



General Assembly

January Session, 2011

Raised Bill No. 1043

LCO No. 3792

03792_____KID

Referred to Committee on Select Committee on Children

Introduced by:
(KID)

**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 Section 17a-28 of the general statutes is repealed and the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. Any unauthorized disclosure
44 shall be punishable by a fine of not more than one thousand dollars or
45 imprisonment for not more than one year, or both. Any employee of

46 the department who in the ordinary course of such person's
47 employment has reasonable cause to suspect or believe that another
48 employee has engaged in the unauthorized disclosure of records shall
49 report in writing such unauthorized disclosure of records to the
50 commissioner. The report shall include the name of the person
51 disclosing the information and the nature of the information disclosed
52 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 or 19a-80f,
77 provided such disclosure is otherwise permitted pursuant to

78 subsection (c) of this section, or (2) the order of a court of competent
79 jurisdiction.

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

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

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

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

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

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

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

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

173 (4) An individual or public or private agency responsible for a
174 person's care or custody and authorized by the department to
175 diagnose, care for, treat or supervise a child who is the subject of a

176 record of child abuse or neglect or a public or private agency
177 responsible for a person's education for a purpose related to the
178 individual's or agency's responsibilities;

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

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

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

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

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

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

205 (11) A judge of the Superior Court for purposes of determining the

206 appropriate disposition of a child convicted as delinquent or a child
207 who is a member of a family with service needs;

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

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

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

237 (i) Notwithstanding the provisions of subsections (f) and (l) of this

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

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

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

260 (l) Information disclosed from a person's record shall not be
261 disclosed further without the written consent of the person, except if
262 disclosed (1) pursuant to the provisions of section 19a-80f, or (2) to a
263 party or his counsel pursuant to an order of a court in which a criminal
264 prosecution or an abuse, neglect, commitment or termination
265 proceeding against the party is pending. A state's attorney shall
266 disclose to the defendant or his counsel in a criminal prosecution,
267 without the necessity of a court order, exculpatory information and
268 material contained in such record and may disclose, without a court
269 order, information and material contained in such record which could

270 be the subject of a disclosure order. All written records disclosed to
271 another individual or agency shall bear a stamp requiring
272 confidentiality in accordance with the provisions of this section. Such
273 material shall not be disclosed to anyone without written consent of
274 the person or as provided by this section. A copy of the consent form
275 specifying to whom and for what specific use the record is disclosed or
276 a statement setting forth any other statutory authorization for
277 disclosure and the limitations imposed thereon shall accompany such
278 record. In cases where the disclosure is made orally, the individual
279 disclosing the information shall inform the recipient that such
280 information is governed by the provisions of this section.

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

304 representative, having obtained access to any record, believes there are
305 factually inaccurate entries or materials contained therein, he shall
306 have the unqualified right to add a statement to the record setting
307 forth what he believes to be an accurate statement of those facts, and
308 said statement shall become a permanent part of said record.

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

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

326 (f) The name of any individual who reports suspected abuse or
327 neglect of a child or youth or cooperates with an investigation of child
328 abuse or neglect shall be kept confidential upon request or upon
329 determination by the department that disclosure of such information
330 may be detrimental to the safety or interests of the individual, except
331 the name of any such individual shall be disclosed pursuant to
332 subparagraph (B) of subdivision (1) of subsection (g) of this section to
333 (1) an employee of the department for reasons reasonably related to
334 the business of the department; (2) a law enforcement officer for
335 purposes of investigating abuse or neglect of a child or youth; (3) a

336 state's attorney for purposes of investigating or prosecuting abuse or
337 neglect of a child or youth; (4) an assistant attorney general or other
338 legal counsel representing the department; (5) a judge of the Superior
339 Court and all necessary parties in a court proceeding pursuant to
340 section 17a-112 or 46b-129, or a criminal prosecution involving child
341 abuse or neglect; (6) a state child care licensing agency; or (7) the
342 executive director of any institution, school or facility or
343 superintendent of schools pursuant to section 17a-101i.

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

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

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

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

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

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

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

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

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

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

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

394 (11) The Department of Public Health for the purpose of (A)
395 determining the suitability of a person to care for children in a facility
396 licensed pursuant to section 19a-77, 19a-80 or 19a-87b; (B) determining

397 the suitability of such person for licensure; or (C) an investigation
398 conducted pursuant to section 19a-80f;

399 (12) The Department of Developmental Services, to allow said
400 department to determine eligibility, facilitate enrollment and plan for
401 the provision of services to a child who is a client of said department
402 and who is applying to enroll in or is enrolled in said department's
403 voluntary services program. At the time that a parent or guardian
404 completes an application for enrollment of a child in the Department of
405 Developmental Services' voluntary services program, or at the time
406 that said department updates a child's annual individualized plan of
407 care, said department shall notify such parent or guardian that the
408 Department of Children and Families may provide records to the
409 Department of Developmental Services for the purposes specified in
410 this subdivision without the consent of such parent or guardian;

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

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

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

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

428 parent of such child who is the subject of the proceeding;

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

433 (18) A local or regional board of education, provided the records are
434 limited to educational records created or obtained by the state or
435 Connecticut Unified School District #2, established pursuant to section
436 17a-37;

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

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

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

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

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

456 (3) A provider of professional services for a child, youth or parent

457 referred to such provider, provided such disclosure is limited to
458 information necessary to provide services to the child, youth or parent;

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

464 (5) The Department of Social Services for the purpose of (A)
465 determining the suitability of a person for payment from the
466 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, or 17a-103, who made a report
475 of abuse or neglect, provided the information disclosed is limited to
476 (A) the status of the investigation conducted pursuant to section 17a-
477 101g resulting from the individual's report; and (B) in general terms,
478 the action taken by the department as a result of such investigation;

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

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

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

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

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

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

520 investigation;

521 (14) Any individual, when information concerning an incident of
522 abuse or neglect has been made public or the commissioner reasonably
523 believes publication of such information is likely, provided such
524 disclosure is limited to: (A) Whether the department has received any
525 report in accordance with sections 17a-101a to 17a-101c, inclusive, or
526 section 17a-103; (B) in general terms, any action taken by the
527 department, provided: (i) Names or other individually identifiable
528 information of the minor victim or other family members is not
529 disclosed, regardless of whether such individually identifiable
530 information is otherwise available, and (ii) the name or other
531 individually identifiable information of the person suspected to be
532 responsible for the abuse or neglect is not disclosed unless such person
533 has been arrested for a crime due to such abuse or neglect; (C)
534 confirmation or denial of the accuracy of information that has been
535 made public; and (D) notwithstanding the provisions of section 46b-
536 124, in general terms, the legal status of the case;

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

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

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

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

551 practice management, consultation, data aggregation and accreditation
552 services.

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

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

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

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

583 where the disclosure is made orally, the individual disclosing the
584 information shall inform the recipient that such information is
585 governed by the provisions of this section.

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

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

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

| | | |
|---|------------------------|----------------|
| This act shall take effect as follows and shall amend the following sections: | | |
| Section 1 | <i>October 1, 2011</i> | 17a-28 |
| Sec. 2 | <i>October 1, 2011</i> | 17a-101k(c)(1) |

Statement of Purpose:

To revise, update and reorganize the laws concerning access to the Department of Children and Families' confidential records.

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