



Greater Hartford Legal Aid

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**Testimony of Lisa Levy before the Select Committee On Children
Concerning SB 1043, An Act Concerning Access to
Records of the Department of Children and Families**

March 1, 2011

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 of our concerns regarding S.B. 1043 submitted by the Department of Children and Families ("DCF"). Last year, DCF submitted a substantially similar proposal that did not make it through both Houses in time. Legal Services had negotiated language with the agency last session that we now urge you to accept.

As part of our mission to provide free legal services to the poor, 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

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whose livelihoods otherwise may be irreparably damaged by disclosure of substantiated allegations prior to the exercise of due process protections.

In SB 1043, DCF seeks to expand the types of "records" -- information that it obtains through 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 principles and our state statute.

SB 1043 would allow DCF to disclose records without a person's consent to "any individual" interviewed as part of the DCF investigation, whether or not that person is entitled by law to the information (section (h)(13)). In addition, the proposed bill would allow disclosure to those determined by DCF to be conducting "bona fide" research (section (h)(10)). SB 1043 would also allow disclosure of records to individuals who are not employed by, but perform various services for DCF, including, among others, data analysis, utilization reviews, quality assurance and consultation (section (h)(18)). Subsequent unregulated disclosure of the records by any of these recipients to a prospective or present employer could result in loss of employment or of a job opportunity for the individual suspected of abuse or neglect prior to invocation of the administrative hearing procedure in §17a-101k. As thus applied to child care workers, these and other sections of SB 1043 could effectively negate the due process protections so carefully built into our CT statute.

Last year, we met with representatives from DCF and agreed on corrective language to the DCF bill then submitted, which closely resembles the language in SB 1043. Incorporating by reference §17a-101g and §17a-10k, that negotiated language would limit several sections of SB 1043 (including those described above) that could result in overly broad and illegal disclosure of records by DCF while maintaining the agency's expansive authority to regulate disclosure of its own records. The negotiated language thus ensures that individuals can effectively exercise their statutory and constitutional rights to notice and an administrative hearing procedure to challenge the allegations of abuse or neglect.

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

Proposed Substitute Language for HB 1043

**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 2010 supplement to the general
2 statutes is repealed and the following is substituted in lieu thereof
3 (*Effective October 1, 2010*):

4 (a) As used in this section:

5 (1) "Person" means (A) any individual named in a record,
6 maintained by the department, who (i) is presently or at any prior time
7 was a ward of or committed to the commissioner for any reason; (ii)
8 otherwise received services, voluntarily or involuntarily, from the
9 department; or (iii) is presently or was at any prior time the subject of
10 an investigation by the department; (B) [the parent of a person, as
11 defined] a parent whose parental rights have not been terminated or
12 current guardian of an individual described in subparagraph (A) of
13 this subdivision, if such [person] individual is a minor; or (C) the
14 authorized representative of a person, as defined in subparagraph (A)
15 of this subdivision, if such person 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, and section 17a-101k. Any
44 unauthorized disclosure
45 shall be 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.

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

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

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

74 (d) Any information disclosed from a person's record shall not be
75 further disclosed to another individual or entity without the written
76 consent of the person, except pursuant to (1) section 19a-80, provided such disclosure
is otherwise permitted pursuant to subsections (b) and (c) of this section, or (2) the
77 order of a court of competent jurisdiction.

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

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

112 General Assembly having cognizance of matters relating to children
113 when requested in the course of said committees' official functions in
114 writing, and upon a majority vote of said committee, provided no
115 names or other identifying information shall be disclosed unless it is
116 essential to the legislative or gubernatorial purpose, (8) a local or
117 regional board of education, provided the records are limited to
118 educational records created or obtained by the state or Connecticut-
119 Unified School District #2, established pursuant to section 17a-37, (9) a
120 party in a custody proceeding under section 17a-112 or 46b-129, in the
121 Superior Court where such records concern a child who is the subject
122 of the proceeding or the parent of such child, (10) the Chief Child
123 Protection Attorney, or his or her designee, for purposes of ensuring
124 competent representation by the attorneys whom the Chief Child
125 Protection Attorney contracts with to provide legal and guardian ad
126 litem services to the subjects of such records and to ensure accurate
127 payments for services rendered by such contract attorneys, and (11)
128 the Department of Motor Vehicles, for purposes of checking the state's
129 child abuse and neglect registry pursuant to subsection (e) of section
130 14-44. A disclosure under this section shall be made of any part of a
131 record, whether or not created by the department, provided no
132 confidential record of the Superior Court shall be disclosed other than
133 the petition and any affidavits filed therewith in the superior court for
134 juvenile matters, except upon an order of a judge of the Superior Court
135 for good cause shown. The commissioner shall also disclose the name
136 of any individual who cooperates with an investigation of a report of
137 child abuse or neglect to such law enforcement agency or state's
138 attorney for purposes of investigating or prosecuting an allegation of
139 child abuse or neglect. The commissioner or the commissioner's
140 designee shall, upon request, subject to the provisions of sections 17a-
141 101g and 17a-101k, promptly provide copies of records, without the
142 consent of the person, to (A) the Department of Public Health for the
143 purpose of determining the suitability of a person to care for children
144 in a facility licensed under sections 19a-77 to 19a-80, inclusive, 19a-82
145 to 19a-87, inclusive, and 19a-87b, and (B) the Department of Social
146 Services for determining the suitability of a person for any payment
147 from the department for providing child care.

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

153 (1) Multidisciplinary teams which are formed to assist the
154 department in investigation, evaluation or treatment of child abuse
155 and neglect cases or a multidisciplinary provider of professional

156 treatment services under contract with the department for a child
157 referred to the provider;

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

161 (3) An individual, including a physician, authorized pursuant to
162 section 17a-101f to place a child in protective custody if such
163 individual has before him a child whom he reasonably suspects may
164 be a victim of abuse or neglect and such individual requires the
165 information in a record in order to determine whether to place the
166 child in protective custody;

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

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

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

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

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

192 (9) The Auditors of Public Accounts or their representative,
193 provided no information identifying the subjects of the records shall be

194 disclosed unless such information is essential to an audit conducted
195 pursuant to section 2-90;

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

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

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

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

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

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

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

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

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

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

274 (m) In addition to the right of access provided in section 1-210, any
275 person, regardless of age, his authorized representative or attorney

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

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

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

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

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

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

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

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

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

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

356 (6) The Chief Child Protection Attorney or the Chief Child
357 Protection Attorney's designee;

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

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

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

374 (10) The Governor, when requested in writing in the course of the
375 Governor's official functions, the Legislative Program Review and
376 Investigations Committee, the joint standing committees of the General
377 Assembly having cognizance of matters relating to human services and
378 the judiciary and the select committee of the General Assembly having
379 cognizance of matters relating to children, when requested in writing
380 in the course of said committees' official functions, and upon a
381 majority vote of said committees, provided no names or other
382 identifying information is disclosed unless it is essential to the
383 gubernatorial or legislative purpose;

384 (11) The Department of Public Health, ~~subject to the provisions of~~
385 ~~section 17a-101g and section 17a-101k, as amended by this act,~~ for the
386 purpose of (A) determining the suitability of a person to care for
387 children in a facility licensed pursuant to section 19a-77, 19a-80 or 19a-
388 87b; (B) determining the suitability of such person for licensure; or (C)
389 an investigation conducted pursuant to section 19a-80f;

390 (12) The Department of Developmental Services, to allow said
391 department to determine eligibility, facilitate enrollment and plan for
392 the provision of services to a child, who is a client of said department
393 and who is not participating in said department's voluntary services
394 program or is enrolled in said department's voluntary services

395 program, provided records disclosed pursuant to this subdivision shall
396 be limited to a written summary of any investigation conducted by the
397 Department of Children and Families pursuant to section 17a-101g and
398 to information contained in the abuse and neglect registry pursuant to
399 section 17a-101k, as amended by this act. At the time that a parent or
400 guardian completes an application for enrollment of a child in the
401 Department of Developmental Services voluntary services program or
402 at the time that the child's annual individual plan is updated, said
403 department shall notify the child's parent or guardian that records
404 described in this subdivision may be disclosed by the Department of
405 Children and Families to the Department of Developmental Services
406 without the consent of the child's parent or guardian;

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

411 (14) A judge of the Probate Court where the Probate Court has
412 requested an investigative report prepared by the Department of
413 Children and Families for the purpose of determining custody,
414 provided the information disclosed is limited to records necessary to
415 the preparation of the investigative report;

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

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

427 (17) A local or regional board of education, provided the records are
428 limited to educational records created or obtained by the state or
429 Connecticut Unified School District #2, established pursuant to section
430 17a-37;

431 (18) The Department of Motor Vehicles for the purpose of criminal
432 history records checks pursuant to subsection (e) of section 14-44,
433 provided information disclosed pursuant to this subdivision shall be
434 limited to information obtained in an investigation conducted

435 pursuant to section 17a-101g and information contained in the abuse
436 and neglect registry pursuant to section 17a-101k, as amended by this
437 act; and

438 (19) The Department of Mental Health and Addiction Services for
439 the purpose of treatment planning for young adults who have
440 transitioned from the care of the Department of Children and Families,
441 ~~provided information disclosed pursuant to this subdivision shall be~~
442 ~~limited to information obtained in an investigation conducted~~
443 ~~pursuant to section 17a-101g and information contained in the abuse~~
444 ~~and neglect registry pursuant to section 17a-101k, as amended by this~~
445 ~~act.~~

446 (h) The department may, subject to subsections (b) and (c) of this section,
447 disclose records without the consent of the person who is the subject of
448 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, ~~subject to the provisions of~~
464 ~~sections 17a-101g and 17a-101k, as amended by this act,~~ for the
465 purpose of (A) determining the suitability of a person for payment
466 from the Department of Social Services for providing child care; or (B)
467 promoting the health, safety and welfare of the child or youth;

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

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

481 (8) An individual or organization engaged in the business of
482 medical, psychological or psychiatric diagnosis and treatment and who
483 is treating an individual who has perpetrated abuse or neglect, as
484 determined in an investigation conducted pursuant to section 17a-
485 101g, or who is unwilling or unable to protect a child or youth from
486 abuse or neglect, as determined in an investigation conducted
487 pursuant to section 17a-101g, when the commissioner, or the
488 commissioner's designee, determines that the disclosure is necessary to
489 accomplish the objectives of diagnosis or treatment, ~~provided the~~
490 ~~information disclosed is limited to information contained in the abuse~~
491 ~~and neglect registry pursuant to section 17a-101k, as amended by this~~
492 ~~act;~~

493 (9) A court or public agency in another state or a federally
494 recognized Indian tribe, that is responsible for investigating child
495 abuse or neglect, preventing child abuse and neglect or providing
496 services to families at risk for abuse or neglect, for the purpose of such
497 investigation, prevention or providing services to such families;
498 ~~provided the information disclosed is limited to information obtained~~
499 ~~in an investigation conducted pursuant to section 17a-101g or~~
500 ~~contained in the abuse and neglect registry pursuant to section 17a-~~
501 ~~101k, as amended by this act;~~

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

507 (11) An individual or agency involved in the collection of fees for
508 services, provided such information is limited to the name and address
509 of the person who received the services and the fees for services,
510 except as provided in section 17b-225. In cases where a dispute arises
511 over such fees or claims or where additional information is needed to
512 substantiate the fee or claim, the Department of Children and Families
513 may disclose the following: (A) That the person was, in fact, provided

514 services by the department; (B) the dates and duration of service; and
515 (C) a general description of the service, including evidence that a
516 service or treatment plan exists and has been carried out and evidence
517 to substantiate the necessity for admission and length of stay in an
518 institution or facility;

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

523 (13) Any individual interviewed as part of an investigation
524 conducted pursuant to section 17a-101g, who is not otherwise entitled
525 to such information, provided such disclosure of information is limited
526 to: (A) The general nature of the allegations contained in the reports;
527 (B) the identity of the child or youth alleged to have been abused or
528 neglected; ~~(C) the identity of the alleged perpetrator; (D) information~~
529 ~~contained in the abuse and neglect registry pursuant to section 17a-~~
530 ~~101k, as amended by this act; and (E) information necessary to~~
531 effectively conduct the investigation;

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

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

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

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

554 (18) An individual who is not employed by the department who
555 arranges, performs or assists in performing functions or activities on
556 behalf of the department, including, but not limited to, data analysis,
557 processing or administration, utilization reviews, quality assurance,
558 practice management, consultation, data aggregation and accreditation
559 services, ~~provided information disclosed pursuant to this subdivision~~
560 ~~shall be limited to information obtained in an investigation conducted~~
561 ~~pursuant to section 17a-101g and information contained in the abuse~~
562 ~~and neglect registry pursuant to section 17a-101k, as amended by this~~
563 ~~act;~~

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

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

586 (k) ~~A party to a civil proceeding may petition the superior court for~~
587 ~~juvenile matters for the venue district, established pursuant to section~~
588 ~~46b-142, in which the party resides for an order authorizing disclosure~~
589 ~~of the record of another party to the civil proceeding, provided the~~
590 ~~court, after an in-camera inspection, finds the records are material and~~
591 ~~relevant to those proceedings and that good cause exists to disclose~~
592 ~~such records. For purposes of this subsection, good cause exists, but is~~
593 ~~not limited to, situations in which there are no other available means of~~
594 ~~obtaining the information sought in such record by the party seeking~~
595 ~~such record.~~

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

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

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

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

This act shall take effect as follows and shall amend the following
sections:

Section 1 *October 1, 2010* 17a-28

Sec. 2 *October 1, 2010* 17a-101k(c)(1)