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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2021

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A N A C T

RELATING TO MILITARY AFFAIRS AND DEFENSE -- MILITARY SEXUAL TRAUMA  
CONFIDENTIALITY ACT

Introduced By: Representatives Vella-Wilkinson, Noret, Kazarian, Ackerman, and  
Azzinaro

Date Introduced: January 29, 2021

Referred To: House Judiciary

It is enacted by the General Assembly as follows:

1 SECTION 1. Title 30 of the General Laws entitled "MILITARY AFFAIRS AND  
2 DEFENSE" is hereby amended by adding thereto the following chapter:

3 CHAPTER 13.1

4 MILITARY SEXUAL TRAUMA CONFIDENTIALITY ACT

5 **30-13.1-1. Short title.**

6 This chapter shall be known and may be cited as the "Military Sexual Trauma  
7 Confidentiality Act."

8 **30-13.1-2. Victim confidentiality.**

9 In an investigation of or a prosecution for an offense of rape, sexual assault, sexual battery,  
10 or sexual harassment of a military servicemember, every agency of state or local government to  
11 include, but not be limited to, state military personnel and investigators shall keep confidential the  
12 identity, pictures, and images of the alleged victim and the family of the alleged victim, except to  
13 the extent that disclosure is:

14 (1) Necessary for the purpose of investigation, prosecution or administrative action;

15 (2) Required by law or court order; or

16 (3) Necessary to ensure provision of services or benefits to the victim or the victim's family.

17 **30-13.1-3. Investigation confidentiality.**

18 (a) Documents, materials or other information in the possession or control of any agency

1 of state or local government, to include, but not be limited to, state military personnel and  
2 investigators and obtained or disclosed during the course of any report or investigation of an alleged  
3 rape, sexual assault, sexual battery or sexual harassment of a military servicemember shall be  
4 confidential by law and privileged, shall not be subject to the access of public records act, and shall  
5 not be subject to subpoena.

6 (b) Documents, materials or other information subject to the provisions of subsection (a)  
7 of this section may be disclosed to the extent that disclosure is:

8 (1) Necessary for the purpose of investigation, prosecution or administrative action;

9 (2) Required by law or court order; or

10 (3) Necessary to ensure provision of services or benefits to the victim or the victim's family.

11 SECTION 2. Section 38-2-2 of the General Laws in Chapter 38-2 entitled "Access to Public  
12 Records" is hereby amended to read as follows:

13 **38-2-2. Definitions.**

14 As used in this chapter:

15 (1) "Agency" or "public body" means any executive, legislative, judicial, regulatory, or  
16 administrative body of the state, or any political subdivision thereof; including, but not limited to:  
17 any department, division, agency, commission, board, office, bureau, authority; any school, fire, or  
18 water district, or other agency of Rhode Island state or local government that exercises  
19 governmental functions; any authority as defined in § 42-35-1(b); or any other public or private  
20 agency, person, partnership, corporation, or business entity acting on behalf of and/or in place of  
21 any public agency.

22 (2) "Chief administrative officer" means the highest authority of the public body.

23 (3) "Public business" means any matter over which the public body has supervision,  
24 control, jurisdiction, or advisory power.

25 (4) "Public record" or "public records" shall mean all documents, papers, letters, maps,  
26 books, tapes, photographs, films, sound recordings, magnetic or other tapes, electronic data  
27 processing records, computer stored data (including electronic mail messages, except specifically  
28 for any electronic mail messages of or to elected officials with or relating to those they represent  
29 and correspondence of or to elected officials in their official capacities), or other material regardless  
30 of physical form or characteristics made or received pursuant to law or ordinance or in connection  
31 with the transaction of official business by any agency. For the purposes of this chapter, the  
32 following records shall not be deemed public:

33 (A)(I)(a) All records relating to a client/attorney relationship and to a doctor/patient  
34 relationship, including all medical information relating to an individual in any files.

1 (b) Personnel and other personal individually identifiable records otherwise deemed  
2 confidential by federal or state law or regulation, or the disclosure of which would constitute a  
3 clearly unwarranted invasion of personal privacy pursuant to 5 U.S.C. § 552 et seq.; provided,  
4 however, with respect to employees, and employees of contractors and subcontractors working on  
5 public works projects that are required to be listed as certified payrolls, the name, gross salary,  
6 salary range, total cost of paid fringe benefits, gross amount received in overtime, and any other  
7 remuneration in addition to salary, job title, job description, dates of employment and positions  
8 held with the state, municipality, or public works contractor or subcontractor on public works  
9 projects, employment contract, work location, and/or project, business telephone number, the city  
10 or town of residence, and date of termination shall be public. For the purposes of this section  
11 "remuneration" shall include any payments received by an employee as a result of termination, or  
12 otherwise leaving employment, including, but not limited to, payments for accrued sick and/or  
13 vacation time, severance pay, or compensation paid pursuant to a contract buy-out provision.

14 [\(c\) Military service member sexual trauma records deemed confidential pursuant to chapter](#)  
15 [13.1 of title 30.](#)

16 (II) Notwithstanding the provisions of this section, or any other provision of the general  
17 laws to the contrary, the pension records of all persons who are either current or retired members  
18 of any public retirement systems, as well as all persons who become members of those retirement  
19 systems after June 17, 1991, shall be open for public inspection. "Pension records" as used in this  
20 section, shall include all records containing information concerning pension and retirement benefits  
21 of current and retired members of the retirement systems and future members of said systems,  
22 including all records concerning retirement credits purchased and the ability of any member of the  
23 retirement system to purchase retirement credits, but excluding all information regarding the  
24 medical condition of any person and all information identifying the member's designated  
25 beneficiary or beneficiaries unless and until the member's designated beneficiary or beneficiaries  
26 have received or are receiving pension and/or retirement benefits through the retirement system.

27 (B) Trade secrets and commercial or financial information obtained from a person, firm,  
28 or corporation that is of a privileged or confidential nature.

29 (C) Child custody and adoption records, records of illegitimate births, and records of  
30 juvenile proceedings before the family court.

31 (D) All records maintained by law enforcement agencies for criminal law enforcement and  
32 all records relating to the detection and investigation of crime, including those maintained on any  
33 individual or compiled in the course of a criminal investigation by any law enforcement agency.  
34 Provided, however, such records shall not be deemed public only to the extent that the disclosure

1 of the records or information (a) Could reasonably be expected to interfere with investigations of  
2 criminal activity or with enforcement proceedings; (b) Would deprive a person of a right to a fair  
3 trial or an impartial adjudication; (c) Could reasonably be expected to constitute an unwarranted  
4 invasion of personal privacy; (d) Could reasonably be expected to disclose the identity of a  
5 confidential source, including a state, local, or foreign agency or authority, or any private institution  
6 that furnished information on a confidential basis, or the information furnished by a confidential  
7 source; (e) Would disclose techniques and procedures for law enforcement investigations or  
8 prosecutions, or would disclose guidelines for law enforcement investigations or prosecutions; or  
9 (f) Could reasonably be expected to endanger the life or physical safety of any individual. Records  
10 relating to management and direction of a law enforcement agency and records or reports reflecting  
11 the initial arrest of an adult and the charge or charges brought against an adult shall be public.

12 (E) Any records that would not be available by law or rule of court to an opposing party in  
13 litigation.

14 (F) Scientific and technological secrets and the security plans of military and law  
15 enforcement agencies, the disclosure of which would endanger the public welfare and security.

16 (G) Any records that disclose the identity of the contributor of a bona fide and lawful  
17 charitable contribution to the public body whenever public anonymity has been requested of the  
18 public body with respect to the contribution by the contributor.

19 (H) Reports and statements of strategy or negotiation involving labor negotiations or  
20 collective bargaining.

21 (I) Reports and statements of strategy or negotiation with respect to the investment or  
22 borrowing of public funds, until such time as those transactions are entered into.

23 (J) Any minutes of a meeting of a public body that are not required to be disclosed pursuant  
24 to chapter 46 of title 42.

25 (K) Preliminary drafts, notes, impressions, memoranda, working papers, and work  
26 products, including those involving research at state institutions of higher education on commercial,  
27 scientific, artistic, technical, or scholarly issues, whether in electronic or other format; provided,  
28 however, any documents submitted at a public meeting of a public body shall be deemed public.

29 (L) Test questions, scoring keys, and other examination data used to administer a licensing  
30 examination, examination for employment or promotion, or academic examinations; provided,  
31 however, that a person shall have the right to review the results of his or her examination.

32 (M) Correspondence of or to elected officials with or relating to those they represent and  
33 correspondence of or to elected officials in their official capacities.

34 (N) The contents of real estate appraisals, engineering, or feasibility estimates and

1 evaluations made for or by an agency relative to the acquisition of property or to prospective public  
2 supply and construction contracts, until such time as all of the property has been acquired or all  
3 proceedings or transactions have been terminated or abandoned; provided the law of eminent  
4 domain shall not be affected by this provision.

5 (O) All tax returns.

6 (P) All investigatory records of public bodies, with the exception of law enforcement  
7 agencies, pertaining to possible violations of statute, rule, or regulation other than records of final  
8 actions taken, provided that all records prior to formal notification of violations or noncompliance  
9 shall not be deemed to be public.

10 (Q) Records of individual test scores on professional certification and licensing  
11 examinations; provided, however, that a person shall have the right to review the results of his or  
12 her examination.

13 (R) Requests for advisory opinions until such time as the public body issues its opinion.

14 (S) Records, reports, opinions, information, and statements required to be kept confidential  
15 by federal law or regulation or state law or rule of court.

16 (T) Judicial bodies are included in the definition only in respect to their administrative  
17 function provided that records kept pursuant to the provisions of chapter 16 of title 8 are exempt  
18 from the operation of this chapter.

19 (U) Library records that, by themselves or when examined with other public records, would  
20 reveal the identity of the library user requesting, checking out, or using any library materials.

21 (V) Printouts from TELE -- TEXT devices used by people who are deaf or hard of hearing  
22 or speech impaired.

23 (W) All records received by the insurance division of the department of business regulation  
24 from other states, either directly or through the National Association of Insurance Commissioners,  
25 if those records are accorded confidential treatment in that state. Nothing contained in this title or  
26 any other provision of law shall prevent or be construed as prohibiting the commissioner of  
27 insurance from disclosing otherwise confidential information to the insurance department of this  
28 or any other state or country, at any time, so long as the agency or office receiving the records  
29 agrees in writing to hold it confidential in a manner consistent with the laws of this state.

30 (X) Credit card account numbers in the possession of state or local government are  
31 confidential and shall not be deemed public records.

32 (Y) Any documentary material, answers to written interrogatories, or oral testimony  
33 provided under any subpoena issued under Rhode Island general law § 9-1.1-6.

34 (Z) Any individually identifiable evaluations of public school employees made pursuant to

1 state or federal law or regulation.

2 (AA) All documents prepared by school districts intended to be used by school districts in  
3 protecting the safety of their students from potential and actual threats.

4 SECTION 3. This act shall take effect upon passage.

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EXPLANATION  
BY THE LEGISLATIVE COUNCIL  
OF

A N A C T

RELATING TO MILITARY AFFAIRS AND DEFENSE -- MILITARY SEXUAL TRAUMA  
CONFIDENTIALITY ACT

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- 1 This act would provide confidentiality protection to military sexual trauma (MST) victims.
- 2 This act would take effect upon passage.

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