



Greater Hartford Legal Aid

**Testimony of Lisa Levy before the Human Services Committee
In Opposition to HB 5271, AAC Access to
Records of the Department of Children and Families**

March 9, 2010

Good morning. My name is Lisa Levy and I am a staff attorney at Greater Hartford Legal Aid, Inc. I am here this morning to speak in opposition to H.B. 5271 and in support of the amendments to this bill proposed by the statewide legal services organizations.

As part of our mission to provide free legal services to the poor and seniors, we represent many low income individuals who work in day care centers, family day care homes or other facilities providing direct care to children. Several years ago, our office became aware that DCF placed the names of child care workers on its child abuse and neglect registry if their internal investigation of an abuse or neglect claim resulted in a DCF finding of "reasonable cause" to substantiate the allegations. These workers, some of whom were our clients, were automatically placed on the registry without receipt of prior notice nor an opportunity to contest the allegations of abuse or neglect.

The direct result of placement on the DCF registry is almost always automatic job termination for day care employees and an effective bar to future employment in the child care field. The same registry procedure in New York was determined by the United States Court of Appeals for the Second Circuit to be unconstitutional. The court in Valmonte v. Bane, 18 F.3d 992 (1994), ruled that the NY registry deprived an individual of their due process rights to contest the allegations against them.

In 2005, the CT legislature passed amendments to the DCF statute which, for the first time, codified due process protections for anyone who had allegations against them that were substantiated by DCF. Accordingly, Conn. Gen. Stat. §17a-101g and §17a-101k, require DCF to first provide notice of the substantiation of allegations and then provide an opportunity for a full administrative hearing prior to the individual's name being placed on the registry. However, in the interest of public safety, these provisions do provide for exceptions to this requirement in the case of serious situations of child abuse or neglect, such as sexual abuse or allegations leading directly to arrest.

Significantly, CT's statute not only prohibits entry of the individual's name on the registry but also prohibits disclosure of information concerning the substantiation of abuse or neglect to public or private entities for employment, licensure or reimbursement for child care purposes, prior to completion of the hearing procedure. In short, sections §17a-101g and §17a-101k protect those whose livelihood otherwise may be irreparably damaged by disclosure of substantiated allegations prior to the exercise of due process protections.

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In HB 5271, DCF seeks to expand the types of "records" (information that it obtains in its child protection activities) that it can disclose to persons and entities without the prior consent of a person who is the subject of the record. As presently worded, several sections of the bill would permit disclosure of identifying information concerning a person who is the subject of a substantiation of abuse or neglect, prior to the notice and hearing process guaranteed by due process and our state statute. As applied to child care workers, certain sections of the bill would effectively negate the due process protections so carefully built into sections §17a-101g and §17a-101k.

For example, HB 5271 would allow disclosure of information concerning persons alleged to be perpetrators of abuse/neglect to any individual interviewed as part of the DCF investigation, whether or not that person is entitled by law to the information (section (h)(2)). It would also allow disclosure to an initial reporter of allegations of abuse or neglect (section (g)(20)) and to individuals not employed by, but performing services for DCF, including data analysis, utilization reviews, quality assurance and consultation (section (h)(8)).

We have proposed corrective language in our attached amendment to HB 5271. These changes were drawn from Conn. Gen. Stat. §17a-28, which cures HB 5271 of overly broad disclosure of records by incorporating by reference, the provisions of §17a-101g and §17a-10k. (See Conn. Gen. Stat. 17a-28(f)). In other subsections, along with the reference to 17a-101g and 17a-101k, we have tailored the language to properly limit the scope of information that can be disclosed to individuals or entities. These limits shall be in place until an individual has exercised their constitutional protections of statutory notice and an administrative hearing procedure to challenge the substantiated allegations of abuse or neglect.

Thank you for considering my testimony on behalf of child care and other children's services employees of Connecticut.

Sincerely,

Lisa Levy
Attorney
Greater Hartford Legal Aid, Inc.

KEY TO CHANGES: Underlined in black or bracketed in black are changes to the underlying language of Raised Bill 5271. Changes underlined or bracketed in blue (LS' employment attys) or red (LS' children attys) are LS changes to the raised language.

General Assembly
February Session, 2010

Raised Bill No. 5271

LCO No. 1312

*01312 _____ HS *

Referred to Committee on Human Services

Introduced by:

(HS)

AN ACT CONCERNING ACCESS TO RECORDS OF THE DEPARTMENT OF CHILDREN AND FAMILIES.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

Section 1. Section 17a-28 of the 2010 supplement to the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2010*):

(a) As used in this section:

(1) "Person" means (A) any individual named in a record, maintained by the department, who (i) is presently or at any prior time was a ward of or committed to the commissioner for any reason; (ii) otherwise received services, voluntarily or involuntarily, from the department; or (iii) is presently or was at any prior time the subject of an investigation by the department; (B) [the parent of a person, as defined] a parent whose parental rights have not been terminated or current guardian of an individual described in subparagraph (A) of this subdivision, if such [person] individual is a minor; or (C) the authorized representative of a person, as defined in subparagraph (A) of this subdivision, if such person is deceased;

(2) "Attorney" means the licensed attorney authorized to assert the confidentiality of or right of access to records of a person;

(3) "Authorized representative" means a parent, guardian, guardian ad litem, attorney, conservator or other individual authorized to assert the confidentiality of or right of access to records of a person;

(4) "Consent" means permission given in writing by a person, [his] such person's attorney or [his] authorized representative to disclose specified information, within a limited time period, regarding the person to specifically identified individuals or entities;

(5) "Records" means information created or obtained in connection with the department's child protection activities or other activities related to a child while in the care or custody of the department, including information in the registry of reports to be maintained by the commissioner pursuant to section 17a-101k, as amended by this act; [provided records which are not created by the department are not subject to disclosure, except as provided pursuant to subsection (f), (l) or (n) of this section;]

(6) "Disclose" means (A) to provide an oral summary of records maintained by the department to an individual, agency, corporation or organization or (B) to allow an individual, agency, corporation or organization to review or obtain copies of such records in whole, part or summary form;

(7) "Near fatality" means an act, as certified by a physician, that places a child in serious or critical condition.

(b) Notwithstanding the provisions of section 1-210, 1-211 or 1-213, records maintained by the department shall be confidential and shall not be disclosed, unless the department receives written consent from the person or as provided in this section. Any unauthorized disclosure shall be punishable by a fine of not more than one thousand dollars or imprisonment for not more than one year, or both. Any employee of the department who in the ordinary course of such person's employment has reasonable cause to suspect or believe that another employee has engaged in the unauthorized disclosure of records shall report in writing such unauthorized disclosure of records to the commissioner. The report shall include the name of the person disclosing the information and the nature of the information disclosed and to whom it was disclosed, if known.

[(c) When information concerning an incident of abuse or neglect has been made public or when the commissioner reasonably believes publication of such information is likely, the commissioner or the commissioner's designee may disclose, with respect to an investigation of such abuse or neglect: (1) Whether the department has received a report in accordance with sections 17a-101a to 17a-101c, inclusive, or section 17a-103, and (2) in general terms, any action taken by the department, provided (A) the names or other individually identifiable information of the minor victim or other family member is not disclosed, and (B) the name or other individually identifiable information of the person suspected to be responsible for the abuse or neglect is not disclosed unless the person has been arrested for a crime due to such abuse or neglect.

(d) The commissioner shall make available to the public, without the consent of the person, information in general terms or findings concerning an incident of abuse or neglect which resulted in a child fatality or near fatality of a child, provided disclosure of such information or findings does not jeopardize a pending investigation.]

(c) Records that (1) contain privileged communications, or (2) are confidential pursuant to any federal law or regulation shall not be disclosed except as authorized by law.

(d) Any information disclosed from a person's record shall not be further disclosed to another individual or entity without the written consent of the person, except pursuant to (1) section 19a-80, or (2) the order of a court of competent jurisdiction.

(e) The commissioner shall, upon written request, disclose the following information concerning agencies licensed by the Department of Children and Families, except foster care parents, relatives of the child who are certified to provide foster care or prospective adoptive families: (1) The name of the licensee; (2) the date the original license was issued; (3) the current status of the license; (4) whether an agency investigation or review is pending or has been completed; and (5) any licensing action taken by the department at any time during the period such license was issued and the reason for such action, provided disclosure of such information will not jeopardize a pending investigation.

[(f) The commissioner or the commissioner's designee shall, upon request, promptly provide copies of records, without the consent of a person, to (1) a law enforcement agency, (2) the Chief State's Attorney, or the Chief State's Attorney's designee, or a state's attorney for the judicial district in which the child resides or in which the alleged abuse or neglect occurred, or the state's attorney's designee, for purposes of investigating or prosecuting an allegation of child abuse or neglect, (3) the attorney appointed to represent a child in any court in litigation affecting the best interests of the child, (4) a guardian ad litem appointed to represent a child in any court in litigation affecting the best interests of the child, (5) the Department of Public Health, in connection with: (A) Licensure of any person to care for children for the purposes of determining the suitability of such person for licensure, subject to the provisions of sections 17a-101g and 17a-101k, or (B) an investigation conducted pursuant to section 19a-80f, (6) any state agency which licenses such person to educate or care for children pursuant to section 10-145b or 17a-101j, subject to the provisions of sections 17a-101g and 17a-101k concerning nondisclosure of findings of responsibility for abuse and neglect, (7) the Governor, when requested in writing, in the course of the Governor's official functions or the Legislative Program Review and Investigations Committee, the joint standing committee of the General Assembly having cognizance of matters relating to the judiciary and the select committee of the General Assembly having cognizance of matters relating to children when requested in the course of said committees' official functions in writing, and upon a majority vote of said committee,

provided no names or other identifying information shall be disclosed unless it is essential to the legislative or gubernatorial purpose, (8) a local or regional board of education, provided the records are limited to educational records created or obtained by the state or Connecticut-Unified School District #2, established pursuant to section 17a-37, (9) a party in a custody proceeding under section 17a-112 or 46b-129, in the Superior Court where such records concern a child who is the subject of the proceeding or the parent of such child, (10) the Chief Child Protection Attorney, or his or her designee, for purposes of ensuring competent representation by the attorneys whom the Chief Child Protection Attorney contracts with to provide legal and guardian ad litem services to the subjects of such records and to ensure accurate payments for services rendered by such contract attorneys, and (11) the Department of Motor Vehicles, for purposes of checking the state's child abuse and neglect registry pursuant to subsection (e) of section 14-44. A disclosure under this section shall be made of any part of a record, whether or not created by the department, provided no confidential record of the Superior Court shall be disclosed other than the petition and any affidavits filed therewith in the superior court for juvenile matters, except upon an order of a judge of the Superior Court for good cause shown. The commissioner shall also disclose the name of any individual who cooperates with an investigation of a report of child abuse or neglect to such law enforcement agency or state's attorney for purposes of investigating or prosecuting an allegation of child abuse or neglect. The commissioner or the commissioner's designee shall, upon request, subject to the provisions of sections 17a-101g and 17a-101k, promptly provide copies of records, without the consent of the person, to (A) the Department of Public Health for the purpose of determining the suitability of a person to care for children in a facility licensed under sections 19a-77 to 19a-80, inclusive, 19a-82 to 19a-87, inclusive, and 19a-87b, and (B) the Department of Social Services for determining the suitability of a person for any payment from the department for providing child care.

(g) When the commissioner or his designee determines it to be in a person's best interest, the commissioner or his designee may disclose records, whether or not created by the department and not otherwise privileged or confidential communications under state or federal law, without the consent of a person to:

- (1) Multidisciplinary teams which are formed to assist the department in investigation, evaluation or treatment of child abuse and neglect cases or a multidisciplinary provider of professional treatment services under contract with the department for a child referred to the provider;
- (2) Any agency in another state which is responsible for investigating or protecting against child abuse or neglect for the purpose of investigating a child abuse case;
- (3) An individual, including a physician, authorized pursuant to section 17a-101f to place a child in protective custody if such individual has before him a child whom he

reasonably suspects may be a victim of abuse or neglect and such individual requires the information in a record in order to determine whether to place the child in protective custody;

(4) An individual or public or private agency responsible for a person's care or custody and authorized by the department to diagnose, care for, treat or supervise a child who is the subject of a record of child abuse or neglect or a public or private agency responsible for a person's education for a purpose related to the individual's or agency's responsibilities;

(5) The Attorney General or any assistant attorney general providing legal counsel for the department;

(6) Individuals or public or private agencies engaged in medical, psychological or psychiatric diagnosis or treatment of a person perpetrating the abuse or who is unwilling or unable to protect the child from abuse or neglect when the commissioner or his designee determines that the disclosure is needed to accomplish the objectives of diagnosis or treatment;

(7) A person who reports child abuse pursuant to sections 17a-101a to 17a-101c, inclusive, and section 17a-103, who made a report of abuse involving the subject child, provided the information disclosed is limited to (A) the status of the investigation and (B) in general terms, any action taken by the department;

(8) An individual conducting bona fide research, provided no information identifying the subjects of records shall be disclosed unless (A) such information is essential to the purpose of the research; (B) each person identified in a record or his authorized representative has authorized such disclosure in writing; and (C) the department has given written approval;

(9) The Auditors of Public Accounts or their representative, provided no information identifying the subjects of the records shall be disclosed unless such information is essential to an audit conducted pursuant to section 2-90;

(10) The Department of Social Services, provided the information disclosed is necessary to promote the health, safety and welfare of the child;

(11) A judge of the Superior Court for purposes of determining the appropriate disposition of a child convicted as delinquent or a child who is a member of a family with service needs;

(12) The superintendents, or their designees, of state-operated facilities within the department; and

(13) The Department of Developmental Services, to allow said department to determine eligibility, facilitate enrollment and plan for the provision of services to a child, who is a client of said department but who is not yet participating in said department's voluntary services program. Records provided pursuant to this subdivision shall be limited to a written summary of any investigation conducted by the Department of Children and Families pursuant to section 17a-101g. At the time that a parent or guardian completes an application for enrollment of a child in the Department of Developmental Services voluntary services program, said department shall notify such parent or guardian that records specified in this subdivision may be provided by the Department of Children and Families to the Department of Developmental Services without the consent of such parent or guardian.

(h) The commissioner or his designee may disclose the name, address and fees for services to a person, to individuals or agencies involved in the collection of fees for such services, except as provided in section 17b-225. In cases where a dispute arises over such fees or claims or where additional information is needed to substantiate the fee or claim, such disclosure of further information shall be limited to the following: (1) That the person was in fact committed to or otherwise served by the department; (2) dates and duration of service; and (3) a general description of the service, which shall include evidence that a service or treatment plan exists and has been carried out and evidence to substantiate the necessity for admission and length of stay in any institution or facility.

(i) Notwithstanding the provisions of subsections (f) and (l) of this section, the name of an individual reporting child abuse or neglect shall not be disclosed without his written consent except to (1) an employee of the department responsible for child protective services or the abuse registry; (2) a law enforcement officer; (3) an appropriate state's attorney; (4) an appropriate assistant attorney general; (5) a judge of the Superior Court and all necessary parties in a court proceeding pursuant to section 46b-129, or a criminal prosecution involving child abuse or neglect; or (6) a state child care licensing agency, executive director of any institution, school or facility or superintendent of schools pursuant to section 17a-101i.

(j) Notwithstanding the provisions of subsection (g) of this section, the name of any individual who cooperates with an investigation of a report of child abuse or neglect shall be kept confidential upon request or upon determination by the department that disclosure of such information may be detrimental to the safety or interests of the individual, except the name of any such individual shall be disclosed to the persons listed in subsection (i) of this section.

(k) Notwithstanding the confidentiality provisions of this section, the commissioner, upon request of an employee, shall disclose such records to such employee or his

authorized representative which would be applicable and necessary for the purposes of an employee disciplinary hearing or appeal from a decision after such hearing.

(l) Information disclosed from a person's record shall not be disclosed further without the written consent of the person, except if disclosed (1) pursuant to the provisions of section 19a-80f, or (2) to a party or his counsel pursuant to an order of a court in which a criminal prosecution or an abuse, neglect, commitment or termination proceeding against the party is pending. A state's attorney shall disclose to the defendant or his counsel in a criminal prosecution, without the necessity of a court order, exculpatory information and material contained in such record and may disclose, without a court order, information and material contained in such record which could be the subject of a disclosure order. All written records disclosed to another individual or agency shall bear a stamp requiring confidentiality in accordance with the provisions of this section. Such material shall not be disclosed to anyone without written consent of the person or as provided by this section. A copy of the consent form specifying to whom and for what specific use the record is disclosed or a statement setting forth any other statutory authorization for disclosure and the limitations imposed thereon shall accompany such record. In cases where the disclosure is made orally, the individual disclosing the information shall inform the recipient that such information is governed by the provisions of this section.

(m) In addition to the right of access provided in section 1-210, any person, regardless of age, his authorized representative or attorney shall have the right of access to any records made, maintained or kept on file by the department, whether or not such records are required by any law or by any rule or regulation, when those records pertain to or contain information or materials concerning the person seeking access thereto, including but not limited to records concerning investigations, reports, or medical, psychological or psychiatric examinations of the person seeking access thereto, provided that (1) information identifying an individual who reported abuse or neglect of a person, including any tape recording of an oral report pursuant to section 17a-103, shall not be released unless, upon application to the Superior Court by such person and served on the Commissioner of Children and Families, a judge determines, after in camera inspection of relevant records and a hearing, that there is reasonable cause to believe the reporter knowingly made a false report or that other interests of justice require such release; and (2) if the commissioner determines that it would be contrary to the best interests of the person or his authorized representative or attorney to review the records, he may refuse access by issuing to such person or representative or attorney a written statement setting forth the reasons for such refusal, and advise the person, his authorized representative or attorney of the right to seek judicial relief. When any person, attorney or authorized representative, having obtained access to any record, believes there are factually inaccurate entries or materials contained therein, he shall have the unqualified right to add a statement to the record setting forth what he

believes to be an accurate statement of those facts, and said statement shall become a permanent part of said record.

(n) (1) Any person, attorney or authorized representative aggrieved by a violation of subsection (b), (f), (g), (h), (i), (j) or (l) of this section or of subsection (m) of this section, except subdivision (2) of said subsection (m), may seek judicial relief in the same manner as provided in section 52-146j; (2) any person, attorney or authorized representative denied access to records by the commissioner under subdivision (2) of subsection (m) of this section may petition the superior court for the venue district provided in section 46b-142 in which the person resides for an order requiring the commissioner to permit access to those records, and the court after hearing, and an in camera review of the records in question, shall issue such an order unless it determines that to permit such access would be contrary to the best interests of the person or authorized representative.

(o) The commissioner shall promulgate regulations pursuant to chapter 54, within one year of October 1, 1996, to establish procedures for access to and disclosure of records consistent with the provisions of this section.]

(f) The name of any individual who reports suspected abuse or neglect of a child or youth or cooperates with an investigation of child abuse or neglect shall be kept confidential upon request or upon determination by the department that disclosure of such information may be detrimental to the safety or interests of the individual, except the name of any such individual shall be disclosed pursuant to subparagraph (B) of subdivision (1) of subsection (g) of this section and to (1) an employee of the department for reasons reasonably related to the business of the department; (2) a law enforcement officer for purposes of investigating abuse or neglect of a child or youth; (3) a state's attorney for purposes of investigating or prosecuting abuse or neglect of a child or youth; (4) an assistant attorney general or other legal counsel representing the department; (5) a judge of the Superior Court and all necessary parties in a court proceeding pursuant to section 17a-112 or 46b-129, or a criminal prosecution involving child abuse or neglect; (6) a state child care licensing agency; or (7) the executive director of any institution, school or facility or superintendent of schools pursuant to section 17a-101i.

(g) The department shall disclose records, without the consent of the person who is the subject of the record, to:

(1) The person named in the record or such person's authorized representative, provided such disclosure shall be limited to (A) such person's biological or adoptive minor child, if such person's parental rights to such child have not been terminated; and (B) information identifying an individual who reported abuse or neglect of the person,

if a court determines that there is reasonable cause to believe the reporter knowingly made a false report or that the interests of justice require disclosure;

(2) An employee of the department for any purpose reasonably related to the business of the department;

[(3) An employee or former employee of the department or such employee or former employee's authorized representative for purposes of participating in any court, administrative or disciplinary proceeding, provided such disclosure shall be limited to records that are necessary to the proceeding, as determined by the department;]

(3[4]) A guardian ad litem or attorney appointed to represent a child or youth in litigation affecting the best interests of the child or youth;

(4[5]) The Attorney General, any assistant attorney general or any other legal counsel retained to represent the department during the course of a legal proceeding involving the department or an individual employee of the department;

(5[6]) The Child Advocate or the Child Advocate's designee;

(6[7]) The Chief Child Protection Attorney or the Chief Child Protection Attorney's designee;

(7[8]) The Chief State's Attorney or the Chief State's Attorney's designee for purposes of investigating or prosecuting an allegation of child abuse or neglect, provided such prosecuting authority shall have access to such records of a delinquency defendant, who is not being charged with an offense related to child abuse, only while the case is being prosecuted and after obtaining a release;

(8[9]) A state or federal law enforcement officer for purposes of investigating an allegation of child abuse or neglect;

[(10) Multidisciplinary teams, as described in section 17a-106a;

(11) A provider of professional services for a child, youth or parent referred to such provider, provided such disclosure is limited to information necessary to provide services to the child, youth or parent;

(12) An individual or agency under contract with the department for the purposes of identifying and assessing a potential foster or adoptive home for a child or youth, provided no information identifying a biological parent of a child or youth is disclosed without the permission of such biological parent;]

(9[13]) Any foster or prospective adoptive parent, if the records pertain to a child or youth currently placed with the foster or prospective adoptive parent, or a child or youth being considered for placement with the foster or prospective adoptive parent and the records are necessary to address the social, medical, psychological or educational needs of the child or youth, provided no information identifying a biological parent is disclosed without the permission of such biological parent;

(1[4]0) The Governor, when requested in writing in the course of the Governor's official functions, the Legislative Program Review and Investigations Committee, the joint standing committees of the General Assembly having cognizance of matters relating to human services and the judiciary and the select committee of the General Assembly having cognizance of matters relating to children, when requested in writing in the course of said committees' official functions, and upon a majority vote of said committees, provided no names or other identifying information is disclosed unless it is essential to the gubernatorial or legislative purpose;

(1[5]1) The Department of Public Health, subject to the provisions of section 17a-101g and section 17a-101k, as amended by this act, for the purpose of (A) determining the suitability of a person to care for children in a facility licensed pursuant to section 19a-77, 19a-80 or 19a-87b; (B) determining the suitability of such person for licensure; or (C) an investigation conducted pursuant to section 19a-80f;

[(16) The Department of Social Services, subject to the provisions of section 17a-101g and section 17a-101k, as amended by this act, for the purpose of (A) determining the suitability of a person for payment from the Department of Social Services for providing child care; or (B) promoting the health, safety and welfare of the child or youth;]

(1[7]2) The Department of Developmental Services, to allow said department to determine eligibility, facilitate enrollment and plan for the provision of services to a child, who is a client of said department and who is not participating in said department's voluntary services program or is enrolled in said department's voluntary services program, provided records disclosed pursuant to this subdivision shall be limited to a written summary of any investigation conducted by the Department of Children and Families pursuant to section 17a-101g and 17a-101k. At the time that a parent or guardian completes an application for enrollment of a child in the Department of Developmental Services voluntary services program or at the time that the child's annual individual plan is updated, said department shall notify the child's parent or guardian that records described in this subdivision may be disclosed by the Department of Children and Families to the Department of Developmental Services without the consent of the child's parent or guardian;

(1|8|3) A state agency that licenses or certifies a person to educate or care for children or youth, subject to the provisions of section 17a-101g and section 17a-101k, as amended by this act, concerning nondisclosure of findings of responsibility for abuse and neglect;

[(19) A physician examining a child with respect to whom abuse or neglect is suspected and who is authorized pursuant to section 17a-101f to keep the child in the custody of a hospital when such physician requires the information in a record of the department to determine whether to keep the child or youth in protective custody;]

[(20) An individual who reports child abuse or neglect pursuant to sections 17a-101a to 17a-101c, inclusive, and 17a-103, who made a report of abuse or neglect, provided the information disclosed is limited to (A) the status of the investigation resulting from the individual's report; and (B) in general terms, the action taken by the department;]

[(21) An employee of the Board of Pardons and Paroles, the Department of Correction or the Judicial Branch for the purpose of assessing an individual's treatment needs and determining the terms or conditions of pretrial release, pretrial or post-disposition detention or incarceration, probation or parole;]

[(22|14)] A judge of the Superior Court or Probate Court and all necessary parties in a custody proceeding where such records concern the child or youth who is the subject of the proceeding or the parent of such child or youth;] A judge of the Probate Court where the Probate Court has requested an investigative report by DCF for the purpose of determining custody. Disclosure shall be limited to those records necessary for the preparation of the investigative report.

[(23|15) A judge of the Superior Court for purposes of determining the appropriate disposition of a child convicted as delinquent or a child who is a member of a family with service needs, or a judge of the Superior Court in a criminal prosecution for purposes of in-camera inspection whenever (A) the court has ordered that the record be provided to the court; or (B) a party to the proceeding has issued a subpoena for the record;

[(24) An individual or organization engaged in the business of medical, psychological or psychiatric diagnosis and treatment and who is treating an individual who has perpetrated abuse or neglect or who is unwilling or unable to protect a child or youth from abuse or neglect when the commissioner, or the commissioner's designee, determines that the disclosure is necessary to accomplish the objectives of diagnosis or treatment;

(25) A court or public agency in another state or a federally recognized Indian tribe, that is responsible for investigating child abuse or neglect, preventing child abuse and

neglect or providing services to families at risk for abuse or neglect, for the purpose of such investigation, prevention or providing services to such families;

(26) An individual conducting bona fide research, provided no information identifying the subject of the record is disclosed unless (A) such information is essential to the purpose of the research; and (B) the department has given written approval for the use of such information;]

([27]16) The Auditors of Public Accounts, or their representative, provided no information identifying the subject of the record is disclosed unless such information is essential to an audit conducted pursuant to section 2-90;

[(28) An individual or agency involved in the collection of fees for services, provided such information is limited to the name and address of the person who received the services and the fees for services, except as provided in section 17b-225. In cases where a dispute arises over such fees or claims or where additional information is needed to substantiate the fee or claim, the Department of Children and Families may disclose the following: (A) That the person was, in fact, provided services by the department; (B) the dates and duration of service; and (C) a general description of the service, including evidence that a service or treatment plan exists and has been carried out and evidence to substantiate the necessity for admission and length of stay in an institution or facility;]

([29]17) A local or regional board of education, provided the records are limited to educational records created or obtained by the state or Connecticut Unified School District #2, established pursuant to section 17a-37;

([30]18) Subject to the provisions of 17a-101g and 17a-101k, [T]the Department of Motor Vehicles for the purpose of criminal history records checks pursuant to subsection (e) of section 14-44; and

([31]19) Subject to the provisions of 17a-101g and 17a-101k, [T]the Department of Mental Health and Addiction Services for the purpose of treatment planning for young adults who have transitioned from the care of the Department of Children and Families.

(h) The department may, subject to subsection (c) of this section, disclose records without the consent of the person, who is the subject of the record, to:

(1) An employee or former employee of the department or such employee or former employee's authorized representative for purposes of participating in any court, administrative or disciplinary proceeding, provided such disclosure shall be limited to records that are necessary to the proceeding, as determined by the department;

(2) Multidisciplinary teams, as described in section 17a-106a;

(3) A provider of professional services for a child, youth or parent referred to such provider, provided such disclosure is limited to information necessary to provide services to the child, youth or parent;

(4) An individual or agency under contract with the department for the purposes of identifying and assessing a potential foster or adoptive home for a child or youth, provided no information identifying a biological parent of a child or youth is disclosed without the permission of such biological parent;

(5) The Department of Social Services, subject to the provisions of section 17a-101g and section 17a-101k, as amended by this act, for the purpose of (A) determining the suitability of a person for payment from the Department of Social Services for providing child care; or (B) promoting the health, safety and welfare of the child or youth;

(6) A physician examining a child with respect to whom abuse or neglect is suspected and who is authorized pursuant to section 17a-101f to keep the child in the custody of a hospital when such physician requires the information in a record of the department to determine whether to keep the child or youth in protective custody;

(7) In accordance with 17a-101g and 17a-101k, [A]an individual who reports child abuse or neglect pursuant to sections 17a-101a to 17a-101c, inclusive, and 17a-103, who made a report of abuse or neglect, provided the information disclosed is limited to (A) the status of the investigation resulting from the individual's report; and (B) in general terms, the action taken by the department;

(8) In accordance with 17a-101g and 17a-101k, [A]an individual or organization engaged in the business of medical, psychological or psychiatric diagnosis and treatment and who is treating an individual who has perpetrated abuse or neglect as determined pursuant to 17a-101g and 17a-101k, or who is unwilling or unable to protect a child or youth from abuse or neglect as determined pursuant to 17a-101g and 17a-101k, when the commissioner, or the commissioner's designee, determines that the disclosure is necessary to accomplish the objectives of diagnosis or treatment;

(9) Subject to the provisions of 17a-101g and 17a-101k, [A]a court or public agency in another state or a federally recognized Indian tribe, that is responsible for investigating child abuse or neglect, preventing child abuse and neglect or providing services to families at risk for abuse or neglect, for the purpose of such investigation, prevention or providing services to such families;

(10) An individual conducting bona fide research, provided no information identifying the subject of the record is disclosed unless (A) such information is essential to the purpose of the research; and (B) the department has given written approval for the use of such information;

(11) An individual or agency involved in the collection of fees for services, provided such information is limited to the name and address of the person who received the services and the fees for services, except as provided in section 17b-225. In cases where a dispute arises over such fees or claims or where additional information is needed to substantiate the fee or claim, the Department of Children and Families may disclose the following: (A) That the person was, in fact, provided services by the department; (B) the dates and duration of service; and (C) a general description of the service, including evidence that a service or treatment plan exists and has been carried out and evidence to substantiate the necessity for admission and length of stay in an institution or facility;

12) A law enforcement officer or state's attorney if there is reasonable cause to believe that a child or youth is being abused or neglected or at risk of being abused or neglected as a result of any suspected criminal activity by any person;

[(2)13) Subject to the provisions of 17a-101g and 17a-101k, [A]any individual interviewed as part of an investigation conducted pursuant to section 17a-101g, who is not otherwise entitled to such information, provided such disclosure of information is limited to: (A) T]the general nature of the allegations contained in the reports; (B)], the identity of the child or youth alleged to have been abused or neglected; (C) the identity of the alleged perpetrator; [and [(D)] any other information necessary to [further the course of] effectively conduct the investigation;

[(3) A school employee who (A) is a mental health professional, as described in section 10-76t; or (B) has direct responsibility for implementing an educational program for the child or youth receiving services from the department, provided such disclosure is limited to information reasonably necessary to provide educational services to the child or youth;]

(14) Any individual, when information concerning an incident of abuse or neglect has been made public or when the commissioner reasonably believes publication of such information is likely, provided (A) such disclosure is limited to: (i) Whether the department has received a report in accordance with sections 17a-101a to 17a-101c, inclusive, or section 17a-103, and (ii) in general terms, any action taken by the department; and (B) the following information is not disclosed: (i) The names or other individually identifiable information of the minor victim or other family member, and (ii) the name or other individually identifiable information of the person suspected to be responsible for the abuse or neglect, unless such person has been arrested for a crime due to such abuse or neglect;

(15) Any individual for the purpose of locating a missing parent, child or youth, provided such disclosure is limited to information that assists in locating such missing parent, child or youth;

(16) Any individual, when the information or findings concern an incident of abuse or neglect that resulted in a child or youth fatality or near fatality of a child or youth, provided disclosure of such information or findings is in general terms and does not jeopardize a pending investigation;

(17) A court of competent jurisdiction whenever an employee of the department is subpoenaed and ordered to testify about such records;

(18) Subject to the provisions of 17a-101g and 17a-101k, [A]an individual who is not employed by the department who arranges, performs or assists in performing functions or activities on behalf of the department, including, but not limited to, data analysis, processing or administration, utilization reviews, quality assurance, practice management, consultation, data aggregation and accreditation services;

(i) Notwithstanding the provisions of subsections (e) to (h), inclusive, of this section, the department may refuse to disclose records to any individual, provided the department gives such individual notice (1) that records are being withheld; (2) of the general nature of the records being withheld; (3) of the department's reason for refusing to disclose the records; and (4) of the individual's right to judicial relief pursuant to subsection (j) of this section.

(j) Any person (1) aggrieved by a violation of subsection (b) or (d), subsections (f) to (h), inclusive, or subsection (l) of this section, or the person's authorized representative, may seek judicial relief in the manner prescribed in section 52-146j; or (2) denied access to records by the department under subsection (i) of this section, or the person's authorized representative, may petition the superior court for juvenile matters for the venue district, established pursuant to section 46b-142, in which the person resides for an order requiring the commissioner to permit access to the records, and the court, after a hearing and an in-camera review of the records in question, shall issue such order unless it determines that permitting such disclosure of all or any portion of the record (A) would be contrary to the best interests of the person or the person's authorized representative; (B) could reasonably result in the risk of harm to any person; or (C) would contravene the public policy of the state.

(k) A party to a civil proceeding may petition the superior court for juvenile matters for the venue district, established pursuant to section 46b-142, in which the party resides for an order authorizing disclosure of the record of another party to the civil proceeding, provided the court, after an in-camera inspection, finds the records are material and relevant to those proceedings and that good cause exists to disclose such records. For purposes of this subsection, good cause exists, but is not limited to, situations in which there are no other available means of obtaining the information sought in such record by the party seeking such record.

(l) All written records disclosed to another individual or agency shall bear a stamp requiring confidentiality in accordance with the provisions of this section. Such material shall not be disclosed to anyone without the written consent of the person or as provided by this section. A copy of the consent form, specifying to whom and for what specific use the record is disclosed or a statement setting forth any other statutory authorization for disclosure and the limitations imposed on such disclosure, shall accompany the record. In cases where the disclosure is made orally, the individual disclosing the information shall inform the recipient that such information is governed by the provisions of this section.

(m) Whenever any person, attorney or authorized representative, having obtained access to any record, believes there are factually inaccurate entries or materials contained in such record, such person may add a statement to the record setting forth what such person believes to be an accurate statement of those facts and such statement shall become a permanent part of the record.

Sec. 2. Subdivision (1) of subsection (c) of section 17a-101k of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2010*):

(c) (1) Following a request for appeal, the commissioner or the commissioner's designee shall conduct an internal review of the recommended finding to be completed no later than thirty days after the request for appeal is received by the department. The commissioner or the commissioner's designee shall review all relevant information relating to the recommended finding, to determine whether the recommended finding is factually or legally deficient and ought to be reversed. Prior to the review, the commissioner shall provide the individual access to all relevant documents in the possession of the commissioner regarding the finding of responsibility for abuse or neglect of a child, as provided in [subsection (m) of] section 17a-28, as amended by this act.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2010</i>	17a-28
Sec. 2	<i>October 1, 2010</i>	17a-101k(c)(1)

Statement of Purpose:

To revise and update laws related to the confidentiality of and access to the Department of Children and Families' records.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]