

# State sued over info on foster care deaths

**SAN DIEGO** — A lawsuit filed Wednesday by a prominent child advocacy group in San Diego contends the California Department of Social Services has fashioned new regulations that thwart a state law requiring counties to divulge more information about children in the child welfare system who die from abuse or neglect.

The lawsuit, filed in San Diego Superior Court, argues that several regulations the department adopted to comply with a state law passed in 2007 will actually result in less information being released about child deaths.

Child advocates say the issue is key because more public information about the circumstances surrounding child fatalities can lead to improvements in the care of children and reforms in the child welfare system.

“Knowledge is power,” said Robert C. Fellmeth, executive director of the Children’s Advocacy Institute at the University of San Diego School of Law. “This kind of information gives us leads on what we need to do to prevent child deaths in the future.”

Oscar Ramirez, a spokesman for the Department of Social Services, declined to comment to the suit, citing an agency policy that prevents commenting on pending litigation.

Fellmeth's group conceived and pushed for the successful adoption of the law, known as SB 39. Previously, almost all information about the deaths of children who had come in contact with the child welfare system were confidential.

The new law laid out a three-step disclosure process that broadens the information that can be released. That included, for example, reports of any previous contact with child welfare officials and information about the licensing history of a foster care home if the child died or was injured while in that kind of care.

The lawsuit contends that some of the rules the social services agency drew up for counties to implement the law do not comply with the goal of releasing more information. One rule says information can be released only if the agency determines the injuries were caused by a parent, guardian or foster parent in the home the child was living in at the time.

The law has no such conditions, Fellmeth said. The regulation means that no information would be released if the injuries were caused by live-in boyfriends, grandparents or others, he said.

Another regulation targeted in the suit says information would not be disclosed if a child dies or was injured in a day care facility that is not in a home. Again, Fellmeth said, the law did not contain any such distinction.

The suit also identified two other regulations, one that requires local law enforcement to be consulted before any documents are released, and another that says information can only be released if the medical examiner concludes the immediate cause of death was abuse or neglect.

That would rule out disclosure cases where children who are malnourished and neglected for a lengthy period of time die for some other reason identified by the medical examiner.

The plaintiff in the suit is Robert Butterfield, a founding board member of the child advocacy group Promises2Kids, which used to be called the Child Abuse Prevention Foundation of San Diego. The suit asks the court to strike out the rules.

Fellmeth said child advocates have tried to negotiate with the Department of Social Services to modify the regulations but were not successful in changing the four identified in the suit.