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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2020

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A N A C T

RELATING TO MILITARY AFFAIRS AND DEFENSE -- MILITARY SEXUAL TRAUMA  
CONFIDENTIALITY ACT

Introduced By: Representatives Vella-Wilkinson, Casimiro, Solomon, Almeida, and  
Azzinaro

Date Introduced: January 15, 2020

Referred To: House Judiciary

It is enacted by the General Assembly as follows:

1 SECTION 1. Title 30 of the General Laws entitled "MILITARY AFFAIRS AND  
2 DEFENSE" is hereby amended by adding thereto the following chapter:

3 CHAPTER 13.1

4 MILITARY SEXUAL TRAUMA CONFIDENTIALITY ACT

5 **30-13.1-1. Short title.**

6 This chapter shall be known and may be cited as the "Military Sexual Trauma  
7 Confidentiality Act."

8 **30-13.1-2. Victim confidentiality.**

9 In an investigation of or a prosecution for an offense of rape, sexual assault, sexual  
10 battery, or sexual harassment of a military servicemember, every agency of state or local  
11 government to include, but not be limited to, state military personnel and investigators shall keep  
12 confidential the identity, pictures, and images of the alleged victim and the family of the alleged  
13 victim, except to the extent that disclosure is:

14 (1) Necessary for the purpose of investigation, prosecution or administrative action;

15 (2) Required by law or court order; or

16 (3) Necessary to ensure provision of services of benefits to the victim or the victim's  
17 family.

18 **30-13.1-3. Investigation confidentiality.**

1 (a) Documents, materials or other information in the possession or control of any agency  
2 of state or local government, to include, but not be limited to, state military personnel and  
3 investigators and obtained or disclosed during the course of any report or investigation of an  
4 alleged rape, sexual assault, sexual battery or sexual harassment of a military servicemember  
5 shall be confidential by law and privileged, shall not be subject to the access of public records act,  
6 and shall not be subject to subpoena.

7 (b) Documents, materials or other information subject to the provisions of subsection (a)  
8 of this section may be disclosed to the extent that disclosure is:

9 (1) Necessary for the purpose of investigation, prosecution or administrative action;

10 (2) Required by law or court order; or

11 (3) Necessary to ensure provision of services or benefits to the victim or the victim's  
12 family.

13 SECTION 2. Section 38-2-2 of the General Laws in Chapter 38-2 entitled "Access to  
14 Public Records" is hereby amended to read as follows:

15 **38-2-2. Definitions.**

16 As used in this chapter:

17 (1) "Agency" or "public body" means any executive, legislative, judicial, regulatory, or  
18 administrative body of the state, or any political subdivision thereof; including, but not limited to:  
19 any department, division, agency, commission, board, office, bureau, authority; any school, fire,  
20 or water district, or other agency of Rhode Island state or local government that exercises  
21 governmental functions; any authority as defined in § 42-35-1(b); or any other public or private  
22 agency, person, partnership, corporation, or business entity acting on behalf of and/or in place of  
23 any public agency.

24 (2) "Chief administrative officer" means the highest authority of the public body.

25 (3) "Public business" means any matter over which the public body has supervision,  
26 control, jurisdiction, or advisory power.

27 (4) "Public record" or "public records" shall mean all documents, papers, letters, maps,  
28 books, tapes, photographs, films, sound recordings, magnetic or other tapes, electronic data  
29 processing records, computer stored data (including electronic mail messages, except specifically  
30 for any electronic mail messages of or to elected officials with or relating to those they represent  
31 and correspondence of or to elected officials in their official capacities), or other material  
32 regardless of physical form or characteristics made or received pursuant to law or ordinance or in  
33 connection with the transaction of official business by any agency. For the purposes of this  
34 chapter, the following records shall not be deemed public:

1 (A)(I)(a) All records relating to a client/attorney relationship and to a doctor/patient  
2 relationship, including all medical information relating to an individual in any files.

3 (b) Personnel and other personal individually identifiable records otherwise deemed  
4 confidential by federal or state law or regulation, or the disclosure of which would constitute a  
5 clearly unwarranted invasion of personal privacy pursuant to 5 U.S.C. § 552 et seq.; provided,  
6 however, with respect to employees, and employees of contractors and subcontractors working on  
7 public works projects that are required to be listed as certified payrolls, the name, gross salary,  
8 salary range, total cost of paid fringe benefits, gross amount received in overtime, and any other  
9 remuneration in addition to salary, job title, job description, dates of employment and positions  
10 held with the state, municipality, or public works contractor or subcontractor on public works  
11 projects, employment contract, work location, and/or project, business telephone number, the city  
12 or town of residence, and date of termination shall be public. For the purposes of this section  
13 "remuneration" shall include any payments received by an employee as a result of termination, or  
14 otherwise leaving employment, including, but not limited to, payments for accrued sick and/or  
15 vacation time, severance pay, or compensation paid pursuant to a contract buy-out provision.

16 [\(c\) Military servicemember sexual trauma records deemed confidential pursuant to](#)  
17 [chapter 13.1 of title 30.](#)

18 (II) Notwithstanding the provisions of this section, or any other provision of the general  
19 laws to the contrary, the pension records of all persons who are either current or retired members  
20 of any public retirement systems, as well as all persons who become members of those retirement  
21 systems after June 17, 1991, shall be open for public inspection. "Pension records" as used in this  
22 section, shall include all records containing information concerning pension and retirement  
23 benefits of current and retired members of the retirement systems and future members of said  
24 systems, including all records concerning retirement credits purchased and the ability of any  
25 member of the retirement system to purchase retirement credits, but excluding all information  
26 regarding the medical condition of any person and all information identifying the member's  
27 designated beneficiary or beneficiaries unless and until the member's designated beneficiary or  
28 beneficiaries have received or are receiving pension and/or retirement benefits through the  
29 retirement system.

30 (B) Trade secrets and commercial or financial information obtained from a person, firm,  
31 or corporation that is of a privileged or confidential nature.

32 (C) Child custody and adoption records, records of illegitimate births, and records of  
33 juvenile proceedings before the family court.

34 (D) All records maintained by law enforcement agencies for criminal law enforcement

1 and all records relating to the detection and investigation of crime, including those maintained on  
2 any individual or compiled in the course of a criminal investigation by any law enforcement  
3 agency. Provided, however, such records shall not be deemed public only to the extent that the  
4 disclosure of the records or information (a) Could reasonably be expected to interfere with  
5 investigations of criminal activity or with enforcement proceedings; (b) Would deprive a person  
6 of a right to a fair trial or an impartial adjudication; (c) Could reasonably be expected to  
7 constitute an unwarranted invasion of personal privacy; (d) Could reasonably be expected to  
8 disclose the identity of a confidential source, including a state, local, or foreign agency or  
9 authority, or any private institution that furnished information on a confidential basis, or the  
10 information furnished by a confidential source; (e) Would disclose techniques and procedures for  
11 law enforcement investigations or prosecutions, or would disclose guidelines for law enforcement  
12 investigations or prosecutions; or (f) Could reasonably be expected to endanger the life or  
13 physical safety of any individual. Records relating to management and direction of a law  
14 enforcement agency and records or reports reflecting the initial arrest of an adult and the charge  
15 or charges brought against an adult shall be public.

16 (E) Any records that would not be available by law or rule of court to an opposing party  
17 in litigation.

18 (F) Scientific and technological secrets and the security plans of military and law  
19 enforcement agencies, the disclosure of which would endanger the public welfare and security.

20 (G) Any records that disclose the identity of the contributor of a bona fide and lawful  
21 charitable contribution to the public body whenever public anonymity has been requested of the  
22 public body with respect to the contribution by the contributor.

23 (H) Reports and statements of strategy or negotiation involving labor negotiations or  
24 collective bargaining.

25 (I) Reports and statements of strategy or negotiation with respect to the investment or  
26 borrowing of public funds, until such time as those transactions are entered into.

27 (J) Any minutes of a meeting of a public body that are not required to be disclosed  
28 pursuant to chapter 46 of title 42.

29 (K) Preliminary drafts, notes, impressions, memoranda, working papers, and work  
30 products, including those involving research at state institutions of higher education on  
31 commercial, scientific, artistic, technical, or scholarly issues, whether in electronic or other  
32 format; provided, however, any documents submitted at a public meeting of a public body shall  
33 be deemed public.

34 (L) Test questions, scoring keys, and other examination data used to administer a

1 licensing examination, examination for employment or promotion, or academic examinations;  
2 provided, however, that a person shall have the right to review the results of his or her  
3 examination.

4 (M) Correspondence of or to elected officials with or relating to those they represent and  
5 correspondence of or to elected officials in their official capacities.

6 (N) The contents of real estate appraisals, engineering, or feasibility estimates and  
7 evaluations made for or by an agency relative to the acquisition of property or to prospective  
8 public supply and construction contracts, until such time as all of the property has been acquired  
9 or all proceedings or transactions have been terminated or abandoned; provided the law of  
10 eminent domain shall not be affected by this provision.

11 (O) All tax returns.

12 (P) All investigatory records of public bodies, with the exception of law enforcement  
13 agencies, pertaining to possible violations of statute, rule, or regulation other than records of final  
14 actions taken, provided that all records prior to formal notification of violations or noncompliance  
15 shall not be deemed to be public.

16 (Q) Records of individual test scores on professional certification and licensing  
17 examinations; provided, however, that a person shall have the right to review the results of his or  
18 her examination.

19 (R) Requests for advisory opinions until such time as the public body issues its opinion.

20 (S) Records, reports, opinions, information, and statements required to be kept  
21 confidential by federal law or regulation or state law or rule of court.

22 (T) Judicial bodies are included in the definition only in respect to their administrative  
23 function provided that records kept pursuant to the provisions of chapter 16 of title 8 are exempt  
24 from the operation of this chapter.

25 (U) Library records that, by themselves or when examined with other public records,  
26 would reveal the identity of the library user requesting, checking out, or using any library  
27 materials.

28 (V) Printouts from TELE -- TEXT devices used by people who are deaf or hard of  
29 hearing or speech impaired.

30 (W) All records received by the insurance division of the department of business  
31 regulation from other states, either directly or through the National Association of Insurance  
32 Commissioners, if those records are accorded confidential treatment in that state. Nothing  
33 contained in this title or any other provision of law shall prevent or be construed as prohibiting  
34 the commissioner of insurance from disclosing otherwise confidential information to the

1 insurance department of this or any other state or country, at any time, so long as the agency or  
2 office receiving the records agrees in writing to hold it confidential in a manner consistent with  
3 the laws of this state.

4 (X) Credit card account numbers in the possession of state or local government are  
5 confidential and shall not be deemed public records.

6 (Y) Any documentary material, answers to written interrogatories, or oral testimony  
7 provided under any subpoena issued under Rhode Island general law § 9-1.1-6.

8 (Z) Any individually identifiable evaluations of public school employees made pursuant  
9 to state or federal law or regulation.

10 (AA) All documents prepared by school districts intended to be used by school districts  
11 in protecting the safety of their students from potential and actual threats.

12 SECTION 3. This act shall take effect upon passage.

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EXPLANATION  
BY THE LEGISLATIVE COUNCIL  
OF

A N A C T

RELATING TO MILITARY AFFAIRS AND DEFENSE -- MILITARY SEXUAL TRAUMA  
CONFIDENTIALITY ACT

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- 1           This act would provide confidentiality protection to military sexual trauma (MST)
- 2 victims.
- 3           This act would take effect upon passage.

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