



JONATHAN'S LAW: A GUIDE FOR INDIVIDUALS AND FAMILIES
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What is Jonathan's Law?

Jonathan's Law is a New York State law that helps ensure individuals and families are informed when incidents occur that affect the health or safety of a person receiving services. Facilities operated, licensed, or certified by the Office of Mental Health (OMH) must follow the requirements of Jonathan's Law.

Under the law, there are established procedures that providers must follow to notify Qualified Person(s) of **incidents** involving their loved ones. It also allows Qualified Person(s) to request certain documents pertaining to investigations of **reportable incidents**.

Who is a Qualified Person?

Under the law, Qualified Persons include:

- Parents or other legal guardians of a minor.
- Parents, legal guardians, spouses, adult siblings or adult children of adults who are legally authorized to make health care decisions on behalf of the individual.
- Adults who have not been determined by a court to be legally incompetent.

When is notification required?

A provider must inform the qualified person(s) by telephone of any **incidents** that affect the health or safety of an individual receiving services, or a **reportable incident** occurs involving an allegation of abuse or neglect, wrongful conduct, missing patient, or death, *within 24 hours of the initial report* of the incident.

What additional information can Qualified Persons request?

Qualified Persons may verbally request the following from the provider:

- A copy of the written incident report.
- A written report on the immediate actions taken to address the **incident** (e.g., steps taken to protect the individual involved). This report must be provided within 10 calendar days of the request.
- A meeting with the provider to further discuss the incident.

Additionally, Qualified Persons may request, in writing, records and documents related to **reportable incidents**, including the results of the investigation. These will be provided within 21 calendar days of either the conclusion of the investigation or the written request, whichever is later.

Please note that at the conclusion of an investigation of an abuse or neglect incident reported to the Justice Center, the Justice Center will notify the service recipient or their personal representative of the finding of the investigation. Reports of abuse and neglect are either substantiated or unsubstantiated.

What information may be redacted?

Jonathan's Law balances transparency with privacy requirements.

As a result, the records that are released to the qualified person(s) may not include the names or information that identifies other persons receiving services and employees unless these individuals authorize disclosure.

Federal laws or regulations may pose additional restrictions on the release of records or information contained in those records. For example, federal law prohibits OASAS providers from releasing any records or information that would identify a person as receiving services without the specific consent of the person receiving services (or a court order compliant with federal law).

****If a patient is a minor over 12 years old and is receiving services to which a parent or guardian has also consented, both the minor and the parent or guardian must consent to disclosure.**

Requesting incident records:

Requests for incident and investigation records must be made to the provider that was providing services to the individual at the time of the incident. The Justice Center is not authorized to provide any records under Jonathan's Law.

When reportable incidents are investigated by the Justice Center, the Justice Center will coordinate with the provider so that the disclosure of records and documents will be made in compliance with Jonathan's Law.

Can records or documents obtained by Qualified Persons be shared?

Qualified Persons who received records and documents pertaining to reportable incidents may share them **only** with:

- Health care providers
- Behavioral health care providers
- Law enforcement agencies (if the qualified person believes a crime has been committed)
- The qualified person's attorney

Is there an appeal process?

If a qualified person is denied access to the records/documents pertaining to a reportable incident, they have the right to appeal this decision.

To request an appeal the qualified person may submit their request in writing to the Office of Quality Improvement (OQI) at OMH. The appeal letter should be sent to the following address:

**Office of Quality Improvement
Office of Mental Health
44 Holland Avenue
6th Floor
Albany, New York 12229**

Upon receipt of the appeal, OQI will notify the provider issuing the denial. The provider will be given 10 business days to submit relevant information to OQI, including the reason for denial. OQI may also request additional information as necessary to resolve the appeal.

Within 10 business days of the receipt of comprehensive information from the provider, OQI will provide a written determination with explanation to both the requestor and the provider.

If directed by OQI, the provider must provide the requested records and/or documents to the requestor.

For more information or assistance, please see the resources below:

Information about Jonathan's Law can be found in NY Mental Hygiene Law sections 33.23 and 33.25.

The Justice center's website: [Jonathan's Law Incident Notification and Records Access | Justice Center for the Protection of People With Special Needs](https://www.justicecenter.ny.gov/jonathans-law-incident-notification-and-records-access-0)
(<https://www.justicecenter.ny.gov/jonathans-law-incident-notification-and-records-access-0>)

The Justice Center's Individual and Family Support Unit's toll-free number is 1-800-624-4143 (Voice/Multi-language/TTY) and the email address is supportcoordinator@justicecenter.ny.gov.

Disability Rights New York (DRNY) is a legal advocacy resource that can be reached at 1-800-993-8982.

National Alliance on Mental Illness (NAMI) assists with advocacy and can be reached at 1-800-950-6264.

OMH Customer Relations (CR) can assist with questions and concerns relating to OMH licensed mental health services and can be reached at 1-800-597-8481 or dqm@omh.ny.gov.