
MEMORANDUM

TO: File
FROM: Edward Opton
DATE: January 29, 2009
RE: S.B. 39 – 1.29.09 – How to Obtain Child Fatality Documents

Here is a first draft of proposed text for a page that I propose for the S.B. 39 section of NCYL's website. Proposed hyperlinked terms appear in **bold**.

HOW TO OBTAIN CHILD FATALITY DOCUMENTS

If you are thinking of requesting child fatality documents, you may want to read **WHY CHILD FATALITY DOCUMENTS ARE IMPORTANT** and **HOW TO INTERPRET CHILD FATALITY DOCUMENTS**

S.B. 39 requires government agencies to provide copies of three types of documents concerning children who may have died as the result of abuse or neglect:

1. SOC 826 Reports
2. Child Protective Services ("CPS") Files
3. Juvenile Case Files

Important exceptions to the obligation to release documents are noted **here**.

Stage 1: SOC 826 Reports

The State of California 826 form ("**SOC 826**") is a one-page report from a county to the California Department of Social Services ("DCSS") that identifies a child fatality or near-fatality that was caused, or may have been caused, by abuse or neglect. Counties should file at least two SOC 826 forms for each fatality or near-fatality: an initial form within five days, and a follow-up report when the county has decided that abuse/neglect was or was not a cause of the incident. (**Welfare & Inst. Code, § 10850.4(a).**)

A request for SOC 826 forms may be addressed to a county's custodian of records or to the DCSS in Sacramento. However, the DCSS is at present **refusing** [hyperlink to copy

of DCSS letter] to provide SOC 826 forms. NCYL believes the DCSS refusal is based on a mistaken interpretation of the statute.

You may get a more timely response if you address your request letter to the director of the county social services agency. **Here** is an example of a request letter.

You may want to ask for SOC 826 reports if: (1) you do not yet have enough information to request a particular CPS case file, i.e., you do not know the date of death or the child's name, age, or gender; (2) you want to determine how many children in the county may have died from abuse or neglect.

Stage 2: CPS Case Files

To request copies of CPS case files, send a letter such as **this**. To identify the file you are seeking, include identifying information such as the date of the incident, the date of death (if different), and the child's name, gender, and age. If the child died in one county but was subject to the jurisdiction of another county, send a request letter to the director of each county's CPS agency.

Stage 3: Juvenile Case Files

You may request more complete files, including but not limited to CPS files, by petition to the Superior Court. For exemplars of pleadings, please contact Edward Opton (copton@youthlaw.org or 510-835-8098, ext. 3014).

The complete juvenile case file should include:

- “(1) All documents filed in a juvenile court case;
- (2) Reports to the court by probation officers, social workers of child welfare services programs, and CASA volunteers;
- (3) Documents made available to probation officers, social workers of child welfare services programs, and CASA volunteers in preparation of reports to the court;

- (4) Documents relating to a child concerning whom a petition has been filed in juvenile court that are maintained in the office files of probation officers, social workers of child welfare services programs, and CASA volunteers;
- (5) Transcripts, records, or reports relating to matters prepared or released by the court, probation department, or child welfare services program; and
- (6) Documents, video or audio tapes, photographs, and exhibits admitted into evidence at juvenile court hearings.” (**Calif. Rules of Court, Sec. 5.552(a)**; see **Welfare & Inst. Code, Sec. 10850.4(1)(3).**)

In addition, the “juvenile case file” includes “any county child welfare department or agency or State Department of Social Services records regardless of whether they are maintained electronically or in paper form.” (**Welfare & Inst. Code, Sec. 10850.4(1)(3).**)