or are responsible for providing care for children, which shall only be provided information for purposes of licensing or employment of a specific individual.

DATE:

AGENCY REQUESTING SCREENING INFORMATION

NAME & JOB TITLE	TITLE	EMAIL ADDRESS
NAME OF AGENCY	PHONE NUMBER	CITY/STATE/ZIP CODE

SCREENING RESULTS TO BE SENT TO:

NAME	TITLE	EMAIL ADDRESS
NAME OF AGENCY (if applicable)	PHONE NUMBER	CITY/STATE/ZIP CODE

INFORMATION ON PERSON TO BE SCREENED (APPLICANT)

NAME (Last, First, Middle, Last)	TITLE	EMAIL ADDRESS
MIDDLE NAME (if you have been named, you have to provide the information)	OTHER PHONE NUMBERS/WORK	
CURRENT STREET ADDRESS	CITY/STATE/ZIP CODE	COUNTY
CITY OF BIRTH	STATE (IF KNOWN)	SEX
RACE	ETHNICITY	

SELF-SCREENING VALIDATION (TO BE COMPLETED BY CPS STAFF MEMBER ONLY)

NAME (Last, First, Middle, Last)	JOB TITLE	DATE REQUEST WAS RECEIVED	OTHER BODIES SCREENED
CITY/STATE/ZIP CODE/IDENTIFICATION	PHONE NUMBER	EMAIL ADDRESS	IDENTIFICATION <input type="checkbox"/> Driver's License <input type="checkbox"/> Passport <input type="checkbox"/> Military ID <input type="checkbox"/> State ID

Please copy and upload identification, and upload it along with this form.

IN ORDER TO VERIFY THAT YOU ARE THE REQUESTING AGENCY, PLEASE SUBMIT A WRITTEN REQUESTION AGENCY LETTER/BOARD ALONG WITH THIS FORM TO THE GEORGIA CHILD ABUSE REGISTRY. PLEASE SIGNIFY IF YOU ARE REQUESTING THE INFORMATION FOR THE PURPOSES OF LICENSING, EMPLOYMENT, OR A SPECIFIC INDIVIDUAL.

SIGNATURE OF REQUESTOR	DATE
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What could possibly
go wrong?



**PEOPLE WHO
ARE A DANGER
TO CHILDREN**

**PEOPLE WHO ARE
ON THE CHILD
ABUSE REGISTRY**

Red Flags

- Placement on registry precedes notice & opportunity to be heard
- Time from placement on registry to ALJ decision can exceed 50 days
- Preponderance of evidence standard for placement on registry
- Standard applied by investigator – no legal or judicial oversight
- Douglas v. California, 372 U.S. 353 (1963) re indigent counsel
- O.C.G.A. § 49-5-183(a)(1) vs. (f) re staying listing of name on registry

- Eligible perpetrators
 - For registry purposes, “child abuse” has the same meaning as in 19-7-5(b)(4)
 - “Child abuse” means:
 - Physical injury or death inflicted upon a child by a parent or caretaker thereof by other than accidental means (excluding physical discipline without injury)
 - Neglect or exploitation of a child by a parent or caretaker
 - Sexual abuse of a child
 - Sexual exploitation of a child
 - What about an alleged abuser who is
 - Not a parent?
 - Not a caretaker?

- Use of O.C.G.A.19-7-5(b)(4) to define child abuse
- Emotional abuse
- Family/domestic/intimate partner violence
- False positives
- In the Interest of T.J., 273 Ga. App. 547 (2005)

Reality Check

Notice of Inclusion

DFCS has determined after investigation that the allegations of child abuse listed below are substantiated based upon a preponderance of the evidence:

Maltreatment Type	Summary	Date of Incident	County of Incident	GA SHINES Case ID#
[REDACTED]	[REDACTED] substantiated for [REDACTED] [REDACTED] On or about [REDACTED] [REDACTED], [REDACTED] [REDACTED] abused [REDACTED] age [REDACTED] [REDACTED] [REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]

To Appeal or Not to Appeal?

- Consequences of being on a registry
 - Employment
 - Volunteerism
 - Foster parents
 - Adoption
 - Family integrity
 - Serving as a placement resource for a relative
 - Serving as an adoptive resource for a relative

Res Judicata

- Prevents re-litigation of all claims which have already been adjudicated, or could have been adjudicated, between identical parties or their privies in identical causes of action
- Prevents a plaintiff from prosecuting a second complaint that has already been denied
- Requires
 - Identity of causes of action
 - Identity of parties
 - Previous adjudication on the merits by a court of competent jurisdiction
- Dependency proceeding \neq due process appeal of agency action re child abuse registry

Collateral Estoppel

- Does not require identity of cause of action
 - So long as issue was determined in previous action and there is identity of parties, the issue may not be relitigated, even as part of a different claim
- Only precludes issues actually litigated and decided in the previous action
 - Or issues that necessarily had to be decided in order for the previous judgment to be rendered
- Determination of abuse/neglect by Juvenile Court may be evidence supporting agency's decision to place name on registry

OSAH



Appeals to OSAH

- First batch of 14 CAR appeals received August 5, 2016
- FY 2017: 1,331 CAR appeals referred to OSAH
- Average = 119 CAR appeals referred/month
- Average delay between date of request → date of referral: 17 days

Classifications

Number of cases	Type of Abuse
937	Neglect
241	Physical abuse
88	Emotional abuse*
108	Child endangerment
79	Sexual abuse

- Appeals can include multiple classifications
- No referrals for sexual exploitation

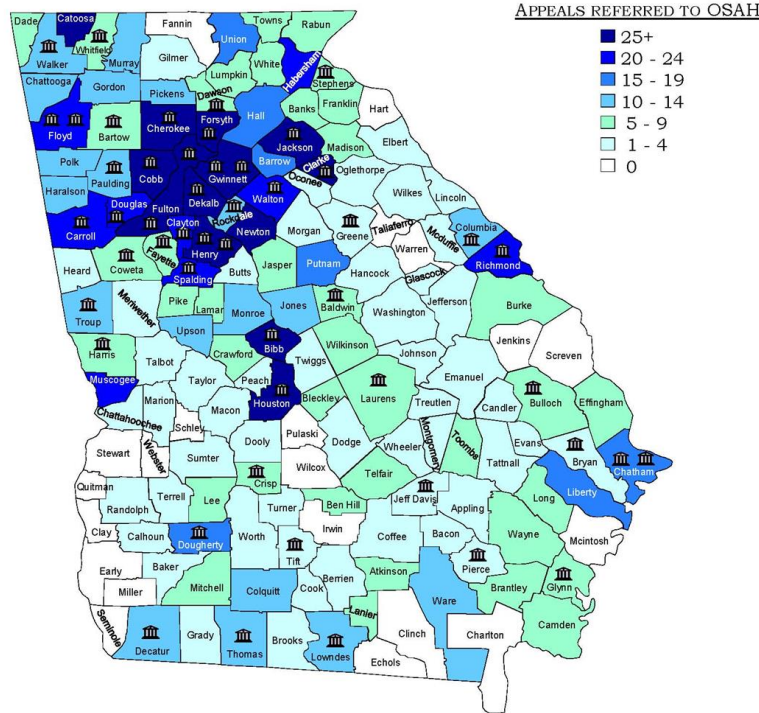
Alleged Maltreators

- Average age = 36.24 years
- Oldest = 81 years
- Youngest = 13 years
- Typical perpetrator is parent or legal guardian
- Most alleged perpetrators are pro se

Distribution by County

- 2017 – CAR appeals received from 138/159 counties
- No correlation to county population
 - 40% of GA’s population resides in metro Atlanta area
 - 16% of CAR appeals come from metro Atlanta
- Counties
 - 39 – Fulton
 - 35 – Bibb
 - 34 – Newton
 - 34 – Cobb
 - 33 – Houston

Appeals by County



Constitutional Challenge

DHS v. Steiner

Case Number:	S18A0281
Status:	Docketed
Style:	Georgia Department of Human Services, Division of Family and Children Services v. Steiner
Description:	Civil - Granted Discretionary Application - Miscellaneous
Docket Date:	October 6, 2017
Calendar:	February 2018
Oral Argument Date:	**This date is not official until the Court Calendar is transmitted to the parties.
County Location:	Lamar
Lower Court Numbers:	17B189F

Date	Filings & Motions	Date	Orders
November 7, 2017	ATTORNEY - Entry of Appearance of Counsel		
November 8, 2017	APPELLANT - Request for Extension of Time to File Briefs	November 9, 2017	Appellant extension request granted
November 8, 2017	Motion to Dismiss		
November 9, 2017	ATTORNEY - Entry of Appearance of Counsel		
November 14, 2017	ORAL ARGUMENT - Request for Oral Argument, Although Late	November 14, 2017	Motion granted

*Current as of November 15, 2017

Constitutional Challenge

DHS v. Addison

Case Number:	S18T0337
Status:	Judgment
Style:	Georgia Department of Human Services, Division of Family and Children Services v. Addison, et al.
Description:	Extensions of time/Expansion of pages
Docket Date:	October 19, 2017
Calendar:	February 2018
Oral Argument Date:	**This date is not official until the Court Calendar is transmitted to the parties.
County Location:	Dougherty
Lower Court Numbers:	17CV1162

Date	Filings & Motions	Date	Orders
October 19, 2017	APPLICATION - Request for Extension of Time to File Application to Appeal	October 20, 2017	Extension Granted (Close Case)

Disposition

Disposition Date: October 20, 2017 - Extension Granted (Close Case) - All the Justices concur.

*Current as of November 15, 2017

Are Child Abuse
Registries Effective?

What is the Purpose of a Child Abuse Registry?

- Protect Children
- Identify abused and neglected children and their families
- More effective investigations of child abuse and neglect (e.g. CPS history)
- Ensure licensure/certification of foster homes, adoptive homes, daycares, etc., do not expose children to known perpetrators
- To improve employment and other background checks for business that work with children
- Monitor and evaluate effectiveness of reporting and investigating abuse

What is the Purpose of a Child Abuse Registry?

Georgia (O.C.G.A. § 49-5-181)

- (b) The child abuse registry shall be operated in such a manner as to enable abuse investigators to:
- (1) Immediately identify and locate substantiated cases; and
 - (2) Maintain and produce aggregate statistical data of substantiated cases.

What is an “Effective” Child Abuse Registry?

- Identifies at-risk children
- Identifies perpetrators
- Prevents future abuse of children
- Prevents future abuse by perpetrators
- Prevents perpetrators from becoming foster and/or adoptive parents
- Prevents perpetrators from working at daycares, schools, and other childcare facilities
- Assists in monitoring and evaluating Department investigations and interventions

What is an “Effective” Child Abuse Registry in Georgia?

- Immediately identify and locate substantiated cases;
and
- Maintain and produce aggregate statistical data of substantiated cases.

Data Collected in Child Abuse Registries

In Georgia from August 5, 2016 to March 17, 2017:

- 811 CAR Appeals referred to OSAH
 - 507 Closed; 304 Open
- 289 Affirmed
- 192 Reversed
- 3 Affirmed but Modified
- 11 Affirmed In Part/Reversed In Part
- 12 Dismissed

Data Collected in Child Abuse Registries

Classification of Abuse

- 54 of the cases concerned allegations of Sexual Abuse
- 582 of the cases concerned allegations of Neglect
- 82 of the cases concerned allegations of Emotional Abuse
- 36 of the cases concerned allegations of Endangering a Child
- 134 of the cases concerned allegations of Physical Abuse

Data Collected in Child Abuse Registries

Demographic Data

- Average Age of Alleged Abuser: 36.19 years
- Average Age of Victim: 7.49 years
- Alleged incidents of child abuse occurred in 129 different counties

Missing Data:

- Race
- Ethnicity
- Language
- Disability
- Children
- Income
- CPS History
- Dual-Involved (Juvenile and/or Criminal)
- Amount of time taken to identify and substantiate cases

Samples Studies of Child Abuse Registries

Washington State, 1973-1986, Eugene E. Sabotta

Fatality after report to a child abuse registry

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Table 1. Risk of Death Subsequent to Reported Case of Abuse, According to Type of Reported Abuse. Washington State, 1973-1986

	Physical Abuse*		Neglect**		Sexual Abuse†		Total ^{§,†}	
	Abused	Nonabused	Abused	Nonabused	Abused	Nonabused	Abused	Nonabused
No. ^a	3,345	10,035	4,199	12,597	2,992	8,976	10,532	31,608
Years ^b	19,568	58,923	32,340	97,194	11,823	35,490	67,367	202,525
Deaths ^c	20	15	25	33	9	13	61	63
Rate ^d	10.2	2.6	7.7	3.4	7.6	3.7	9.1	3.1

^a Number of children in abused and nonabused populations. ^b Total years at risk. ^c Total number of deaths in population group. ^d Rate of death per 10,000 years at risk. ^e Totals include cases where >1 abuse type was reported.

* $p < .01$ (Relative risk [RR] 4.0; 95th percent confidence interval [c.i.] 2.0, 7.8). ** $p < .01$ (RR 2.3; 95th c.i. 1.4, 3.8).

† $p = .08$ (RR 2.1; 95th c.i. .9, 4.9). ‡ $p < .01$ (RR 2.9; 95th c.i. 2.1, 4.1).

Samples Studies of Child Abuse Registries

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E. E. Sabotta and R. L. Davis

Table 5. Fatality Rate After Abuse According to Age at Time of Abuse and Specific Cause of Death

<1	Total #	Total Yrs at Risk	Homicide/ Suicide		Transport		Disease		Other Nonintentional Injury	
			Deaths	Rate ^a	Deaths	Rate ^a	Deaths	Rate ^a	Deaths	Rate ^a
Abused	952	7,165	3	4.2	0	0	7	9.8	5	7.0
Nonabused	2,856	21,674	1	0.5	0	0	13	6.0	3	1.4

1-10	Total #	Total Yrs at Risk	Homicide/ Suicide		Transport		Disease		Other Nonintentional Injury	
			Deaths	Rate ^a	Deaths	Rate ^a	Deaths	Rate ^a	Deaths	Rate ^a
Abused	7,240	49,908	7	1.4	5	1.0	12	2.4	8	1.6
Nonabused	21,720	149,940	1	0.1	7	0.5	7	0.9	16	1.1

11-17	Total #	Total Yrs at Risk	Homicide/ Suicide		Transport		Disease		Other Nonintentional Injury	
			Deaths	Rate ^a	Deaths	Rate ^a	Deaths	Rate ^a	Deaths	Rate ^a
Abused	2,892	10,294	2	1.9	6	5.8	2	2.0	2	2.0
Nonabused	8,676	30,911	0	0	5	1.7	1	0.3	2	0.7

^a Rate of death per 10,000 years at risk.

Samples Studies of Child Abuse Registries

“There was no information on the type, duration, or intensity of intervention by the Children’s Protective Services, and because of this, our study was not able to take into account the effect of intervention in cases of child abuse. It is apparent from this study that intervention by the state does not reduce the risk of death of abused children to that of the comparison population of nonabused children. However, without efforts by the children’s protective services, the risk of death may have been appreciably higher than seen here.”

Samples Studies of Child Abuse Registries

Supervisory Neglect Study, 2003, Carol Cooney

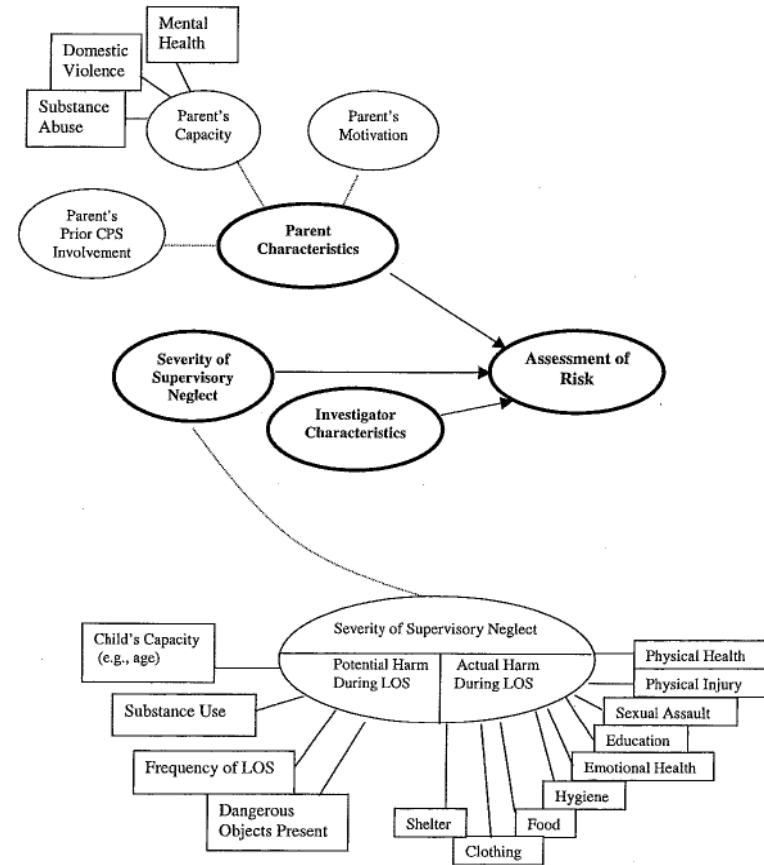


Figure 1. The influence of severity of supervisory neglect, and parent and investigator characteristics on assessment of risk of future harm.

Samples Studies of Child Abuse Registries

Supervisory Neglect Study Findings:

- Mothers w/ children who were harmed were 3x more likely to be placed on the registry
- If the investigator documented a rationale from the mother for the problem the mother was less likely to be placed on the registry
- Mothers with prior incidents were 10x more likely to be registered than those with no prior document incident
- Mothers who took responsibility for their behavior were less likely to be placed on the registry
- Mothers who were battered were 24 times more likely to have their names on the registry than mothers who were not battered

Samples Studies of Child Abuse Registries

Two researchers read the incident reports to collect the data for the study. If they disagreed on a data point a third researcher would act as the tie-breaker.

“[T]his study relied on a judgmental model to determine the risk of subsequent maltreatment.”

Samples Studies of Child Abuse Registries

Quality of Investigative Reports

“Despite their level of experience, there is no assurance that investigators assessed every variable (e.g., mental health) or included the same level of detail for each variable in the study.”

Data Required to Measure Effectiveness

- Researchers need full demographic information
- Lack of access to registries may impede the ability to research the effectiveness of the registries
- For accurate measurement CPS investigators would have to be consistent and thorough in reports

Next Steps

- Clarify definitions of abuse and neglect
- Legal review of substantiations prior to placement on registry
- Determine if children in foster care are being placed on the registry and if so ensure they have counsel
- Study the effectiveness of the registry—are we attaining our stated purpose?
 - Who can study the registry and how? Does the law need to be changed to allow independent research?
- Ensure appropriate data are collected to accurately measure if we're meeting our purpose

Questions?