

## **CONFIDENTIALITY AND STATE LAWS**

The following state statutes preempt HIPAA because they have more stringent requirements for legally disclosing identifiable health information:

### **I. Mental Health and Developmental Disabilities/Mental Retardation Services**

- A. T.C.A. § 33-3-103 **Confidentiality of mental health records.**
- B. T.C.A. § 33-3-104 **Persons who may consent to disclosure of confidential information.**
- C. T.C.A. § 33-3-105 **Disclosure of confidential information without consent.**
- D. T.C.A. § 33-3-106 **Disclosure to advocacy agency – Disclosure to organization paying for treatment – Limitations.**
- E. T.C.A. § 33-3-107 **Rules relating to disclosure of confidential information.**
- F. T.C.A. § 33-3-108 **Access permitted for reports of harm and granting of access in cases of abuse.**
- G. T.C.A. § 33-3-109 **Adjudications of competence not confidential records and must be kept separate.**
- H. T.C.A. § 33-3-110 **Disclosure to law enforcement agencies in cases of felony acts of bodily harm or sexual abuse.**
- I. T.C.A. § 33-3-111 **Records of child service recipient not available to person accused of abusing recipient – Exceptions and limitations.**
- J. T.C.A. § 33-3-112 **Disclosure to service recipient of records kept and procedures for accessing records.**
- K. T.C.A. § 33-3-113 **Request by recipient to have record amended.**
- L. T.C.A. § 33-3-114 **Exceptions to evidentiary privilege of mental health professionals.**
- M. T.C.A. § 33-8-202 **Rights of a Child sixteen (16) years of age or older.**

## **II. Tennessee Compilation of Selected Laws on Children, Youth and Families**

- A. T.C.A. § 36-1-125 **Confidentiality of Records- Penalties for Unauthorized disclosure- Protected orders.**
- B. T.C.A. § 36-1-126 **Record kept under seal – Confidential records – Access to certain records – Preservation of Records.**
- C. T.C.A. § 37-1-153 **Court files and records – Inspection limited – Exceptions for certain violent offenders – Confidentiality.**
- D. T.C.A. § 37-1-154 **Law enforcement records – Inspection limited – Exceptions for certain violent offenders.**
- E.. T.C.A. § 37-1-155 **Fingerprints and photographs – Use – When destroyed.**
- F. T.C.A. § 37-1-409 **Reports confidential – Penalty for violation – Authorized access to information.**
- G. T.C.A. § 37-1-612 **Confidentiality of records and reports – Violations – Access to records – Confirmation of investigation – Anonymity of abuse reporters.**
- H. T.C.A. § 37-2-408 **Confidentiality of plans and records.**
- I. T.C.A. § 37-2-411 **Annual report on foster care – Confidentiality of report – Injunction and action for damages.**
- J. T.C.A. § 37-5-107 **Confidentiality of records.**
- K. T.C.A. § 49-6-3051 **Parental or guardian notice to school of child’s criminal offenses.**