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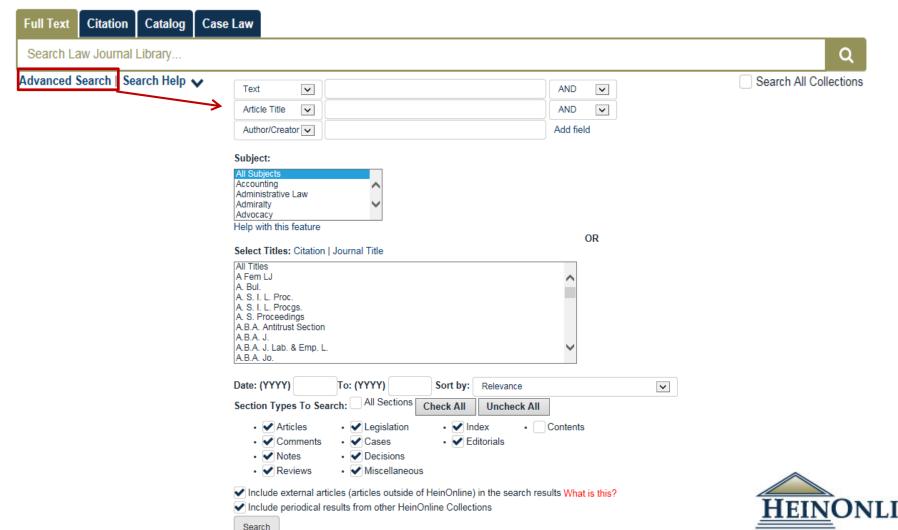
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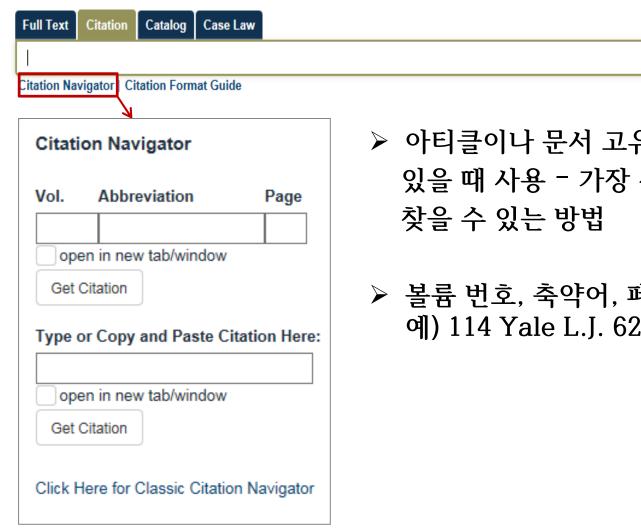
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θ	ABA Journal	Vols. 1-101#8 (1915-2015)			
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0	ABA Journal of Labor and Employment Law	Vols. 1-30 (1985-2015)			
θ	ABA Juvenile & Child Welfare Law Reporter See: Child Law Practice	Vols. 1-34#8 (1982-2015)			
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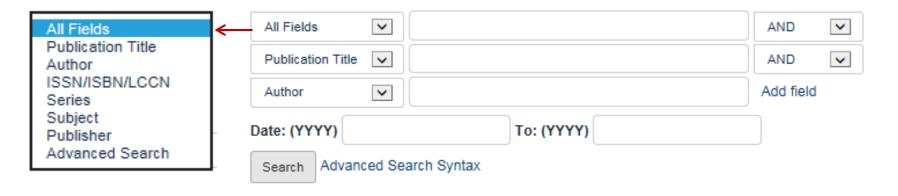
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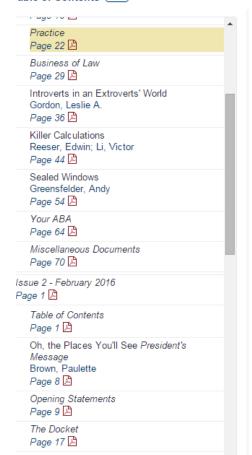
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Collections > American Bar Association Journals (1) > ABA Journal > 102 A.B.A. J. (2016)







Conflicted Over Confidentiality

Indiana ethics opinion says lawyers are not always obligated to report cases of child abuse involving clients $\,\mathrm{By}\;\mathrm{David}\;\mathrm{L}$. Hudson Jr.



Indiana law requires anyone "who has reason to believe" that a child is a victim of abuse or neglect to "immediately" make a report to the state department of child services or

a local law enforcement agency. Failure to make such a report constitutes a Class B misdemeanor. Unlike similar laws in some other states, the Indiana statute does not specifically exempt lawyers from the reporting requirement.

Nevertheless, the Legal Ethics
Committee of the Indiana State Bar
Association has concluded that the
obligation of lawyers to report cases
of child abuse or neglect is not absolute. Instead, the committee says in its
Opinion No. 2 of 2015, a lawyer's duty
to report is limited by the lawyer's obligation to protect client confidentiality. Rule
1.6 of the Indiana Rules of Professional
Conduct states that a lawyer "shall
not reveal information relating to the
representation of a client unless the
client gives informed consent" or one
of a limited number of exceptions apply.

(The Indiana rule on confidentiality closely tracks Rule 1.6 of the ABA Model Rules of Professional Conduct. The situation," says Charles Geyh, who teaches professional responsibility at Indiana University's Maurer School of Law in Bloomington. "First, it pits the public and their elected representatives against the bar by putting the bar in the awkward position of defending the sanctity of lawyer-client confidences in a context where there is likely to be little sympathy for preserving the confidences of child abusers and where the virtue of universal reporting seems obvious. Second, it pits the legislature, which regulates the general public and has imposed a universal duty to report, against the judiciary, which regulates the bar and has imposed significant duties on lawyers not to report."

THE RULES ARE THE RULES

The opinion acknowledges the "conflict between the lawyer's ethical duty to keep silent and the apparent statutory duty to speak." But given the Indiana Supreme Court's "authority over the legal profession, its Rules of Professional Conduct control over conflicting legislation." To conclude otherwise, says the committee, would violate separation-of-powers provisions set forth in the state constitution.

Browsing the Content



- 검색된 문서 위에 위치한 toolbar
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 - Full Screen: 전체화면 페이지



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(2) Table of Contents (1) ① 해당 문서를 인용한 아티클 확인 Cited By 1 Articles Accessed 13 times ② - 모든 문서에서 제공되는 기능 9 Va. L. Reg. 851 (1903-1904) Senator Daniel and the Harvard Law Review - 현재 문서가 인용한 자료의 정 In Vacation Page 850 🖪 보확인 가능 Issue 10 - February 1904 Page 851 🔼 Senator Daniel and the Harvard Law Review Note Daniel, Jno. W. Page 851 🔼 City of Charlottesville v. Stratton's Administator Supreme Court of Appeals of Virginia Page 864 [A Liberty Savings Bank v. Otterview Land Company Circuit Court of Bedford County Page 903 🔼 Digest of Other Recent Virginia Decisions Page 906 🔼 Editorial Page 914 🔎 Notes of Cases Page 921 🔼

> Miscellany Page 929 🔼



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