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## 1998 Survey of Rhode Island Law: Legislation: Confidentiality of Records: An Act Relating to State Affairs and Government - DCYF Records - Confidentiality of Records

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**Confidentiality of Records.** *An Act Relating to State Affairs and Government - DCYF Records - Confidentiality of Records.* Provides for the process by which the confidential records of the Department of Children, Youth, and Families may be disclosed in administrative hearings and criminal or civil actions. Effective, July 13, 1998. 1998 R.I. Pub. Laws ch. 302.

This legislation (the Act) amends the existing Rhode Island General Laws section 42-72-8 to provide for the disclosure of Department of Children, Youth, and Families (DCYF) records in administrative hearings and criminal and civil proceedings.<sup>1</sup> Pursuant to this section, all DCYF records are confidential and may only be disclosed as provided by law.<sup>2</sup> Prior to the Act, section 42-72-8 provided disclosure to certain agencies, but did not provide for such disclosure in administrative hearings or civil and criminal trials.<sup>3</sup>

The Act provides that, in an administrative hearing, the confidential DCYF records may be obtained pursuant to a written request by one of the parties.<sup>4</sup> It is then within the discretion of the hearing officer to either have the records proceed directly to the requesting party or to conduct an in camera inspection of the records for the purpose of determining relevancy.<sup>5</sup> If the hearing officer determines that the records are relevant to the matter, a counsel of record may view or copy the documentation.<sup>6</sup> The Act specifically prohibits the DCYF records from being "disseminated in any form beyond the parties, counsel of records and their agents, and any experts," unless authorization is given by the hearing officer.<sup>7</sup> Furthermore, at the conclusion of the administrative hearing, the records shall be sealed.<sup>8</sup>

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1. See R.I. Gen. Laws § 42-72-8(b)(10) & (11) (1956) (1998 Reenactment).

2. See *id.* § 42-72-8(a).

3. See *id.* § 42-72-8(b). The prior version of section (b) provided that these records may be disclosed, under certain situations, to the individuals involved in the medical treatment of the person under the supervision of the DCYF; the family court or guardian ad litem; to the child abuse and neglect track system (CANTS); the attorney general; the department of corrections; and the training school. See *id.* § 42-72-8(b)(1)-(9).

4. See *id.* § 42-72-8(b)(10).

5. See *id.*

6. See *id.*

7. *Id.*

8. See *id.*

A similar procedure for the disclosure of confidential DCYF records in criminal or civil actions is created by the Act.<sup>9</sup> In a criminal or civil action, a party must issue a subpoena duces tecum in order to initiate the acquisition of the records.<sup>10</sup> The trial justice, at his or her discretion, may review the DCYF records in order to determine relevancy.<sup>11</sup> Once deemed relevant, the records may be viewed or copied by counsel of record.<sup>12</sup> Additionally, "[t]he court shall issue a protective order preventing dissemination of the records, in any form, beyond the parties, counsel of record and their agents, and any experts," unless special authorization is procured from the court.<sup>13</sup> Also, at the conclusion of the action, all the records shall be sealed.<sup>14</sup>

The Act provides for the disclosure process of confidential DCYF records in administrative hearings and criminal or civil actions. The amendment, while allowing for such disclosure at the discretion of the trial justice or hearing officer, still prohibits the dissemination of the records beyond the parties and their agents.

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9. *See id.* § 42-72-8(b)(11).

10. *See id.*

11. *See id.*

12. *See id.*

13. *Id.*

14. *See id.*