



# Senate

General Assembly

**File No. 637**

January Session, 2011

Substitute Senate Bill No. 1043

*Senate, April 27, 2011*

The Committee on Judiciary reported through SEN. COLEMAN of the 2nd Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

***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:

1 Section 1. Section 17a-28 of the general statutes is repealed and the  
2 following is substituted in lieu thereof (*Effective October 1, 2011*):

3 (a) As used in this section:

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

14 described in subparagraph (A) of this subdivision, if such [person]  
15 individual is deceased;

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

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

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

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

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

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

40 (b) Notwithstanding the provisions of section 1-210, 1-211 or 1-213,  
41 records maintained by the department shall be confidential and shall  
42 not be disclosed, unless the department receives written consent from  
43 the person or as provided in this section, section 17a-101g or 17a-101k,  
44 as amended by this act. Any unauthorized disclosure shall be

45 punishable by a fine of not more than one thousand dollars or  
46 imprisonment for not more than one year, or both. Any employee of  
47 the department who in the ordinary course of such person's  
48 employment has reasonable cause to suspect or believe that another  
49 employee has engaged in the unauthorized disclosure of records shall  
50 report in writing such unauthorized disclosure of records to the  
51 commissioner. The report shall include the name of the person  
52 disclosing the information and the nature of the information disclosed  
53 and to whom it was disclosed, if known.

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

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

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

75 (d) Any information disclosed from a person's record shall not be  
76 further disclosed to another individual or entity without the written  
77 consent of the person, except pursuant to (1) section 19a-80 or 19a-80f,

78 provided such disclosure is otherwise permitted pursuant to  
79 subsections (b) and (c) of this section, or (2) the order of a court of  
80 competent jurisdiction.

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

92 [(f) The commissioner or the commissioner's designee shall, upon  
93 request, promptly provide copies of records, without the consent of a  
94 person, to (1) a law enforcement agency, (2) the Chief State's Attorney,  
95 or the Chief State's Attorney's designee, or a state's attorney for the  
96 judicial district in which the child resides or in which the alleged abuse  
97 or neglect occurred, or the state's attorney's designee, for purposes of  
98 investigating or prosecuting an allegation of child abuse or neglect, (3)  
99 the attorney appointed to represent a child in any court in litigation  
100 affecting the best interests of the child, (4) a guardian ad litem  
101 appointed to represent a child in any court in litigation affecting the  
102 best interests of the child, (5) the Department of Public Health, in  
103 connection with: (A) Licensure of any person to care for children for  
104 the purposes of determining the suitability of such person for  
105 licensure, subject to the provisions of sections 17a-101g and 17a-101k,  
106 or (B) an investigation conducted pursuant to section 19a-80f, (6) any  
107 state agency which licenses such person to educate or care for children  
108 pursuant to section 10-145b or 17a-101j, subject to the provisions of  
109 sections 17a-101g and 17a-101k concerning nondisclosure of findings  
110 of responsibility for abuse and neglect, (7) the Governor, when  
111 requested in writing, in the course of the Governor's official functions

112 or the Legislative Program Review and Investigations Committee, the  
113 joint standing committee of the General Assembly having cognizance  
114 of matters relating to the judiciary and the select committee of the  
115 General Assembly having cognizance of matters relating to children  
116 when requested in the course of said committees' official functions in  
117 writing, and upon a majority vote of said committee, provided no  
118 names or other identifying information shall be disclosed unless it is  
119 essential to the legislative or gubernatorial purpose, (8) a local or  
120 regional board of education, provided the records are limited to  
121 educational records created or obtained by the state or Connecticut-  
122 Unified School District #2, established pursuant to section 17a-37, (9) a  
123 party in a custody proceeding under section 17a-112 or 46b-129, in the  
124 Superior Court where such records concern a child who is the subject  
125 of the proceeding or the parent of such child, (10) the Chief Child  
126 Protection Attorney, or his or her designee, for purposes of ensuring  
127 competent representation by the attorneys whom the Chief Child  
128 Protection Attorney contracts with to provide legal and guardian ad  
129 litem services to the subjects of such records and to ensure accurate  
130 payments for services rendered by such contract attorneys, (11) the  
131 Department of Motor Vehicles, for purposes of checking the state's  
132 child abuse and neglect registry pursuant to subsection (e) of section  
133 14-44, and (12) a judge of the Superior Court and all necessary parties  
134 in a family violence proceeding when such records concern family  
135 violence with respect to the child who is the subject of the proceeding  
136 or the parent of such child who is the subject of the proceeding. A  
137 disclosure under this section shall be made of any part of a record,  
138 whether or not created by the department, provided no confidential  
139 record of the Superior Court shall be disclosed other than the petition  
140 and any affidavits filed therewith in the superior court for juvenile  
141 matters, except upon an order of a judge of the Superior Court for  
142 good cause shown. The commissioner shall also disclose the name of  
143 any individual who cooperates with an investigation of a report of  
144 child abuse or neglect to such law enforcement agency or state's  
145 attorney for purposes of investigating or prosecuting an allegation of  
146 child abuse or neglect. The commissioner or the commissioner's

147 designee shall, upon request, subject to the provisions of sections 17a-  
148 101g and 17a-101k, promptly provide copies of records, without the  
149 consent of the person, to (A) the Department of Public Health for the  
150 purpose of determining the suitability of a person to care for children  
151 in a facility licensed under sections 19a-77 to 19a-80, inclusive, 19a-82  
152 to 19a-87, inclusive, and 19a-87b, and (B) the Department of Social  
153 Services for determining the suitability of a person for any payment  
154 from the department for providing child care.

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

160 (1) Multidisciplinary teams which are formed to assist the  
161 department in investigation, evaluation or treatment of child abuse  
162 and neglect cases or a multidisciplinary provider of professional  
163 treatment services under contract with the department for a child  
164 referred to the provider;

165 (2) Any agency in another state which is responsible for  
166 investigating or protecting against child abuse or neglect for the  
167 purpose of investigating a child abuse case;

168 (3) An individual, including a physician, authorized pursuant to  
169 section 17a-101f to place a child in protective custody if such  
170 individual has before him a child whom he reasonably suspects may  
171 be a victim of abuse or neglect and such individual requires the  
172 information in a record in order to determine whether to place the  
173 child in protective custody;

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

179 individual's or agency's responsibilities;

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

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

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

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

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

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

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

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

211 (13) The Department of Developmental Services, to allow said  
212 department to determine eligibility, facilitate enrollment and plan for  
213 the provision of services to a child, who is a client of said department  
214 and who is applying for participation in said department's voluntary  
215 services program or enrolled in said program. Records provided  
216 pursuant to this subdivision shall be limited to a written summary of  
217 any investigation conducted by the Department of Children and  
218 Families pursuant to section 17a-101g. At the time that a parent or  
219 guardian completes an application for enrollment of a child in the  
220 Department of Developmental Services voluntary services program or  
221 at the time that a child's annual individualized plan of care is updated,  
222 said department shall notify such parent or guardian that records  
223 specified in this subdivision may be provided by the Department of  
224 Children and Families to the Department of Developmental Services  
225 without the consent of such parent or guardian.

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

238 (i) Notwithstanding the provisions of subsections (f) and (l) of this  
239 section, the name of an individual reporting child abuse or neglect  
240 shall not be disclosed without his written consent except to (1) an  
241 employee of the department responsible for child protective services or

242 the abuse registry; (2) a law enforcement officer; (3) an appropriate  
243 state's attorney; (4) an appropriate assistant attorney general; (5) a  
244 judge of the Superior Court and all necessary parties in a court  
245 proceeding pursuant to section 46b-129, or a criminal prosecution  
246 involving child abuse or neglect; or (6) a state child care licensing  
247 agency, executive director of any institution, school or facility or  
248 superintendent of schools pursuant to section 17a-101i.

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

256 (k) Notwithstanding the confidentiality provisions of this section,  
257 the commissioner, upon request of an employee, shall disclose such  
258 records to such employee or his authorized representative which  
259 would be applicable and necessary for the purposes of an employee  
260 disciplinary hearing or appeal from a decision after such hearing.

261 (l) Information disclosed from a person's record shall not be  
262 disclosed further without the written consent of the person, except if  
263 disclosed (1) pursuant to the provisions of section 19a-80f, or (2) to a  
264 party or his counsel pursuant to an order of a court in which a criminal  
265 prosecution or an abuse, neglect, commitment or termination  
266 proceeding against the party is pending. A state's attorney shall  
267 disclose to the defendant or his counsel in a criminal prosecution,  
268 without the necessity of a court order, exculpatory information and  
269 material contained in such record and may disclose, without a court  
270 order, information and material contained in such record which could  
271 be the subject of a disclosure order. All written records disclosed to  
272 another individual or agency shall bear a stamp requiring  
273 confidentiality in accordance with the provisions of this section. Such  
274 material shall not be disclosed to anyone without written consent of

275 the person or as provided by this section. A copy of the consent form  
276 specifying to whom and for what specific use the record is disclosed or  
277 a statement setting forth any other statutory authorization for  
278 disclosure and the limitations imposed thereon shall accompany such  
279 record. In cases where the disclosure is made orally, the individual  
280 disclosing the information shall inform the recipient that such  
281 information is governed by the provisions of this section.

282 (m) In addition to the right of access provided in section 1-210, any  
283 person, regardless of age, his authorized representative or attorney  
284 shall have the right of access to any records made, maintained or kept  
285 on file by the department, whether or not such records are required by  
286 any law or by any rule or regulation, when those records pertain to or  
287 contain information or materials concerning the person seeking access  
288 thereto, including but not limited to records concerning investigations,  
289 reports, or medical, psychological or psychiatric examinations of the  
290 person seeking access thereto, provided that (1) information  
291 identifying an individual who reported abuse or neglect of a person,  
292 including any tape recording of an oral report pursuant to section 17a-  
293 103, shall not be released unless, upon application to the Superior  
294 Court by such person and served on the Commissioner of Children  
295 and Families, a judge determines, after in camera inspection of  
296 relevant records and a hearing, that there is reasonable cause to believe  
297 the reporter knowingly made a false report or that other interests of  
298 justice require such release; and (2) if the commissioner determines  
299 that it would be contrary to the best interests of the person or his  
300 authorized representative or attorney to review the records, he may  
301 refuse access by issuing to such person or representative or attorney a  
302 written statement setting forth the reasons for such refusal, and advise  
303 the person, his authorized representative or attorney of the right to  
304 seek judicial relief. When any person, attorney or authorized  
305 representative, having obtained access to any record, believes there are  
306 factually inaccurate entries or materials contained therein, he shall  
307 have the unqualified right to add a statement to the record setting  
308 forth what he believes to be an accurate statement of those facts, and  
309 said statement shall become a permanent part of said record.

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

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

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

344 superintendent of schools pursuant to section 17a-101i.

345 (g) The department shall disclose records, subject to subsections (b)  
346 and (c) of this section, without the consent of the person who is the  
347 subject of the record, to:

348 (1) The person named in the record or such person's authorized  
349 representative, provided such disclosure shall be limited to  
350 information (A) contained in the record about such person or about  
351 such person's biological or adoptive minor child, if such person's  
352 parental rights to such child have not been terminated; and (B)  
353 information identifying an individual who reported abuse or neglect of  
354 the person, including any tape recording or an oral report pursuant to  
355 section 17a-103, if a court determines that there is reasonable cause to  
356 believe the reporter knowingly made a false report or that the interests  
357 of justice require disclosure;

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

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

362 (4) The Attorney General, any assistant attorney general or any  
363 other legal counsel retained to represent the department during the  
364 course of a legal proceeding involving the department or an employee  
365 of the department;

366 (5) The Child Advocate or the Child Advocate's designee;

367 (6) The Chief Child Protection Attorney or the Chief Child  
368 Protection Attorney's designee;

369 (7) The Chief State's Attorney or the Chief State's Attorney's  
370 designee for purposes of investigating or prosecuting an allegation of  
371 child abuse or neglect, provided such prosecuting authority shall have  
372 access to records of a delinquency defendant, who is not being charged  
373 with an offense related to child abuse, only while the case is being

374 prosecuted and after obtaining a release;

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

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

385 (10) The Governor, when requested in writing in the course of the  
386 Governor's official functions, the Legislative Program Review and  
387 Investigations Committee, the joint standing committees of the General  
388 Assembly having cognizance of matters relating to human services and  
389 the judiciary and the select committee of the General Assembly having  
390 cognizance of matters relating to children, when requested in writing  
391 in the course of said committees' official functions, and upon a  
392 majority vote of said committees, provided no names or other  
393 identifying information is disclosed unless it is essential to the  
394 gubernatorial or legislative purpose;

395 (11) The Department of Public Health for the purpose of (A)  
396 determining the suitability of a person to care for children in a facility  
397 licensed pursuant to section 19a-77, 19a-80 or 19a-87b; (B) determining  
398 the suitability of such person for licensure; or (C) an investigation  
399 conducted pursuant to section 19a-80f;

400 (12) The Department of Developmental Services, to allow said  
401 department to determine eligibility, facilitate enrollment and plan for  
402 the provision of services to a child who is a client of said department  
403 and who is applying to enroll in or is enrolled in said department's  
404 voluntary services program. At the time that a parent or guardian  
405 completes an application for enrollment of a child in the Department of

406 Developmental Services' voluntary services program, or at the time  
407 that said department updates a child's annual individualized plan of  
408 care, said department shall notify such parent or guardian that the  
409 Department of Children and Families may provide records to the  
410 Department of Developmental Services for the purposes specified in  
411 this subdivision without the consent of such parent or guardian;

412 (13) A state agency that licenses or certifies a person to educate or  
413 care for children or youth;

414 (14) A judge or employee of a probate court who requires access to  
415 such records in order to perform such judge's or employee's official  
416 duties;

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

424 (16) A judge of the Superior Court and all necessary parties in a  
425 family violence proceeding when such records concern family violence  
426 with respect to the child who is the subject of the proceeding or the  
427 parent of such child who is the subject of the proceeding;

428 (17) The Auditors of Public Accounts, or their representative,  
429 provided no information identifying the subject of the record is  
430 disclosed unless such information is essential to an audit conducted  
431 pursuant to section 2-90;

432 (18) A local or regional board of education, provided the records are  
433 limited to educational records created or obtained by the state or  
434 Connecticut Unified School District #2, established pursuant to section  
435 17a-37;

436 (19) The Department of Motor Vehicles for the purpose of criminal

437 history records checks pursuant to subsection (e) of section 14-44,  
438 provided information disclosed pursuant to this subdivision shall be  
439 limited to information obtained in an investigation conducted  
440 pursuant to section 17a-101g and information contained in the abuse  
441 and neglect registry pursuant to section 17a-101k, as amended by this  
442 act; and

443 (20) The Department of Mental Health and Addiction Services for  
444 the purpose of treatment planning for young adults who have  
445 transitioned from the care of the Department of Children and Families.

446 (h) The department may, subject to subsections (b) and (c) of this  
447 section, disclose records without the consent of the person who is the  
448 subject of the record, to:

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

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

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

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

463 (5) The Department of Social Services for the purpose of (A)  
464 determining the suitability of a person for payment from the  
465 Department of Social Services for providing child care; or (B)  
466 promoting the health, safety and welfare of the child or youth;

467 (6) A physician examining a child with respect to whom abuse or  
468 neglect is suspected and who is authorized pursuant to section 17a-  
469 101f to keep the child in the custody of a hospital when such physician  
470 requires the information in a record of the department to determine  
471 whether to keep the child or youth in protective custody;

472 (7) An individual who reports child abuse or neglect pursuant to  
473 sections 17a-101a to 17a-101c, inclusive, or 17a-103, who made a report  
474 of abuse or neglect, provided the information disclosed is limited to  
475 (A) the status of the investigation conducted pursuant to section 17a-  
476 101g resulting from the individual's report; and (B) in general terms,  
477 the action taken by the department as a result of such investigation;

478 (8) An individual or organization engaged in the business of  
479 medical, psychological or psychiatric diagnosis and treatment and who  
480 is treating an individual who has perpetrated abuse or neglect, as  
481 determined in an investigation conducted pursuant to section 17a-  
482 101g, or who is unwilling or unable to protect a child or youth from  
483 abuse or neglect, as determined in an investigation conducted  
484 pursuant to section 17a-101g, when the commissioner, or the  
485 commissioner's designee, determines that the disclosure is necessary to  
486 accomplish the objectives of diagnosis or treatment;

487 (9) A court or public agency in another state or a federally  
488 recognized Indian tribe, that is responsible for investigating child  
489 abuse or neglect, preventing child abuse and neglect or providing  
490 services to families at risk for abuse or neglect, for the purpose of such  
491 investigation, prevention or providing services to such families;

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

497 (11) An individual or agency involved in the collection of fees for  
498 services, provided such information is limited to the name and address

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

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

513 (13) Any individual interviewed as part of an investigation  
514 conducted pursuant to section 17a-101g, who is not otherwise entitled  
515 to such information, provided such disclosure of information is limited  
516 to: (A) The general nature of the allegations contained in the reports;  
517 (B) the identity of the child or youth alleged to have been abused or  
518 neglected; and (C) information necessary to effectively conduct the  
519 investigation;

520 (14) Any individual, when information concerning an incident of  
521 abuse or neglect has been made public or the commissioner reasonably  
522 believes publication of such information is likely, provided such  
523 disclosure is limited to: (A) Whether the department has received any  
524 report in accordance with sections 17a-101a to 17a-101c, inclusive, or  
525 section 17a-103; (B) in general terms, any action taken by the  
526 department, provided: (i) Names or other individually identifiable  
527 information of the minor victim or other family members is not  
528 disclosed, regardless of whether such individually identifiable  
529 information is otherwise available, and (ii) the name or other  
530 individually identifiable information of the person suspected to be  
531 responsible for the abuse or neglect is not disclosed unless such person

532 has been arrested for a crime due to such abuse or neglect; (C)  
533 confirmation or denial of the accuracy of information that has been  
534 made public; and (D) notwithstanding the provisions of section 46b-  
535 124, in general terms, the legal status of the case;

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

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

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

546 (18) An individual who is not employed by the department who  
547 arranges, performs or assists in performing functions or activities on  
548 behalf of the department, including, but not limited to, data analysis,  
549 processing or administration, utilization reviews, quality assurance,  
550 practice management, consultation, data aggregation and accreditation  
551 services.

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

559 (j) (1) Any person or individual aggrieved by a violation of  
560 subsection (b) or (d), subsections (f) to (h), inclusive, or subsection (k)  
561 of this section, or a person's authorized representative, may seek  
562 judicial relief in the manner prescribed in section 52-146j.

563 (2) Any person, individual or authorized representative denied  
564 access to records by the commissioner under subdivision (i) of this  
565 section may petition the superior court for the venue district provided  
566 in section 46b-142 in which the person resides for an order requiring  
567 the commissioner to permit access to those records, and the court, after  
568 a hearing and an in-camera review of the records in question, shall  
569 issue such an order unless it determines that permitting disclosure of  
570 all or any portion of the record (A) would be contrary to the best  
571 interests of the person or the person's authorized representative; (B)  
572 could reasonably result in the risk of harm to any individual; or (C)  
573 would contravene the public policy of the state.

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

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

592 Sec. 2. Subdivision (1) of subsection (c) of section 17a-101k of the  
593 general statutes is repealed and the following is substituted in lieu  
594 thereof (*Effective October 1, 2011*):

595 (c) (1) Following a request for appeal, the commissioner or the



---

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

---

***OFA Fiscal Note***

***State Impact:*** None

***Municipal Impact:*** None

***Explanation***

This bill, which makes changes to statutes related to Department of Children and Families' disclosure of confidential records, does not result in a fiscal impact to the state or municipalities.

***The Out Years***

***State Impact:*** None

***Municipal Impact:*** None

**OLR Bill Analysis****sSB 1043*****AN ACT CONCERNING ACCESS TO RECORDS OF THE DEPARTMENT OF CHILDREN AND FAMILIES.*****SUMMARY:**

This bill expands the list of parties to whom the Department of Children and Families (DCF) must disclose its otherwise confidential records without the consent of the person named in the record. It also expands the list of parties to whom DCF may, at its discretion, disclose records without consent. It makes some of the disclosures that are mandatory under current law discretionary and others that are currently discretionary, mandatory.

The bill broadens DCF's ability to refuse to disclose such records, and it prohibits disclosure of records that are (1) privileged (e.g., doctor-patient or attorney-client communication) or (2) confidential under federal law or regulation unless authorized by law or court order.

By law, the penalty for unauthorized disclosure of DCF records is a fine of up to \$1,000, imprisonment for up to one year, or both. Employees who reasonably suspect that another employee has violated this rule are required to file written reports with the commissioner.

The bill also makes conforming minor, and technical changes.

EFFECTIVE DATE: October 1, 2011

**DCF RECORD DISCLOSURE*****Records that Can be Disclosed; People Who Can Consent to Disclosure***

By law, records DCF maintains are confidential and cannot be

disclosed unless (1) DCF receives written consent from the person named in the record or (2) the law otherwise requires or allows disclosure. By law, a “record” is information DCF created or obtained as a result of its child protection activities or other activities related to a child (a person under age 16) who is or was in its care or custody. Records include information in DCF’s child abuse registry and information obtained while a child received services from the department. The bill eliminates a partial restriction on DCF’s disclosing records that it did not create, expanding those records that can be shared.

Under current law, consent to disclosure is required from the “person” named in a DCF record who (1) is, or was, committed to DCF; (2) received services voluntarily or involuntarily from DCF; (3) is, or was, the subject of a child abuse or neglect investigation; or (4) is the parent of someone currently or previously committed to DCF, if the person is still a minor. The “authorized representative” of a deceased person who was committed to DCF can consent on that person’s behalf. Authorized representatives can also receive certain disclosed records.

The bill eliminates the ability of a parent whose parental rights have been terminated to view that child’s records or consent to their disclosure. It adds a child’s guardian *ad litem* (a person representing a child’s best interests) to the list of authorized representatives, thus giving him or her broader access to the child’s records and authority to allow disclosure. Currently, only the child’s attorney, parent, guardian, or conservator can authorize disclosure of the contents of the child’s records.

### ***New Mandatory Disclosures***

Under the bill, DCF must disclose records without consent from the subject of the record (as opposed to current law, which requires consent from the person named in the record) to the following parties, who are not entitled to disclosure under current law:

1. the child advocate or a designee, for any purpose;
2. foster or prospective adoptive parents, but only records relating to social, medical, psychological, or educational needs of children currently placed with them or being considered for placement, and so long as no information that identifies biological parents is disclosed without the biological parents' consent;
3. employees of the Department of Mental Health and Addiction Services, for the purpose of treatment planning for young adults who have transitioned from DCF care;
4. Superior Court judges in criminal prosecutions, for purposes of an *in camera* review if (a) the court has ordered that it be given the record or (b) a party to the proceeding has subpoenaed the record;
5. probate court judges as required to perform their official duties; and
6. the Department of Developmental Services (DDS), for determining eligibility, facilitating enrollment, and planning services for a DDS client who is not participating in its voluntary services program.

The bill requires DDS to notify a child's parent or guardian when they apply to place the child in DDS's voluntary services program or when the child's annual individual plan is updated that these records may be disclosed without their consent.

### ***Revisions to Existing Mandatory Disclosures***

The bill eliminates an express reference to a prosecutor's duty to turn over exculpatory evidence or materials that could be the subject of a disclosure order.

This bill also limits some disclosures and the purposes for which parties currently entitled to receive mandatory disclosures can use

them.

**Records Pertaining to an Individual.** Current law gives anyone, or his or her attorney or other authorized representative, access to records that pertain to or contain information about the person, including records concerning investigations and medical or psychiatric examinations. The DCF commissioner can refuse access if she determines it would not be in the person's best interests.

The bill instead requires limited disclosure to:

1. the person named in the record, or his or her representative, limited to information contained in a record about him or her or about the individual's biological or adoptive child under age 18 (if the parent's parental rights have not been terminated) and
2. if the named person is the alleged perpetrator of abuse or neglect, information identifying someone who reported abuse or neglect by that person, if a court determines (a) there is reasonable cause to believe the reporter knowingly made a false report or (b) the interests of justice require disclosure.

**DCF Employees.** The bill broadens required disclosure to DCF employees by requiring it for any reason reasonably related to DCF's purposes. Current law restricts disclosure to DCF employees to the following situations: (1) the name of someone reporting abuse must be released to child protection and abuse registry personnel and (2) when a record would be necessary for an employee's disciplinary hearing or an appeal from a hearing decision.

**Treatment Providers.** The bill broadens, to records involving 16- and 17-year-olds, information that must be given to physicians and others authorized to take children and youth into protective custody.

**Prosecutors.** The bill restricts prosecutors' access to delinquency records. As under current law, the bill gives prosecutors access to records only for investigating or prosecuting abuse and neglect. The bill gives them access to records concerning a delinquency defendant

who is not charged with child abuse only (1) while the abuse case is being prosecuted and (2) after obtaining a release from the defendant.

**Chief Child Protection Attorney.** The bill removes the current restrictions on the chief child protection attorney's use of DCF records. Under current law, she has access only to ensure competent representation by the attorneys with whom she contracts for services and to ensure they are properly paid.

**Legislative Committees.** The bill adds the Human Services Committee to the legislative committees that must receive records in the course of their official functions. The Judiciary, Program Review, and Children's committees can already obtain records in this situation.

**Department of Motor Vehicles (DMV).** The bill requires disclosure to DMV of information obtained in child abuse investigations, in addition to the already required disclosure of information from the child abuse registry. DMV may use this information for criminal background checks for license endorsements involving school buses, student transportation, and student activity vehicles.

**Law Enforcement Agencies.** Current law does not limit the use a law enforcement agency can make of records DCF discloses to it. The bill specifies that disclosure is to police officers, not the agency, and is just for investigating child abuse cases. It also specifies that disclosure for this purpose is required to both state and federal officers.

### **Mandatory to Discretionary Disclosures**

State attorneys general, DCF legal representatives, and judges of the Superior Court all gain mandatory rather than discretionary access under the bill.

**Attorneys General.** Currently, DCF may give state attorneys general access to DCF records to provide legal counsel to the department. Under the bill, they must be given access for a more narrow purpose—representing the department in a legal proceeding involving the department.

**Auditors of Public Accounts.** The bill also makes records disclosure to the state auditors mandatory rather than discretionary. DCF cannot release personally identifiable information from a record unless it is essential to the audit.

**Judges of the Superior Court.** By law, Superior Court judges have access to DCF records for a variety of reasons. Under the bill records must, rather than may, be disclosed to assist the judge in deciding how to dispose of a delinquency or family with service needs matter.

### ***New Discretionary Disclosures***

The bill (1) permits DCF to disclose records without consent from the record's subject to the following parties who do not currently have access to these records and (2) eliminates the requirement that DCF first find disclosure is in the subject's best interest:

1. DCF employees or former employees, or their authorized representatives, for purposes of participating in any court, administrative, or disciplinary hearing, as long as DCF discloses only records it determines are relevant to the proceeding;
2. providers of professional services for children, youth (16- to 18-year-olds), and parents, provided disclosure is limited to information they need to provide services;
3. DCF contractors, to identify and assess potential foster and adoptive parents, as long no information identifying a child's or youth's biological parent is disclosed without that parent's consent;
4. law enforcement officers and prosecutors if there is reasonable cause to believe a child or youth is being, or is at risk of being, abused or neglected as a result of criminal activity;
5. anyone interviewed in a child abuse or neglect investigation who is not otherwise entitled to disclosure, as long as the information disclosed is limited to (a) the general nature of the

allegations, (b) the identity of the alleged victim, and (c) information needed to effectively conduct the investigation;

6. individuals who are looking for a missing parent, child, or youth, provided the disclosure is limited to information that helps in the search;
7. a court of competent jurisdiction when a DCF employee is subpoenaed and ordered to testify about the records; and
8. non-DCF employees who arrange, perform, or help perform functions on DCF's behalf, such as data processing, aggregation, or analysis; utilization review; quality assurance; and practice management.

DCF can disclose to these people only information it gathers in an abuse or neglect investigation or from the abuse registry.

### ***Revisions to Existing Discretionary Disclosures***

The bill makes discretionary some previously mandated disclosures, and changes some of the conditions for already discretionary disclosures. And it adds people and entities that may receive record disclosures. It eliminates a requirement that DCF find that discretionary disclosure is in the requestor's best interest.

### ***Cases Made Public***

Currently, DCF can disclose information about an incident of abuse or neglect that the public is likely to find out about. Disclosure is limited to:

1. whether the department received a report of abuse or neglect; and
2. in general terms, any action DCF took, provided (a) the names or other individually identifying information about the minor victim or other family member is not disclosed and (b) the name and other individually identifying information about the suspect is not disclosed unless he or she has been arrested for the crime.

Under the bill, the same criteria are applicable, but in addition, (1) information about the victim and family cannot be disclosed even if it has been made otherwise available, (2) the agency must confirm or deny the accuracy of information that has been made public, and (3) it must describe, in general terms, the legal status of the case.

**Fatalities.** The bill makes discretionary, rather than mandatory, DCF's disclosure of information about fatalities or near-fatalities resulting from abuse or neglect. It eliminates a requirement that a physician certify that the child's condition is near fatal but extends the bill's coverage to youths rather than only children. It continues to limit such disclosures to general information that does not jeopardize a pending investigation.

**The Abuser's Treatment Providers.** The bill limits the records medical or mental health providers treating an abuser or someone who is unwilling to protect a child from abuse or neglect can obtain. Under the bill, they may not get records unless there has been a substantiated finding of abuse or neglect arising from the patient's actions.

**Out-of-State Agencies.** Current law permits disclosure to any agency in another state that is responsible for investigating or protecting children from abuse and neglect, solely for the purpose of investigating abuse. The bill specifies that DCF can give records to out-of-state courts, agencies, and federally recognized tribes that are responsible for investigating abuse or neglect or preventing it, for purposes related to those functions

**Researchers.** The bill removes a requirement that requires each person identified in a record or his or her authorized representative to consent in writing before DCF can disclose records to a researcher.

**Individuals Interviewed During an Abuse or Neglect Investigation.** Currently, abuse reporters may get limited information about the case. Under the bill, anyone interviewed who would not otherwise be entitled to information may be told about: (1) the general nature of the allegations, (2) the identity of the child or youth

suspected of being abused or neglected, and (3) information necessary to effectively conduct the investigation.

***Confidentiality of Identity of Abuse or Neglect Reporter***

The bill changes restrictions on DCF’s disclosing the name of a person who reports abuse or neglect. It does this by applying to abuse reporters the confidentiality protections that currently apply to people who cooperate with abuse and neglect investigations.

Currently, DCF cannot disclose the name of an abuse reporter without the person’s written consent except to:

1. a DCF employee responsible for child protective services or the abuse registry;
2. a law enforcement officer, an appropriate state’s attorney, or assistant attorney general;
3. a Superior Court judge and all necessary parties in abuse and neglect proceedings or a criminal prosecution involving abuse or neglect; or
4. a state child care licensing agency, executive director of any institution, school, or facility, or superintendent of schools.

The bill permits (1) an abuse reporter to request confidentiality or (2) DCF to determine that disclosing the reporter’s name might be detrimental to her or his safety or interests. But it requires DCF to disclose the reporter’s name (and the name of people who cooperate with an investigation) to:

1. a DCF employee for reasons reasonably related to DCF business;
2. a law enforcement officer or a state’s attorney for purposes of investigating or prosecuting abuse or neglect;
3. an assistant attorney general representing DCF;

4. a Superior Court judge and all necessary parties in abuse and neglect proceedings or a criminal prosecution involving abuse or neglect (same as above); or
5. a state child care licensing agency, executive director of any institution, school, or facility, or superintendent of schools (same as above).

As under current law, information identifying someone who reports abuse or neglect cannot be disclosed to the person named in the record or his or her representative unless a Superior Court judge finds, after reviewing the records privately, that the reporter knowingly made a false report or the interests of justice require disclosure.

### ***Changes in Disclosure Procedures***

***Denying Access to Records.*** Under current law, the DCF commissioner can refuse to disclose a record to the person who is its subject when she determines that disclosure is not in the person's (or representative's) best interests, so long as she gives her reasons in writing and advises the person that he or she may challenge this action in court. Under the bill, her authority to refuse to disclose extends to anyone who asks for information, and the basis for refusal is no longer restricted to considerations of the requestor's best interests. When she refuses a request, the bill requires her to notify the requestor that she is withholding records and their general contents, in addition to providing her reasons and notice of judicial review options.

The bill also expands the reasons courts may use to uphold DCF's non-disclosure decisions. Currently, after a hearing and private review of the challenged records, the court must order disclosure unless it determines this could be contrary to the requestor or requestor representative's best interests. Under the bill, the court may also uphold DCF's decision when it determines that disclosure (1) would be contrary to the best interests of the person who is the subject of the record, (2) could reasonably result in the risk of harm to any person, or (3) would contravene the state's public policy.

**Further Disclosure of Record.** Current law prohibits information that is disclosed from a person's record from being further disclosed without consent unless it is disclosed pursuant to an order issued by a court in which a criminal prosecution or an abuse, neglect, commitment, or termination of parental rights proceeding involving the record's subject is pending. The bill permits further disclosure based on an order issued by any court of competent jurisdiction or for day care licensing and investigation purposes.

**COMMITTEE ACTION**

Select Committee on Children

Joint Favorable Substitute

Yea 11 Nay 1 (03/03/2011)

Judiciary Committee

Joint Favorable

Yea 44 Nay 0 (04/12/2011)