



The Harm of a National Child Abuse and Neglect Registry: Recommendations for the Stronger Child Abuse Prevention and Treatment Act

H.R.485, the Stronger Child Abuse Prevention and Treatment Act (Section 115) encourages states to develop an Electronic Interstate Data Exchange System. This system will, in effect, create a national registry of parents and caregivers accused of child abuse and neglect.

The harm to children and families of our current child abuse registry approach has been described in two recent reports by Texas Public Policy Foundation and Community Legal Services of Philadelphia.¹ Across the country, child abuse registries inflict lifelong harms on parents and caregivers with minimal oversight or due process. Families living in poverty and families of color are disproportionately likely to experience the harms of the registry, and because child abuse registries severely limit employment opportunities for parents and caregivers, registries drive and exacerbate child and family poverty.

A few common problems with child abuse registries include:

- **Vague, inconsistent definitions that mistake poverty for abuse or neglect.** Minor forms of neglect have resulted in lifetime registry in some states, including, for example, brief lack of supervision while a parent runs an errand or substance use such as cannabis that had no demonstrated harm. A national registry will exacerbate punitive practices against already disproportionately targeted communities.
- **A lack of neutral fact-finding.** A person doesn't have to be convicted or even charged with a crime to get listed. A name can be added to the registry for years, or even for life, *simply on the word of a child welfare investigator.*
- **Limited to nonexistent due process.** Few states offer parents and caregivers the opportunity for a hearing before a neutral arbiter prior to being placed on the registry. Even when these listings can be appealed, it can take months or even years for a name to be removed from a registry, and parents and caregivers are left to navigate confusing appellate processes, often without access to counsel.
- **Driving families deeper into poverty.** Registries are used by employers to screen applicants for a broad and growing number of employment opportunities, including health care, home health care, education and childcare. Critically, the caregiving jobs that low-income women and women of color rely on to stabilize their families and rise out of poverty are the very jobs from which they are most likely to be barred once they are placed on the registry. Worse, in many states, the consequences are lifelong. In others, the consequences last decades.

Recommendations

A National Registry will exacerbate the harms of our current child abuse registry system. We therefore recommend the following:

Remove Section 115 and its Reference in Section 111. Congress explored the possibility of a national registry under the 2006 Adam Walsh Act, but efforts stalled after an interim report from HHS exposed

¹ The Blacklist: Central Registry Reform is Needed to Protect Kids and Promote Prosperity, <https://www.texaspolicy.com/press/the-blacklist-central-registry-reform-is-needed-to-protect-kids-and-promote-prosperity>; Reform the Child Abuse Registry System in Pennsylvania, <https://clsphila.org/family/pa-child-abuse-registry/>

serious problems with this approach.² The report suggested that a national registry could be plagued by “false positives” affecting innocent people sharing a name with a perpetrator. It also said that “due process protections could necessitate significant changes to CPS investigation processes in some states that could be costly to implement and may discourage participation in a national registry.” Nothing has changed since this report.

If Section 115 remains, we recommend the following amendments:

Clarify the Meaning of Due Process:

Amend Section 115 (a)(6)(B) as follows: “prior to the participation described in subparagraph (A), provide to the Secretary of Health and Human Services an assurance that the child abuse and neglect registry of such State provides for registry of reasonable duration in relation to the specific allegation against the person named and provides procedural due process protections, for those at risk of being placed on a registry, including: timely written notice; the opportunity for an evidentiary hearing before a neutral arbiter prior to being placed on the registry; a swift, fair and efficient appeals process; and free legal representation to indigent accused.

Limit the Economic Harms of the Registry:

Amend Section 115(a)(3) as follows: “(3) LIMITATION ON USE OF ELECTRONIC INTERSTATE DATA EXCHANGE SYSTEM.—The electronic interstate data exchange system may only be used for purposes relating to child safety, and information from the electronic interstate data exchange system may not be shared publicly or with potential employers, licensing authorities or educational institutions.

Include those with Lived Experience and Expertise in the Harms of the Registry in the Working Group:

Amend 115(b)(1) as follows: “(1) IN GENERAL.—Not later than 60 days after the date of the enactment of this section, the Secretary of Health and Human Services shall convene a working group, which shall include parents with lived experience of the child abuse registry, and advocates who represent such parents in child abuse proceedings, to study and make recommendations on the following:

Ensure the Working Group’s Recommendations are Meaningful:

Amend 115 (b)(3) as follows: (3) CONSTRUCTION.—There shall be no requirement for any State to adopt the recommendations of the working group, nor shall the Secretary of Health and Human Services incentivize or coerce any State to adopt any such recommendation. However, any state declining to adopt the recommendations of the working group may not participate in an Electronic Interstate Data Exchange.

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² U.S. Department of Health & Human Services, Office of the Assistant Secretary for Planning and Evaluation (2009), Interim Report to the Congress on the Feasibility of a National Child Abuse Registry