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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2016

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A N A C T

RELATING TO STATE AFFAIRS AND GOVERNMENT -- DEPARTMENT OF CHILDREN,
YOUTH AND FAMILIES

Introduced By: Representatives Ruggiero, McNamara, Tanzi, Carson, and McKiernan

Date Introduced: April 13, 2016

Referred To: House Health, Education & Welfare

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 23-4-3 of the General Laws in Chapter 23-4 entitled "Office of
2 State Medical Examiners" is hereby amended to read as follows:

3 **23-4-3. Functions. --** The office of state medical examiners shall be responsible for:

4 (1) The investigation of deaths within the state that in its judgment might reasonably be
5 expected to involve causes of death enumerated in this chapter;

6 (2) For the conduct of inquests when requested by the attorney general;

7 (3) For the performance of autopsies, including the retention, examination and
8 appropriate disposal of tissue, when appropriate, for deaths which in its judgment might
9 reasonably be expected to involve causes of deaths enumerated in this chapter;

10 (4) For the written determination of the causes of death investigated pursuant to this
11 chapter;

12 (5) For the presentation to the courts of Rhode Island of expert testimony relating to the
13 cause of death;

14 (6) For the keeping of complete records, including names, places, circumstances, and
15 causes of deaths, of deaths investigated and reported, copies of which shall be delivered to the
16 attorney general and of which written determinations of causes of death shall be made available
17 for public inspection;

18 (7) For the burial of bodies for which there is no other existing legal responsibility to do

1 so; ~~and~~

2 (8) For the development and enforcement of procedures for the pronouncement of death
3 and for the transplantation of organs from bodies of persons who have died within the state: and

4 (9) For a multi-disciplinary team review of child fatalities with the goal to decrease the
5 prevalence of preventable child deaths and report recommendations for community and systems
6 intervention strategies. A child death review team shall include, but is not limited to,
7 representation from state agencies, health care, child welfare, and law enforcement.

8 (10) The department shall work with the department of children, youth and families and
9 the office of the child advocate to develop a process to ensure the timely availability of autopsy
10 reports on child deaths.

11 SECTION 2. Section 42-72-8 of the General Laws in Chapter 42-72 entitled “Department
12 of Children, Youth, and Families” is hereby amended to read as follows:

13 **42-72-8. Confidentiality of records.** -- (a) Any records of the department pertaining to
14 children and their families in need of service pursuant to the provisions of this chapter; or for
15 whom an application for services has been made, shall be confidential and only disclosed as
16 provided by law.

17 (b) Records may be disclosed when necessary:

18 (1) To individuals, or public or private agencies engaged in medical, psychological or
19 psychiatric diagnosis or treatment or education of the person under the supervision of the
20 department;

21 (2) To individuals or public or private agencies for the purposes of temporary or
22 permanent placement of the person, and when the director determines that the disclosure is
23 needed to accomplish that placement including any and all health care information obtained by
24 the department in accordance with the provisions of chapter 5-37.3 of the general laws and
25 applicable federal laws and regulations;

26 (3) When the director determines that there is a risk of physical injury by the person to
27 himself or herself or others, and that disclosure of the records is necessary to reduce that risk;

28 (4) To the family court including periodic reports regarding the care and treatment of
29 children; provided, that if a child is represented by a guardian ad litem or attorney, a copy of the
30 family court report will be made available to the guardian ad litem or attorney prior to its
31 submission;

32 (5) To inform any person who made a report of child abuse or neglect pursuant to § 40-
33 11-3, whether services have been provided the child as a result of the report; provided, however,
34 that no facts or information shall be released pursuant to this subsection other than the fact that

1 services have been or are being provided;

2 (6) To permit access to computer records relating to child abuse and neglect
3 investigations by physicians who are examining a child when the physician believes that there is
4 reasonable cause to suspect that a child may have been abused or neglected;

5 (7) To the office of the department of attorney general upon the request of the attorney
6 general or assistant attorney general when the office is engaged in the investigation of or
7 prosecution of criminal conduct by another relating to the child or other children within the same
8 family unit;

9 (8) To the department of corrections in the case of an individual who has been transferred
10 to the jurisdiction of that department pursuant to the provisions of § 14-1-7.3 "certification" or §
11 14-1-7.1 "waiver of jurisdiction"; and

12 (9) To the office of the department of the attorney general upon the request of the
13 attorney general or assistant attorney general when the office is engaged in the investigation of or
14 prosecution of criminal conduct as defined in § 40-11-3.2.

15 (10) To individuals employed by a state or county child welfare agency outside of Rhode
16 Island when the director determines that the information is needed to ensure the care, protection
17 and/or treatment of any child; provided, however, any records relating to allegations previously
18 determined to be unfounded, unsubstantiated, or not indicated shall not be disclosed.

19 (11) Whenever a person previously under the supervision of the training school becomes
20 subject to the jurisdiction of the department of corrections as an adult offender, the director of
21 corrections or his or her designee shall receive, upon request, the portions of the person's training
22 school records limited to the escape history, disciplinary record, and juvenile classification
23 history.

24 (12) In an administrative hearing held pursuant to § 42-35-9, the records, or exact copies
25 of the records, shall be delivered to the administrative hearing officer pursuant to a written
26 request by one of the parties, and shall be delivered to the party making the request or shall be
27 reviewed in camera by the administrative hearing officer for purposes of making a determination
28 of relevancy to the merits of the administrative matter pending before the hearing officer, as the
29 hearing officer may direct. If the records or a portion are relevant to the matter, those records may
30 be viewed and/or copied by counsel of record, at the expense of the party requesting the records.
31 The records shall not be disseminated in any form beyond the parties, counsel of record and their
32 agents, and any experts, except as otherwise specifically authorized by the hearing officer, and
33 provided further that at the conclusion of the action, the records shall be sealed.

34 (13) In a criminal or civil action, the records, or exact copies of the records, shall be

1 delivered to a court of proper jurisdiction pursuant to a subpoena duces tecum, properly issued by
2 one of the parties, and shall be delivered to the party issuing the subpoena or shall be reviewed in
3 camera by the trial justice for purposes of making a determination of relevancy to the merits of
4 the civil or criminal action pending before the court, as the court may direct. If the records or a
5 portion are relevant to the civil or criminal action, those records may be viewed and/or copied by
6 counsel of record, at the expense of the party requesting the records. The court shall issue a
7 protective order preventing dissemination of the records in any form beyond the parties, counsel
8 of record and their agents, and any experts, except as otherwise specifically authorized by the
9 court, and provided further that at the conclusion of the action, all records shall be sealed.

10 (c) ~~The director may disclose the findings or other information about a case as the~~
11 ~~director deems necessary in a case of child abuse or neglect which has resulted in a child fatality~~
12 ~~or near fatality.~~ Disclosure required. (1) The director shall notify the Office of the Child Advocate
13 verbally and electronically in writing within 48 hours of a confirmed fatality or near fatality of a
14 child that is the subject of a DCYF case. The department shall provide the Office of the Child
15 Advocate with access to any written material about the case. For purposes of this chapter, "near
16 fatality" shall mean a child in serious or critical condition as certified by a physician as a result of
17 abuse, neglect, self-harm or other unnatural causes.

18 (2) The director shall make public disclosure of a confirmed fatality or near fatality of a
19 child that is the subject of a DCYF case within 48 hours of confirmation, provided disclosure of
20 such information is in general terms and does not jeopardize a pending criminal investigation;

21 (3) The director shall disclose to the office of the child advocate information, within five
22 (5) days of completion of the department's investigation when there is a substantiated finding of
23 child abuse or neglect that resulted in a child fatality or near fatality. The department may
24 disclose the same information to the office of the attorney general and other entities allowable
25 under 42 U.S.C. §5106a.

26 (4) The information which must be disclosed in accordance with §42-72-8(c)(3) includes:

27 (i) A summary of the report of abuse or neglect and a factual description of the contents
28 of the report;

29 (ii) The date of birth and gender of the child;

30 (iii) The date that the child suffered the fatality or near fatality;

31 (iv) The cause of the fatality or near fatality, if such information has been determined;

32 (v) Whether the department of children, youth, and families or a court appointed special
33 advocate had any contact with the child before the fatality or near fatality and, if so:

34 (A) The frequency of any contact or communication with the child or a member of the

1 child's family or household before the fatality or near fatality and the date on which the last
2 contact or communication occurred before the fatality or near fatality;

3 (B) Whether the department provided any child welfare services to the child or to a
4 member of the child's family or household before or at the time of the fatality or near fatality.

5 (C) Whether the department made any referrals for child welfare services for the child or
6 for a member of the child's family or household before or at the time of the fatality or near
7 fatality;

8 (D) Whether the department took any other action concerning the welfare of the child
9 before or at the time of the fatality or near fatality; and

10 (E) A summary of the status of the child's case at the time of the fatality or near fatality,
11 including, without limitation, whether the child's case was closed by the department before the
12 fatality or near fatality and if so, the reasons why the case was closed; and

13 (vi) Whether the department, in response to the fatality or near fatality:

14 (A) Has provided or intends to provide and/or make a referral for child welfare services
15 to the child or to a member of the child's family or household; and

16 (B) Has taken or intends to take any other action concerning the welfare and safety of the
17 child or any member of the child's family or household.

18 (d) If a public panel is convened or established by the department to evaluate the extent to
19 which the department is discharging its child protection responsibilities, the panel or any of its
20 members or staff shall not disclose identifying information about a specific child protection case
21 nor make public any identifying information provided by the department except as may be
22 authorized by law. Any person who violates this subsection shall be subject to civil sanctions as
23 provided by law.

24 (e) If a public panel is convened or established by the department, this panel, in the
25 course of its evaluation, may review, but shall not investigate, any child fatality that is under the
26 jurisdiction of the child advocate in accordance with the provisions of § 42-73-7(2).

27 (f) In the event records and information contained within DCYF records are shared with
28 individuals or public or private agencies as specified in subsection (b) above, any such individual
29 and/or public or private agency shall be advised that the shared information cannot be further
30 disclosed, except as specifically provided for under applicable federal and/or state law and
31 regulation. Any individual and/or public or private agency who violates this subsection shall be
32 subject to civil sanctions as provided in chapter 37.3 of title 5, and any other federal or state law
33 pertinent thereto.

34 SECTION 3. Section 42-73-6 of the General Laws in Chapter 42-73 entitled "Child

1 Advocate Office” is hereby amended to read as follows:

2 **42-73-6. Annual report.** -- The child advocate shall annually submit to the governor and
3 the general assembly, a detailed report analyzing the work of his or her office and any
4 recommendations resulting therefrom, including non-identifying child fatality and near fatality
5 information and recommendations. The report shall be posted on the office of the child advocate's
6 website.

7 SECTION 3. Chapter 42-73 of the General Laws entitled "Child Advocate Office" is
8 hereby amended by adding thereto the following section:

9 **42-73-2.3. Child fatality reviews.** -- (a) The department of children, youth and families
10 shall notify the office of the child advocate verbally and electronically within forty-eight (48)
11 hours of a confirmed fatality or near fatality of a child that is the subject of a DCYF case and
12 shall provide the office of the child advocate with access to any written material about the case.

13 (b) The child advocate, working with a voluntary and confidential child fatality review
14 panel, whose members may vary on a case-by-case basis, shall review the case records of all
15 notifications in accordance with §42-73-2.3(a) of fatalities and near fatalities of children under
16 twenty-one (21) years of age, if:

17 (1) The fatality or near fatality occurs while in the custody of or involved with the
18 department, or if the child's family previously received services from the department;

19 (2) The fatality or near fatality is alleged to be from abuse or neglect of the child; or

20 (3) A sibling, household member or day care provider has been the subject of a child
21 abuse and neglect investigation within the previous twelve (12) months, including, without
22 limitation, cases in which the report was unsubstantiated or the investigation is currently pending.

23 (c) The child fatality review panel shall assess and analyze such cases, make
24 recommendations regarding such cases, and make recommendations for improvements to laws,
25 policies and practices that support the safety of children. Each report shall be made public within
26 thirty (30) days of its completion.

27 (d) The members of child fatality review panel established in accordance with this
28 section, shall be subject to the confidentiality provisions of §42-73-10.

29 (e) The child advocate shall publically announce the convening of a child fatality review
30 panel, including the age of the child involved.

1 SECTION 4. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

A N A C T

RELATING TO STATE AFFAIRS AND GOVERNMENT -- DEPARTMENT OF CHILDREN,
YOUTH AND FAMILIES

1 This act would take effect upon passage.

2 This act requires the medical examiner to work with the department of children, youth
3 and families and the office of the child advocate on a process for the timely availability of
4 medical examiner findings in cases of suspected abuse and neglect. It requires the department of
5 children, youth and families to disclose certain information regarding child fatalities or near
6 fatalities involving reports of child abuse and neglect. This act establishes a child fatality review
7 panel within the office of the child advocate to review the cases and findings related to child
8 fatalities and near fatalities associated with suspected abuse and neglect.

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