

Resolution 20
In Support of State Option for Public Access Policy In Child Abuse and Neglect Cases

WHEREAS, the Children's Bureau of the Department of Health and Human Services has interpreted the federal confidentiality requirements in Titles IV-B and IV-E of the Social Security Act and in the Child Abuse Prevention and Treatment Act (CAPTA) to prohibit any public access to court hearings and court records related to child abuse and neglect cases, and enforcement of the Children's Bureau's interpretation would jeopardize federal child welfare funding in a significant number of states; and

WHEREAS, states have taken different approaches in the degree and circumstances to which the public is allowed access to court proceedings and court records related to child abuse and neglect cases; and

WHEREAS, the Conference recognizes the need to balance the value of protecting the confidentiality and privacy of children who are alleged to have been abused or neglected and the value of public accountability; and

WHEREAS, the balance between the value of protecting confidentiality and the value of accountability should be determined within each state by state policy officials; and

WHEREAS, the Conference believes the above-referenced federal statutes could be interpreted to allow states the flexibility to determine their own policies related to public access in child abuse and neglect cases;

NOW, THEREFORE, BE IT RESOLVED, that the Conference urges Congress to allow states the flexibility to determine their own policies on public access to court proceedings and court records.

Adopted as proposed by the Courts, Children and Family Committee of the Conference of Chief Justices in Baltimore, Maryland at the 24th Midyear Meeting on January 25, 2001.