

Can I Record a CPS Interview in My State?

A Guide for Survivors and Families Navigating Child Welfare

Why This Tool Matters:

Survivors of domestic violence who have shared that interactions with Child Protective Services (CPS) can be overwhelming and sometimes confusing. In many cases, people want to record interviews or conversations with CPS workers to protect themselves or to remember what was said. But recording laws are different in every state, and it's important to know what your rights are before you press "record."

This guide helps you understand whether you can legally record a CPS interview in your state, and what to consider if you choose to do so.

Important: This tool is not legal advice. The information here is for educational purposes and may not reflect the most current changes in your state's laws. Always consult with a legal advocate or attorney in your area if you have questions.



NATIONAL CENTER TO ADVANCE PEACE
for Children, Youth, and Families

The National Center to Advance Peace for Children, Youth, and Families (NCAP) is a coalition led by Caminar Latino and includes Ujima: National Center on Violence Against Women in the Black Community, the Alaska Native Women's Resource Center, the National Indigenous Women's Resource Center, and Futures Without Violence.



What this Tool Covers:

- ☀ Which states allow you to record without telling the other person (one-party consent)
- ☀ Which states require everyone in the conversation to agree to being recorded (two-party or all-party consent)
- ☀ States with special rules for CPS interviews
- ☀ States and territories where the law is unclear

You can also click on your state on our interactive map to see detailed and state-specific information.

Understanding Recording Consent:

One-Party Consent States:

You can record a conversation as long as *you* are part of it. You don't have to tell the other person.

Two-Party or All-Party Consent States:

Everyone in the conversation must agree to be recorded. This includes CPS investigators. Consent under recording laws can be express or implied, depending on the state. In two-party or all-party consent states, everyone must agree to the recording. Express consent is given clearly, such as verbally or in writing. Implied consent may occur if a person is told the conversation is being recorded and continues speaking without objection. However, if a party objects or says no, you must stop recording immediately, or you could violate the law.

Special Rules:

Some states have unique laws or policies that give specific rights to caregivers or parents when CPS is involved.

Unclear Laws:

Some states and territories do not clearly explain whether recording is allowed. Use caution and seek legal guidance.

Things to Keep in Mind:

- Even in one-party consent states, where recording is legal if one party agrees, a CPS worker may object to being recorded. While it's not necessarily illegal to continue, doing so can strain the relationship, lead the worker to withhold information, or end the conversation. If there's pushback, it's best to explain why you're recording and ask to continue. If they still refuse, stop the recording and take detailed notes instead to preserve a record.

- Just because you *can* record doesn't mean it will be accepted in court. If you're thinking about using a recording for legal purposes, talk to a lawyer or legal advocate first.

- Some CPS workers may record interviews themselves. You have the right to ask if a conversation is being recorded and whether you can have a copy. If CPS refuses you may (1) ask them for their recording policies; (2) ask why they are refusing; (3) file a complaint or grievance.

- CPS may have their own policies on recordings, regardless of state law, and may refuse to be recorded. If CPS claims or alleges they have a recording policy you can ask for the policy, or a document demonstrating this policy. If they refuse you may file a grievance.

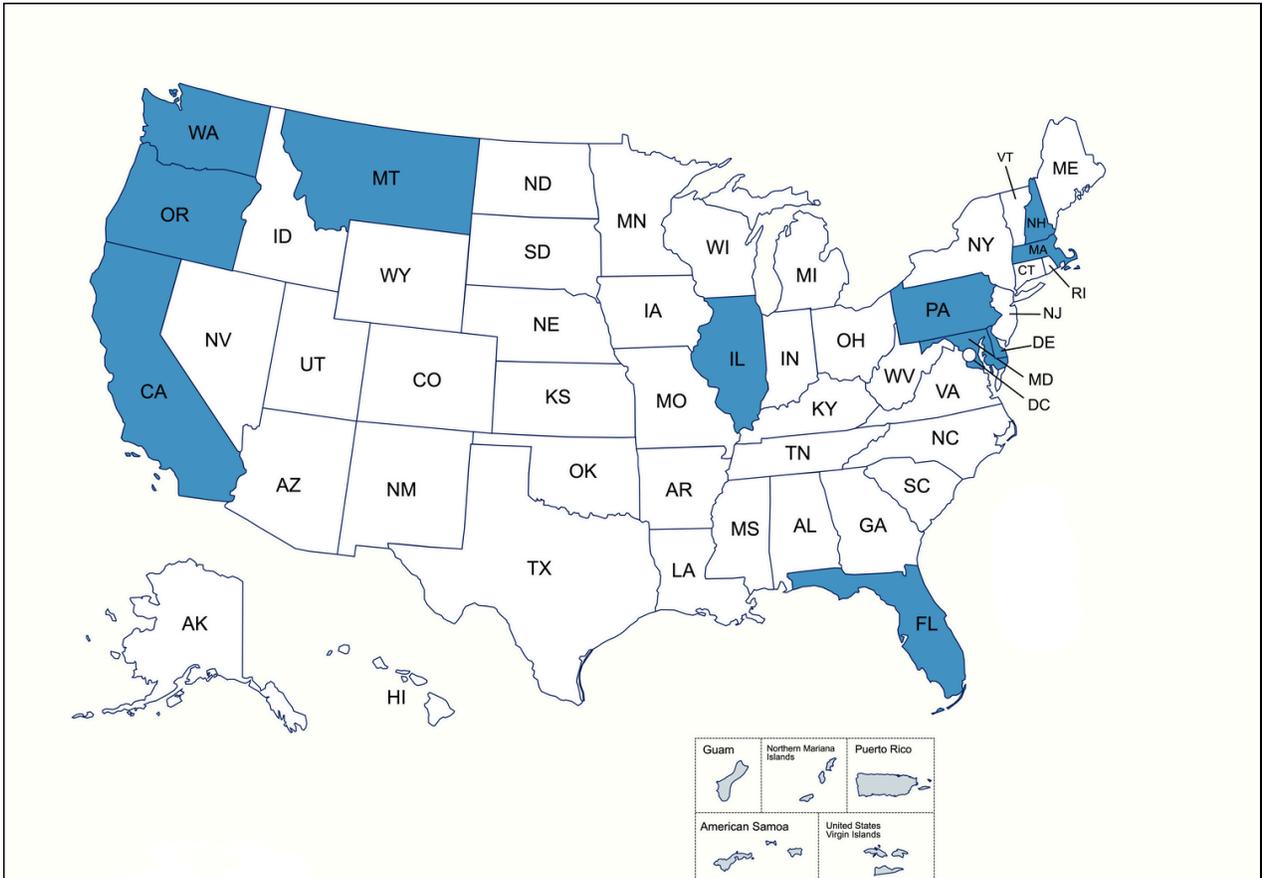


- Michigan – *the person recording must be party to the conversation.*
- Minnesota
- Mississippi
- Missouri
- Nebraska
- Nevada – *may only record in-person conversations, not audio/phone.*
- New Jersey
- New York
- North Carolina
- North Dakota
- Ohio
- Oklahoma
- Rhode Island
- South Carolina
- South Dakota
- Tennessee
- Texas
- Utah
- Virginia
- West Virginia
- Wisconsin
- Wyoming

Admissibility: *Recordings are admissible in court proceedings as long as recordings comply with one-party consent statute.*

Two-Party Consent States:

This means that the CPS investigator must give consent prior to a parent/caregiver recording any conversations.



- California
- Delaware
- Florida
- Illinois
- Maryland
- Massachusetts
- Montana
- New Hampshire
- Oregon – *two party consent required for in-person conversations only*
- Pennsylvania
- Washington

Admissibility: Recordings are admissible in court proceedings as long as recordings comply with two-party consent statutes.

States with Special Recording Rules regarding CPS Investigations:

Florida

Child welfare statutes specifically address the right to record by caregivers/parents. CPS must notify caregivers/parents of their right to record or the right to request a recording during investigations and interviews.

Louisiana

Generally, one-party consent state, however, child welfare statutes specifically address recordings authorized by CPS, if requested by parents. Unclear as to whether caregivers/parents may record.

Maine

Child welfare statutes specifically address recording rights of caregivers/parents. A person subjected to an investigation may record the investigation or interview and cannot be prohibited from doing so.

Montana

All-party consent state by statute generally. However, differing treatment for CPS investigations. CPS must have knowledge of recording; statute is unclear as to whether CPS consent is required. Furthermore, Montana law provides a specific exception allowing a parent or guardian to record interactions with a department employee during the removal of a child from the home. In these situations, the parent must inform the employee that the interaction is being recorded, but the employee's consent is not required. This rule applies specifically to child removal scenarios.

Texas

Texas Family Code specifically addresses the right to record. Caregivers/parents must be notified of their right to record, via video or audio, any interviews they may be subjected to.

Virginia

Child welfare statutes specifically address caregivers'/parents' right to record. A caregiver/parent who is subject to an investigation or assessment has the right to record if all parties to the conversation have knowledge of the recording. This requires that CPS know of the recording, however, CPS does not have to consent to authorize recording.

In these 8 States and U.S. Territories, Statutes on Recording Rights are Unclear:

Indiana

One-party consent state for electronic/phone conversations, however, unclear as for in-person conversations.

New Mexico

Statutes regarding the recording of in-person interactions/conversations are unclear.

Vermont

No specific recording statute applies.

American Samoa

No specific recording statute applies.

Guam

Statute and case law heavily debated as to recording laws.

Northern Mariana Islands

Unclear statutes as to recording rights.

Puerto Rico

Statute and case law heavily debated as to recording laws.

Virgin Islands

Statute and case law heavily debated as to recording laws.



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