



House of Representatives

General Assembly

File No. 312

February Session, 2012

Substitute House Bill No. 5346

House of Representatives, April 10, 2012

The Committee on Human Services reported through REP. TERCYAK of the 26th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

AN ACT CONCERNING MINOR AND TECHNICAL REVISIONS TO STATUTES AFFECTING CHILDREN AND YOUTH.

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

1 Section 1. Subsections (g) and (h) of section 17a-28 of the 2012
2 supplement to the general statutes are repealed and the following is
3 substituted in lieu thereof (*Effective October 1, 2012*):

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

7 (1) The person named in the record or such person's authorized
8 representative, provided such disclosure shall be limited to
9 information (A) contained in the record about such person or about
10 such person's biological or adoptive minor child, if such person's
11 parental rights to such child have not been terminated; and (B)
12 [information] identifying an individual who reported abuse or neglect
13 of the person, including any tape recording [or] of an oral report

14 pursuant to section 17a-103, if a court determines that there is
15 reasonable cause to believe the reporter knowingly made a false report
16 or that the interests of justice require disclosure;

17 (2) An employee of the department for any purpose reasonably
18 related to the [business of the department] performance of such
19 employee's duties;

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

22 (4) The Attorney General, any assistant attorney general or any
23 other legal counsel retained to represent the department during the
24 course of a legal proceeding involving the department or an employee
25 of the department;

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

27 (6) The Chief Public Defender or the Chief Public Defender's
28 designee;

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

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

38 (9) Any foster or prospective adoptive parent, if the records pertain
39 to a child or youth currently placed with the foster or prospective
40 adoptive parent, or a child or youth being considered for placement
41 with the foster or prospective adoptive parent, and the records are
42 necessary to address the social, medical, psychological or educational
43 needs of the child or youth, provided no information identifying a

44 biological parent is disclosed without the permission of such biological
45 parent;

46 (10) The Governor, when requested in writing in the course of the
47 Governor's official functions, the Legislative Program Review and
48 Investigations Committee, the joint standing [committees] committee
49 of the General Assembly having cognizance of matters relating to
50 human services, [and] the joint standing committee of the General
51 Assembly having cognizance of matters relating to the judiciary [and]
52 or the select committee of the General Assembly having cognizance of
53 matters relating to children, when requested in writing in the course of
54 said [committees'] committee's official functions, and upon a majority
55 vote of said [committees] committee, provided no [names] name or
56 other identifying information is disclosed unless [it] such information
57 is essential to the gubernatorial or legislative purpose;

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

63 (12) The Department of Developmental Services, to allow said
64 department to determine eligibility, facilitate enrollment and plan for
65 the provision of services to a child who is a client of said department
66 and who is applying to enroll in or is enrolled in said department's
67 voluntary services program. At the time that a parent or guardian
68 completes an application for enrollment of a child in the Department of
69 Developmental Services' voluntary services program, or at the time
70 that said department updates a child's annual individualized plan of
71 care, said department shall notify such parent or guardian that the
72 Department of Children and Families may provide records to the
73 Department of Developmental Services for the purposes specified in
74 this subdivision without the consent of such parent or guardian;

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

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

80 (15) A judge of the Superior Court for purposes of determining the
81 appropriate disposition of a child convicted as delinquent or a child
82 who is a member of a family with service needs; [, or a]

83 (16) A judge of the Superior Court in a criminal prosecution for
84 purposes of in-camera inspection whenever (A) the court has ordered
85 that the record be provided to the court; or (B) a party to the
86 proceeding has issued a subpoena for the record;

87 [(16)] (17) A judge of the Superior Court and all necessary parties in
88 a family violence proceeding when such records concern family
89 violence with respect to the child who is the subject of the proceeding
90 or the parent of such child who is the subject of the proceeding;

91 [(17)] (18) The Auditors of Public Accounts, or their representative,
92 provided no information identifying the subject of the record is
93 disclosed unless such information is essential to an audit conducted
94 pursuant to section 2-90;

95 [(18)] (19) A local or regional board of education, provided the
96 records are limited to educational records created or obtained by the
97 state or Connecticut Unified School District #2, established pursuant to
98 section 17a-37;

99 [(19)] (20) The Department of Motor Vehicles for the purpose of
100 criminal history records checks pursuant to subsection (e) of section
101 14-44, provided information disclosed pursuant to this subdivision
102 shall be limited to information obtained in an investigation conducted
103 pursuant to section 17a-101g and information contained in the abuse
104 and neglect registry pursuant to section 17a-101k; and

105 [(20)] (21) The Department of Mental Health and Addiction Services
106 for the purpose of treatment planning for young adults who have
107 transitioned from the care of the Department of Children and Families.

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

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

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

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

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

125 (5) The Department of Social Services for the purpose of (A)
126 determining the suitability of a person for payment from the
127 Department of Social Services for providing child care; or (B)
128 promoting the health, safety and welfare of the child or youth;

129 (6) A physician examining a child with respect to whom abuse or
130 neglect is suspected and who is authorized pursuant to section 17a-
131 101f to keep the child in the custody of a hospital when such physician
132 requires the information in a record of the department to determine
133 whether to keep the child [or youth] in protective custody;

134 (7) An individual who reports child abuse or neglect pursuant to
135 sections 17a-101a to 17a-101c, inclusive, or section 17a-103, who made
136 a report of abuse or neglect, provided the information disclosed is
137 limited to (A) the status of the investigation conducted pursuant to
138 section 17a-101g resulting from the individual's report; and (B) in

139 general terms, the action taken by the department as a result of such
140 investigation;

141 (8) An individual or organization engaged in the business of
142 medical, psychological or psychiatric diagnosis and treatment and who
143 is treating an individual who has perpetrated abuse or neglect, as
144 determined in an investigation conducted pursuant to section 17a-
145 101g, or who is unwilling or unable to protect a child or youth from
146 abuse or neglect, as determined in an investigation conducted
147 pursuant to section 17a-101g, when the commissioner, or the
148 commissioner's designee, determines that the disclosure is necessary to
149 accomplish the objectives of diagnosis or treatment;

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

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

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

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

176 (13) Any individual interviewed as part of an investigation
177 conducted pursuant to section 17a-101g, who is not otherwise entitled
178 to such information, provided such disclosure [of information] is
179 limited to: (A) The general nature of the allegations contained in the
180 reports; (B) the identity of the child or youth alleged to have been
181 abused or neglected; and (C) information necessary to effectively
182 conduct the investigation;

183 (14) Any individual, when information concerning an incident of
184 child abuse or neglect has been made public or the commissioner
185 reasonably believes publication of such information is likely, provided
186 such disclosure is limited to: (A) Whether the department has received
187 any report in accordance with sections 17a-101a to 17a-101c, inclusive,
188 or section 17a-103; (B) in general terms, any action taken by the
189 department, provided: (i) Names or other individually identifiable
190 information of the [minor victim] child or other family members is not
191 disclosed, regardless of whether such individually identifiable
192 information is otherwise available, and (ii) the name or other
193 individually identifiable information of the person suspected to be
194 responsible for the abuse or neglect is not disclosed unless such person
195 has been arrested for a crime due to such abuse or neglect; (C)
196 confirmation or denial of the accuracy of information that has been
197 made public; and (D) notwithstanding the provisions of section 46b-
198 124, in general terms, the legal status of the case;

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

202 (16) Any individual, when the information [or findings] concern an
203 incident of abuse or neglect that resulted in a child or youth fatality or
204 near fatality of a child or youth, provided disclosure of such

205 information [or findings] is in general terms and does not jeopardize a
206 pending investigation;

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

209 (18) An individual who is not employed by the department who
210 arranges, performs or assists in performing functions or activities on
211 behalf of the department, including, but not limited to, data analysis,
212 processing or administration, utilization reviews, quality assurance,
213 practice management, consultation, data aggregation and accreditation
214 services.

215 Sec. 2. Subsection (k) of section 17a-28 of the 2012 supplement to the
216 general statutes is repealed and the following is substituted in lieu
217 thereof (*Effective October 1, 2012*):

218 (k) All written records disclosed to [another individual or] an
219 individual who is not the subject of the record or an agency shall bear
220 a stamp requiring confidentiality in accordance with the provisions of
221 this section. Such records shall not be disclosed to [anyone] another
222 individual or entity without the written consent of the person who is
223 the subject of the record or as provided by this section. A copy of the
224 consent form, specifying to whom and for what specific use the record
225 is disclosed or a statement setting forth any other statutory
226 authorization for disclosure and the limitations imposed on such
227 disclosure, shall accompany the record. In cases where the disclosure is
228 made orally, the individual disclosing the information shall inform the
229 recipient that such information is governed by the provisions of this
230 section.

This act shall take effect as follows and shall amend the following sections:		
Section 1	October 1, 2012	17a-28(g) and (h)
Sec. 2	October 1, 2012	17a-28(k)

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

There is no fiscal impact to the Department of Children and Families associated with changes to record disclosure and other technical revisions to statutes.

The Out Years

State Impact: None

Municipal Impact: None

OLR Bill Analysis**sHB 5346*****AN ACT CONCERNING MINOR AND TECHNICAL REVISIONS TO STATUTES AFFECTING CHILDREN AND YOUTH.*****SUMMARY:**

This bill restricts the Department of Children and Families' (DCF) duty to disclose records in certain situations. Current law requires DCF to disclose a record, subject to applicable law and without the consent of the person who is the subject of the record, to a DCF employee for any purpose reasonably related to DCF business. Under the bill, such a disclosure may only be made if it is reasonably related to the performance of the DCF employee's duties.

The bill also makes minor, technical, and conforming changes to the statutes affecting children and youths.

EFFECTIVE DATE: October 1, 2012

COMMITTEE ACTION

Select Committee on Children

Joint Favorable Substitute Change of Reference
Yea 12 Nay 0 (03/13/2012)

Human Services Committee

Joint Favorable
Yea 16 Nay 0 (03/22/2012)