

# CACs and Immunity from Civil Liability



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**Civil Liability** is the potential responsibility one may have, by order of a court to compensate another for damages or other court enforcement in a lawsuit.

## Federal Immunity

The Victims of Child Abuse Act (VOCAA) of 1990 reads:

*All persons who, acting in good faith, make a report... or otherwise provide information or assistance in connection with a report, investigation, or legal intervention pursuant to a report, shall be immune from civil liability arising out of such actions. There shall be a presumption that any such persons acted in good faith.*

Despite this provision in VOCAA, a 2013 report to Congress from the U.S. Department of Health and Human Services found it to be a critical issue to provide "stronger protection to allow professionals to work on child maltreatment cases without fear of being sued for providing assistance to vulnerable children."

Governmental employees enjoy protections afforded by the "Qualified Immunity" doctrine, as established by the U.S. Supreme Court, which is designed to shield government officials from liability so long as their actions are within the scope of their duties and do not violate known laws or a person's constitutional rights. Most, though not all, members of Multidisciplinary Teams are governmental employees.

## State Immunity

All 50 states have adopted laws, as encouraged by CAPTA grant requirements, to protect both mandatory and voluntary reporters of suspected or known child abuse, so long as the reporter is acting in good faith.

Immunity from Civil Liability is often granted to many, but not all, of those working to provide justice and healing to child victims of abuse. Typically, those left out are the employees of Children's Advocacy Centers.

Less than half of the states have adopted laws granting immunity to persons participating in investigations and only four have granted specific immunity to employees of CACs.

While several states have adopted laws protecting all members of MDTs, Child Protection Teams, and/or employees of CACs, many more have not. As a result, there have been instances where an alleged perpetrator, acquitted at trial, has filed a civil suit against individual employees of CACs and CACs as organizations.

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## State Civil Immunity Laws for CACs and Child Abuse Investigators

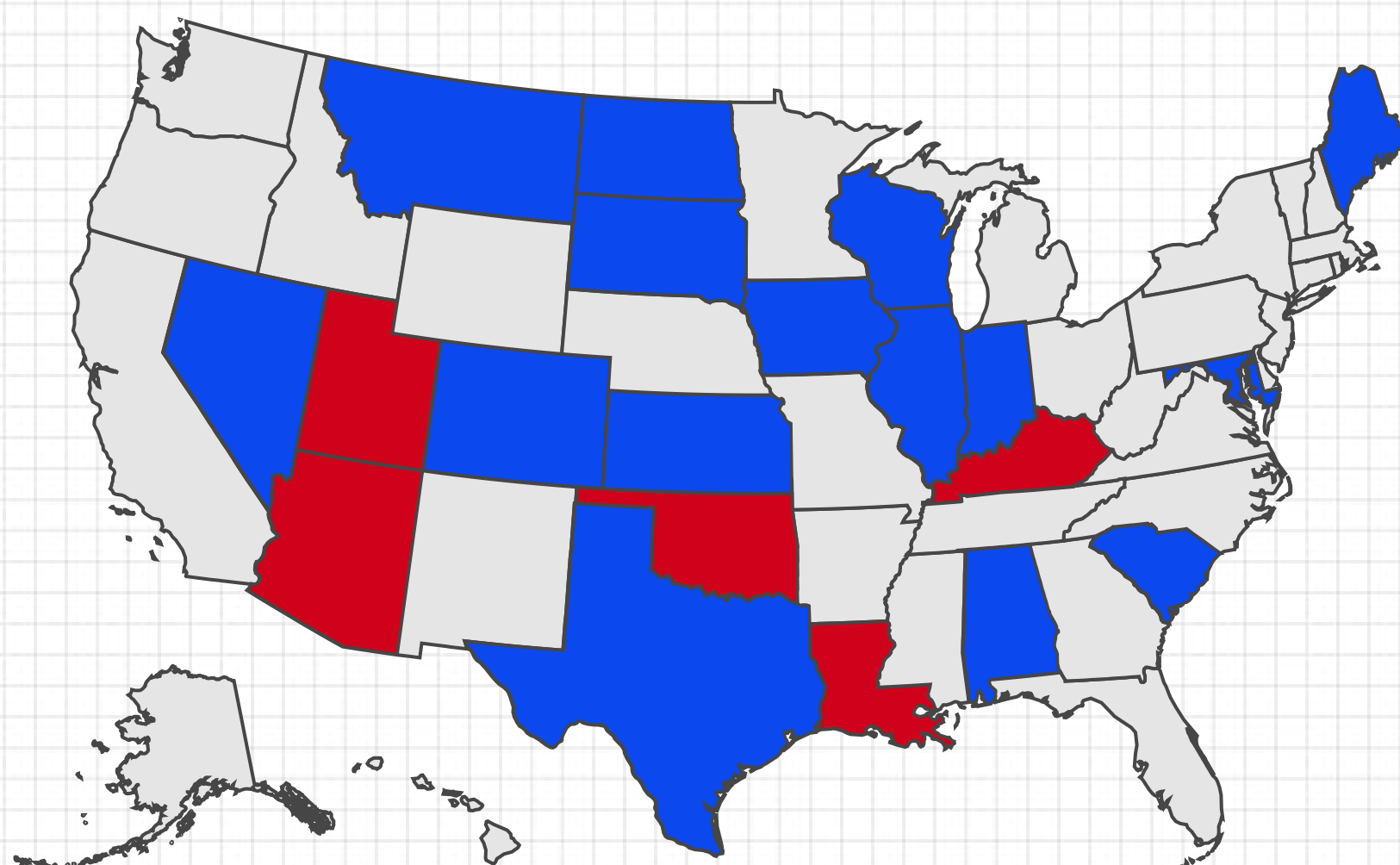


Immunity for persons participating in an investigation



Specific Immunity for employees of CACs or MDTs

*While every attempt has been made to gather complete information, additional provisions may be scattered through a state's code, agency regulations, or case law.*





# Examples of State Statutes that Provide Immunity for Employees of CACs

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## **Kentucky**

Rev. Stat. 620.050(1)-(2)

Any employee or designated agent of a children's Advocacy center shall be immune from any civil liability arising from performance within the scope of the person's duties... any such person shall have the same immunity with respect to participation in any judicial proceeding. Nothing in this subsection shall limit liability for negligence. Upon the request of an employee or designated agent of a children's advocacy center, the Attorney General shall provide for the defense of any civil action brought against the employee or designated agent.

## **Oklahoma**

Ann.Stat.Tit.10A,1-2-104

...A child advocacy center that is accredited by the National Children's Alliance, and the employees thereof, who are acting in good faith and exercising due care shall have immunity from civil liability that may be incurred or imposed through participation in the investigation process and any judicial proceedings resulting from the investigation process.

## **Louisiana**

Art.514

In the consideration of any child abuse case, a member of a multidisciplinary team shall not be liable for civil damages while acting in the official scope of his duties if the member, in good faith, refers a report of alleged child abuse for investigation, conducts an investigation, makes an investigation judgement or disposition, or releases or uses information for the purpose of protecting a child.

The limitation of civil liability... does not apply if a multidisciplinary team member acts with gross negligence or in bad faith.

## **Arizona**

ARS Title 8, Chapter 4, Article 1 8-466 B (Adopted 5/2/17)

An employee or designated agent of a child and family advocacy center that meets the requirements of subsection A of this section is immune from any civil liability that arises from the employee's or designated agent's participation in the investigation process and services provided by the child and family advocacy center unless the employee or designated agent acted with malice or has been charged with or is suspected of abusing or neglecting the child who is the subject of the investigation or services provided. The subsection does not displace or limit any other immunity provided by law.

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## **Next Steps**

Immunity from prosecution and civil liability is an important issue for professionals involved in the response to allegations of child abuse and neglect. The fear of potential litigation can, in some cases, hinder an investigator's ability to make difficult decisions surrounding a case. While some protections exist in federal law, state and local laws, states should work to strengthen these protections expressly providing immunity to employees of Children's Advocacy Centers and Multidisciplinary teams.