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TITLE 395 CHILDREN AND FAMILY SERVICES: PROTECTION AND SAFETY

CHAPTER 2 DISCLOSURE OF INFORMANTION

001. DEFINITIONS. The following definitions apply:

001.01 NONIDENTIFYING INFORMATION. The descriptive social, educational, medical, and demographic details about an adopted person and the adopted person's birth relatives, excluding any information which might reveal the identity of the birth relatives.

001.02 LEGAL GUARDIAN. Legal guardian has the same meaning as guardian in Neb. Rev. Stat. § 30-2209

002. CONFIDENTIALITY AND RELEASE OF INFORMATION. Information will be provided based on the individual's need to know and the individual's involvement with the child or family.

002.01 RELEASE OF INFORMATION WITHIN THE DEPARTMENT. Information shared within the Department does not require a signed release.

002.02 RELEASE OF INFORMATION TO LAW ENFORCEMENT. All reports regarding child abuse or neglect will be released to the appropriate law enforcement agency. The name and identity of the reporting party will be released to the investigating law enforcement agency. The name and identity of the reporting party will be released to the county attorney upon request. When the Attorney General's Office is assessing a case for prosecution or preparing to prosecute a criminal case, the name of the reporting party will be released to them upon request.

The Department will not release the name of the reporting party to anyone other than law enforcement, the county attorney, or Attorney General's Office.

002.03 RELEASE OF INFORMATION REGARDING STATE WARDS. Once a child is placed in the custody of the Department, parental consent for release of information about the child is no longer required, and the Department will authorize the release of information related solely to the child when it is determined by the Department to be in the child's best interest. Information related to the report of child abuse or neglect will be released in accordance with 395 Nebraska Administrative Code (NAC) Chapter 3.

002.04 FORMER WARD INFORMATION REQUESTS. The Department will release information regarding the former ward upon written request from the former ward or his or her legal guardian. Information solely regarding other family members will not be provided. If the

former ward was adopted, the Department will not release any information identifying the birth family.

002.05 ADOPTION INFORMATION REQUESTS. Once an adoption decree has been issued by the court and the case is closed, the Department file is closed. Birth family identity will be kept confidential and only be released as permitted by law.

002.06 FORMER WARD ADOPTEE REQUESTS FOR NON-IDENTIFYING INFORMATION. The Department will release nonidentifying child welfare case record information when a written request is received from a former ward adoptee who has reached the age of majority or from the former ward adoptee's adoptive parents.

002.07 BRIDGE TO INDEPENDENCE PROGRAM REQUESTS FOR INFORMATION. The Department will release information regarding the Young Adult upon written request from the Young Adult or his or her legal guardian.

003. CONFIDENTIALITY AND DISCLOSURE OF CHILD ABUSE AND NEGLECT CENTRAL REGISTRY INFORMATION.

003.01 CONFIDENTIALITY. Information pertaining to or stemming from contacts, interviews, assessments, and allegation findings related to a report of child abuse or neglect is confidential and will not be released to any person except as authorized by state law or when ordered by a court of competent jurisdiction.

003.02 PERSONS OR AGENCIES ALLOWED ACCESS TO RECORDS. The Department will provide copies of the appropriate Central Registry records to any person legally authorized under Nebraska law. Such request will be in writing, dated, signed, with proof of identity and will identify the person's authority to receive such records.

003.03 FORMAT OF REQUEST. The request must be submitted utilizing the Department approved form and must describe with sufficient detail the information sought.

003.04 REQUEST BY OR ON BEHALF OF A CHILD WHO IS THE SUBJECT OF A REPORT OF CHILD ABUSE OR NEGLECT. Upon written request, a subject of the report of child abuse or neglect or, if such subject is a minor or otherwise legally incompetent, the legal guardian or guardian ad litem of the subject, is entitled to receive a copy of all information contained in the Central Registry pertaining to his or her case. Proof of guardianship must be provided by the legal guardian.

The Department cannot provide all information contained in the Central Registry to a third party in lieu of the individual authorized to receive the information. The Department will provide the requested information directly to the person whose name appears on the Central Registry.

The Department will not release information that it determines to be harmful or detrimental to a child who is the subject of the report or that would identify or locate a person who, in good faith, made a report or cooperated in a subsequent investigation.

003.05 SUMMARY OF FINDINGS AND ACTIONS. Upon request, a physician or the person in charge of an institution, school, facility, or agency making a legally mandated report of child abuse or neglect will receive a written summary of the findings and actions taken by the Department in response to such report. The summary will contain the following information:

1) Date of the report;
2) Name of the alleged victim(s);
3) Name of the alleged perpetrator(s);
4) Allegation(s); and
5) Whether the report was unfounded or substantiated.

003.05(A) SUBSTANTIATED REPORTS. If the report is substantiated, the summary may include a description of services offered and provided by the Department.

003.05(B) SUBSTANCE EXPOSED INFANTS. If a report made by a hospital or other medical facility includes information that a newborn infant has been affected by substance use, withdrawal symptoms from prenatal drug exposure or fetal alcohol spectrum disorder, the summary provided by the Department may include any additional information the Department deems necessary for the development of a plan of safe care for the child.

003.06 CHILD ABUSE AND NEGLECT CENTRAL REGISTRY CHECKS.

003.06(A) REQUIREMENTS. Central Registry checks must be requested utilizing a process approved by the Department. The individual must use the Central Registry request check form or provide the following information: individual's name, current address, date of birth, social security number, the names of any children with whom the subject resided, all names the individual may have had or used, and former addresses (minimum of city and state).

003.06(A)(i) CENTRAL REGISTRY CHECK DEFINED. A Central Registry check is a review of the child abuse and neglect Central Registry, a review of the adult abuse and neglect Central Registry or a review of both registries. The individual authorizing the Central Registry request check must identify which review is being authorized.

003.06(B) AUTHORIZATION. A Central Registry check will not be performed on an individual's name without the Department first having the authorization of the individual, unless otherwise provided for in the Nebraska Revised Statutes.

003.06(B)(ii) VERIFICATION OF IDENTITY. Every Central Registry request must include verification of the identity of the person authorizing the Central Registry request. The Central Registry request check form must be notarized or the individual must use the Department approved identity proofing process. Any Central Registry request made by or on behalf of an individual under the age of 19, must have the minor child's parent or legal guardian's identity verified.

003.06(C) SELF CHECKS. Individuals may request a Central Registry check by completing and submitting the Central Registry request check form. The Central Registry request must include verification of the identity of the individual.

003.06(D) CENTRAL REGISTRY CHECKS. Individuals who want to authorize a Central Registry check and have the results of the check sent directly to a third party must complete and submit the Central Registry request check form that identifies the third party with whom the results may be shared. The Central Registry request check form must include verification of the identity of the individual authorizing the check.

003.06(D)(i) Third parties must enroll with the Department in order to receive the results of a Central Registry check.

003.06(E) RELEASING RESULTS. Information is released from the Central Registry only when a signed authorization to release information is obtained from the individual who is the subject of the Central Registry check.

004. CENTRAL REGISTRY CHECK FEE.

004.01 FEES.

004.01(A) PAYMENT. A fee of $2.50 shall be charged to the requestors of a Central Registry check for processing and issuing the results. A Central Registry check will not be processed until the fees assessed by the Department have been paid. All payments shall be made payable to the State of Nebraska. Cash payments will not be accepted and any cash received will be returned to the sender.

Central Registry fees shall apply without regard to whether Central Registry check results are issued. Requests where applicant information is incomplete or applicant information conflicts with Department information will result in the request being returned to the individual or organization without a refund of the fee.

All fees collected pursuant to this section shall be deposited to the State Treasurer for credit to the Health and Human Services Cash Fund.

004.02. UNDUE HARDSHIP.

004.02(A) ELIGIBILITY. Waivers granted by the Department based on undue hardship are intended to ensure that individuals can obtain the results of a Central Registry check and not be inconvenienced economically. An undue hardship waiver is not available to organizations, businesses, or agencies.

004.02(B) CRITERIA. Any of the following circumstances may constitute an undue hardship and may result in a waiver of the Central Registry fee:

1. The applicant is currently receiving Temporary Cash Assistance for Needy Families (TANF), Supplemental Nutrition Assistance Program (SNAP), Assistance to the Aged, Blind or Disabled (AABD), or Medicaid benefits; or
2. The applicant has recently experienced an event including but not limited to fire, illness, accident, or job loss that has resulted in a significant financial difficulty.

004.03 APPLICATION AND REVIEW PROCESS. A waiver shall only be available to an individual. The individual must apply for a waiver in writing prior to a request being made through the Central Registry process. The written application must include a statement of the individual's resources, a signed release granting permission for the Department to review records relating to the applicant's Department-administered public assistance benefits, and a statement of why an undue hardship waiver should be granted. The Department may require additional verification of any information included in the waiver application.

004.04 APPEAL. If the waiver request is denied the individual may appeal by submitting a written request for a hearing to the Department's Hearing Office within 90 days of the date the letter denying the request. Administrative hearings will be carried out in accordance with the Administrative Procedure Act §84-901 et seq. and 465 NAC 6.