

(c) ~~The~~ Except as may be authorized by law, the following public records are exempt from public inspection and copying and shall not be released:

[London: if it felt that clarity is needed, a separate Privacy Act would be a better vehicle.

AHS emphasized the significance of this change.]

- (1) records which by law are designated confidential or by a similar term;
- (2) records which by law may only be disclosed to specifically designated persons;
- (3) records which, if made public pursuant to this subchapter, would cause the custodian to violate duly adopted standards of ethics or conduct for any profession regulated by the State;
- (4) records which, if made public pursuant to this subchapter, would cause the custodian to violate any statutory privilege, including 12 V.S.A. §§ 1612 (patient privilege) and 1614 (victim and crisis-worker privilege), or any common law privilege other than the common law deliberative process privilege as it applies to the General Assembly and the Executive Branch agencies of the State of Vermont; [common law privileges that benefit agency moved to subsec. (d)?]

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(6)(A) tax return and return information in the custody of the Vermont Department of Taxes or an agent thereof, or divulged to a public agency by the Department of Taxes in accordance with law, to the extent provided under 32 V.S.A. §§ 3102 and 5939;

(B) a other tax return and related documents, correspondence, and certain types of substantiating forms which include the same type of information as in the tax return itself filed with or maintained by the Vermont Department of Taxes or submitted by a person to any public agency in connection with agency business; or

(C) taxpayer inventory information, to the extent provided in 32 V.S.A. §§ 3411 and 4009;

(7) the following records relating to an individual, except as described in subdivision (G) of this subdivision (7):

[Collier; Reynolds; London oppose stating that these records shall not be released. Collier: obvious examples of information that should not be disclosed include an individual's pregnancy and related medical treatment, age, and the race of her child – w/o clear guidance, potential for divergent decisions]

(A) individually identifiable health information, which is information, including demographic data, that:

(i) relates to a person's past, present, or future physical or mental health or condition, the provision of health care to the individual, or the past, present, or future payment for the provision of health care to the individual; and

(ii) identifies the individual or for which there is a reasonable basis to believe can be used to identify the individual;

[AHS: might not want to track HIPAA language - which HIPAA exceptions would apply? (no alternative language suggested – follow up?)]

(B) medical and treatment records, to the extent provided in 18 V.S.A. § 9414(f) (evaluation of managed care organization's performance; medical records protected by patient's privilege); 28 V.S.A. § 205 (confidential information revealed by offender in connection with treatment program); and 33 V.S.A. § 6705 (medical treatment records obtained by Department of Vermont Health Access in exercise of subrogation rights);

(C) records relating to an individual's personal finances, to the extent provided in 15 V.S.A. § 662 and Rule 4 of the Vermont Rules for Family Proceedings (affidavits of income and assets); 16 V.S.A. § 2943 (income certificates and reports made to the Vermont Student Assistance Corporation); 24 V.S.A. § 1884 (books of registry held by municipal treasurer or other designated registrar); 31 V.S.A. § 674(L1I) (financial and other personal records produced or acquired by Tri-State Lottery Commission); 32 V.S.A. § 983 (books of registry held by the State Treasurer or other designated registrar); and 33 V.S.A. § 3102(f) (records obtained by the Department of Taxes related to individuals' applications for assistance). Other records relating to an individual's personal finances may be exempt under subdivision (F) of this subdivision (7) if disclosure of the record would constitute a clearly unwarranted invasion of personal privacy;  
[AHS: how would balancing standard be applied?]

(D) personally identifying information the disclosure of which creates an unreasonable risk of identity theft or of harm to a specific individual, to the extent provided in 4 V.S.A. § 741 (credit card information in the possession of a court or the Judicial Bureau); 9 V.S.A. § 2440(d) (social security numbers); 13 V.S.A. § 5305 (address or phone number of a crime victim who requests notification of release or escape); and 13 V.S.A. §§ 5322 and 5358a(c) (victim or survivor-related identifying or contact information);

(E) the following records, the release of which has been determined to constitute an unwarranted invasion of personal privacy or is required by federal law to be held confidential:

[AHS comments indicate need for clarity that (E) lists records that have been determined to be categorically exempt]

(i) records described in the following provisions, to the extent described therein: 10 V.S.A. § 123(c) (Geographic Information System; individual identifiers); 10 V.S.A. § 531(i)

(Employment Training Program and Workforce Education and Training Fund; employee-specific personal identifying information); 12 V.S.A. § 1705 (personally identifiable HIV-related testing or counseling information); 13 V.S.A. § 5358a(a) (Victims Compensation Board; records reviewed for approving an application for compensation); 13 V.S.A. § 5411(d) (identity of requesters of sex offender registry records); 17 V.S.A. § 2150 (Board of Civil Authority records relating to a person's voter registration decisions); 17 V.S.A. § 2154(b) (voter identifying information); 18 V.S.A. § 1094 (petition and order for mandated venereal disease testing); 18 V.S.A. § 5112 (records related to the issuance of a new birth certificate in connection with a change of sex); 18 V.S.A. § 9719 (advance directives); 20 V.S.A. § 1941 (DNA samples and records); 21 V.S.A. § 516(b) (employee drug test results); 22 V.S.A. § 172 (library patron records); 23 V.S.A. § 104 (motor vehicle records); 23 V.S.A. § 1607 (data collected with automated license plate recognition systems); 30 V.S.A. §§ 7055 and 7059 (enhanced 911 database customer information; linked name and street addresses and requests to municipalities to delink the same); 33 V.S.A. § 111 (the names of or information pertaining to applicants for or recipients of assistance from DCF); 33 V.S.A. § 6321 (individuals using attendant care services);

(ii) records of genealogy provided in an application or in support of an application for tribal recognition pursuant to chapter 23 of this title; or

(iii) records relating to the identity of library patrons; or

(F) ~~personal documents~~ any other record relating to an individual, including information in any files maintained to hire, evaluate, promote, or discipline any employee of a public agency, and information in any files relating to personal finances, ~~medical or psychological facts concerning any individual or corporation;~~ if disclosure of the record would constitute a clearly unwarranted invasion of personal privacy;

[Collier: any new balancing test should be accompanied with guidance—need statutory direction. Offered to further research FOIA caselaw. ]

[Collier liked language in Jan. 2012 recommendation about certain personally identifying information being exempt, but aggregate data not exempt]

(G) ~~provided, however, that all information in personnel files of an individual employee of any public agency shall be made available to that individual employee; a record described in this subdivision (7) shall be disclosed to the individual to whom it pertains, or to his or her designated representative, unless it is otherwise exempt from public inspection and copying;~~ [Kessler: seems misplaced here; Collier: should be narrowed]

(8) test questions, scoring keys, and other examination instruments or data used to administer a license, employment, or academic examination;

(9)(A) confidential business records or information, to the extent provided 6 V.S.A. § 21(b) (certain records collected by the Agency of Agriculture); 9 V.S.A. § 4113 (petroleum storage facility reports); 10 V.S.A. § 563 (air contaminant source reports that relate to production, sales figures, or production processes); 10 V.S.A. § 7153 (sales data submitted by manufacturers of mercury-containing lamps); 29 V.S.A. chapter 14 (oil and gas well logs, directional surveys, and reports); 33 V.S.A. § 2002 (pharmaceutical company rebate and supplemental rebate amounts and manufacturer's pricing); 33 V.S.A. § 2010 (pharmaceutical pricing data); or

(B) trade secrets and confidential business records or information, including any formulae, plan, pattern, process, tool, mechanism, compound, procedure, production data, or compilation of information which is not patented, ~~which is known~~ shared only ~~to~~ with certain individuals ~~within a commercial concern~~, and which gives its user or owner an opportunity to

obtain business advantage over competitors who do not know it or use it, except that the disclosures required by 18 V.S.A. § 4632 shall not be included in this subdivision;

(10) lists of names compiled or obtained by a public agency when disclosure would violate a person's right to privacy or produce public or private gain; ~~provided, however, that this section does not apply to, except~~ lists: [Kessler: likes consolidation; define "public gain"?]

(A) which are by law made available to the public, ~~or to lists;~~

(B) of professional or occupational licensees; or

(C) sold or rented in the sole discretion of Vermont Life magazine, provided that such discretion is exercised in furtherance of that magazine's continued financial viability, and is exercised pursuant to specific guidelines adopted by the editor of the magazine;

(11) student records, including records of a home study student, ~~at educational institutions or agencies funded wholly or in part by State revenue;~~ provided, however, that such records shall be made available upon request under the provisions of the Federal Family Educational Rights and Privacy Act of 1974 (~~P.L. 93-380~~) ~~and as, 20 U.S.C. § 1232g, as may be amended;~~

(12) ~~records concerning formulation of policy where such would constitute a clearly unwarranted invasion of personal privacy, if disclosed~~ records of nominating bodies and information from and about the candidates they consider, to the extent provided in 4 V.S.A. §§ 602 and 603 (Judicial Nominating Board proceedings; candidate information) and 18 V.S.A. § 9391 (Green Mountain Care Board Nominating Committee proceedings; candidate information;

(13) information pertaining to the location of real or personal property for public agency purposes prior to public announcement of the project and information pertaining to appraisals or

purchase price of real or personal property for public purposes prior to the formal award of contracts thereof;

(14) ~~records which are relevant to litigation to which the public agency is a party of record, provided all such matters shall be available to the public after ruled discoverable by the court before which the litigation is pending, but in any event upon final termination of the litigation~~ regional development corporation or regional planning commission transactions or agreements prior to final execution, undertaken in the performance of economic development services, as provided in 24 V.S.A. § 2786;

(15) records relating specifically to negotiation of contracts including collective bargaining agreements with public employees; [Asked London whether this should be time-limited. London said she understands federal law in this area is governed by common law- perhaps a model for Vermont?]

(16) any voluntary information provided by ~~an individual, corporation, organization, partnership, association, trustee, estate, or any other entity in the State of Vermont, which has been gathered~~ a person prior to the enactment of this subchapter, ~~shall not be considered a public document or in accordance with 9 V.S.A. § 5607(b)(3);~~

(17) ~~records of interdepartmental and intradepartmental communications in any county, city, town, village, town school district, incorporated school district, union school district, consolidated water district, fire district, or any other political subdivision of the State to the extent that they cover other than primarily factual materials and are preliminary to any determination of policy or action or precede the presentation of the budget at a meeting held in accordance with section 312 of this title~~ records of civil investigations, to the extent provided in 9 V.S.A. § 2440(g) (investigation of violation of social security number provisions); 9 V.S.A.

§ 2460 (record of Attorney General or State’s Attorney investigation); 9 V.S.A. § 4555(a) (complaint and investigation files of the Human Rights Commission); and 17 V.S.A. § 2806a (records of investigations of campaign finance violations); [Reynolds listed other statutes that incorporate 9 V.S.A. § 2460 by reference]

(18) records of the office of internal investigation of the Department of Public Safety, except as provided in 20 V.S.A. § 1923;

~~(19) records relating to the identity of library patrons or the identity of library patrons in regard to library patron registration records and patron transaction records in accordance with 22 V.S.A. chapter 4~~ records of complaints against and investigations into professional licensees and information required to be reported about professional licensees, to the extent provided in 3 V.S.A. § 131 (Secretary of State; complaints against licensees, investigations); 16 V.S.A. § 1708 (Agency of Education licensees); 26 V.S.A. §§ 1317 and 1368 (information required to be reported by health care institutions and insurers); and 26 V.S.A. § 1318 (practice of medicine; complaints against licensees, investigations);

(20) information which would reveal the location of archeological sites and underwater historic properties, except as provided in 22 V.S.A. § ~~762~~ 761;

~~(21) lists of names compiled or obtained by Vermont Life magazine for the purpose of developing and maintaining a subscription list, which list may be sold or rented in the sole discretion of Vermont Life magazine, provided that such discretion is exercised in furtherance of that magazine's continued financial viability, and is exercised pursuant to specific guidelines adopted by the editor of the magazine~~ information regarding the location of endangered species sites, to the extent provided in 10 V.S.A. § 5410;



(22) ~~any documents filed, received, or maintained by the Agency of Commerce and Community Development with regard to administration of 32 V.S.A. chapter 151, subchapters 11C and 11D (new jobs tax credit; manufacturer's tax credit), except that all such documents shall become public records under this subchapter when a tax credit certification has been granted by the Secretary of Administration, and provided that the disclosure of such documents does not otherwise violate any provision of Title 32 records related to peer review proceedings, to the extent specified in 18 V.S.A. § 9414(f) (evaluation of managed care organization's performance; peer review records); 26 V.S.A. § 75(d) (licensed public accountants peer reviews); 26 V.S.A. § 1443 (health services peer reviews); and 26 V.S.A. § 4190 (licensed midwives peer reviews); [Leven noted missing exemption]~~

(23) ~~any data, records, or information developed, discovered, collected, or received produced or acquired by or on behalf of faculty, staff, employees, or students of the University of Vermont or the Vermont State Colleges in the conduct of study, research, or creative efforts on medical, scientific, technical, scholarly, or artistic matters, whether such activities are sponsored alone by the institution or in conjunction with a governmental body or private entity, until such data, records, or information are is published, disclosed in an issued patent, or publicly released by the institution or its authorized agents. This subdivision applies to research notes and laboratory notebooks, lecture notes, manuscripts, creative works, correspondence, research proposals and agreements, methodologies, protocols, and the identities of or any personally identifiable information about participants in research. This subdivision shall not apply to records, other than research protocols, produced or acquired by an institutional animal care and use committee regarding the committee's compliance with state law or federal law regarding or regulating animal care; [Reedy, Mercurio: Move to subsec. (d) if do split. Reedy: Concept of~~

split raises many question; what is liability if public agency releases records that shall not be released? Can be difficult to make the call as to what records are confidential. Mercurio: thinks split is unwise; unnecessary, beyond scope of Act 23.]

(24) ~~records of, or internal materials prepared for, the deliberations of any public agency acting in a judicial or quasi-judicial capacity~~ identifying information collected by the Agency of Agriculture pertaining to subjects within the Agency's jurisdiction, to the extent provided in 6 V.S.A. § 21(a);

(25) the following records related to safeguarding public property or a person's safety:

(A) passwords, access codes, user identifications, security procedures, and similar information the disclosure of which would threaten the safety of persons or the security of public property;

(B) the account numbers for bank, debit, charge, and credit cards held by an agency or its employees on behalf of the agency;

(C) with respect to publicly-owned, -managed, or -leased structures, and only to the extent that release of information contained in the record would threaten the safety of persons or the security of public property: final building plans and as-built plans, including drafts of security systems within a facility, that depict the internal layout and structural elements of facilities, infrastructures, systems, or other structures owned, operated, or leased by an agency before, on, or after the effective date of this provision; emergency evacuation, escape, or other emergency response plans that have not been published for public use; and vulnerability assessments and operation and security plans. For purposes of this subdivision, "system" shall include electrical, heating, ventilation, air conditioning, telecommunication, elevator, and security systems. Information made exempt by this subdivision may be disclosed to another

governmental entity if disclosure is necessary for the receiving entity to perform its duties and responsibilities; to a licensed architect, engineer, or contractor who is bidding on or performing work on or related to facilities, infrastructures, systems, or other structures owned, operated, or leased by the State. The entities or persons receiving such information shall maintain the exempt status of the information. Nothing in this subdivision shall preclude or limit the right of the General Assembly or its committees to examine such information in carrying out its responsibilities or to subpoena such information;

(26) ~~information and records provided to the Department of Financial Regulation by an individual~~ a person to a public agency for the purposes of having the ~~department~~ public agency assist ~~that individual~~ the person in resolving a dispute with any person ~~or company~~ regulated by the ~~Department~~ public agency, and any information or records ~~provided by a company or any other person~~ acquired in connection with the ~~individual's~~ dispute;

(27) ~~information and records provided to the Department of Public Service by an individual for the purposes of having the Department assist that individual in resolving a dispute with a utility regulated by the Department, or by the utility or any other person in connection with the individual's dispute~~ requests by members or committees of the General Assembly for assistance, information, and advice and all information received in connection therewith, to the extent provided in 2 V.S.A. §§ 404(c) and 502(b);

(28) records of, and internal materials prepared for, independent external reviews of health care service decisions pursuant to 8 V.S.A. § 4089f and of mental health care service decisions pursuant to 8 V.S.A. § 4089a;

(29) ~~the records in the custody of the secretary of state of~~ concerning a participant in the Address Confidentiality Program ~~described in,~~ to the extent provided in 15 V.S.A. chapter 21,

subchapter 3, ~~except as provided in that subchapter~~ (Secretary of State; Address Confidentiality Program); 18 V.S.A. § 5083 (address and town of residence information in birth certificates); and 18 V.S.A. § 5132 (address and town of residence information in marriage certificates);

(30) ~~all code and machine-readable structures of State-funded and controlled database applications, which are known only to certain State departments engaging in marketing activities and which give the State an opportunity to obtain a marketing advantage over any other state, regional, or local governmental or nonprofit quasi-governmental entity, or private sector entity, unless any such State department engaging in marketing activities determines that the license or other voluntary disclosure of such materials is in the State's best interests~~ records of the Domestic Violence Fatality Review Commission, to the extent provided in 15 V.S.A. § 1140;

(31) ~~records of a registered voter's month and day of birth, motor vehicle operator's license number, the last four digits of the applicant's Social Security number, and street address if different from the applicant's mailing address contained in an application to the statewide voter checklist or the statewide voter checklist established under 17 V.S.A. § 2154~~ interpretations of the Commissioner of Financial Regulation to the extent provided in 8 V.S.A. § 15;

(32) ~~with respect to publicly owned, managed, or leased structures, and only to the extent that release of information contained in the record would present a substantial likelihood of jeopardizing the safety of persons or the security of public property, final building plans, and as-built plans, including drafts of security systems within a facility, that depict the internal layout and structural elements of buildings, facilities, infrastructures, systems, or other structures owned, operated, or leased by an agency before, on, or after the effective date of this provision; emergency evacuation, escape, or other emergency response plans that have not been published for public use; and vulnerability assessments, operation and security manuals, plans, and security~~

~~codes. For purposes of this subdivision, "system" shall include electrical, heating, ventilation, air conditioning, telecommunication, elevator, and security systems. Information made exempt by this subdivision may be disclosed to another governmental entity if disclosure is necessary for the receiving entity to perform its duties and responsibilities; to a licensed architect, engineer, or contractor who is bidding on or performing work on or related to buildings, facilities, infrastructures, systems, or other structures owned, operated, or leased by the State. The entities or persons receiving such information shall maintain the exempt status of the information. Such information may also be disclosed by order of a court of competent jurisdiction, which may impose protective conditions on the release of such information as it deems appropriate. Nothing in this subdivision shall preclude or limit the right of the General Assembly or its committees to examine such information in carrying out its responsibilities or to subpoena such information. In exercising the exemption set forth in this subdivision and denying access to information requested, the custodian of the information shall articulate the grounds for the denial records of investigations or examinations by the Department of Financial Regulation, to the extent provided in 8 V.S.A. § 23 (banks and financial institutions); 8 V.S.A. § 3574 (insurance companies); 8 V.S.A. § 3687 (insurance holding company system); 8 V.S.A. § 3840 (life settlement provider); 8 V.S.A. § 6008 (captive insurance company); 8 V.S.A. § 6048o (special purpose captive insurance company); and 8 V.S.A. § 6074 (risk retention managing general agent);~~

(33) ~~the account numbers for bank, debit, charge, and credit cards held by an agency or its employees on behalf of the agency~~ a record received from a jurisdiction, organization, or entity under a confidentiality agreement or with notice or the understanding that it is confidential under the laws of the source jurisdiction, to the extent provided in 8 V.S.A. § 22 (Department of Financial Regulation; general sharing provision); 8 V.S.A. §§ 2561, 2768, and 2923 (National

Mortgage Licensing System and Registry); 8 V.S.A. § 3571 (insurance company financial analysis ratios and examination analyses received from the National Association of Insurance Commissioners); 8 V.S.A. § 3577(1)(3) (insurance company actuarial reports, opinion summaries, work papers, and related information); 8 V.S.A. § 3588(c)(2) (insurer's Own Risk and Solvency Assessment (ORSA) records); 8 V.S.A. § 3687(c) and (f) (records related to insurance holding company systems); 8 V.S.A. § 4813m(f)(3)(B) (investigation of termination of licensed insurance producer); 8 V.S.A. § 6048o(c) (examination records of special purpose financial captive insurance company); 8 V.S.A. § 8308(c) (risk-based capital reports and risk based capital plans of insurers); and **as authorized under 10 V.S.A. § 123(c)(7) (distribution and marketing of GIS data);**

(34) ~~affidavits of income and assets as provided in 15 V.S.A. § 662 and Rule 4 of the Vermont Rules for Family Proceedings~~ records of administrative and judicial proceedings related to insurer delinquency proceedings, to the extent provided in 8 V.S.A. §§ 7041 and 7043;

(35) ~~Expired.~~ securities records acquired by the Commissioner of Financial Regulation, to the extent provided in 9 V.S.A. § 5607;

(36)(i) anti-fraud plans and summaries submitted by insurers to the Department of Financial Regulation for the purposes of complying with 8 V.S.A. § 4750; and

(ii) other records required to be submitted by entities regulated by or seeking licensure from the Department of Financial Regulation, to the extent provided in 8 V.S.A. § 3561 (insurance company market conduct annual statements; medical professional liability closed claims); 8 V.S.A. § 3577 (insurance company actuarial reports, opinion summaries, work papers, and related information); 8 V.S.A. § 3588 (Insurer's Own Risk and Solvency Assessment (ORSA) records); 8 V.S.A. § 3683 (domestic insurers; notices of divestitures, acquisitions, and

mergers); 8 V.S.A. § 3683a (insurers licensed to do business but not domiciled; preacquisition notification); 8 V.S.A. § 3687(a) (insurance holding company system; registration statements, enterprise risk report, notification of certain transactions); 8 V.S.A. § 4164 (Vermont Life and Health Insurance Guaranty Association); 8 V.S.A. § 4488 (termination of agent; fraternal benefits society); 8 V.S.A. § 6002 (captive insurance company license applications); 8 V.S.A. § 8308 (risk-based capital reports and risk based capital plans of insurers);

(37) records ~~provided to the Department of Health pursuant to the Patient Safety Surveillance and Improvement System established by 18 V.S.A. chapter 43a~~ collected for public health programs or activities, to the extent provided in 18 V.S.A. §§ 154 and 157 (Vermont Cancer Registry and Vermont Mammography Registry); 18 V.S.A. § 1001 (communicable disease reports and investigation information; public health records related to HIV or AIDS); 18 V.S.A. § 1129 (immunization registry information); 18 V.S.A. § 1552 (maternal mortality information); 18 V.S.A. § 1554 (Maternal Mortality Review Panel records and opinions); 18 V.S.A. § 1917 (Patient Safety Surveillance and Improvement System); and 18 V.S.A. § 5222 (fetal death reports); [AHS wonders if analogous provisions are missing]

(38) records ~~held by the Agency of Human Services, which include prescription information containing prescriber-identifiable data; that could be used to identify a prescriber, except that the records shall be made available upon request for medical research, consistent with and for purposes expressed in 18 V.S.A. §§ 4621, 4631, 4632, 4633, and 4622 or 9410, and 18 V.S.A. chapter 84, or as provided for in 18 V.S.A. chapter 84A and for other law enforcement activities;~~

(39) ~~records held by the Agency of Human Services or the Department of Financial Regulation, which include prescription information containing patient-identifiable data, that~~

~~could be used to identify a patient~~ information acquired in the licensing of hospitals that identifies individuals or hospitals, to the extent provided in 18 V.S.A. § 1910;

(40) ~~records of genealogy provided in support of an application for tribal recognition pursuant to chapter 23 of this title~~ information collected pursuant to requirements to report illnesses, diseases, injuries, and deaths associated with weapons of mass destruction, and in connection with investigations and studies undertaken in response to such reports, to the extent provided in 13 V.S.A. § 3504;

(41) ~~documents reviewed by the Victim's Compensation Board for purposes of approving an application for compensation pursuant to 13 V.S.A. chapter 167, except as provided by 13 V.S.A. §§ 5360 and 7043(e).~~ records related to the regulation or monitoring of the production, sale, or dispensing of regulated drugs, to the extent provided in 18 V.S.A. § 4211 (prescriptions of regulated drugs and orders and records required by State regarding regulated drugs), 18 V.S.A. § 4284 (data collected under the Vermont Prescription Monitoring Program and all related information and records), 18 V.S.A. § 4473(b)(5)(A) (records of appeal before the medical marijuana review board), 18 V.S.A. § 4474d and 18 V.S.A. § 4474i (medical marijuana; records of registered persons);

(42) comments regarding judicial performance received by the Joint Committee on Judicial Retention, to the extent provided in 4 V.S.A. § 608;

(43) records gathered in the course of a juvenile or adult diversion process and records of diversion proceedings, to the extent provided in 3 V.S.A. § 163 (juvenile diversion process and sealed proceedings); 3 V.S.A. § 164 (adult diversion process and sealed proceedings); and 12 V.S.A. §§ 7106 and 7108 (Windsor County Youth Court diversion proceedings);



(44) records related to settlement discussions or mediation, to the extent provided at 9 V.S.A. § 4100b (motor vehicle franchise disputes; settlement discussions of parties before Transportation Board); 9 V.S.A. § 4555(b) (Human Rights Commission; conciliation efforts); 12 V.S.A. § 4634 (report filed in connection with mandatory mediation program in mortgage foreclosure actions); and 12 V.S.A. § 7015 (medical malpractice pre-suit mediation);

(45) wrapped wills and index of such wills, to the extent provided in 14 V.S.A. § 2;

(46) records related to guardianship evaluations and proceedings, to the extent specified in 14 V.S.A. § 3067 (guardianship evaluation), 14 V.S.A. § 3068 (guardianship petition and proceedings if petition dismissed), 18 V.S.A. § 9306 (developmental disabilities evaluation information), 18 V.S.A. § 9309 (guardianship hearing for developmentally disabled), 18 V.S.A. § 9314 (annual review of the social adjustment and progress of persons receiving guardianship services);

(47) voluntary acknowledgement of parentage forms, to the extent provided in 15 V.S.A. § 307;

(48) address of parent, or name and address of employer of parent, subject to child support or parental rights and responsibilities order, to the extent provided in 15 V.S.A. § 788;

(49) pre-adoption background information and adoption-related records, to the extent provided in 15A V.S.A. § 2-105(d) (pre-adoption reports; identity of person furnishing or the subject of background information) and in 15A V.S.A. Article 6 (records of adoption proceeding); [AHS: Suggests that post-placement adoption reports (15A V.S.A. § 2-105) are missing; suggests general reference to “information made confidential by Title 15A.”]

(50) sex offender registry information and the identity of victims of sex offenses and of requesters of sex offender registry records, to the extent provided in 13 V.S.A. chapter 167, subchapter 3;

(51) expunged or sealed criminal records or related indices, to the extent provided in 13 V.S.A. §§ 7041, 7606, and 7607; [Reynolds also cites 33 V.S.A. §§ 5119, 5204, 5287, and 6911.

See

(52) criminal history records and the identity of persons requesting the same, to the extent provided in 16 V.S.A. § 253 (background checks; education); 20 V.S.A. chapter 117 (the existence or nonexistence of records and records of, or received through, the Vermont Criminal Information Center); 26 V.S.A. § 1353(8) (Board of Medical Practice; licensing and certification of health professionals); and 33 V.S.A. § 309 (criminal convictions of a child care employee or prospective employee);

(53) the name or contact information of an individual who has alleged to that an employer has made a false statement or misclassified an employee, to the extent provided in 21 V.S.A. § 710;

(54) identifying information of an individual or employing unit obtained in the administration of unemployment benefit rights, to the extent provided in 21 V.S.A. § 1314;

(55) individually identifying information collected in driver training school records, as provided in 23 V.S.A. § 707;

(56) autopsy reports furnished to the Department of Corrections, as provided in 18 V.S.A. § 5205(g);

(57) presentence reports, pre-parole reports, or supervision history prepared by the Department of Corrections, to the extent provided in 28 V.S.A. § 204;

(58) the register of persons who ask to be informed of the parole interview or review of an inmate by the Parole Board, as provided in 28 V.S.A. § 403;

(59) inmate files of the Department of Corrections, to the extent provided in and authorized under 28 V.S.A. § 601;

(60) communications by an inmate made for the purposes of treatment, assessment, evaluations, screening, or programming, as provided in rules authorized under 28 V.S.A. § 903;

(61) records related to reports and investigations of the abuse, neglect, or exploitation of children and vulnerable adults, and associated registry information, to the extent provided in 33 V.S.A. § 4913(d) (name of person filing a child abuse report and name of person mentioned in report); 33 V.S.A. § 4919 (Child Abuse Registry records); 33 V.S.A. § 4921 (records of child abuse investigations, assessments, reviews, and responses); 33 V.S.A. § 6903 (identity of person reporting suspected abuse of elderly or disabled); 33 V.S.A. § 6906 (unsubstantiated reports of abuse, neglect, and exploitation of a vulnerable adult); 33 V.S.A. § 6911 (reports and investigations of alleged abuse of vulnerable adults; vulnerable adult abuse registry);

[AHS: **Include reference to 33 V.S.A. §§ 6904 (nature and content of report of abuse of vulnerable adults), 6907 (coordinated treatment plan) and 6910 (interference by caregiver; or use “records made confidential under chapters 49 and 69 of Title 33”]**

(62) records related to juvenile judicial proceedings, to the extent provided in 33 V.S.A. § 5117 (reports and files concerning a person subject to juvenile judicial proceedings); 33 V.S.A. § 5118 (notice to school officials that child has conducted a delinquent act requiring notice); 33 V.S.A. § 5119 (sealed juvenile delinquency records; special index of files or records that have been sealed; motion to unseal; victim information); 33 V.S.A. § 5201 (files related to withdrawn delinquency petition); 33 V.S.A. § 5204 (person under age 16 tried as an adult but acquitted;

records of hearing regarding transfer to Criminal Division); 33 V.S.A. § 5205 (fingerprint files); 33 V.S.A. § 5234 (notice to victim prior to juvenile release; name of facility); 33 V.S.A. § 5282 (report from DCF as to whether a defendant should be treated as a youthful offender); 33 V.S.A. § 5287 (court records of youthful offender when youth successfully completes probation and offender status is terminated); 33 V.S.A. § 5309 (files related to a withdrawn petition that a child is in need of care or supervision); [AHS: Should list 33 V.S.A. § 5110 [AHS: Hearings under the juvenile judicial proceedings chapters shall be conducted by the Court without a jury and shall be confidential) and related caselaw; suggests “records related to juvenile proceedings as set for the in chs. 51-52 of Title 33”]

(63) the identity of persons who file complaints regarding long-term care facilities, information that pertains to referrals of complaints or to unsubstantiated complaints, individually identifying information of residents of long-term care facilities, to the extent provided in 33 V.S.A. § 7112 and in provisions of the Older Americans Act at 42 U.S.C. §§ 3058d and 3058g;

(64) records of services provided to children and adolescents with a severe emotional disturbance, to the extent provided under rules adopted pursuant to 33 V.S.A. § 4305;

(d) The following public records are exempt from public inspection and copying and may be withheld at the discretion of the public agency:

(1) records of, or internal materials prepared for, the deliberations of any public agency acting in a judicial or quasi-judicial capacity;

(2) records which are relevant to litigation to which the public agency is a party of record, provided all such matters shall be available to the public after ruled discoverable by the court before which the litigation is pending, but in any event upon final termination of the litigation

(3) records of interdepartmental and intradepartmental communications in any county, city, town, village, town school district, incorporated school district, union school district, consolidated water district, fire district, or any other political subdivision of the State to the extent that they cover other than primarily factual materials and are preliminary to any determination of policy or action or precede the presentation of the budget at a meeting held in accordance with section 312 of this title;

(4) all state-controlled database structures and application code, including the vermontvacation.com website and Travel Planner application, which are known only to certain State departments engaging in marketing activities and which give the State an opportunity to obtain a marketing advantage over any other state, regional, or local governmental or nonprofit quasi-governmental entity, or private sector entity, unless any such State department engaging in marketing activities determines that the license or other voluntary disclosure of such materials is in the State's best interests;

(5) minutes of executive sessions, if minutes are taken, as provided in 1 V.S.A. § 313;