



General Assembly

**Substitute Bill No. 5684**

*February Session, 2000*

***An Act Concerning The Freedom Of Information Act.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Subdivision (1) of section 1-200 of the general statutes is  
2 repealed and the following is substituted in lieu thereof:

3 (1) "Public agency" or "agency" means any executive, administrative  
4 or legislative office of the state or any political subdivision of the state  
5 and any state or town agency, any department, institution, bureau,  
6 board, commission, authority or official of the state or of any city,  
7 town, borough, municipal corporation, school district, regional district  
8 or other district or other political subdivision of the state, including  
9 any committee of, or created by, any such office, subdivision, agency,  
10 department, institution, bureau, board, commission, authority or  
11 official, and also includes any judicial office, official, or body or  
12 committee thereof but only in respect to its or their administrative  
13 functions. "Public agency" includes an "implementing agency" as  
14 defined in section 32-222.

15 Sec. 2. Subsection (b) of section 1-210 of the general statutes, as  
16 amended by section 1 of public act 99-156, is repealed and the  
17 following is substituted in lieu thereof:

18 (b) Nothing in the Freedom of Information Act shall be construed to  
19 require disclosure of:

20 (1) Preliminary drafts or notes provided the public agency has  
21 determined that the public interest in withholding such documents  
22 clearly outweighs the public interest in disclosure;

23 (2) Personnel or medical files and similar files the disclosure of  
24 which would constitute an invasion of personal privacy;

25 (3) Records of law enforcement agencies not otherwise available to  
26 the public which records were compiled in connection with the  
27 detection or investigation of crime, if the disclosure of said records  
28 would not be in the public interest because it would result in the  
29 disclosure of (A) the identity of informants not otherwise known or the  
30 identity of witnesses not otherwise known whose safety would be  
31 endangered or who would be subject to threat or intimidation if their  
32 identity was made known, (B) signed statements of witnesses, (C)  
33 information to be used in a prospective law enforcement action if  
34 prejudicial to such action, (D) investigatory techniques not otherwise  
35 known to the general public, (E) arrest records of a juvenile, which  
36 shall also include any investigatory files, concerning the arrest of such  
37 juvenile, compiled for law enforcement purposes, (F) the name and  
38 address of the victim of a sexual assault under section 53a-70, 53a-70a,  
39 53a-71, 53a-72a, 53a-72b or 53a-73a, or injury or risk of injury, or  
40 impairing of morals under section 53-21, or of an attempt thereof, or  
41 (G) uncorroborated allegations subject to destruction pursuant to  
42 section 1-216;

43 (4) Records pertaining to strategy and negotiations with respect to  
44 pending claims or pending litigation to which the public agency is a  
45 party until such litigation or claim has been finally adjudicated or  
46 otherwise settled;

47 (5) (A) Trade secrets, which for purposes of the Freedom of  
48 Information Act, are defined as [unpatented, secret, commercially  
49 valuable plans, appliances, formulas or processes, which are used for  
50 the making, preparing, compounding, treating or processing of articles  
51 or materials which are trade commodities obtained from a person and

52 which are recognized by law as confidential, and commercial]  
53 information, including formulas, patterns, compilations, programs,  
54 devices, methods, techniques, processes, drawings, cost data, or  
55 customer lists that (i) derive independent economic value, actual or  
56 potential, from not being generally known to, and not being readily  
57 ascertainable by proper means by, other persons who can obtain  
58 economic value from its disclosure or use, and (ii) are the subject of  
59 efforts that are reasonable under the circumstances to maintain  
60 secrecy; and

61 (B) Commercial or financial information given in confidence, not  
62 required by statute;

63 (6) Test questions, scoring keys and other examination data used to  
64 administer a licensing examination, examination for employment or  
65 academic examinations;

66 (7) The contents of real estate appraisals, engineering or feasibility  
67 estimates and evaluations made for or by an agency relative to the  
68 acquisition of property or to prospective public supply and  
69 construction contracts, until such time as all of the property has been  
70 acquired or all proceedings or transactions have been terminated or  
71 abandoned, provided the law of eminent domain shall not be affected  
72 by this provision;

73 (8) Statements of personal worth or personal financial data required  
74 by a licensing agency and filed by an applicant with such licensing  
75 agency to establish his personal qualification for the license, certificate  
76 or permit applied for;

77 (9) Records, reports and statements of strategy or negotiations with  
78 respect to collective bargaining;

79 (10) Records, tax returns, reports and statements exempted by  
80 federal law or state statutes or communications privileged by the  
81 attorney-client relationship;

82 (11) Names or addresses of students enrolled in any public school or  
83 college without the consent of each student whose name or address is  
84 to be disclosed who is eighteen years of age or older and a parent or  
85 guardian of each such student who is younger than eighteen years of  
86 age, provided this subdivision shall not be construed as prohibiting the  
87 disclosure of the names or addresses of students enrolled in any public  
88 school in a regional school district to the board of selectmen or town  
89 board of finance, as the case may be, of the town wherein the student  
90 resides for the purpose of verifying tuition payments made to such  
91 school;

92 (12) Any information obtained by the use of illegal means;

93 (13) Records of an investigation or the name of an employee  
94 providing information under the provisions of section 4-61dd;

95 (14) Adoption records and information provided for in sections 45a-  
96 746, as amended, 45a-750 and 45a-751;

97 (15) Any page of a primary petition, nominating petition,  
98 referendum petition or petition for a town meeting submitted under  
99 any provision of the general statutes or of any special act, municipal  
100 charter or ordinance, until the required processing and certification of  
101 such page has been completed by the official or officials charged with  
102 such duty after which time disclosure of such page shall be required;

103 (16) Records of complaints, including information compiled in the  
104 investigation thereof, brought to a municipal health authority pursuant  
105 to chapter 368e or a district department of health pursuant to chapter  
106 368f, until such time as the investigation is concluded or thirty days  
107 from the date of receipt of the complaint, whichever occurs first;

108 (17) Educational records which are not subject to disclosure under  
109 the Family Educational Rights and Privacy Act, 20 USC 1232g;

110 (18) Records, the disclosure of which the Commissioner of  
111 Correction has reasonable grounds to believe may result in a safety

112 risk, including the risk of harm to any person or the risk of an escape  
113 from, or a disorder in, a correctional institution or facility under the  
114 supervision of the Department of Correction. Such records shall  
115 include, but are not limited to:

116 (A) Security manuals, including emergency plans contained or  
117 referred to in such security manuals;

118 (B) Engineering and architectural drawings of correctional  
119 institutions or facilities;

120 (C) Operational specifications of security systems utilized by the  
121 Department of Correction at any correctional institution or facility,  
122 except that a general description of any such security system and the  
123 cost and quality of such system, may be disclosed;

124 (D) Training manuals prepared for correctional institutions and  
125 facilities that describe, in any manner, security procedures, emergency  
126 plans or security equipment;

127 (E) Internal security audits of correctional institutions and facilities;

128 (F) Minutes or recordings of staff meetings of the Department of  
129 Correction, or portions of such minutes or recordings, that contain or  
130 reveal information relating to security or other records otherwise  
131 exempt from disclosure under this subdivision;

132 (G) Logs or other documents that contain information on the  
133 movement or assignment of inmates or staff at correctional institutions  
134 or facilities; and

135 (H) Records that contain information on contacts between inmates,  
136 as defined in section 18-84, and law enforcement officers.

137 Sec. 3. (NEW) (a) All data and other information received by the  
138 Department of Economic and Community Development, the  
139 Connecticut Development Authority or any implementing agency, as  
140 defined in section 32-222 of the general statutes, or any advisory board

141 or committee of the department, authority or agency, from any person  
142 in connection with an application for, or the provision of, financial  
143 assistance, which consists of the following, shall be deemed, for  
144 purposes of a public records request pursuant to the Freedom of  
145 Information Act, as defined in section 1-200 of the general statutes,  
146 made to the Department of Economic and Community Development,  
147 the Connecticut Development Authority or any such implementing  
148 agency, advisory board or committee, to be information described in  
149 subdivision (5) of subsection (b) of section 1-210 of the general statutes,  
150 as amended by this act: (1) Actual trade secrets or information that a  
151 person intends to become a trade secret, (2) material that a person  
152 intends to patent, (3) patented material, (4) marketing or business  
153 plans, (5) plans for new products or services, (6) reports of customer  
154 orders or sales or other documents that would disclose names and  
155 addresses of customers or potential customers, (7) information  
156 concerning the financial condition or personal affairs of any  
157 individual, (8) financial statements or projections, (9) sales or earnings  
158 forecasts, (10) capital or strategic plans, (11) information regarding  
159 research and development, (12) tax returns, or (13) other commercial,  
160 credit or financial information with respect to the financial condition or  
161 business operations of an applicant for or recipient of financial  
162 assistance which is of a type not customarily made available to the  
163 public.

164 (b) The enumeration in this section of particular types of data and  
165 information shall not be construed to limit the possible applicability of  
166 subdivision (5) of subsection (b) of section 1-210, as amended by this  
167 act, to other data or information not so enumerated.

168 Sec. 4. (NEW) All information contained in any application for  
169 financial assistance submitted to the Department of Economic and  
170 Community Development or the Connecticut Development Authority  
171 prior to October 1, 2000, and all information with respect to any person  
172 or project, including all financial, credit and proprietary information,  
173 obtained by the Department of Economic and Community  
174 Development or the Connecticut Development Authority prior to

175 October 1, 2000, or on or after October 1, 2000, pursuant to the  
176 requirements of an agreement entered into prior to October 1, 2000,  
177 shall be exempt from the provisions of subsection (a) of section 1-210,  
178 as amended.

179 Sec. 5. Section 2-90 of the general statutes is repealed and the  
180 following is substituted in lieu thereof:

181 (a) The Auditors of Public Accounts shall organize the work of their  
182 office in such manner as they deem most economical and efficient and  
183 shall determine the scope and frequency of any audit they conduct.

184 (b) Said auditors, with the Comptroller, shall, at least annually and  
185 as frequently as they deem necessary, audit the books and accounts of  
186 the Treasurer and certify the results to the Governor. The auditors  
187 shall, at least annually and as frequently as they deem necessary, audit  
188 the books and accounts of the Comptroller and certify the results to the  
189 Governor. They shall examine and prepare certificates of audit with  
190 respect to the financial statements contained in the annual reports of  
191 the Treasurer and Comptroller, which certificates shall be made part of  
192 such annual reports.

193 (c) Said auditors shall audit, on a biennial basis if deemed most  
194 economical and efficient, or as frequently as they deem necessary, the  
195 books and accounts of each officer, department, commission, board  
196 and court of the state government, all institutions supported by the  
197 state and all public and quasi-public bodies, politic and corporate,  
198 created by public or special act of the General Assembly and not  
199 required to be audited or subject to reporting requirements, under the  
200 provisions of chapter 111. Each such audit may include an examination  
201 of performance in order to determine effectiveness in achieving  
202 expressed legislative purposes. The auditors shall report their findings  
203 and recommendations to the Governor, the State Comptroller, the joint  
204 standing committee of the General Assembly having cognizance of  
205 matters relating to appropriations and the budgets of state agencies,  
206 and the Legislative Program Review and Investigations Committee.

207 (d) The Auditors of Public Accounts may enter into such contractual  
208 agreements as may be necessary for the discharge of their duties. Any  
209 audit or report which is prepared by a person, firm or corporation  
210 pursuant to any contract with the Auditors of Public Accounts shall  
211 bear the signature of the person primarily responsible for the  
212 preparation of such audit or report. As used in this subsection, the  
213 term "person" means a natural person.

214 (e) If the Auditors of Public Accounts discover, or if it should come  
215 to their knowledge, that any unauthorized, illegal, irregular or unsafe  
216 handling or expenditure of state funds or any breakdown in the  
217 safekeeping of any resources of the state has occurred or is  
218 contemplated, they shall forthwith present the facts to the Governor,  
219 the State Comptroller, the clerk of each house of the General Assembly,  
220 the legislative Program Review and Investigations Committee and the  
221 Attorney General. Any Auditor of Public Accounts neglecting to make  
222 such a report, or any agent of the auditors neglecting to report to the  
223 Auditors of Public Accounts any such matter discovered by him or  
224 coming to his knowledge shall be fined not more than one hundred  
225 dollars or imprisoned not more than six months or both.

226 (f) All reports issued or made pursuant to this section shall be  
227 retained in the offices of the Auditors of Public Accounts for a period  
228 of not less than five years. The auditors shall file one copy of each such  
229 report with the State Librarian.

230 (g) Each state agency shall keep its accounts in such form and by  
231 such methods as to exhibit the facts required by said auditors and, the  
232 provisions of any other general statute notwithstanding, shall make all  
233 records and accounts available to them or their agents, upon demand.

234 (h) Where there are statutory requirements of confidentiality with  
235 regard to such records and accounts or examinations of  
236 nongovernmental entities which are maintained by a state agency,  
237 such requirements of confidentiality and the penalties for the violation  
238 thereof shall apply to the auditors and to their authorized

239 representatives in the same manner and to the same extent as such  
240 requirements of confidentiality and penalties apply to such state  
241 agency. In addition, the portion of any audit or report prepared by the  
242 Auditors of Public Accounts that concerns the internal control  
243 structure of a state information system shall not be subject to  
244 disclosure under the Freedom of Information Act, as defined in section  
245 1-200.

246 Sec. 6. Subdivision (4) of subsection (b) of section 1-206 of the  
247 general statutes is repealed and the following is substituted in lieu  
248 thereof:

249 (4) Notwithstanding any provision of this subsection to the  
250 contrary, in the case of an appeal to the commission of a denial by a  
251 public agency, the commission may, upon motion of such agency,  
252 confirm the action of the agency and dismiss the appeal without a  
253 hearing if it finds, after examining the notice of appeal and construing  
254 all allegations most favorably to the appellant, that (A) the agency has  
255 not violated the Freedom of Information Act, or (B) the agency has  
256 committed a technical violation of the Freedom of Information Act that  
257 constitutes a harmless error that does not infringe the appellant's rights  
258 under said act.

259 Sec. 7. Subdivision (10) of subsection (c) of section 7-148 of the  
260 general statutes is repealed and the following is substituted in lieu  
261 thereof:

262 (10) (A) Make all lawful regulations and ordinances in furtherance  
263 of any general powers as enumerated in this section, and prescribe  
264 penalties for the violation of the same not to exceed one hundred  
265 dollars, unless otherwise specifically provided by the general statutes.  
266 Such regulations and ordinances may be enforced by citations issued  
267 by designated municipal officers or employees, provided the  
268 regulations and ordinances have been designated specifically by the  
269 municipality for enforcement by citation in the same manner in which  
270 they were adopted and the designated municipal officers or employees

271 issue a written warning providing notice of the specific violation  
272 before issuing the citation;

273 (B) Adopt a code of ethical conduct;

274 (C) Establish and maintain free legal aid bureaus;

275 (D) Perform data processing and related administrative computer  
276 services for a fee for another municipality;

277 (E) Adopt the model ordinance concerning a municipal freedom of  
278 information advisory board created under subsection (f) of section 1-  
279 205, as amended by this act, and establish a municipal freedom of  
280 information advisory board as provided by said ordinance and said  
281 section.

282 Sec. 8. Section 1-205 of the general statutes is repealed and the  
283 following is substituted in lieu thereof:

284 (a) There shall be a Freedom of Information Commission consisting  
285 of five members appointed by the Governor, with the advice and  
286 consent of either house of the General Assembly, who shall serve for  
287 terms of four years from the July first of the year of their appointment,  
288 except that of the members appointed prior to and serving on July 1,  
289 1977, one shall serve for a period of six years from July 1, 1975, one  
290 shall serve for a period of four years from July 1, 1975, and one shall  
291 serve for a period of six years from July 1, 1977. Of the two new  
292 members first appointed after July 1, 1977, one shall serve from the  
293 date of such appointment until June 30, 1980, and one shall serve from  
294 the date of such appointment until June 30, 1982. No more than three  
295 members shall be members of the same political party.

296 (b) Each member shall receive fifty dollars per day for each day such  
297 member is present at a commission hearing or meeting, and shall be  
298 entitled to reimbursement for actual and necessary expenses incurred  
299 in connection therewith, in accordance with the provisions of section 4-  
300 1.

301 (c) The Governor shall select one of its members as a chairman. The  
302 commission shall maintain a permanent office at Hartford in such  
303 suitable space as the Commissioner of Public Works provides. All  
304 papers required to be filed with the commission shall be delivered to  
305 such office.

306 (d) The commission shall, subject to the provisions of the Freedom  
307 of Information Act promptly review the alleged violation of said  
308 Freedom of Information Act and issue an order pertaining to the same.  
309 Said commission shall have the power to investigate all alleged  
310 violations of said Freedom of Information Act and may for the purpose  
311 of investigating any violation hold a hearing, administer oaths,  
312 examine witnesses, receive oral and documentary evidence, have the  
313 power to subpoena witnesses under procedural rules adopted by the  
314 commission to compel attendance and to require the production for  
315 examination of any books and papers which the commission deems  
316 relevant in any matter under investigation or in question. In case of a  
317 refusal to comply with any such subpoena or to testify with respect to  
318 any matter upon which that person may be lawfully interrogated, the  
319 superior court for the judicial district of Hartford, on application of the  
320 commission, may issue an order requiring such person to comply with  
321 such subpoena and to testify; failure to obey any such order of the  
322 court may be punished by the court as a contempt thereof.

323 (e) The Freedom of Information Commission, and the Department  
324 of Information Technology with respect to access to and disclosure of  
325 computer-stored public records, shall conduct training sessions, at  
326 least annually, for members of public agencies for the purpose of  
327 educating such members as to the requirements of sections 1-7 to 1-14,  
328 inclusive, 1-16 to 1-18, inclusive, 1-200 to 1-202, inclusive, 1-205, 1-206,  
329 1-210 to 1-217, inclusive, as amended, 1-225 to 1-232, inclusive, as  
330 amended, 1-240, 1-241 and 19a-342.

331 (f) Not later than December 31, 2001, the Freedom of Information  
332 Commission shall create, publish and provide to the chief elected  
333 official of each municipality a model ordinance concerning the

334 establishment by any municipality of a municipal freedom of  
335 information advisory board to facilitate the informed and efficient  
336 exchange of information between the commission and such  
337 municipality. The commission may amend the model ordinance from  
338 time to time.

339 [(f)] (g) When the General Assembly is in session, the Governor shall  
340 have the authority to fill any vacancy on the commission, with the  
341 advice and consent of either house of the General Assembly. When the  
342 General Assembly is not in session any vacancy shall be filled  
343 pursuant to the provisions of section 4-19. A vacancy in the  
344 commission shall not impair the right of the remaining members to  
345 exercise all the powers of the commission and three members of the  
346 commission shall constitute a quorum.

347 [(g)] (h) The commission shall, subject to the provisions of chapter  
348 67, employ such employees as may be necessary to carry out the  
349 provisions of this chapter. The commission may enter into such  
350 contractual agreements as may be necessary for the discharge of its  
351 duties, within the limits of its appropriated funds and in accordance  
352 with established procedures.

353 [(h)] (i) The commission shall make available to the public the  
354 printed reports of its decisions, opinions and related materials at a  
355 reasonable cost not to exceed the actual cost thereof to said  
356 commission but not less than twenty-eight dollars per item.

357 [(i)] (j) The Freedom of Information Commission shall not be  
358 construed to be a commission or board within the meaning of section  
359 4-9a.

360 Sec. 9. Subsection (k) of section 32-11a of the general statutes is  
361 repealed.

362 Sec. 10. This act shall take effect July 1, 2000, except that sections 1 to  
363 4, inclusive, 6 and 9 shall take effect October 1, 2000.

***Statement of Legislative Commissioners:***

Section 3 was divided into subsections and subdivisions for clarity and the word "All" was inserted in the beginning of section 4 for consistency.

***GAE Committee Vote:*** Yea 20 Nay 1 JFS