



## **California Codes Welfare and Institution Code**

### **Section 10850-10853**

**10850.** (a) Except as otherwise provided in this section, all applications and records concerning any individual made or kept by any public officer or agency in connection with the administration of any provision of this code relating to any form of public social services for which grants-in-aid are received by this state from the United States government shall be confidential, and shall not be open to examination for any purpose not directly connected with the administration of that program, or any investigation, prosecution, or criminal or civil proceeding conducted in connection with the administration of that program. The disclosure of any information that identifies by name or address any applicant for or recipient of these grants-in-aid to any committee or legislative body is prohibited, except as provided in subdivision (b).

(b) Except as otherwise provided in this section, no person shall publish or disclose or permit or cause to be published or disclosed any list of persons receiving public social services. Any county welfare department in this state may release lists of applicants for, or recipients of, public social services, to any other county welfare department or the State Department of Social Services, and these lists or any other records shall be released when requested by any county welfare department or the State Department of Social Services. These lists or other records shall only be used for purposes directly connected with the administration of public social services. Except for those purposes, no person shall publish, disclose, or use or permit or cause to be published, disclosed, or used any confidential information pertaining to an applicant or recipient.

(c) Any county welfare department and the State Department of Social Services shall provide any governmental entity that is authorized by law to conduct an audit or similar activity in connection with the administration of public social services, including any committee or legislative body so authorized, with access to any public social service applications and records described in subdivision (a) to the extent of the authorization. Those committees, legislative bodies, and other entities may only request or use these records for the purpose of investigating the administration of public social services, and shall not disclose the identity of any applicant or recipient except in the case of a criminal or civil proceeding conducted in connection with the administration of public social services.

(d) This section shall not prohibit the furnishing of this information to other public agencies to the extent required for verifying eligibility or for other purposes directly connected with the administration of public social services, or to county superintendents of schools or superintendents of school districts only as necessary for the administration of federally assisted programs providing assistance in cash or in-kind or services directly to individuals on the basis of need. Any person knowingly and intentionally violating this subdivision is guilty of a misdemeanor.

(e) In the context of a petition for the appointment of a conservator for a person who is receiving or has received aid from a public agency, as indicated above, or in the context of a criminal prosecution for a violation of Section 368 of the Penal Code both of the following shall apply:



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(1) An adult protective services employee or ombudsman may answer truthfully at any proceeding related to the petition or prosecution, when asked if he or she is aware of information that he or she believes is related to the legal mental capacity of that aid recipient or the need for a conservatorship for that aid recipient. If the adult protective services employee or ombudsman states that he or she is aware of such information, the court may order the adult protective services employee or ombudsman to testify about his or her observations and to disclose all relevant agency records.

(2) The court may order the adult protective services employee or ombudsman to testify about his or her observations and to disclose any relevant agency records if the court has other independent reason to believe that the adult protective services employee or ombudsman has information that would facilitate the resolution of the matter.

(f) The State Department of Social Services may make rules and regulations governing the custody, use, and preservation of all records, papers, files, and communications pertaining to the administration of the laws relating to public social services under their jurisdiction. The rules and regulations shall be binding on all departments, officials and employees of the state, or of any political subdivision of the state and may provide for giving information to or exchanging information with agencies, public or political subdivisions of the state, and may provide for giving information to or exchanging information with agencies, public or private, that are engaged in planning, providing, or securing social services for or on behalf of recipients or applicants; and for making case records available for research purposes, provided that making these case records available will not result in the disclosure of the identity of applicants for or recipients of public social services and will not disclose any personal information in a manner that would link the information disclosed to the individual to whom it pertains, unless the department has complied with subdivision (t) of Section 1798.24 of the Civil Code.

(g) Any person, including every public officer and employee, who knowingly secures or possesses, other than in the course of official duty, an official list or a list compiled from official sources, published or disclosed in violation of this section, of persons who have applied for or who have been granted any form of public social services for which state or federal funds are made available to the counties is guilty of a misdemeanor.

(h) This section shall not be construed to prohibit an employee of a county welfare department from disclosing confidential information concerning a public social services applicant or recipient to a state or local law enforcement agency investigating or gathering information regarding a criminal act committed in a welfare department office, a criminal act against any county or state welfare worker, or any criminal act witnessed by any county or state welfare worker while involved in the administration of public social services at any location. Further, this section shall not be construed to prohibit an employee of a county welfare department from disclosing confidential information concerning a public social services applicant or recipient to a state or local law enforcement agency investigating or gathering information regarding a criminal act intentionally committed by the applicant or recipient against any off-duty county or state welfare worker in retaliation for an act performed in the course of the welfare worker's duty when the person



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committing the offense knows or reasonably should know that the victim is a state or county welfare worker. These criminal acts shall include only those that are in violation of state or local law. Disclosure of confidential information pursuant to this subdivision shall be limited to the applicant's or recipient's name, physical description, and address.

(i) The provisions of this section shall be operative only to the extent permitted by federal law and shall not apply to, but exclude, Chapter 7 (commencing with Section 14000) and Chapter 8 (commencing with Section 14200) of this division, and for which a grant-in-aid is received by this state from the United States government pursuant to Title XIX of the federal Social Security Act (42 U.S.C. Sec. 1396 et seq.).

(j) (1) Public social services, as defined in Section 10051, includes publicly funded health care services administered or supervised by the department or the State Department of Health Care Services, except that, as used in this section, it does not include the Medi-Cal program. This subdivision does not affect or alter the exclusions contained in subdivision (i) or the confidentiality provisions contained in Section 14100.2.

(2) This subdivision clarifies existing law.

**10850.1.** (a) Notwithstanding any other provision of law, for purposes of Section 10850, the activities of a multidisciplinary personnel team engaged in the prevention, identification, management, or treatment of child abuse or neglect, or of the abuse of elder or dependent persons are activities performed in the administration of public social services, and a member of the team may disclose and exchange any information or writing that also is kept or maintained in connection with any program of public social services or otherwise designated as confidential under state law which he or she reasonably believes is relevant to the prevention, identification, management, or treatment of child abuse or neglect, or of the abuse of elder or dependent persons to other members of the team. All discussions relative to the disclosure or exchange of any such information or writing during team meetings are confidential and, notwithstanding any other provision of law, testimony concerning any such discussion is not admissible in any criminal, civil, or juvenile court proceeding.

(b) As used in this section:

(1) "Child abuse" has the same meaning as defined in Section 15610.07.

(2) "Multidisciplinary personnel team" means a team as specified in Section 15610.55 relative to the abuse of elder or dependent persons or 18951 relative to child abuse or neglect.

**10850.2.** Notwithstanding the provisions of Section 10850, factual information relating to eligibility provided solely by the public assistance recipient contained in applications and records made or kept by any public officer or agency in connection with the administration of any public assistance program shall be open for inspection by the recipient to which the information relates and by any other person authorized in writing by such recipient. The written authorization shall be dated and signed by such recipient and shall expire one year from the date of execution. In the event of any hearing under the provisions of this division, the attorney or authorized representative of the applicant or recipient shall be



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entitled to inspect the case record relating to the applicant or recipient prior to, as well as during, the hearing.

No list or names obtained through such access to such records or applications as provided in this section shall be used for any commercial or political purposes.

**10850.3.** (a) Notwithstanding Section 10850, an authorized employee of a county welfare department may disclose confidential information concerning a public social services applicant or recipient to any law enforcement agency where a warrant has been issued for the arrest of the applicant or recipient for the commission of a felony or a misdemeanor. Information that may be released pursuant to this section shall be limited to the name, address, telephone number, birth date, social security number, and physical description of the applicant for, or recipient of, public social services.

(b) A county welfare department may release the information specified by this section to any law enforcement agency only upon a written request from the agency specifying that a warrant of arrest for the commission of a felony or misdemeanor has been issued against the applicant or recipient. This request may be made only by the head of the law enforcement agency, or by an employee of the agency so authorized and identified by name and title by the head of the agency in writing to the county welfare department. A county welfare department shall notify all applicants of public social services that release of confidential information from their records will not be protected if a felony or misdemeanor arrest warrant is issued against the applicant. A recipient of public social services shall be notified, at the time of renewal of his or her application for public social services, that a release of confidential information can be made if a felony or misdemeanor arrest warrant is issued against the recipient.

(c) This section shall not be construed to authorize the release of a general list identifying individuals applying for or receiving public social services.

(d) The provisions of this section shall be operative only to the extent permitted by federal law. The section shall not apply to, but shall exclude, the Medi-Cal program, established pursuant to Chapter 7 (commencing with Section 14000) and following.

**10850.31.** (a) For the CalWORKs program and CalFresh only, notwithstanding any other provision of law, the address, social security number, and, if available, photograph of any applicant or recipient shall be made available, on request, to any federal, state, or local law enforcement officer if the officer furnishes the county welfare department with the name of the applicant or recipient and notifies the county welfare department that the following apply:

(1) Any one of the following applies:

(A) The applicant or recipient is fleeing to avoid prosecution, custody, or confinement after conviction, for a crime that, under the law of the place the applicant is fleeing, is a felony, or, in the case of New Jersey, a high misdemeanor.

(B) The applicant or recipient is violating a condition of probation or parole imposed under state or federal law.

(C) The applicant or recipient has information that is necessary for the officer to conduct an official duty related to those issues stated in paragraph (1) or (2).



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(2) Locating or apprehending the applicant or recipient is an official duty of the law enforcement officer.

(3) The request is being made in the proper exercise of an official duty.

(b) This section shall not authorize the release of a general list identifying individuals applying for or receiving public social services under the CalWORKs program or CalFresh.

(c) This section shall be implemented only to the extent permitted by federal law.

**10850.4.** (a) Within five business days of learning that a child fatality has occurred in the county and that there is a reasonable suspicion that the fatality was caused by abuse or neglect, the custodian of records for the county child welfare agency, upon request, shall release the following information:

(1) The age and gender of the child.

(2) The date of death.

(3) Whether the child was in foster care or in the home of his or her parent or guardian at the time of death.

(4) Whether an investigation is being conducted by a law enforcement agency or the county child welfare agency.

(b) All cases in which abuse or neglect leads to a child's death shall be subject to the disclosures required in subdivision (c). Abuse or neglect is determined to have led to a child's death if one or more of the following conditions are met:

(1) A county child protective services agency determines that the abuse or neglect was substantiated.

(2) A law enforcement investigation concludes that abuse or neglect occurred.

(3) A coroner or medical examiner concludes that the child who died had suffered abuse or neglect.

(c) Upon completion of the child abuse or neglect investigation into the child's death, as described in subdivision (b), the following documents from the juvenile case file shall be released by the custodian of records upon request, subject to the redactions set forth in subdivision (e):

(1) All of the information in subdivision (a).

(2) For cases in which the child's death occurred while living with a parent or guardian, all previous referrals of abuse or neglect of the deceased child while living with that parent or guardian shall be disclosed along with the following documents:

(A) The emergency response referral information form and the emergency response notice of referral disposition form completed by the county child welfare agency relating to the abuse or neglect that caused the death of the child.

(B) Any cross reports completed by the county child welfare agency to law enforcement relating to the deceased child.

(C) All risk and safety assessments completed by the county child welfare services agency relating to the deceased child.

(D) All health care records of the deceased child, excluding mental health records, related to the child's death and previous injuries reflective of a pattern of abuse or neglect.

(E) Copies of police reports about the person against whom the child abuse or neglect was substantiated.

(3) For cases in which the child's death occurred while the child was in foster care, the following documents in addition to those



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specified in paragraphs (1) and (2) generated while the child was living in the foster care placement that was the placement at the time of the child's death:

(A) Records pertaining to the foster parents' initial licensing and renewals and type of license or licenses held, if in the case file.

(B) All reported licensing violations, including notices of action, if in the case file.

(C) Records of the training completed by the foster parents, if in the case file.

(d) The documents listed in subdivision (c) shall be released to the public by the custodian of records within 10 business days of the request or the disposition of the investigation, whichever is later.

(e) (1) Prior to releasing any document pursuant to subdivision (c), the custodian of records shall redact the following information:

(A) The names, addresses, telephone numbers, ethnicity, religion, or any other identifying information of any person or institution, other than the county or the State Department of Social Services, that is mentioned in the documents listed in paragraphs (2) and (3) of subdivision (c).

(B) Any information that would, after consultation with the district attorney, jeopardize a criminal investigation or proceeding.

(C) Any information that is privileged, confidential, or not subject to disclosure pursuant to any other state or federal law.

(2) (A) The State Department of Social Services shall promulgate a regulation listing the laws described in subparagraph (C) of paragraph (1) and setting forth standards governing redactions.

(B) Notwithstanding the rulemaking provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code), until emergency regulations are filed with the Secretary of State, the State Department of Social Services may implement the changes made to Section 827 and this section at the 2007-08 Regular Session of the Legislature through all-county letters or similar instructions from the director. The department shall adopt emergency regulations, as necessary to implement those changes, no later than January 1, 2009.

(C) The adoption of regulations pursuant to this paragraph shall be deemed to be an emergency necessary for the immediate preservation of the public peace, health, safety, or general welfare. The emergency regulations authorized by this section shall be exempt from review by the Office of Administrative Law. The emergency regulations authorized by this section shall be submitted for filing with the Secretary of State and shall remain in effect for no more than 180 days, by which time the final regulations shall be adopted.

(f) Upon receiving a request for the documents listed in subdivision (c), the custodian of records shall notify and provide a copy of the request upon counsel for any child who is directly or indirectly connected to the juvenile case file. If counsel for a child, including the deceased child or any sibling of the deceased child, objects to the release of any part of the documents listed in paragraphs (2) and (3) of subdivision (c), they may petition the juvenile court for relief to prevent the release of any document or part of a document requested pursuant to paragraph (2) of subdivision (a) of Section 827.

(g) Documents from the juvenile case file, other than those listed



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in paragraphs (2) and (3) of subdivision (c), shall only be disclosed upon an order by the juvenile court pursuant to Section 827.

(h) Once documents pursuant to this section have been released by the custodian of records, the State Department of Social Services or the county welfare department or agency may comment on the case within the scope of the release. If the county welfare department or agency comments publicly about the case within the scope of the release pursuant to this subdivision, the social worker on the case may also comment publicly about the case within the scope of the release.

(i) Information released by a custodian of records consistent with the requirements of this section does not require prior notice to any other individual.

(j) Each county welfare department or agency shall notify the State Department of Social Services of every child fatality that occurred within its jurisdiction that was the result of child abuse or neglect. Based on these notices and any other relevant information in the State Department of Social Services' possession, the department shall annually issue a report identifying the child fatalities and any systemic issues or patterns revealed by the notices and other relevant information. The State Department of Social Services, after consultation with interested stakeholders, shall provide instructions by an all-county letter regarding the procedure for notification.

(k) For purposes of this section, the following definitions apply:

(1) "Child abuse or neglect" has the same meaning as defined in Section 11165.6 of the Penal Code.

(2) "Custodian of records," for the purposes of this section and paragraph (2) of subdivision (a) of Section 827, means the county welfare department or agency.

(3) "Juvenile case files" or "case files" include any juvenile court files, as defined in Rule 5.552 of the California Rules of Court, and any county child welfare department or agency or State Department of Social Services records regardless of whether they are maintained electronically or in paper form.

(4) "Substantiated" has the same meaning as defined in Section 11165.12 of the Penal Code.

(1) A person disclosing juvenile case file information as required by this section shall not be subject to suit in civil or criminal proceedings for complying with the requirements of this section.

(m) This section shall apply only to deaths that occur on or after January 1, 2008.

(n) Nothing in this section shall require a custodian of records to retain documents beyond any date otherwise required by law.

(o) Nothing in this section shall be construed as requiring a custodian of records to obtain documents not in the case file.

**10850.5.** A county welfare department may, without the need to provide written documentation that consent has been obtained from a client, provide information to a housing authority created pursuant to Part 2 (commencing with Section 34200) of Division 24 of the Health and Safety Code, in order to aid the housing authority in the administration of that part. This section may be implemented either through an automated data exchange system or through a manual system. Any housing authority receiving and maintaining information pursuant



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to this section shall comply with confidentiality and privacy laws concerning the collection, maintenance, and dissemination of information, as contained in Section 10850 and the federal Privacy Act of 1974, contained in Section 552a of Title 5 of the United States Code. The county welfare department shall provide a written form to each person about whom information is to be provided to a housing authority pursuant to this section. The form shall notify the person that the information exchanges may occur. A copy of the form may be retained by the person and the county welfare department. The form shall specify the purpose for which the information has been solicited, the entities to which the information may be provided, the uses that may be made of the information, as set forth in Section 552a(e) (3) of Title 5 of the United States Code, and the right of the client to request review of the information that has been provided to the authority. The county welfare department may provide only information that is necessary to determine eligibility for housing authority programs or services for which the client has applied or which he or she is receiving. The county welfare department shall allow the client to review the information it has provided to a housing authority, upon request of the client. This section is not intended to eliminate any other legal obligation of the county welfare department to obtain consent from a client before releasing information to another entity.

**10850.7.** (a) Notwithstanding the provisions of Section 10850, an authorized employee of a county welfare department may disclose confidential information concerning a public social services applicant or recipient to any law enforcement agency where the applicant or recipient is deceased. Information that may be released pursuant to this section shall be limited to the name, address, telephone number, birthdate, social security number, and physical description of the applicant for, or recipient of, public social services.

A county welfare department may release the information specified by this section to any law enforcement agency only upon a written request from the head of the agency specifying that the applicant or recipient is deceased and that the agency is otherwise unable to adequately identify the deceased. The information specified may alternatively be released by telephone, whereupon the head of the law enforcement agency shall submit the request in writing within five days of the release.

(b) This section shall not be construed to authorize the release of a general list identifying individuals applying for or receiving public social services.

(c) The provisions of this section shall be operative only to the extent permitted by federal law. The section shall not apply to, but shall exclude the Medi-Cal program established pursuant to Chapter 7 (commencing with Section 14000) and following.

**10850.9.** (a) Notwithstanding Section 10850, an authorized employee of a county social services department may disclose the name and residential address of elderly or disabled clients to police, fire, paramedical personnel, or other designated emergency services personnel, in the event of a public safety emergency that necessitates the possible evacuation of the area in which those elderly or disabled clients reside. Those public safety emergencies





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include, but are not limited to, fires, earthquakes, gas leaks, bomb scares, and other natural or human-made occurrences that jeopardize the immediate physical safety of county residents.

(b) The Director of Social Services shall seek any federal approval necessary to implement subdivision (a).

(c) Subdivision (a) shall be implemented only if the director executes a declaration, that shall be retained by the director, stating that any federal approval required for implementation of subdivision (a) has been obtained, and only for the duration of that approval.

**10851.** (a) Each county shall establish and maintain a case record for each public social services case and shall retain the record for a period of three years. The three-year retention period begins on the date on which public social services were last provided. The records shall be retained beyond the three-year retention period when the county is notified by the department or the State Department of Health Services, whichever has jurisdiction over the records, to retain records for a longer period of time. The department or the State Department of Health Services, whichever has jurisdiction over the records, shall instruct a county to retain records beyond the three-year period when the retention is necessary to a pending civil or criminal action.

(b) Notwithstanding subdivision (a), the board of supervisors of any county may authorize the destruction of the case narrative portions of the case record that are over three years old in any case file, active or inactive, only after audit by the department or the State Department of Health Services, whichever has jurisdiction over the record. In addition, the board may also authorize the destruction of those documents contained in the case file that are over three years old and are no longer necessary to document the recipient's continued eligibility for public social services. However, if a civil or criminal action against a person based on alleged unlawful application for, or receipt of, public social services, is commenced before the expiration of the three-year period, no portion of the case record of the person shall be destroyed until the action is terminated.

(c) Each county shall maintain fiscal, statistical, and other records necessary for maintaining accountability and meeting reporting requirements relating to the administration of public social services. These fiscal and reporting records shall be retained for a minimum period of three years from the date of submission of the final expenditure report and shall be retained beyond the three-year period when audit findings have not been resolved.

(d) The retention requirements imposed by subdivisions (a) and (c) of this section are for public social services purposes only and are superseded to the extent another statute requires retention of the same records for a longer period for a different purpose.

(e) Notwithstanding subdivision (a), or any other statutory requirement concerning the retention of public social services records, a child protective services agency may, but need not, retain a child abuse report that has been determined to be an unfounded report, as defined in Section 11165.12 of the Penal Code.

(f) Notwithstanding any other provision of law, a county may retain a case record established pursuant to subdivision (a), and retained pursuant to subdivisions (a) and (c), using either



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electronic or other alternative storage technologies. Permissible alternative storage technologies shall include, but not be limited to, photography, microphotography, electronically recorded video images on magnetic surfaces, electronic data processing systems, optical disk storage, or any other electronic medium that is a trusted system and that does not permit additions, deletions, or changes to the original document and meets Section 12168.7 for recording of permanent records or nonpermanent records. A duplicate copy of any record reproduced shall be deemed an original.

**10851.5.** (a) Notwithstanding Section 10851, each county shall retain all records that are necessary to determine the number of months each adult recipient has received aid subject to the time limits provided in Section 11454 and Section 608(a)(7) of Title 42 of the United States Code. The county shall retain the records for the period of time established by the department by regulation.

(b) Each county shall provide case record information to the department's automated system for tracking the period of time a recipient has received aid. Each county shall provide information, as determined by the department, to the department's automated system that is sufficient to allow reliable determinations of the number of months each adult recipient of aid has received aid for purposes of Section 11454 and Section 608(a)(7) of Title 42 of the United States Code. The department shall, pursuant to the adoption of emergency regulations, specify the case record information that each county shall provide under this section.

(c) Notwithstanding subdivision (b), if a county cannot provide sufficient information to the automated system, the county shall maintain the information in a nonautomated format, and shall promptly provide that information to any county requesting this information to accurately determine time on aid and enforce time limits.

(d) Any county that fails to provide information required by subdivision (b) or (c) shall be subject to the following:

(1) To the extent that the failure to provide or maintain reliable time clock information results in an audit exception, the costs associated with that exception shall be passed on to the county responsible for the exception unless the county can demonstrate that the costs would have been incurred if the county had provided the information in subdivision (b). In such a case, this amount shall be applied as a reduction in the county's single allocation under Section 15204.2.

(2) Increased program costs resulting from a court order requiring the department to provide additional months of eligibility to any adult aid recipient due to the failure to reliably determine the number of months each adult recipient has received aid for purposes of Section 11454 shall be passed on to the county responsible for the failure unless the county can demonstrate that the costs would have been incurred if the county had provided the information required in subdivision (b). The county's single allocation under Section 15204.2 shall be reduced by an amount of the increased program costs resulting from a court order that is proportionate to the responsible county's caseload.

(e) The department, by regulation, shall establish good cause standards and an appeal process.

(f) In any fiscal year in which a county is assessed a cost under subdivision (d), the county shall expend additional funds to replace



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any reduction in the single allocation resulting from the penalty.

(g) The department shall adopt regulations to implement this section in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code. The initial adoption of any emergency regulations and one readoption of the initial regulations shall be deemed to be an emergency and necessary for the immediate preservation of the public peace, health and safety, or general welfare. The initial emergency regulations and one readoption of those regulations shall be exempt from review by the Office of Administrative Law. The emergency regulations authorized by this section shall be submitted to the Office of Administrative Law for filing with the Secretary of State and publication in the California Code of Regulations.

**10852.** All persons who are subject to investigation or supervision by the department, or who are connected with any institution subject to such investigation or supervision, or who are in any way responsible for the administration or expenditure of funds which are subject to investigation or supervision by the department, shall furnish to the department such information and statistics as it may request or require, and shall allow the department free access to all such institutions and to all records of such institutions and persons.

**10853.** In order to secure accuracy, uniformity, and completeness in such statistics and information, the department, by regulation, may prescribe forms of report and records to be kept by all persons, associations, or institutions subject to investigation or supervision by the department, and each such person, association, or institution shall keep such records and render such reports in conformity with the forms so prescribed.