

1 TO THE HONORABLE SENATE:

2 The Committee on Health and Welfare to which was referred Senate Bill
3 No. 23 entitled “An act relating to access to records in adult protective services
4 investigations” respectfully reports that it has considered the same and
5 recommends that the bill be amended by striking out all after the enacting
6 clause and inserting in lieu thereof the following:

7 Sec. 1. 33 V.S.A. § 6915 is added to read:

8 § 6915. AVAILABILITY OF MEDICAL OR FINANCIAL RECORDS

9 (a) A person having custody or control of the medical or financial records
10 of a vulnerable adult for whom a report is required or authorized under section
11 6903 of this title may make such records or a copy of such records available to
12 a law enforcement officer or an adult protective services worker investigating
13 whether the vulnerable adult was the victim of abuse, neglect, or exploitation
14 upon receipt of a written request for the records signed by the law enforcement
15 officer or adult protective services worker, as follows:

16 (1) For an alleged victim with capacity, if the law enforcement officer or
17 adult protective services worker obtains the written consent of the alleged
18 victim prior to receiving the records.

19 (2)(A) For an alleged victim without capacity, if the law enforcement
20 officer or adult protective services worker demonstrates to the person with
21 custody or control of the records, in writing, that:

1 (i) the records are needed to determine whether a violation of law
2 by a person other than the alleged victim has occurred, and the information is
3 not intended to be used against the alleged victim; and

4 (ii) immediate enforcement activity that depends on the records
5 would be materially and adversely affected by waiting until the alleged victim
6 regains capacity.

7 (B) The person having custody or control of the medical or financial
8 records shall release the records of an alleged victim without capacity only if
9 he or she believes, in the exercise of professional judgment, that making the
10 records or a copy of the records available to the law enforcement officer or
11 adult protective services worker is in the best interests of the alleged victim.

12 (b) If a vulnerable adult with capacity refuses to provide consent pursuant
13 to subdivision (a)(1) of this section, the person having custody or control of the
14 vulnerable adult's medical or financial records shall not provide the records to
15 the law enforcement officer or adult protective services worker unless
16 necessary to comply with an order or warrant issued by a court, a subpoena or
17 summons issued by a judicial officer, or a grand jury subpoena, or as otherwise
18 required by law.

19 (c)(1) A law enforcement officer or adult protective services worker who
20 receives consent to obtain records from an alleged victim with capacity

1 pursuant to subdivision (a)(1) of this section shall include a copy of the written
2 consent in the case file.

3 (2) A law enforcement officer or adult protective services worker who
4 obtains records pursuant to subdivision (a)(2)(A) of this section because the
5 alleged victim lacks capacity shall document in the case file the need for the
6 records obtained, including a copy of the written materials submitted to the
7 person with custody or control of the records pursuant to that subdivision.

8 (d) Records disclosed pursuant to this section are confidential and exempt
9 from public inspection and copying under the Public Records Act and may be
10 used only in a judicial or administrative proceeding or investigation resulting
11 from a report required or authorized under this section.

12 (e) As used in this section, “capacity” means an individual’s ability to
13 make and communicate a decision regarding the issue that needs to be decided.

14 Sec. 2. EFFECTIVE DATE

15 This act shall take effect on July 1, 2014.

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18 (Committee vote: _____)

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Senator _____

FOR THE COMMITTEE