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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2016

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A N A C T

RELATING TO STATE AFFAIRS AND GOVERNMENT -- DEPARTMENT OF CHILDREN,  
YOUTH AND FAMILIES

Introduced By: Representatives Ruggiero, McNamara, Tanzi, Carson, and McKiernan

Date Introduced: April 13, 2016

Referred To: House Health, Education & Welfare

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 42-72-8 of the General Laws in Chapter 42-72 entitled "Department  
2 of Children, Youth, and Families" is hereby amended to read as follows:

3 **42-72-8. Confidentiality of records.** -- (a) Any records of the department pertaining to  
4 children and their families in need of service pursuant to the provisions of this chapter; or for  
5 whom an application for services has been made, shall be confidential and only disclosed as  
6 provided by law.

7 (b) Records may be disclosed when necessary:

8 (1) To individuals, or public or private agencies engaged in medical, psychological or  
9 psychiatric diagnosis or treatment or education of the person under the supervision of the  
10 department;

11 (2) To individuals or public or private agencies for the purposes of temporary or  
12 permanent placement of the person, and when the director determines that the disclosure is  
13 needed to accomplish that placement including any and all health care information obtained by  
14 the department in accordance with the provisions of chapter 5-37.3 of the general laws and  
15 applicable federal laws and regulations;

16 (3) When the director determines that there is a risk of physical injury by the person to  
17 himself or herself or others, and that disclosure of the records is necessary to reduce that risk;

18 (4) To the family court including periodic reports regarding the care and treatment of

1 children; provided, that if a child is represented by a guardian ad litem or attorney, a copy of the  
2 family court report will be made available to the guardian ad litem or attorney prior to its  
3 submission;

4 (5) To inform any person who made a report of child abuse or neglect pursuant to § 40-  
5 11-3, whether services have been provided the child as a result of the report; provided, however,  
6 that no facts or information shall be released pursuant to this subsection other than the fact that  
7 services have been or are being provided;

8 (6) To permit access to computer records relating to child abuse and neglect  
9 investigations by physicians who are examining a child when the physician believes that there is  
10 reasonable cause to suspect that a child may have been abused or neglected;

11 (7) To the office of the department of attorney general upon the request of the attorney  
12 general or assistant attorney general when the office is engaged in the investigation of or  
13 prosecution of criminal conduct by another relating to the child or other children within the same  
14 family unit;

15 (8) To the department of corrections in the case of an individual who has been  
16 transferred to the jurisdiction of that department pursuant to the provisions of § 14-1-7.3  
17 "certification" or § 14-1-7.1 "waiver of jurisdiction"; and

18 (9) To the office of the department of the attorney general upon the request of the  
19 attorney general or assistant attorney general when the office is engaged in the investigation of or  
20 prosecution of criminal conduct as defined in § 40-11-3.2.

21 (10) To individuals employed by a state or county child welfare agency outside of Rhode  
22 Island when the director determines that the information is needed to ensure the care, protection  
23 and/or treatment of any child; provided, however, any records relating to allegations previously  
24 determined to be unfounded, unsubstantiated, or not indicated shall not be disclosed.

25 (11) Whenever a person previously under the supervision of the training school becomes  
26 subject to the jurisdiction of the department of corrections as an adult offender, the director of  
27 corrections or his or her designee shall receive, upon request, the portions of the person's training  
28 school records limited to the escape history, disciplinary record, and juvenile classification  
29 history.

30 (12) In an administrative hearing held pursuant to § 42-35-9, the records, or exact copies  
31 of the records, shall be delivered to the administrative hearing officer pursuant to a written  
32 request by one of the parties, and shall be delivered to the party making the request or shall be  
33 reviewed in camera by the administrative hearing officer for purposes of making a determination  
34 of relevancy to the merits of the administrative matter pending before the hearing officer, as the

1 hearing officer may direct. If the records or a portion are relevant to the matter, those records may  
2 be viewed and/or copied by counsel of record, at the expense of the party requesting the records.  
3 The records shall not be disseminated in any form beyond the parties, counsel of record and their  
4 agents, and any experts, except as otherwise specifically authorized by the hearing officer, and  
5 provided further that at the conclusion of the action, the records shall be sealed.

6 (13) In a criminal or civil action, the records, or exact copies of the records, shall be  
7 delivered to a court of proper jurisdiction pursuant to a subpoena duces tecum, properly issued by  
8 one of the parties, and shall be delivered to the party issuing the subpoena or shall be reviewed in  
9 camera by the trial justice for purposes of making a determination of relevancy to the merits of  
10 the civil or criminal action pending before the court, as the court may direct. If the records or a  
11 portion are relevant to the civil or criminal action, those records may be viewed and/or copied by  
12 counsel of record, at the expense of the party requesting the records. The court shall issue a  
13 protective order preventing dissemination of the records in any form beyond the parties, counsel  
14 of record and their agents, and any experts, except as otherwise specifically authorized by the  
15 court, and provided further that at the conclusion of the action, all records shall be sealed.

16 (c) The director ~~may~~ shall disclose the findings and facts ~~or other information~~ about a  
17 child abuse or neglect case ~~as the director deems necessary in a case of child abuse or neglect~~  
18 ~~which~~ that has resulted in a child fatality or near fatality.

19 (1) Except as otherwise provided in subsection (c)(3) of this section, the data or  
20 information which must be disclosed shall include, without limitation:

21 (i) A summary of the report of abuse or neglect and a factual description of the contents  
22 of the report;

23 (ii) The date of birth and gender of the child;

24 (iii) The date that the child suffered the fatality or near fatality;

25 (iv) The cause of the fatality or near fatality, if such information has been determined;

26 (v) Whether the department of children, youth, and families had any contact with the  
27 child or a member of the child's family or household before the fatality or near fatality and, if so:

28 (A) The frequency of any contact or communication with the child or member of the  
29 child's family or household before the fatality or near fatality and the date on which the last  
30 contact or communication occurred before the fatality or near fatality;

31 (B) Whether the agency which provides child welfare services provided any child welfare  
32 services to the child or to a member of the child's family or household before or at the time of the  
33 fatality or near fatality;

34 (C) Whether the agency which provides child welfare services made any referrals for

1 child welfare services for the child or for a member of the child's family or household before or at  
2 the time of the fatality or near fatality;

3 (D) Whether the agency which provides child welfare services took any other action  
4 concerning the welfare of the child before or at the time of the fatality or near fatality; and

5 (E) A summary of the status of the child's case at the time of the fatality or near fatality,  
6 including, without limitation, whether the child's case was closed by the agency which provides  
7 child welfare services before the fatality or near fatality and, if so, the reasons why the case was  
8 closed; and

9 (vi) Whether the department of children, youth, and families, in response to the fatality or  
10 near fatality;

11 (A) Has provided or intends to provide child welfare services to the child or to a member  
12 of the child's family or household;

13 (B) Has made or intends to make a referral for child welfare services for the child or for a  
14 member of the child's family or household; and

15 (C) Has taken or intends to take any other action concerning the welfare and safety of the  
16 child or any member of the child's family or household.

17 (2) The director shall disclose the data or information, pursuant to subsection (c)(1) of  
18 this section, within six (6) months following the date of the fatality or near fatality.

19 (3) The director shall not disclose the following data or information pursuant to  
20 subsection (c)(1) of this section:

21 (i) Except as otherwise provided by law, data or information concerning the identity of  
22 the person responsible for reporting the abuse or neglect of the child to a public agency;

23 (ii) The name of the child who suffered a fatality or near fatality or the name of any  
24 member of the family or other person who lives in the household of the child who suffered  
25 fatality or near fatality;

26 (iii) A privileged communication between an attorney and client; and

27 (iv) Information that may undermine a criminal investigation or pending criminal  
28 prosecution.

29 (d) If a public panel is convened or established by the department to evaluate the extent  
30 to which the department is discharging its child protection responsibilities, the panel or any of its  
31 members or staff shall not disclose identifying information about a specific child protection case  
32 nor make public any identifying information provided by the department except as may be  
33 authorized by law. Any person who violates this subsection shall be subject to civil sanctions as  
34 provided by law.

1 (e) If a public panel is convened or established by the department, this panel, in the  
2 course of its evaluation, may review, but shall not investigate, any child fatality that is under the  
3 jurisdiction of the child advocate in accordance with the provisions of § 42-73-7(2).

4 (f) In the event records and information contained within DCYF records are shared with  
5 individuals or public or private agencies as specified in subsection (b) above, any such individual  
6 and/or public or private agency shall be advised that the shared information cannot be further  
7 disclosed, except as specifically provided for under applicable federal and/or state law and  
8 regulation. Any individual and/or public or private agency who violates this subsection shall be  
9 subject to civil sanctions as provided in chapter 37.3 of title 5, and any other federal or state law  
10 pertinent thereto.

11 SECTION 2. Sections 42-73-2.1, 42-73-2.2 and 42-73-6 of the General Laws in Chapter  
12 42-73 entitled "Child Advocate Office" are hereby amended to read as follows:

13 **42-73-2.1. Advisory committee established.** -- There is hereby established an advisory  
14 committee to the office of the child advocate established under § 42-73-1. The advisory  
15 committee shall consist of nine (9) members, one attorney appointed by the Rhode Island Bar  
16 Association; one judge or magistrate of the family court appointed by the chief judge of the  
17 family court; one pediatrician with expertise in child and adolescent treatment or child abuse and  
18 neglect appointed by the Rhode Island Medical Society; one psychologist with expertise in child  
19 and adolescent treatment appointed by the Rhode Island Psychological Association; one Licensed  
20 Independent Clinical Social Worker appointed by the Rhode Island Chapter of the National  
21 Association of Social Workers; one psychiatrist with expertise in child and adolescent treatment  
22 appointed by the Rhode Island Medical Society; and three (3) members, one of whom is a youth  
23 or parent (foster or birth) formerly involved in the state child welfare system, familiar with duties  
24 established under § 42-73-7, appointed by the child advocate. [The child advocate may](#)  
25 [temporarily appoint up to two \(2\) members for the purpose of reviewing child fatalities in a](#)  
26 [particular case if the advocate determines that additional expertise would benefit the review](#)  
27 [process for no more than six \(6\) months or the conclusion of said case, whichever is less.](#) No one  
28 shall be eligible for appointment unless he or she is a resident of this state. No member of the  
29 advisory committee shall be a person who is a volunteer for, a board member of, or is employed  
30 by or contractor of, any entity or agency subject to the review of, or evaluation or monitoring by  
31 the child advocate pursuant to chapter 73 of title 42, or who lobbies on behalf of any entity or  
32 agency subject to the review of, or evaluation or monitoring by, the child advocate pursuant to  
33 chapter 73 of title 42. Each [permanent](#) member of the advisory committee shall serve a term of  
34 five (5) years and may be reappointed at the conclusion of such term. All initial appointments to

1 the advisory committee shall be made no later than October 1, 2014. Any vacancy in the  
2 membership of the committee shall be filled by the appointing authority for the unexpired portion  
3 of the term. The committee shall elect from among the members a chair and a vice-chair.

4 **42-73-2.2. Duties.** -- It shall be the duty of the advisory committee to:

5 (a) Provide advice and support to the child advocate related to the duties described in §  
6 42-73-7. The committee's duties include, but are not limited to, the following:

7 (1) Establish a regular meeting schedule and form subcommittees as may be appropriate;

8 (2) Meet with the child advocate and staff to review and assess patterns of treatment and  
9 services, policy implications, and necessary systemic improvements;

10 (3) Provide an annual report on its activities and recommendations in conjunction with  
11 the child advocate, and submit the report to the governor, the president of the senate, and the  
12 speaker of the house of representatives, on or by December 31, 2015, and annually thereafter-;

13 (4) Review the records of selected cases of deaths of children under eighteen (18) years  
14 of age, if:

15 (i) The child dies while in the custody of or involved with an agency which provides  
16 child welfare services, or if the child's family previously received services from such an agency;

17 (ii) The death is alleged to be from abuse or neglect of the child; or

18 (iii) A sibling, household member or day care provider has been the subject of a child  
19 abuse and neglect investigation within the previous twelve (12) months, including, without  
20 limitation, cases in which the report was unsubstantiated or the investigation is currently pending.

21 (5) Assess, analyze and make recommendations regarding the cases reviewed under  
22 subsection (a)(4) of this section, and make recommendations for improvements to laws, policies  
23 and practices that support the safety of children and prevent future deaths of children.

24 (b) The advisory committee shall be subject to the confidentiality provisions of § 42-73-  
25 10.

26 **42-73-6. Annual report.** -- The child advocate shall annually submit to the governor and  
27 the general assembly, a detailed report analyzing the work of his or her office and any  
28 recommendations resulting therefrom- , including child fatality and near fatality information and  
29 recommendations, provided that the identity of the child shall not be included. The report shall be  
30 posted on the office of the child advocate's website.

31 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 STATE AFFAIRS AND GOVERNMENT -- DEPARTMENT OF CHILDREN,  
YOUTH AND FAMILIES

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1           This act would provide that the director of DCYF disclose findings and facts of  
2 investigations when there is a fatality or near fatality of a child within six months of the event. It  
3 would also require that the director of DCYF disclose without limitation, information regarding  
4 the age and gender of a child who suffered a fatality or near fatality, the cause and date of said  
5 fatality or near fatality and whether the department has had contact with the child, the child's  
6 family or household prior to the fatality or near fatality. It would also require the department to  
7 disclose whether it will provide services to the child or child's family in response to the fatality or  
8 near fatality.

9           This act would take effect upon passage.

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