

3.1.2024 Family Services Division Testimony

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I was invited to talk to you today about H.644 (An act relating to access to records by individuals who were in foster care). The Department for Children and Families, Family Services Division supports H. 644 as written as it creates a legal path for DCF and the Vermont State Archives & Records Administration (VSARA) to create a system that addresses the lack of legal access to records for individuals formerly in foster care. H.644 will have an expansive impact to include records of individuals formerly placed in child caring institutions.

Access to Family Services Division records is dictated through a combination of federal law, Vermont law, and division policy. Policy cannot conflict with or exceed what is allowable by law. Historically and currently, we have not been able to create or revise policy to expand access to records for a person formerly in foster care. Our records are organized and referred to as “child and family records”, where the record is organized by family and includes information about the parent(s), child, siblings, and other family members. Records may contain protected information about substitute care providers (foster parents or kin caregivers), such as detailed demographic details. Therefore, the disclosure of records will almost always require significant redaction to comply with state and federal laws regarding confidentiality around court proceedings, health care, substance use treatment information, and education. Examples of laws guiding information sharing and confidentiality include:

- 33 V.S.A. § 5117
- 33 V.S.A. § 4921
- The Health Insurance Portability and Accountability Act (HIPAA)
- 42 CFR Part 2 (Confidentiality of Substance Use Disorder (SUD) Patient Records)
- Family Educational Rights and Privacy Act (FERPA)
- The Social Security Act (42 U.S. Code § 675)



Federal law requires DCF to have policy and practice that ensures youth ages 14 and older are involved in developing their case plans and provided copies of their case plans with each subsequent update. Additionally, federal law requires DCF to provide the following documents to youth exiting foster care at age 18: official documentation to prove the child was in foster care, a certified birth certificate, Social Security card, health insurance information, a driver's license or state identification card, and all education and medical records held by DCF. These documents are essential to ensuring that youth aging out of foster care have the documentation needed to secure housing, apply to school or work, get appropriate health and mental health care, or access other forms of assistance. While youth are in DCF custody, they have the support of a full team: foster or kinship parents, Family Services Workers (FSWs), Youth Development Program (YDP) staff, guardian ad litem (GAL), their attorney, and often a therapist or mental health provider.

We recognize the expansion of access to records for individuals formerly in foster care would ideally include a structure of support to process the information and trauma history contained within their foster care records. We recognize knowing one's history and processing difficult history with clinical support is a crucial aspect of healing and moving forward.

The Vermont Adoption Registry may serve as a model and guide in this implementation process, as we have an experienced master's level social worker administering the Adoption Registry. This role is accessible to individuals who experienced adoption as a first point of contact and referral source, and generally receives positive feedback from individuals who access records through the Vermont Adoption Registry. While we are still planning and assessing all options for implementation, DCF expects to initially implement H.644 via administrative processes with existing resources and without a formal structure for support. We will continue to partner with VSARA to plan and conceptualize how we could offer some level of support to individuals formerly in foster care when they are granted access to their records, which may include research of other states' models or exploration of available grant opportunities. It is possible that future implementation of a Comprehensive Child Welfare Information System (CCWIS) would assist us in providing access to records more seamlessly. We look forward to continued research, collaboration, and planning regarding the implementation of H. 644.