

Secretary of the State File Number

6366

Regulation of the
Department of Correction
Concerning

**Access To Records By Persons Who Were Injured While In The Custody
Of The Commissioner Of Correction**

Regulations adopted after July 1, 2013, become effective upon posting to the Connecticut eRegulations System, or at a later date if specified within the regulation.

Posted to the Connecticut eRegulations System on **September 14, 2022**

EFFECTIVE DATE
September 14, 2022

Approved by the Attorney General on
July 15, 2022

Approved by the Legislation Regulation Review Committee on
August 30, 2022

Electronic copy with agency head certification statement electronically submitted to and
received by the Office of the Secretary of the State on
September 13, 2022

Form ICM-ECOPY (NEW 6/2015)
State of Connecticut
Secretary of the State



IMPORTANT NOTICE FOR CONNECTICUT STATE AGENCIES

This form should be used only for regulations first noticed on and after March 23, 2015.

Electronic Copy Certification Statement

(Submitted in accordance with the provisions of section 4-172 of the Connecticut General Statutes)

Regulation of the
Department of Correction
Concerning
**Access To Records By Persons Who Were Injured While In The Custody Of The
Commissioner Of Correction**

Approved by the Legislative Regulation Review Committee: **August 30, 2022**

eRegulations System Tracking Number: **PR2020-005**

I hereby certify that the electronic copy of the above-referenced regulation submitted herewith to the Secretary of the State is a true and accurate copy of the regulation approved in accordance with sections 4-169 and 4-170 of the *Connecticut General Statutes*.

And I further certify that in accordance with the approval of Legislative Regulation Review Committee, all required technical corrections, page substitutions and deletions, if any, have been incorporated into said regulation.

In testimony whereof, I have hereunto
set my hand on **September 12, 2022**.

A handwritten signature in blue ink, appearing to read "Angel Quiros", written over a horizontal line.

Angel Quiros
Commissioner
Department of Correction

**State of Connecticut
Regulation of
Department of Correction
Concerning
Access To Records By Persons Who Were Injured While In The Custody Of The
Commissioner Of Correction**

Section 1. The Regulations of Connecticut State Agencies are amended by adding sections 18-81kk-1 to 18-81kk-7, inclusive, as follows:

(NEW) Sec. 18-81kk-1. Definitions

The following definitions shall apply to Sections 18-81kk-1 to 18-81kk-7, inclusive, of the Regulations of Connecticut State Agencies:

(1) “Commissioner” means the Commissioner of Correction or the Commissioner’s designated representatives.

(2) “Director of Security” means the Director of the Security Division of the Department of Correction or the Director’s designated representative.

(3) “Document” means a written or printed document, or an electronic document, including a communication by electronic mail.

(4) “Fatal injury” means an injury that occurred while an inmate was incarcerated in a correctional facility and caused the death of that inmate.

(5) “Permanent disability” means a medically determined physical impairment that:

(A) Substantially limits one or more major life activity; and

(B) Is the direct result of an injury sustained while in Department of Correction custody in a correctional facility.

(NEW) Sec. 18-81kk-2. Process for Requesting Documents

(a) An inmate who has suffered an injury that has resulted in the inmate having a permanent disability may request documents in the possession of the Department of Correction that are relevant to the injury by submitting a written request to the Records Administrator at the Department of Correction Central Office, 24 Wolcott Hill Road, Wethersfield, CT 06109.

(b) An attorney or fiduciary of an estate of an inmate who has suffered a fatal injury or an injury that has resulted in the inmate having a permanent disability may request documents in the possession of the Department of Correction that are relevant to the injury by submitting a written request to the Records Administrator at the Department of Correction Central Office, 24 Wolcott Hill Road, Wethersfield, CT 06109. The written request shall be accompanied by: (1) a signed authorization for the release of protected health information that is posted on the Department of Correction’s website as required by section 18-81ll of the Connecticut General Statutes; (2) a signed authorization for the release of non-protected health information; and (3) a fiduciary probate certificate if the inmate is deceased.

(NEW) Sec. 18-81kk-3. Time Frame for Response

(a) If documents requested pursuant to section 18-81kk-2 of the Regulations of Connecticut State

Agencies exist and are not withheld pursuant to section 18-81kk-4 of the Regulations of Connecticut State Agencies, such documents shall be released not later than sixty (60) days after the receipt of the request.

(b) The deadline for response to a request for documents may be extended if, in the opinion of the Director of Security:

- (1) The requested documents are still in draft form;
- (2) The request for documents is extensive, burdensome, or requires the gathering of an excessive amount of documents;
- (3) The documents need to be extensively redacted;
- (4) The underlying incident is still under investigation; or
- (5) Other good cause as determined by the Director of Security.

(NEW) Sec. 18-81kk-4. Withholding or Redacting Documents

No documents shall be released pursuant to section 18-81kk-3 of the Regulations of Connecticut State Agencies if:

- (1) Their release might result in a safety and security risk, including, but not limited to, the risk of harm to any person or the risk of an escape from, or a disorder in, a correctional institution or facility. These records shall include, but not be limited to, records that are listed in Section 1-210(b)(18) of the Connecticut General Statutes;
- (2) They are records that are otherwise permissively exempt under the Freedom of Information Act, Section 1-200, et seq. of the Connecticut General Statutes;
- (3) The appropriate release(s) or fiduciary probate certificate have not been received by the Records Administrator;
- (4) They are covered by the attorney-client or attorney work product privileges or any other common law privilege; or
- (5) Their release is otherwise prohibited by state or federal law.

(NEW) Sec. 18-81kk-5. Format of Documents

The Department of Correction may choose the format in which the documents are produced unless the Department has affirmative knowledge that the requestor does not have access to a computer or other device on which to read documents in electronic format, in which case the Department shall produce the documents in hard-copy paper format.

(NEW) Sec. 18-81kk-6. Fees

- (a) In determining the cost for documents, the Department of Correction may include the following:
 - (1) Twenty-five cents (\$0.25) per single-sided page, regardless of format;
 - (2) The cost of any storage device containing the requested documents provided to the requestor; and
 - (3) If computer formatting or computer programming is required to respond to the request, an amount equal to the pro-rated hourly rate of all employees performing the formatting of the programming.
- (b) The Department shall receive payment in full prior to delivering documents to the requester.

(NEW) Sec. 18-81kk-7. Dispute Resolution

(a) If an individual who requests documents pursuant to section 18-81kk-3 of the Regulations of Connecticut State Agencies disagrees with any decision made with respect to: (1) the withholding or redacting of documents; (2) an extension of the response date; (3) the cost of the documents; or (4) the interpretation of these regulations, the requestor may appeal the decision in writing to the Commissioner.

(b) An appeal shall contain a short and concise description of the nature and basis of the dispute and a return street address or electronic email address where the Commissioner shall send a written response to the appeal.

(c) Not later than forty-five (45) days after the Commissioner receives a written appeal pursuant to subsection (a) of this section, the Commissioner shall respond as provided in subsection (b) of this section. The deadline may be extended if, in the opinion of the Commissioner, there is good cause for such an extension. The response to the appeal shall represent the final decision of the Department of Correction on each matter of such appeal.

R-39 Rev. 02/2012

Statement of Purpose

This proposed new regulation adopts rules for document requests for inmates who have suffered fatal injuries or permanent disabilities due to injuries sustained inside a Connecticut correctional facility consistent with the requirements of Public Act 19-80, now codified as Conn. Gen. Stat. 18-81kk and 18-81ll.

1. Purpose of regulation: To address the process by which inmates and their representatives can request documents from the Department of Correction that relate to a disabling or fatal injury that occurred while the inmate was incarcerated inside a Connecticut correctional facility.
2. Summary of main provisions of the regulation: The regulation sets forth a process for requesting documents, the time frame for response, when documents may be withheld or redacted, the format of documents, fees for production of documents, and a procedure for dispute resolution.
3. Legal effects of the regulation: The proposed regulation creates a process by which documents relevant to an inmate's debilitating or fatal injury can be requested by the inmate and/or the inmate's representative.

IMPORTANT NOTICE FOR CONNECTICUT STATE AGENCIES

This form is to be used for proposed permanent and technical amendment regulations only and must be completed in full.

AGENCY CERTIFICATION

Department of Correction

Proposed Regulation Concerning

Access To Records By Persons Who Were Injured While In The Custody Of The Commissioner Of Correction

eRegulations System Tracking Number **PR2020-005**

I hereby certify the following:

(1) The above-referenced **regulation** is proposed pursuant to the following statutory authority or authorities: **Conn. Gen. Stat. §18-81kk**

For technical amendment regulations proposed without a comment period, complete #2 below, then skip to #8.

(2) As permitted by Section 4-168(h) of the *Connecticut General Statutes*, the agency elected to proceed without prior notice or hearing and posted the text of the proposed technical amendment regulation on eRegulations System website on **<<select and enter the date of posting>>**.

For all other non-emergency proposed regulations, complete #3 - #7 below, then complete #8)

(3) The agency posted notice of intent with a specified comment period of not less than 30 days to the eRegulations System website on **December 14, 2021**.

(4) *(Complete one)* ☒ No public hearing held or was required to be held. **OR** ☐ One or more public hearings were held on: **<<select and enter dates>>**.

(5) The agency posted notice of decision to move forward with the proposed regulation to the eRegulations System website on **January 27, 2022**.

(6) *(Complete one)* ☒ No comments were received. **OR** ☐ Comments were received and the agency posted the statements specified in subdivisions (1) and (2) of CGS Section 4-168(e) to the eRegulations System website on **<<select and enter date>>**.

(7) The final wording of the proposed regulation was posted to the eRegulations System website on **January 27, 2022**.

(8) Subsequent to approval for legal sufficiency by the Attorney General and approval by the Legislative Regulation Review Committee, **the final regulation shall be effective**

(Check one and complete as applicable)

☒ When posted to the eRegulations System website by the Secretary of the State.

OR ☐ On _____

(Date must be a specific calendar date not less than 11 days after submission to the Secretary of the State)

SIGNED

(Head of Board, Agency or Commission, or duly authorized deputy)

Commissioner
 OFFICIAL TITLE

June 16, 2022
 DATE

OFFICE OF THE ATTORNEY GENERAL REGULATION CERTIFICATION

Agency: Connecticut Department of Correction

REGULATION NUMBER PR2020-005

This Regulation is hereby APPROVED by the Attorney General as to legal sufficiency in accordance with Connecticut General Statutes § 4-169.

DATE: 7/15/2022

Signed:



Terrence M. O'Neill

***Deputy Associate Attorney General/Chief of the
Public Safety Section***

Duly Authorized

The Connecticut General Assembly

Legislative Regulation Review Committee

Senator James Maroney
Senate Chair



Representative Nicole Klarides-Ditria
House Chair

Official Record of Committee Action

August 30, 2022

Agency:	Department of Correction
Description:	Access to Records by Persons who were Injured While in the Custody of the Commissioner of Correction
LRRC Regulation Number:	2022-004A
eRegulation Tracking Number:	PR2020-005

The above-referenced regulation has been

Approved with Technical Corrections

by the Legislative Regulation Review Committee in accordance
with CGS Section 4-170.

Kirstin L. Breiner
Committee Administrator



State of Connecticut
Office of the Secretary of the State

Confirmation of Electronic Submission

Re: Regulation of the Department of Correction concerning Access To Records
By Persons Who Were Injured While In The Custody Of The
Commissioner of Correction
eRegulations System Tracking Number PR2020-005
Legislative Regulation Review Committee Docket Number 2022-004A

The above-referenced regulation was electronically submitted to the Office of the Secretary of the State in accordance with Connecticut General Statutes Section 4-172 on September 13, 2022.

Said regulation is assigned Secretary of the State File Number 6366.

The effective date of this regulation is September 14, 2022.

A handwritten signature in blue ink, reading "Mark F Kohler".

Mark F. Kohler
Secretary of the State
September 14, 2022

By:
/s/ Christopher R. Drake

Christopher R. Drake
Director, Business
Services Division