

1 TO THE HONORABLE SENATE:

2 The Committee on Government Operations to which was referred House  
3 Bill No. 644 entitled “An act relating to access to records by individuals who  
4 were in foster care” respectfully reports that it has considered the same and  
5 recommends that the Senate propose to the House that the bill be amended by  
6 striking out all after the enacting clause and inserting in lieu thereof the  
7 following:

8 Sec. 1. 33 V.S.A. § 4921 is amended to read:

9 § 4921. DEPARTMENT’S RECORDS OF ABUSE AND NEGLECT

10 (a) The Commissioner shall maintain all records of all investigations,  
11 assessments, reviews, and responses initiated under this subchapter. The  
12 Department may use and disclose information from such records in the usual  
13 course of its business, including to assess future risk to children, to provide  
14 appropriate services to the child or members of the child’s family, or for other  
15 legal purposes.

16 (b) The Commissioner shall promptly inform the parents, if known, or  
17 guardian of the child that a report has been accepted as a valid allegation  
18 pursuant to subsection 4915(b) of this title and the Department’s response to  
19 the report. The Department shall inform the parent or guardian of ~~his or her~~  
20 the parent’s or guardian’s ability to request records pursuant to subsection (c)

1 of this section. This section shall not apply if the parent or guardian is the  
2 subject of the investigation.

3 (c) Upon request, the redacted investigation file shall be disclosed to:

4 (1) the child’s parents, foster parent, or guardian, absent good cause  
5 shown by the Department, provided that the child’s parent, foster parent, or  
6 guardian is not the subject of the investigation;

7 (2) the person alleged to have abused or neglected the child, as provided  
8 for in subsection 4916a(d) of this title; and

9 (3) the attorney representing the child in a child custody proceeding in  
10 the Family Division of the Superior Court.

11 (d) Upon request, Department records created under this subchapter shall  
12 be disclosed to:

13 (1) the court, parties to the juvenile proceeding, and the child’s guardian  
14 ad litem if there is a pending juvenile proceeding or if the child is in the  
15 custody of the Commissioner;

16 (2) the Commissioner or person designated by the Commissioner to  
17 receive such records;

18 (3) persons assigned by the Commissioner to conduct investigations;

19 (4) law enforcement officers engaged in a joint investigation with the  
20 Department, an Assistant Attorney General, or a State’s Attorney;

21 (5) other State agencies conducting related inquiries or proceedings; ~~and~~

1 (6) the Office of the Child, Youth, and Family Advocate for the purpose  
2 of carrying out the provisions in chapter 32 of this title; and

3 (7) an individual who:

4 (A) is the subject of the records sought by the request; and

5 (B) is 18 years of age or older.

6 \* \* \*

7 Sec. 2. 33 V.S.A. § 5117 is amended to read:

8 § 5117. RECORDS OF JUVENILE JUDICIAL PROCEEDINGS

9 (a) Except as otherwise provided, court and law enforcement reports and  
10 files concerning a person subject to the jurisdiction of the court shall be  
11 maintained separate from the records and files of other persons. Unless a  
12 charge of delinquency is transferred for criminal prosecution under chapter 52  
13 of this title or the court otherwise orders in the interests of the child, such  
14 records and files shall not be open to public inspection nor their contents  
15 disclosed to the public by any person. However, upon a finding that a child is  
16 a delinquent child by reason of commission of a delinquent act that would have  
17 been a felony if committed by an adult, the court, upon request of the victim,  
18 shall make the child's name available to the victim of the delinquent act. If the  
19 victim is incompetent or deceased, the child's name shall be released, upon  
20 request, to the victim's guardian or next of kin.

1 (b)(1) Notwithstanding ~~the foregoing~~ subsection (a) of this section,  
2 inspection of ~~such~~ the records and files by or dissemination of ~~such~~ the records  
3 and files to the following is not prohibited:

4 (A) a court having the child before it in any juvenile judicial  
5 proceeding;

6 (B) the officers of public institutions or agencies to whom the child is  
7 committed as a delinquent child;

8 (C) a court in which a person is convicted of a criminal offense for  
9 the purpose of imposing sentence upon or supervising the person, or by  
10 officials of penal institutions and other penal facilities to which the person is  
11 committed, or by a parole board in considering the person's parole or discharge  
12 or in exercising supervision over the person;

13 (D) the parties to the proceeding, court personnel, the State's  
14 Attorney or other prosecutor authorized to prosecute criminal or juvenile cases  
15 under State law, the child's guardian ad litem, the attorneys for the parties,  
16 probation officers, and law enforcement officers who are actively participating  
17 in criminal or juvenile proceedings involving the child;

18 (E) the child who is the subject of the proceeding, the child's parents,  
19 guardian, and custodian may inspect ~~such~~ the records and files upon approval  
20 of ~~the Family~~ a Superior Court judge;

1 (F) any other person who has a need to know may be designated by  
2 order of the Family Division of the Superior Court;

3 (G) the Commissioner of Corrections if the information would be  
4 helpful in preparing a presentence report, in determining placement, or in  
5 developing a treatment plan for a person convicted of a sex offense that  
6 requires registration pursuant to 13 V.S.A. chapter 167, subchapter 3;

7 (H) the Human Services Board and the Commissioner’s Registry  
8 Review Unit in processes required under chapter 49 of this title;

9 (I) the Department for Children and Families;

10 (J) the Office of the Child, Youth, and Family Advocate for the  
11 purpose of carrying out the provisions in chapter 32 of this title;

12 (K) a service provider named in a disposition order adopted by the  
13 court, or retained by or contracted with a party to fulfill the objectives of the  
14 disposition order, including referrals for treatment and placement;

15 (L) a court diversion program or youth-appropriate community-based  
16 provider to whom the child is referred by the State’s Attorney or the court, if  
17 the child accepts the referral; ~~and~~

18 (M) other State agencies, treatment programs, service providers, or  
19 those providing direct support to the youth, for the purpose of providing  
20 supervision or treatment to the youth; and

21 (N) an individual who is:

1                   (i) is the subject of the records sought by the request; and

2                   (ii) is 18 years of age or older.

3                   (2) Files inspected under this subsection shall be marked: UNLAWFUL  
4                   DISSEMINATION OF THIS INFORMATION IS A CRIME PUNISHABLE  
5                   BY A FINE UP TO \$2,000.00.

6   \* \* \*

7                   Sec. 3. EFFECTIVE DATE

8                   This act shall take effect on passage.

9

10

11

12                   (Committee vote: \_\_\_\_\_)

13

14

15

\_\_\_\_\_  
Senator \_\_\_\_\_  
FOR THE COMMITTEE