§ 473-e. Confidentiality of protective services for adults' records. 1. Definitions. When used in this section unless otherwise expressly stated or unless the context or subject matter requires a different interpretation:

(a) "Subject of a report" means a person who is the subject of a referral or an application for protective services for adults, or who is receiving or has received protective services for adults from a social services district.

(b) "Authorized representative of a subject of a report" means (i) a person named in writing by a subject to be a subject's representative for purposes of requesting and receiving records under this article; provided, however, that the subject has contract capacity at the time of the writing or had executed a durable power of attorney at a time when the subject had such capacity, naming the authorized representative as attorney-in-fact, and such document has not been revoked in accordance with applicable law; (ii) a person appointed by a court, or otherwise authorized in accordance with law to represent or act in the interests of the subject; or (iii) legal counsel for the subject.

2. Reports made pursuant to this article, as well as any other information obtained, including but not limited to, the names of referral sources, written reports or photographs taken concerning such reports in the possession of the department or a social services district, shall be confidential and, except to persons, officers and agencies enumerated in paragraphs (a) through (g) of this subdivision, shall only be released with the written permission of the person who is the subject of the report, or the subject's authorized representative, except to the extent that there is a basis for non-disclosure of such information pursuant to subdivision three of this section. Such reports and information may be made available to:

(a) any person who is the subject of the report or such person's authorized representative;

(b) a provider of services to a current or former protective services for adults client, where a social services official, or his or her designee determined that such information is necessary to determine the need for or to provide or to arrange for the provision of such services;

(c) a court, upon a finding that the information in the record is

necessary for the use by a party in a criminal or civil action or the determination of an issue before the court;

(d) a grand jury, upon a finding that the information in the record is necessary for the determination of charges before the grand jury;

(e) a district attorney, an assistant district attorney or investigator employed in the office of a district attorney, a member of the division of state police, or a police officer employed by a city, county, town or village police department or by a county sheriff when such official requests such information stating that such information is necessary to conduct a criminal investigation or criminal prosecution of a person, that there is reasonable cause to believe that the criminal investigation or criminal prosecution involves or otherwise affects a person who is the subject of a report, and that it is reasonable to believe that due to the nature of the crime under investigation or prosecution, such records may be related to the criminal investigation or prosecution;

(f) a person named as a court-appointed evaluator or guardian in accordance with article eighty-one of the mental hygiene law, or a person named as a guardian for individuals with developmental disabilities in accordance with article seventeen-A of the surrogate's court procedure act; or

(g) any person considered entitled to such record in accordance with applicable law.

3. The commissioner or a social services official may withhold, in whole or in part, the release of any information in their possession which he or she is otherwise authorized to release pursuant to subdivision two of this section, if such official finds that release of such information would identify a person who made a referral or submitted an application on behalf of a person for protective services for adults, or who cooperated in a subsequent investigation and assessment conducted by a social services district to determine a person's need for such services and the official reasonably finds that the release of such information will be detrimental to the safety or interests of such person.

4. Before releasing a record made pursuant to this article in the

possession of the department or a social services district, the appropriate official must be satisfied that the confidential character of the information will be maintained in accordance with applicable law, and that the record will be used only for the purposes for which it was made available.

5. In addition to the requirements of this section, any release of confidential HIV related information, as defined in section twenty-seven hundred eighty of the public health law, shall comply with the requirements of article twenty-seven-F of the public health law.

6. When a record made under this article is subpoenaed or sought pursuant to notice to permit discovery, a social services official may move to withdraw, quash, fix conditions or modify the subpoena, or to move for a protective order, as may be appropriate, in accordance with the applicable provisions of the criminal procedure law or the civil practice law and rules, to (a) delete the identity of any persons who made a referral or submitted an application for protective services for adults on behalf of an individual or who cooperated in a subsequent investigation and assessment of the individual's needs for such services, or the agency, institution, organization, program or other entity when such persons are employed, or with which such persons are associated, (b) withhold records the disclosure of which is likely to be detrimental to the safety or interests of such persons, or (c) otherwise to object to release of all or a portion of the record on the basis that requested release of records is for a purpose not authorized under the law.