



*Division of Public Defender Services
State of Connecticut*

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**COMMITTEE ON CHILDREN
FEBRUARY 28, 2017**

**RAISED BILL 893, AN ACT CONCERNING REVISIONS TO CERTAIN
STATUTES REGARDING THE DEPARTMENT OF CHILDREN AND
FAMILIES**

The Office of Chief Public Defender is opposed to Section 1 of *Raised Bill 893, An Act Concerning Revisions to Certain States Regarding the Department of Children and Families*, which proposes to amend C.G.S. 17a-28, which are the confidentiality statutes for DCF records. This proposal would allow any lawyer representing any party in a juvenile or family matter to access anyone's DCF records without their consent. The only protection accorded to the subject of the record is that the lawyers not redisclose the records to anyone else. There is no penalty for disclosure however.

This is very problematic as it guts the confidentiality protections of the juvenile court. As written, this proposal would give prosecutors in juvenile matters full access to a delinquency defendant's DCF records. That would include whatever educational mental health, medical or other information was contained in the file. Children who are committed to DCF would be at an unfair disadvantage compared to children who were not involved with DCF, since the juvenile prosecutor would not have access to those types of records if a child was in the custody of his or her parents or guardians. DCF records often contain statements that children make to social workers prior to the appointment of counsel. A blanket release of the file to the prosecutor is a violation of the child's right to counsel and their right to avoid self incrimination.

In child protection matters in the juvenile court, cross releases are required before a parent's records can be shared with the other parent's counsel. In the event that a parent does not sign the releases, parties have access to a court process where the judge determines if the records need to be released in the best interest of the child. This process is appropriate, as it encourages cooperation with the Department. Parents need to be confident that the information they release is used only by DCF to help them reunite with their children.



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Allowing unfettered access by all the lawyers in the case will only cause parents to be cautious about signing releases.

Under this proposal, lawyers in a divorce case could gain access to the opponent party's DCF records without their permission and without any review by a court. Lawyers in family matters currently do not have access to opponent party's records. There would need to be a release or a court order after a showing of some type of compelling need and an in camera review by the court. These processes are necessary to ensure the fairness of the court proceedings. DCF records contain medical, mental health and education records that are protected by both state and federal law. A lawyer for a party to a family matter should not be able to access this information without some type of notice and procedural due process being given to the subject of the records. Unfettered access almost ensures that this information will be used as a weapon against a former partner in a custody battle. The Office of Chief Public Defender strongly urges this committee to reject this proposal.