

**Confidentiality:**  
*A Guide for  
Foster Parents*



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# Introduction

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Understanding and upholding Iowa's confidentiality laws is one of the most complex issues with which foster parents deal.

These laws are intended to protect the privacy of foster children and their biological families, and in turn, create a relationship for foster families, biological families, foster children, and other involved individuals that is based on trust and respect.

The purpose of this guide is to:

- explain and clarify confidentiality laws pertaining to foster parents
- educate foster parents and others
- address different types of situations that commonly arise in foster care
- establish and encourage best practices

# Summary of Iowa's Confidentiality Laws

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*Submitted by the Attorney General's Office*

Generally, any document or piece of information possessed by state government, its employees or anyone acting on behalf of the state, is public. It is available on request, by anybody, for any reason, or no reason. However, there are certain documents and information contained within those documents which is confidential by statute or administrative rule. If the document is confidential, so is the information from the document. Prior to any release of a document or disclosure of information, the statutes and rules must be checked.

Iowa statutes generally make confidential any documents and information concerning foster children. But usually, documents and information about foster care licensing status is not confidential.

If a statute makes the identity of an individual confidential, then any information with which the person could be identified is confidential. This "individually identifiable information" consists of the clues which, if put together, would identify only one person; for example, the red-haired 8th grader who lives with his divorced mother and 4th grade sister on the cul-de-sac on the north edge of town.

Even if release of a document or information is allowed, release to somebody else, sometimes called redissemination, may be prohibited. The statute or rules must be checked before releasing to others.

## **Civil and Criminal Penalties**

Violation of these rules may be punished both civilly and criminally. The person(s) whose documents or information or identity was released illegally, may file a civil lawsuit for money against the person(s) who released it. The County Attorney may file criminal charges seeking a fine of \$50 to \$1500 and imprisonment in the county jail for up to 1 year.

In addition, if the person(s) who released the information is a licensee of the state (foster parent) the license can be revoked, and licenses may not be issued in the future.

# Confidentiality Best Practices

“Best practices” can be used by foster parents as a guide to acting within the boundaries of confidentiality law in Iowa. Because fact circumstances may change, if you are in doubt, check with your DHS worker and/or your attorney.

## Seeking Consent (Permission)

Only the **legal guardian** has the authority to consent to routine medical care, participation in school activities, extra-curricular activities, obtaining a driver’s permit, and out-of-state travel for the child. The custodian may only authorize emergency medical care. This authority is not transferred to the foster parent(s) or the child’s social worker. There is no such thing as implied consent or acquiescence by silence when acting on behalf of foster children. See the appendix for a definition of implied consent.

For children in foster care, the legal guardian may be:

1. Biological or adoptive parents

While DHS has legal custody of the child, the biological or adoptive parents usually retain legal guardianship.

2. Iowa Department of Human Services

If termination of parental rights occurs, the Department of Human Services is usually designated as the legal guardian. *For signature purposes, a person will be designated to sign consents and give permission on behalf of DHS. This person is never your child’s case manager. If you need a guardian’s signature, ask the DHS case manager to obtain it for you.*

3. Other persons

Other persons may be extended family members who retain guardianship due to special circumstances.

**Best Practices**

It is always best to have written, rather than verbal, consent from the legal guardian. In most instances, only written consent will be accepted.

**Best Practices**

In some instances, written consent may not be available. In these cases, your options are:

- If the legal guardian gives verbal consent, note the conversation and the guardian's consent in your foster parent log. Be sure to include date and time of day.
- If there is a need for emergency medical treatment and the legal guardian is not available, the legal custodian (DHS) may give consent, an emergency ex-parte order can be obtained from the court, or doctors may provide care without consent if the emergency is life-threatening.

### Releasing Information

All information regarding foster children *which is obtained through or from the Department of Human Services* is confidential, according to Iowa Code. This includes:

- Identifying information - name, social security number, age, sex, height, weight, etc.
- Religious and cultural preferences
- Contact information - current address, permanent address, phone number, e-mail address, etc.
- Physical and mental health conditions
- Family information
- Legal status

**Best Practices**

Foster parents must receive written consent from the legal guardian in order to release information concerning the child. Usually, DHS will be responsible to obtain consents.

**Best Practices**

Do not disseminate (release) information that others have given to you, for example, the child's full name and date of birth, contact information regarding the child's parent or guardian, any written reports, information regarding the child's previous placement experiences and behaviors, health information, school information, etc.

## Best Practices

You may release information that you gain from your interactions with the child.

e.g. You notice that your foster child is having problem with math homework. You may discuss the situation with the child's math teacher.

e.g. Your foster child confides in you about a previous incidence of abuse. You must report the alleged abuse to DHS immediately.

## Best Practices

Rely on the Department of Human Services to release the child's reports and relevant information to the appropriate persons.

### Two good rules to remember:

1. **Do not share information with anyone else unless specifically permitted.**
2. **Do not identify the child as a foster child.**

## Best Practices

In some circumstances, information may be released on a **need-to-know** basis. Need-to-know is defined as the extent that it is necessary to provide adequate services to the child in foster care. Need-to-know is a subjective measurement. It differs from person to person and situation to situation. If you have any questions regarding need-to-know, ask your foster care worker.

This need-to-know exception to the law is difficult and can be defined differently by different individuals. The following protocol can help you define the need-to-know. In determining the need-to-know, ask yourself the following questions:

**Q1:** Who is asking for the information? This is perhaps the most important question to answer, because the state only allows foster parents to release information with specific authorization from the legal guardian, even on a need-to-know basis, to certain individuals.

**A1:**

- A. The following may be legal guardians of the child and are entitled to information about the child:

- the biological parent(s) or adoptive parent(s)
  - the Iowa Department of Human Services
  - other court appointed guardian(s)
- B.** The Iowa Department of Human Services is the legal custodian of children placed in foster care and is entitled to information about those children.
- C.** The following have a professional relationship with the child and may have the need to obtain information about the child:
- the child's foster care worker(s)
  - a physician or mental health practitioner (this includes mid-levels, such as physician assistants and nurse practitioners)
  - the child's attorney/guardian ad litem/Court Appointed Special Advocate (CASA)/other attorneys that have standing in the case.
  - the court
  - an agency providing services to the child or family
  - the Foster Care Review Board (FCRB)
- D.** The following individuals may have a close personal or professional relationship with the child, the biological family, or with you personally, but do **NOT** have the right to obtain information from foster parents, unless there is a release of information:
- extended members of the foster family
  - extended members of the biological or adoptive family
  - teachers, coaches, and other school officials
  - clergy
  - members of the community
  - support group members
  - law enforcement officers

Again, if you have any questions about sharing information, ask your foster care worker.

**Q2:** Does the individual requesting the information fall under a category authorized by the state to receive information on a need-to-know basis?

**A2:** If the individual requesting the information falls under categories A, B, or C (previous page) *you are allowed to disclose certain information without the parent's or guardian's specific authorization.* If the individual is not listed in category A, B, or C, you cannot share information with them.

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**Q3:** How will they use the information?

**A3:** The situation greatly affects how much information you should disclose. You should release only the information the person needs in order to provide adequate treatment.

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Consider the following scenarios:

Situation #1 - First visit with the child to a psychiatrist.

**Q1:** Who is asking for the information?

**A1:** A psychiatrist

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**Q2:** Does the individual requesting the information fall under a category authorized by the state to receive information on a need-to-know basis?

**A2:** Yes, the psychiatrist falls under category C - has a professional relationship with the child and is approved by state law to receive information on a need-to-know basis.

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**Q3:** How will they use the information?

**A3:** A psychiatrist may need to know a detailed history of the child's life in order to come to an understanding the child's behavior and make an accurate diagnosis. This information

may include any known history of abuse, the number of placements in foster care, previously diagnosed behavior disorders, medical condition(s), personal relationships, etc.

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Situation #2 - A visit to the doctor because the child has a bad cold.

**Q1:** Who is asking for the information?

**A1:** A physician.

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**Q2:** Does the individual requesting the information fall under a category authorized by the state to receive information on a need-to-know basis?

**A2:** Yes, a physician falls under category C - has a professional relationship with the child and is approved by state law to receive information on a need-to-know basis.

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**Q3:** How will they use the information?

**A3:** A physician treating a particular medical condition that is **not** chronic or life-threatening, such as a cold, will only need to know that information which is specific to the condition, **not** the child's entire personal and medical history. So, it would be appropriate to share information gained from personal interactions with the foster child (e.g. coughing, sleeplessness, not eating well, etc.).

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Situation #3 - Meeting with elementary school principal because the child is acting out in the classroom.

**Q1:** Who is asking for the information?

**A1:** The elementary school principal.

**Q2:** Does the individual requesting the information fall under a category authorized by the state to receive information on a need-to-know basis?

**A2:** No, the principal falls under category D. You may not disclose any confidential information received from or through DHS without specific consent from the child's parent or guardian. You may discuss behaviors you have observed through your interaction with your foster child.

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**Q3:** How will they use the information?

**A3:** It may be that the principal is requesting confidential information about the child for very legitimate reasons. For example, in order to help understand and manage the child's behaviors. Put the principal in contact with the child's DHS case manager, and let DHS decide whether or not to release the information requested.

**Best Practices**

Sometimes as a foster parent, you need to talk to others when you have concerns about your role, when you are under stress, when you are supporting someone else, etc. In these cases, avoid releasing any **specific or individually identifiable information**.

Individually identifiable information is defined as any information with which the individual could be identified (Summary of Iowa's Confidentiality Laws, p.5; see Releasing Information, p. 3).

**Best Practices**

**Talk about behaviors, not situations/individuals.**

ACCEPTABLE - "One of my kids is being belligerent and disrupting the rest of the household."

This is acceptable because the focus is on the behavior "being belligerent" and "disrupting." "One of my kids" is appropriately vague.

UNACCEPTABLE - "My oldest foster child refuses to take his antidepressants and is disrupting the rest of the household with his aggressive and quarrelsome behavior."

This is unacceptable because the listener can use clues such as "oldest," "his," and "antidepressants" to identify a specific individual.

**Best**

Practices

When in doubt, ask for clarification.

**Remember that the child and family's right to privacy are greater than your right to obtain or release information.**

Best Practices

### **Attaining Information**

Most professionals have their own standards of confidentiality to which they must adhere. They are responsible for determining what they may and may not tell you about the child. This is especially important to understand as you work with such professionals as the child's foster care worker or mental health practitioner.

**Best**

Practices

You should feel comfortable asking these individuals questions about your foster child. If the information you are requesting conflicts with their standards of confidentiality or cannot be released due to Iowa Code, they will tell you that they can not provide that information.

# Situations

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There is no way to address every unique situation that may occur during your time as a foster parent. The following are some of the more common situations that may bring into question confidentiality guidelines. These are offered to give you ideas about how to handle your situations when confidentiality questions arise.

## When accepting a new placement

**Q.** What information should I receive upon placement?

**A.** According to the Iowa Department of Human Services' Foster Parent Handbook (July 1995. Check your most recent version of the handbook for more information.) and the Foster Family Placement Agreement you can expect to receive the following information as soon as it is available:

- child's full name and date of birth
- name, address, and telephone number of child's parent or guardian, guardian ad litem, significant relatives, doctor, and supervising agency
- reasons the child entered foster care
- a copy of the child's case permanency plan and all reviews and revisions (with the exception of a first placement)
- information regarding the child's previous placement experiences and behaviors the foster parents can expect from the child
- health information (e.g. names of doctors, immunizations, physical limitations, medical recommendations, allergies, special dietary needs)
- school information (e.g. grade level, performance, and behavior)
- plans for visits with the child's parents, relatives, and other significant persons

*Note: Due to the nature of emergency placements and other rare cases (e.g. the police find an abandoned infant), sometimes little or no information may be available. You will be given information as soon as it is available.*

DHS Social Workers **must** provide their **home phone numbers** to foster parents for emergency purposes via the foster care placement agreement. A Social Worker may also provide an emergency 24 hour contact number in addition to their home phone number. When looking for an emergency contact, look on the Foster Family Placement Agreement. If it is not there, ask your DHS case manager.

- Q.** If I don't receive information, can I ask for it?
- A.** Yes, if it falls in the above categories. If the information is not offered by the child's DHS worker, private agency worker, or any other professional that is knowledgeable about the child and you believe you should have access to it, you may ask for access. However, keep in mind that these professionals are restricted by the Iowa Code and their professional standards of confidentiality regarding information they can release. See Iowa Code Section 232.147(3)(g), reprinted on page 42 of this handbook.
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- Q.** Am I responsible to give the information I receive from the DHS worker to others (school, therapists, doctors, parents, etc)?
- A.** No, varying from county to county and case to case, either the DHS worker or private agency worker should be responsible for disseminating that information.
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You may discuss confidential information with others, but only to the extent that you have written consent from the parent or legal guardian to do so, or if it is a need-to-know situation (See also Confidentiality Best Practices, p.7).

- Q.** Can I share that information?
- A.** That information can be shared, on a need-to-know basis, with the child's:
- foster care worker
  - physician or mental health practitioner

- attorney/guardian ad litem/CASA/other attorneys that have standing in the case
- Juvenile Court
- Agency providing services to the child or family

(See also *Confidentiality Best Practices*, p.5.)

**Q.** What consents can I sign?

**A. None.** Only the legal guardian has the authority to give permission for medical care, participation in school and extracurricular activities, obtaining a driver's permit, and out-of-state travel for the child. The legal custodian may only authorize emergency medical care. This authority is not transferred to the foster parents(s).

It is always best to have written, rather than verbal, permission from the legal guardian. In most instances, only written consent will be accepted.

### Best Practices

In some instances, written consent may not be available. In these cases, your options are:

- If the legal guardian gives verbal consent, note the conversation and the guardian's consent in your foster parent log.
- If there is a need for emergency medical treatment and the legal guardian is not available, the legal custodian (DHS) may give consent, an emergency ex-parte order can be obtained from the court, or doctors may provide care without consent if the emergency is life-threatening.

### When dealing with the biological family

**Q.** What if the biological parents ask me for information? Can I give them a copy of reports or other information I've received? What can I share verbally with them?

**A.** As long as the biological parents maintain legal guardianship you can tell them how the child is doing in your home. You cannot however, disseminate information that has been given to you from others such as reports or verbal accounts. If they believe that they are entitled to a report they did not receive, have them contact DHS.

- Q.** My foster child's parents are divorced, and the mother had custody before the child was removed. The biological father calls me frequently and asks me questions. Can I talk to him about how his child (my foster child) is doing?
- A.** If there are no safety concerns you may speak to the biological father in general terms about how the child is doing in your home. Do not discuss any information with either the father or mother regarding the other's situation.

**Best Practices**

Ask for clarification from DHS on how to handle this situation.

- Q.** What do they know about my family and me?
- A.** It will vary from situation to situation. If there are safety concerns regarding the biological parents, information about you or your family will be limited. However, if the goal of placement is permanency, the two families need to work together, and additional information will be shared, such as name, address, phone number, and nonspecific information about other children placed in your home. You may choose to share additional information according to your comfort level with the biological family.

### Schools

- Q.** Last time I accepted a new placement, the child was new to our school system, and the teacher and school social worker kept asking me for information about the child's history. Can I answer those questions?
- A.** No. Remember, the school is not included in the category with whom you can share confidential information even on a need-to-know basis. For information which did not come from your own interactions with the child, refer the teacher and other school personnel to your DHS case manager.

**Q.** I am constantly frustrated by the school's unwillingness to tell me how my foster kids are doing. I can't follow up on misbehaviors or concerns about school if I don't know what they are. Kids need consistency, not a lack of communication. Doesn't the teacher have to talk to me about how the child is doing on a day-to-day basis?

**A.** Like many other professionals, school personnel have their own confidentiality standards. If you believe you are not getting enough information, work with your DHS case manager to set up a system of communication between the school, the case manager, and yourself.

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**Q.** What information can I share?

**A.** Teachers and other school officials are not approved by law to receive confidential information on a need-to-know basis. You may discuss information and situations you have observed through your interactions with the child, including school performance, grades, or discipline.

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When in doubt, ask for written clarification from DHS.

**Q.** To whom does the school talk?

**A.** The school should obtain information from DHS and talk to DHS about any concerns.

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**Q.** Who should attend the school staffing and provide the information?

**A.** The DHS case manager, the biological parents and/or legal guardian, and the foster parent should attend. DHS should supply needed information about the foster child to the school. The foster parent should attend to gain a full understanding of the child's needs, develop methods of communication, etc. *Please note that other professionals may attend: guardian ad litem, therapists, CASA, etc.*

*\* Note: If termination of parental rights occurs, the Area Education*

*Agency can appoint a surrogate parent to participate in staffings, answer questions, sign IEPs (Individual Education Plans), and give permission.*

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- Q.** Who can sign school consent forms for field trips and participation in school related activities?
- A.** Only the legal guardian may sign these consent forms. However, if the legal guardian and the school agree, the school may provide a general permission form signed by the legal guardian to be kept on file at the school.
- 

### **Medical treatment and emergencies**

**Q.** I've had to take my foster child to the emergency room three times because her seizure medication is not controlling the seizures. The parents have not been cooperative with signing a release so I can handle these emergencies - they want to be in charge of all medical treatment. The problem is that they can't always be reached when we have to go to the emergency room. The doctors get mad when I tell them I can't talk to them about her medical history, and I feel intimidated by their demands for information. What can I tell them?

- A.** First, remember that you can never sign the consent for treatment, only the legal guardian may do that. However if the parents are not available during the emergency, the legal custodian (DHS) may consent to treatment, or a judge may issue an ex parte order, or doctors may provide care without consent if the emergency is life-threatening. *DHS case managers must provide their home phone numbers to foster parents for emergency purposes via the Foster Care Placement Agreement. A case manager may also provide an emergency 24 hour contact number in addition to their home phone number.* Secondly, the persons asking for the information (doctors) and the situation (emergency) fit under the need-to-know clause so you can share verbal information. (See Best Practices, Releasing Information and Need-to-Know, p.8).

**Q.** When I've taken my foster kids to the University of Iowa for evaluations, I sit in the waiting room and never receive any verbal feedback or recommendations. I'm always told to wait for a copy of the report, but sometimes I never receive those. Shouldn't I, the foster parent taking care of this child 24 hours a day, 7 days a week, be given this information? It seems to me that I'm the one that needs it the most!

**A.** The University of Iowa is probably following its own standards of confidentiality. If you believe you are entitled to a report you did not receive, contact your DHS case manager.

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**Q.** What medical reports do I have access to? (medical, psychiatric, substance abuse)

**A.** The DHS [Foster Parent Handbook](#) states:

*The child's worker should give you information about the plan for the child's physical or medical care, including the health of the child and the results of medical examinations, directions in carrying out specific medical recommendations, special advice if the child has a physical or developmental disability, and procedures for accessing Medicaid services (July 1995, p. 46. Check your most recent version of the handbook for more information).*

If you have not received this information, see your case manager for clarification.

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**Q.** Can I release information regarding the child's medications?

**A.** You may not release confidential information to others, unless you have written permission from the parent or legal guardian, or if it is a need-to-know situation.

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**Q.** My foster child is having puzzling symptoms and his physicians can't figure out what is causing the problems. Can I access information about my foster child's parents' medical backgrounds?

- A.** No. If the child's physicians feel that the medical background check is necessary, enlist the help of the DHS case manager to communicate such information to the parents.
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- Q.** Will I get all the medical history of the foster child when they come to my home? Even if they were sexually abused - will I receive those medical reports from the examination?
- A.** The DHS Foster Parent Handbook states that foster parents will receive "health information" upon placement. (July 1995, p. 24. Check your most recent version of the handbook for more information). If you do not receive any health information, foster parents can request a copy of the written reports if it pertains to the care of the child, but may not always receive those reports.
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## HIV/AIDS

- Q.** Does confidentiality change when it comes to HIV/AIDS?
- A.** Yes. All HIV-related information is confidential. "HIV-related information" means any information that is likely to identify, directly or indirectly, someone as: 1. Having been tested for HIV (regardless of the results of the test), or 2. Actually having HIV infection, antibodies to HIV, AIDS, or related infections or illnesses, or 3. Suspected of having HIV as a result of high risk activities. (DHS HIV Protocols, January 1996.)
- 
- Q.** Will I be told if the child has HIV/AIDS or is at risk of having HIV/AIDS?
- A.** Yes. All foster parents are asked at the time of initial licensing and relicensing if they are willing to care for an HIV-infected child. In order to ensure proper care of the child, DHS will place the child **only** with a foster or adoptive parent who is aware of and prepared to meet the additional responsibilities and demands that may be made.

DHS will inform foster parents of the child's symptoms or diagnosis and secure written agreement for the placement. For a child who

is considered at risk, but for whom testing is not yet completed, DHS will inform foster parents, obtain written agreement for the placement, and arrange for testing to be completed as soon as possible. (DHS HIV Protocols, January 1996.)

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**Q.** I suspect that a child who has been placed with me is HIV positive. Can I take my foster child to the doctor for an HIV test?

**A.** No. As in any other medical situation, you must have permission from the legal guardian to order a medical procedure for the foster child. If the biological parents or legal guardian refuse to give consent, DHS can request a court order to authorize the test.

However, a minor may voluntarily ask for and consent to HIV testing without parental consent. The consent for an HIV test must always be an informed one. That is, the person giving the consent must be advised of any potential adverse consequences of the test. These consequences might include possible social, health care, economic, and other discrimination. The consent must always be in writing. It must be specifically for the purpose of getting the HIV test and obtaining the results. (DHS HIV Protocols, January 1996.)

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**Q.** My foster child is HIV positive, can I reveal that information to anyone (daycare, schools, etc.)?

**A.** No. The disclosure of any HIV-related information without written consent is prohibited. DHS is responsible for informing schools, licensed childcare centers, and registered daycare homes about your child's medical status. (DHS HIV Protocols, January 1996.)

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### **Dealing with provider agencies, therapists**

**Q.** My foster child's therapist is great about inviting me into sessions to give updates about how he is doing in our home, but she never tells me anything about what they're working on in his sessions. Sometimes he leaves and is very upset, but I don't know how to comfort him, because I don't know what he is upset about. Would the therapist be breaching

confidentiality if she told me what they're working on? Seems if I can give her information about the child, she ought to be able to give me information too.

**A.** The therapist is likely to be adhering to Iowa Code and her own professional standards of confidentiality in her unwillingness to talk about her patient's, your foster child's, sessions. General understanding is that the code of confidentiality between a therapist and a patient is not to be breached, whether the patient is an adult seeking counseling or a foster child who is placed in therapy. Having said that, you can always ask for more information, and it is up to the therapist to determine what she can and cannot tell you.

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**Q.** Because I provide treatment level foster care, I am required to keep a log on all of my foster children. Recently I had a therapist for one of the kids request to see the log. Can I share it with him?

**A.** If the therapist is supervising the child's treatment plan, the therapist is required to view the log monthly. An independent therapist should have access to the log on a need-to-know basis.

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**Q.** What information can I share with the child's therapist about other foster children in my home that may be affecting the child's placement or my ability to parent?

**A.** It is appropriate to talk to the child's therapist about other foster children's behaviors that affect the child for whom they are a therapist.

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### **Support groups/talking to other foster parents**

**Q.** Sometimes I worry about our support group meetings. They are really helpful because parents get to vent their frustrations, but I wonder about confidentiality in such a small town. I know most of the kids in the other foster homes, so I can usually figure out who is being discussed. Are we breaching confidentiality if we're not using names?

- A. Discussing a problem with other foster parents without disclosing names or specific situations is not breaching confidentiality.
- 

**Best Practices**

**Talk about behaviors, not situations/individuals.**

- Q. Another foster home across the county has two siblings of my foster child. We talk frequently on the phone to line up visits, and for support. It's helpful to do, since we each seem to get different bits of information from the parents, workers, therapists, etc. Is it okay for us to talk and share the information we get about these siblings?
- A. It is not appropriate to share the different bits of information from the parents, workers, therapists, etc., without the consent of the child's legal guardian. This is information that others have given you and is not yours to disseminate. It is appropriate to share information that you gain from your interactions with the child, and to rely on DHS to release information to the other foster home, when appropriate. With that said, as in all cases regarding confidentiality, if you have the legal guardian's consent to discuss the siblings with the other foster family, you may do so.
- 
- Q. We were told in our support group that it's okay for us to talk about the behaviors of our foster children, but not about their specific situations, because then they could be more easily identified. Is that right, or are we being overly careful?
- A. Avoid identifying individuals or specific situations when discussing your experiences with your foster children. (See also, Best Practices: Releasing Information, p. 8.)
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**Liaisons**

- Q. My liaison calls me once in a while to check in on how I've been doing with my first placement. I appreciate the calls, but am never sure what kind of information I can share about the child and his situation. What can we discuss?

- A.** Though liaisons are also bound by the same rules of confidentiality as you are, you should follow the Confidentiality Best Practices:
- Do not disseminate (release) information that others have given to you.
  - Only release information that you gain from your interactions with the child.
  - Avoid releasing specific, individually identifiable information.
- 
- Q.** Last month one of my foster kids turned me in for abuse, and I tried to give the report to the liaison so she could fully understand the situation, but she told me I couldn't share the report with anyone. Is that right? The report is about me, it seems like if I want to share it, I should be able to decide that.
- A.** While you can waive your own right to confidentiality, you cannot waive the right to confidentiality of the foster child who is also included in the report. Because the report is not entirely about you, you do not have the right to distribute or discuss it. The liaison should not receive a copy of the report. You can talk with the liaison about your feelings about the situation. *The Foster Allegation Information Resource (FAIR) program is a source of information about the abuse assessment. Call 877/700/FAIR.*
- 

### **Foster parent treatment logs**

- Q.** Who should be reviewing the foster parent treatment log and how often?
- A.** DHS case managers are to review all logs and notes kept by foster parents during their foster care visits. Providers who supervise treatment services are required to review the logs each time treatment service is provided. Licensing staff are supposed to review all logs for the past year at the time of relicensing.
- 
- Q.** Are written copies of the foster parent treatment logs to be provided to DHS, private agency, and the guardian ad litem?
- A.** Logs should be available to both DHS and private agency staff

upon request. However, the entire log needs to be given to the DHS case manager at the time the child's placement concludes.

- Q.** Can the log be kept on computer disks?
- A.** Yes, as long as the log is always accessible.
- Q.** When the child leaves a foster home, does the foster parent send a copy of the log with the child?
- A.** The entire log needs to be given to the DHS case manager at the time the child's placement concludes.

Suggestions for writing in your log:

Don't use other foster children's names in the log. Don't show it to anyone other than those that are clearly defined as having access (refer to #1). School personnel do not have the ability to review the treatment logs.

All foster parents are required to keep basic logs on all foster children which are to be reviewed by the DHS case manager at the same frequency as foster care visits. These logs need to be given to the DHS case manager at the time the child's placement concludes.

### **Respite care**

- Q.** I'd be willing to provide respite care more often, but it seems like the few times I've done it, the worker gave me almost no information about the child's behaviors. Is this a confidentiality problem? What information about the child am I entitled to as a respite provider?
- A.** As a provider of respite care you are entitled to know about the child's behaviors and needs including special medical needs and limited information on the birth family as it relates to visitation and/or contact. You are not entitled to know about specific situations, such as background on the birth family or reasons for placement in foster care.

- Q.** What types of information can I share with the respite provider? Do they need or can they access the child's entire history?
- A.** Respite providers do not need, nor can they access, the child's entire history. They do need to be informed about the general behaviors and needs of the child, but not specific situations.
- 
- Q.** What information can/should I share with the IFAPA respite coordinator?
- A.** Share information about the child's behaviors and needs, but do not go into great detail or describe specific situations.
- 

### Media

- Q.** We live in a small town, and the newspaper shows up for events that I take my foster kids to, I'm always so worried that a picture of them will wind up in the paper. Will I get in trouble if that happens?
- A.** You must have the legal guardian sign a consent to allow pictures of the foster children to be printed and identified as foster children. **DO NOT ALLOW THE FOSTER CHILD TO BE IDENTIFIED AS A FOSTER CHILD.** If you do not have permission, and a picture of the foster child appears, identified as a foster child, it is a violation of state law. However, if the child's picture is printed in the paper and not identified as a foster child, or is so identified, but you had no prior knowledge, there are no legal consequences for the foster parent.
- e.g. ACCEPTABLE - school pictures, team pictures  
UNACCEPTABLE - pictures taken at a picnic for foster families
- 
- Q.** Do I need permission to share information on my foster children with the media? Our local paper wants to do a story on our foster family and are asking about the kids we have in placement now.
- A.** Yes, you must have DHS get permission from the legal guardians to share information about the foster children with the media.

**Q.** I am concerned about my treatment from DHS. Can I go to the media with my story?

**A.** **Yes, BUT: Remember that you are only one part of the story.** While you can certainly waive your own rights to privacy and confidentiality, (and share your story with whomever you please) you cannot waive the rights to confidentiality of the foster child who may also be part of the story.

UNLESS the story can be entirely about you, and you only, you do not have the right to discuss your foster children with the media.

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### **Court and legal systems**

**Q.** Can I tell the guardian ad litem anything I think they should know about the child in my home?

**A.** Yes. According to the DHS Foster Parent Handbook: *In order for the guardian ad litem to effectively represent the foster child, it is important that he or she be well-acquainted with the child's situation. It is appropriate for the foster parents to keep the guardian ad litem informed. (July 1995, p.9. Check your most recent version of the handbook for more information.)*

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**Q.** I attend my foster children's court hearings and hear all kinds of information about the family that I never knew. Is it okay for me to have access to this information?

**A.** Yes. Foster parents are recognized participants in juvenile court proceedings for the foster children in their home. It is appropriate for foster parents to have access to confidential information about the biological family gained in this setting. It is not appropriate for the foster parents to disseminate that information.

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**Q.** I really want to talk to the judge about my foster child. Can I do that?

**A.** Practices vary. You should understand that any information shared

with the judge is considered ex parte communication and should be disseminated to the other parties involved. Foster parents, by law, receive notice of court hearings. If you wish to speak to the judge, you should attend the hearing.

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**Q.** Can I talk to the biological parents' attorney(s)?

**A.** Yes. You cannot disseminate information to the biological parents' attorney(s) (i.e., information you have received from a third party), but you can share information gained from your interactions with the child.

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### **Court Appointed Special Advocates (CASA) and Foster Care Review Board (FCRB)**

**Q.** I'm always confused about my child's CASA worker. It seems like they know everything there is to know about the child, but I'm uncomfortable answering some of the questions they ask. Who are they, exactly, and can I share information with them?

**A.** The CASA *"is appointed by the judge or juvenile court referee to act as an independent advocate for the long term best interests of the child. As an officer of the court, the CASA has access to the records and files of the court, DHS, school, hospital, doctor, therapist, or any other individual or agency having knowledge regarding the child."* (DHS Foster Parent Handbook, July 1996, p. 8. Check your most recent version of the handbook for more information.)

Part of the CASA's role is monitoring the child's case via conversations with involved parties, including foster parents. The foster parent should answer the CASA's questions as they apply to personal experiences with the child, but should not release any information that others have provided.

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**Q.** A few weeks ago I attended my first FCRB meeting for one of my foster children. It seemed strange that all these people had access to a lot of confidential information. Is this right? Am I okay in answering all their questions?

- A.** Yes. The FCRB members have access to confidential information. Follow the Confidentiality Best Practices:
- Do not disseminate (release) information that others have given to you.
  - Only release information that you gain from your interactions with the child.
  - Rely on the Department of Human Services to release the child's reports and relevant information to the appropriate persons.
- 

## Community

**Q.** I try to get all my foster kids involved in something in the community. They all go to church camp in the summer (if they want to) and I try to give them a choice of other activities, like 4-H, Girl Scouts, etc. I always feel bad though, with the kids that have negative behaviors, I wish I could tell the group leader something about the child so they know what to expect. Can I do this, or would I be breaching confidentiality?

**A.** Unless you get permission from the legal guardian, you cannot release any information other than that which you gain from your interactions with the child.

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**Q.** Once in awhile I run into someone I haven't seen in a long time that doesn't know that I'm a foster parent. How should I introduce my foster kids? I'm always uncomfortable in these situations and don't quite know what to say.

**A.** The DHS Foster Parent Handbook recommends that foster parents and their foster children “*develop simple, straightforward information about the child for social situations, including how you introduce the child.*” (July 1995, p. 41. Check your most recent version of the handbook for more information.) e.g. This is Joey, and he is staying with us for awhile.

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**Q.** How should I answer questions from my neighbors, my family, and church members about my foster kids?

**A.** See the above answer.

## Adoption

- Q.** We recently adopted our 2 special needs foster children. How does confidentiality change now that these kids are legally ours? Can we say that they're adopted, and anything about their histories?
- A.** Yes. Once you become adoptive parents you can waive confidentiality for your children. The difficult part is that you cannot waive confidentiality for the biological parents – any information relating to them must remain confidential. The children's circumstances and history can be revealed to the extent the biological parents are not identified.
- 
- Q.** Who are my adoption home study records shared with?
- A.** Approved adoptive home studies are shared with team members involved in matching an available adoptive child to an approved adoptive home.
- 

## When the child is moved from the foster home

- Q.** Do we have a right or the ability to keep in contact with the child by letter, phone calls or visits?
- A.** This depends on a number of factors. Foster parents may have the ability to keep in contact with a former foster child, but they have no legal "right" to do so of their own accord. Check with the child's DHS case manager to see if this is possible.
- 
- Q.** Do the written reports that I received upon ending the placement go with the child?
- A.** No. DHS is responsible for providing written reports when the child moves to a new placement. You may want to keep a copy.

## Child Abuse Reports and Allegations of Child Abuse

**Q.** What information about my allegation will be shared, and with whom will it be shared?

**A.** Part A (evaluation of the abuse) of the report will be released by DHS. The following individuals can request a copy of Part A: the foster parents, if they are the persons alleged to be responsible for the abuse; other mandatory reporters; the CASA worker; the guardian ad litem; the child. The following individuals will receive a copy of Part A: the county attorney; the Juvenile Court; the custodial and noncustodial parents; DHS staff who are involved in licensing decisions. (From The Child Abuse Assessment: A Guide for Foster Parents, p. 30.)

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**Q.** I received a copy of the child abuse report about the allegation a foster child made against me. Can I give them a copy of the report to anyone?

**A. No.** The report is confidential. You may, however, share the report with your lawyer.

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**Q.** What can I discuss about the report?

**A.** Discussing is the same as disseminating. You may disclose that you were involved in a child abuse assessment and the outcome if you choose, but you may not reveal any specific or individually identifying information since the assessment also involves a child and is confidential. You may share the information contained in the report with your lawyer.

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**Q.** What can I say to the FAIR Coordinator about a child abuse assessment?

**A.** You should not discuss specific details of your situation with the FAIR Coordinator. You may ask questions about the process and your rights, but the FAIR Coordinator should not be given any specific or identifying information. (877/700/FAIR)

**Q.** I disagree with the final report of a child abuse assessment. Who can I have review this report?

**A.** You may not disseminate the child abuse report (The Child Abuse Assessment: A Guide for Foster Parents, p. 30). However you have the right to use the Registry Review and Appeal process.

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**Q.** When I meet with a child protective worker (CPW), can I tell them background information on the child so that they can have a better understanding of his/her behaviors?

**A.** Yes.

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**Information About the Foster Home** (licensing record, home study, complaints made)

**Q.** Do I have access to my own licensing file?

**A.** You do not have access to any third party information or materials contained in your file (i.e. interview transcripts, recommendations). However, once third-party information is removed you should have access to your licensing file.

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**Q.** Do I have access to my home study?

**A.** You have access to the Foster Home Study. Current practice is that a copy of the home study can be provided upon request of foster parents (reference checks and 3<sup>rd</sup> party information removed). Ask your licensing worker about how you can obtain your copy.

---

**Q.** Who has access to my licensing file?

**A.** DHS personnel with the need-to-know such as placement workers and supervisors.

NOTE: Your name, address, licensing status, and capacity is public information.

- Q.** Are complaints (non-child abuse) about my foster home contained in my file?
- A.** Yes. The foster parent can request information about the complaint, however you will not receive a copy of the complaint. Those requests can be made to your licensing worker.

# Foster Parents' Rights

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Foster parents have a right to privacy and to have their confidentiality maintained. If you believe your confidentiality has been violated, you have the following options:

- Request a staffing with DHS
- Follow the chain-of-command within DHS:
  - Case manager
  - Supervisor
  - Human Services Area Administrator (HSAA)
  - Regional Office
  - Director
  - Governor
- Contact the Citizens' Aide/Ombudsman - 888/IA-OMBUD or 515/281-3592
- File a civil complaint or lawsuit
- Request that the county attorney file criminal charges

# Penalties for Breaching Confidentiality

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*See Summary of Iowa's Confidentiality Laws, p. 5.*

## **Civil and Criminal Penalties**

Violation of these rules may be punished both civilly and criminally. The person(s) whose documents or information or identity was released illegally, may file a civil lawsuit for money against the person(s) who released it. The County Attorney may file criminal charges seeking a fine of \$50 to \$1500 and imprisonment in the county jail for up to 1 year.

In addition, if the person(s) who released the information is a licensee of the state (foster parent) the license can be revoked, and no licenses would be issued in the future.

## **DHS Penalties**

DHS may require the foster parents to comply with a corrective action plan, or ultimately revoke the foster parent license.

# Signatures and Consents

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## Seeking Consent (Permission)

Only the **legal guardian** has the authority to consent to routine medical care, participation in school activities, obtaining a driver's permit, and out-of-state travel for the child. The custodian may only authorize emergency medical care. This authority is not transferred to the foster parent(s) or the child's social worker. There is no such thing as implied consent or acquiescence by silence when acting on behalf of foster children. See the Appendix for a definition of implied consent.

## Releasing Information

All information regarding foster children which is obtained through or from the Department of Human Services is confidential, according to Iowa Code. This includes:

- Identifying information - name, social security number, age, sex, height, weight, etc.
- Religious and cultural preferences
- Contact information - current address, permanent address, phone number, e-mail address, etc.
- Physical and mental health conditions
- Family information
- Legal status

**Best Practices** Foster parents must receive written consent from the legal guardian in order to release information concerning the child. Usually, DHS will be responsible for obtaining consents.

# Appendix

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- Code and other legal citations relating to confidentiality

## **125.93 Commitment records—confidentiality.**

Records of the identity, diagnosis, prognosis, or treatment of a person which are maintained in connection with the provision of substance abuse treatment services are confidential, consistent with the requirements of section 125.37, and with the federal confidentiality regulations authorized by the Drug Abuse Office and Treatment Act, 21 U.S.C. sec. 1175 (1976) and the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act, 42 U.S.C. sec. 4582 (1976).

### **Section History: Early form**

[82 Acts, ch 1212, § 21]

### **Internal References**

Referred to in § 229.21

<http://www2.legis.state.ia.us/cgi-bin/IACODE/Code1999.pl>

## **217.30 Confidentiality of records—report of recipients.**

1. The following information relative to individuals receiving services or assistance from the department shall be held confidential:

a. Names and addresses of individuals receiving services or assistance from the department, and the types of services or amounts of assistance provided, except as otherwise provided in subsection 4.

b. Information concerning the social or economic conditions or circumstances of particular individuals who are receiving or have received services or assistance from the department.

c. Agency evaluations of information about a particular individual.

d. Medical or psychiatric data, including diagnosis and past history of disease or disability, concerning a particular individual.

2. Information described in subsection 1 shall not be disclosed to or used by any person or agency except for purposes of administration of

the programs of services or assistance, and shall not in any case, except as otherwise provided in subsection 4, paragraph “b”, be disclosed to or used by persons or agencies outside the department unless they are subject to standards of confidentiality comparable to those imposed on the department by this division.

3. Nothing in this section shall restrict the disclosure or use of information regarding the cost, purpose, number of persons served or assisted by, and results of any program administered by the department, and other general and statistical information, so long as the information does not identify particular individuals served or assisted.

4. a. The general assembly finds and determines that the use and disclosure of information as provided in this subsection are for purposes directly connected with the administration of the programs of services and assistance referred to in this section and are essential for their proper administration.

b. Confidential information described in subsection 1, paragraphs “a,” “b” and “c” shall be disclosed to public officials, for use in connection with their official duties relating to law enforcement, audits and other purposes directly connected with the administration of such programs, upon written application to and with approval of the director or the director’s designee.

c. The department shall prepare and file in its office on or before the thirtieth day of each January, April, July, and October a report showing the names and last known addresses of all recipients of assistance under sections 249.2 to 249.4 and chapter 239B or 249A, together with the amount paid to or for each recipient during the preceding calendar quarter. The report shall contain a separate section for each county, including all such recipients whose last known addresses are in the county. The department shall prepare and file in the office of each county board of supervisors a copy of the county section of each report for that county, on or before the same day specified in this paragraph. Each report shall be securely fixed in a record book to be used only for such reports. Each record book shall be a public record, open to public inspection at all times during the regular office hours of the office where filed. Each person who examines the record shall first sign a written agreement that the signer will not use any information

obtained from the record for commercial or political purposes.

*d.* It shall be unlawful for any person to solicit, disclose, receive, use, or to authorize or knowingly permit, participate in, or acquiesce in the use of any information obtained from any such report or record for commercial or political purposes.

*e.* The department may disclose information described in subsection 1 to other state agencies or to any other person who is not subject to the provisions of chapter 17A and is providing services to recipients under chapter 239B who are participating in the promoting independence and self-sufficiency through employment job opportunities and basic skills program, if necessary for the recipients to receive the services.

5. If it is definitely established that any provision of this section would cause any of the programs of services or assistance referred to in this section to be ineligible for federal funds, such provision shall be limited or restricted to the extent which is essential to make such program eligible for federal funds. The department shall adopt, pursuant to chapter 17A, any rules necessary to implement this subsection.

6. The provisions of this section shall apply to recipients of assistance under chapter 252. The reports required to be prepared by the department under this section shall, with respect to such assistance or services, be prepared by the person or officer charged with the oversight of the poor.

7. Violation of this section shall constitute a serious misdemeanor.

8. The provisions of this section shall take precedence over section 17A.12, subsection 7.

#### **Section History: Early form**

[C39, § **3828.047**; C46, 50, 54, 58, § 239.10, 241.25, 249.44; C62, 66, § 239.10, 241.25, 241A.16, 249.44, 249A.18; C71, 73, § 239.10, 241.25, 241A.16, 249.44, 249A.8; C75, 77, 79, 81, § 217.30]

#### **Section History: Recent form**

93 Acts, ch 54, § 1; 93 Acts, ch 97, § 8; 97 Acts, ch 41, § 32

#### **Internal References**

Referred to in § 135H.13, 217.31, 232.71D, 237.9, 237.21, 239B.8, 299.13

## Footnotes

Exception to confidentiality to determine eligibility for SSI benefits for children in foster care; 98 Acts, ch 1218, §15

<http://www2.legis.state.ia.us/cgi-bin/IACODE/Code1999.pl>

### **232.147 Confidentiality of juvenile court records.**

1. Juvenile court records shall be confidential. They shall not be inspected and their contents shall not be disclosed except as provided in this section.
2. Official juvenile court records in cases alleging delinquency, including complaints under section 232.28, shall be public records, subject to sealing under section 232.150. If the court has excluded the public from a hearing under division II of this chapter, the transcript of the proceedings shall not be deemed a public record and inspection and disclosure of the contents of the transcript shall not be permitted except pursuant to court order or unless otherwise provided in this chapter. Complaints under section 232.28 shall be released in accordance with section 915.25. Other official juvenile court records may be released under this section by a juvenile court officer.
3. Official juvenile court records in all cases except those alleging delinquency may be inspected and their contents shall be disclosed to the following without court order:
  - a. The judge and professional court staff, including juvenile court officers.
  - b. The child and the child's counsel.
  - c. The child's parent, guardian or custodian, court- appointed special advocate, and guardian ad litem.
  - d. The county attorney and the county attorney's assistants.
  - e. An agency, association, facility or institution which has custody of the child, or is legally responsible for the care, treatment or supervision of the child.
  - f. A court, court professional staff, and adult probation officers in connection with the preparation of a presentence report concerning a person who prior thereto had been the subject of a juvenile court proceeding.
  - g. The child's foster parent or an individual providing preadoptive care

to the child.

4. Pursuant to court order official records may be inspected by and their contents may be disclosed to:

a. A person conducting bona fide research for research purposes under whatever conditions the court may deem proper, provided that no personal identifying data shall be disclosed to such a person.

b. Persons who have a direct interest in a proceeding or in the work of the court.

5. Inspection of social records and disclosure of their contents shall not be permitted except pursuant to court order or unless otherwise provided in this subsection or chapter.

If an informal adjustment of a complaint is made pursuant to section 232.29, the intake officer shall disclose to the victim of the delinquent act, upon the request of the victim, the name and address of the child who committed the delinquent act.

6. All juvenile court records shall be made available for inspection and their contents shall be disclosed to any party to the case and the party's counsel and to any trial or appellate court in connection with an appeal pursuant to division VI of this chapter.

7. The clerk of the district court shall enter information from the juvenile record on the judgment docket and lien index, but only as necessary to record support judgments.

8. The state agency designated to enforce support obligations may release information as necessary in order to meet statutory responsibilities.

9. Release of official juvenile court records to a victim of a delinquent act is subject to the provisions of section 915.24, notwithstanding contrary provisions of this chapter.

**Section History: Early form**

[C66, 71, 73, 75, 77, § 232.54, 232.57; C79, 81, § 232.147; 82 Acts, ch 1209, § 16]

**Section History: Recent form**

83 Acts, ch 186, § 10057, 10201; 84 Acts, ch 1208, § 2; 90 Acts, ch 1271, § 1508; 92 Acts, ch 1195, § 301; 93 Acts, ch 172, §35, 56; 95

Acts, ch 191, § 15; 96 Acts, ch 1110, §3; 97 Acts, ch 164, § 4; 98 Acts, ch 1090, §63, 83, 84

### Internal References

Referred to in § 135L.3, 216A.136, 228.6, 232.19, 232.150, 232.151, 692A.13, 915.25

<http://www2.legis.state.ia.us/cgi-bin/IACODE/Code1999.pl>

### 237.9 Confidential information.

A person who receives information from or through the department concerning a child who has received or is receiving child foster care, a relative or guardian of the child, a single-family, home licensee, or an individual employee of a licensee, shall not disclose that information directly or indirectly, except as authorized by section 217.30, or as authorized or required by section 232.69.

### Section History: Early form

[C81, § 237.9]

<http://www2.legis.state.ia.us/cgi-bin/IACODE/Code1999.pl>

- Manual, foster parent handbook, placement agreement cites relating to confidentiality
- General IFAPA resources  
6864 NE 14 Street, Suite 5  
Ankeny, Iowa 50021  
800/277-8145  
515/289-4567  
515/289-2080 Fax  
ifapa@ifapa.org e-mail

Contact IFAPA for information about the following supports and services:

- Foster/adoptive parent liaisons
- Foster Allegations Information Resource (FAIR) Program -

1/877-700-FAIR or 515/289-4533

- Preventative Practices training
- **Expressed Consent:** Giving up rights or property at the request of another is usually done by express consent: “I do” or “yes” in response to the question, “will you?” To be valid, and binding, consent must always be informed. Information about options and the possible effect of refusal must be communicated at the time of the question.
- **Implied Consent:** Whenever circumstances require a quicker exchange between the requester and the consentor, information may be made available to everybody at the same time - usually in a statute or a general notice. Then if the person acts in a certain way, after seeing this information and being given a choice, consent is presumed or implied from that conduct.

For instance, driving in Iowa is a privilege which implies consent to an alcohol breathalyzer test if suspected of drunk driving. Flying in a commercial airplane implies consent to a pre-boarding search of baggage. The driver or the passenger is free to say no, but the privilege to drive or fly, will then be revoked.

- The following may be legal guardians of the child and are entitled to information about the child:
  - the biological parent(s) or adoptive parent(s)
  - the Iowa Department of Human Services
  - other named guardian(s)
- The Iowa Department of Human Services is the legal custodian of children placed in foster care and is entitled to information about those children.
- The following have a professional relationship with the child and may have the need to obtain information about the child:
  - the child’s foster care worker(s)
  - a physician or mental health practitioner (this includes mid-levels

- such as physician assistants and nurse practitioners)
  - the child's attorney/guardian ad litem/Court Appointed Special Advocate (CASA)/other attorneys that have standing in the case
  - the court
  - an agency providing services to the child or family
  - the Foster Care Review Board (FCRB)
- 
- The following individuals may have a close personal or professional relationship with the child, the biological family, or with you personally, but do **NOT** have the right to obtain information from foster parents unless there is a release of information:
    - extended members of the foster family
    - extended members of the biological or adoptive family
    - teachers, coaches, and other school officials
    - clergy
    - members of the community
    - support group members
    - law enforcement officers

Iowa Foster and Adoptive Parents Association

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