

# VERMONT LEGAL AID, INC.

## DISABILITY LAW PROJECT

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October 10, 2014

### Public Records Legislative Study Committee

RE: Public Records Exemptions: Confidentiality of Guardianship Evaluations

Dear Study Committee,

In order to clarify and enhance the protections of confidential mental health evaluations, we propose the following changes to the guardianship statute:

#### 18 V.S.A. § 9306. Comprehensive evaluation

(c) The department shall send a copy of the evaluation to the court, the state's attorney, the director of guardianship services, and to counsel for the respondent. The evaluation is a confidential document, and shall not be further disclosed by the court and the parties without the consent of the respondent or a person authorized to act on behalf of the respondent. ~~except that the department shall release the evaluation to a developmental services agency, if necessary,~~ Any release of the evaluation by the guardian shall only be for the purpose of obtaining or improving services to the person.

#### 14 V.S.A. § 3067. Evaluation and report; background check; release of evaluation

(e) Regardless of whether the report of the evaluator supports or does not support guardianship, the court shall provide a copy of the evaluation to the respondent, the respondent's attorney, the petitioner, **and** the guardian upon appointment, ~~and any other individual, including the proposed guardian, determined by the court to have a strong interest in the welfare of the respondent.~~ The evaluation shall remain confidential, and recipients of the evaluation are prohibited from sharing the evaluation. Notwithstanding the foregoing, the court may restrict access to the evaluation or portions of the evaluation upon objection by one of the parties or on the court's own motion.

Sincerely,

Barb Prine  
Staff Attorney

