



# House of Representatives

General Assembly

**File No. 299**

February Session, 2002

Substitute House Bill No. 5627

*House of Representatives, April 3, 2002*

The Committee on Government Administration and Elections reported through REP. O'ROURKE of the 32nd Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

***AN ACT CONCERNING THE DISCLOSURE OF SECURITY INFORMATION UNDER THE FREEDOM OF INFORMATION ACT.***

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

1 Section 1. Subsection (b) of section 1-210 of the general statutes, as  
2 amended by section 1 of public act 01-26, is repealed and the following  
3 is substituted in lieu thereof (*Effective October 1, 2002*):

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

6 (1) Preliminary drafts or notes provided the public agency has  
7 determined that the public interest in withholding such documents  
8 clearly outweighs the public interest in disclosure;

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

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

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

33 (5) (A) Trade secrets, which for purposes of the Freedom of  
34 Information Act, are defined as information, including formulas,  
35 patterns, compilations, programs, devices, methods, techniques,  
36 processes, drawings, cost data, or customer lists that (i) derive  
37 independent economic value, actual or potential, from not being  
38 generally known to, and not being readily ascertainable by proper  
39 means by, other persons who can obtain economic value from their  
40 disclosure or use, and (ii) are the subject of efforts that are reasonable  
41 under the circumstances to maintain secrecy; and

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

44 (6) Test questions, scoring keys and other examination data used to  
45 administer a licensing examination, examination for employment or  
46 academic examinations;

47 (7) The contents of real estate appraisals, engineering or feasibility  
48 estimates and evaluations made for or by an agency relative to the  
49 acquisition of property or to prospective public supply and  
50 construction contracts, until such time as all of the property has been  
51 acquired or all proceedings or transactions have been terminated or  
52 abandoned, provided the law of eminent domain shall not be affected  
53 by this provision;

54 (8) Statements of personal worth or personal financial data required  
55 by a licensing agency and filed by an applicant with such licensing  
56 agency to establish the applicant's personal qualification for the  
57 license, certificate or permit applied for;

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

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

63 (11) Names or addresses of students enrolled in any public school or  
64 college without the consent of each student whose name or address is  
65 to be disclosed who is eighteen years of age or older and a parent or  
66 guardian of each such student who is younger than eighteen years of  
67 age, provided this subdivision shall not be construed as prohibiting the  
68 disclosure of the names or addresses of students enrolled in any public  
69 school in a regional school district to the board of selectmen or town  
70 board of finance, as the case may be, of the town wherein the student  
71 resides for the purpose of verifying tuition payments made to such  
72 school;

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

74 (13) Records of an investigation or the name of an employee

75 providing information under the provisions of section 4-61dd;

76 (14) Adoption records and information provided for in sections 45a-  
77 746, 45a-750, as amended, and 45a-751;

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

84 (16) Records of complaints, including information compiled in the  
85 investigation thereof, brought to a municipal health authority pursuant  
86 to chapter 368e or a district department of health pursuant to chapter  
87 368f, until such time as the investigation is concluded or thirty days  
88 from the date of receipt of the complaint, whichever occurs first;

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

91 (18) Records, the disclosure of which the Commissioner of  
92 Correction, or as it applies to Whiting Forensic Division facilities of the  
93 Connecticut Valley Hospital, the Commissioner of Mental Health and  
94 Addiction Services, has reasonable grounds to believe may result in a  
95 safety risk, including the risk of harm to any person or the risk of an  
96 escape from, or a disorder in, a correctional institution or facility under  
97 the supervision of the Department of Correction or Whiting Forensic  
98 Division facilities. Such records shall include, but are not limited to:

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

101 (B) Engineering and architectural drawings of correctional  
102 institutions or facilities or Whiting Forensic Division facilities;

103 (C) Operational specifications of security systems utilized by the  
104 Department of Correction at any correctional institution or facility or

105 Whiting Forensic Division facilities, except that a general description  
106 of any such security system and the cost and quality of such system  
107 may be disclosed;

108 (D) Training manuals prepared for correctional institutions and  
109 facilities or Whiting Forensic Division facilities that describe, in any  
110 manner, security procedures, emergency plans or security equipment;

111 (E) Internal security audits of correctional institutions and facilities  
112 or Whiting Forensic Division facilities;

113 (F) Minutes or recordings of staff meetings of the Department of  
114 Correction or Whiting Forensic Division facilities, or portions of such  
115 minutes or recordings, that contain or reveal information relating to  
116 security or other records otherwise exempt from disclosure under this  
117 subdivision;

118 (G) Logs or other documents that contain information on the  
119 movement or assignment of inmates or staff at correctional institutions  
120 or facilities; and

121 (H) Records that contain information on contacts between inmates,  
122 as defined in section 18-84, and law enforcement officers;

123 (19) Records, the disclosure of which the Commissioner of Public  
124 Works or, in the case of records concerning Judicial Department  
125 facilities, the Chief Court Administrator, or, in the case of records  
126 concerning the Military Department, the Adjutant General, or in the  
127 case of records concerning a political subdivision of the state, the chief  
128 executive officer, has reasonable grounds to believe may result in a  
129 safety risk, including the risk of harm to any person, any [state-owned  
130 or leased] institution or facility owned or leased by the state or  
131 subdivision or any fixture or appurtenance and equipment attached to,  
132 or contained in, such institution or facility. Such records shall include,  
133 but are not limited to:

134 (A) Security manuals or reports, including emergency plans  
135 contained or referred to in such security manuals;

136 (B) Engineering and architectural drawings of [state-owned or  
137 leased] such institutions or facilities;

138 (C) Operational specifications of security systems utilized at any  
139 [state-owned or leased] such institution or facility, except that a  
140 general description of any such security system and the cost and  
141 quality of such system, may be disclosed;

142 (D) Training manuals prepared for [state-owned or leased] such  
143 institutions or facilities that describe, in any manner, security  
144 procedures, emergency plans or security equipment;

145 (E) Internal security audits of [state-owned or leased] such  
146 institutions or facilities;

147 (F) Minutes or recordings of meetings of the Department of Public  
148 Works, [or] the Judicial Department, the Military Department or  
149 political subdivision, or portions of such minutes or recordings, that  
150 contain or reveal information relating to security or other records  
151 otherwise exempt from disclosure under this subdivision; and

152 (G) Logs or other documents that contain information on the  
153 movement or assignment of security personnel at [state-owned or  
154 leased] such institutions or facilities;

155 (20) Records of standards, procedures, processes, software and  
156 codes, not otherwise available to the public, the disclosure of which  
157 would compromise the security or integrity of an information  
158 technology system.

159 Sec. 2. (NEW) (*Effective from passage*) Notwithstanding the provisions  
160 of subdivision (19) of subsection (b) of section 1-210 of the general  
161 statutes, as amended by this act, upon the request of any law  
162 enforcement agency, the Department of Public Works, the Judicial  
163 Department, the Military Department or political subdivision shall  
164 provide copies of records pertaining to said department or subdivision  
165 to such law enforcement agency.

This act shall take effect as follows:	
Section 1	<i>October 1, 2002</i>
Sec. 2	<i>from passage</i>

**GAE**      *Joint Favorable Subst.*

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

**OFA Fiscal Note**

**State Impact:**

Fund-Type	Agency Affected	Current FY \$	FY 03 \$	FY 04 \$
GF - Cost	Freedom of Inf. Com.	-	Potential Minimal	Potential Minimal

Note: GF=General Fund

**Municipal Impact:** None

**Explanation**

The bill adds the adjutant general and municipal chief executive officers to the list of officials who may direct public agencies to not release certain security-related records to members of the public. This could result in a minimal cost for the Freedom of Information Commission (FOIC) relating to holding hearings on complaints of individuals requesting this information from municipalities who were denied access to information under the bill.

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**OLR Bill Analysis**

sHB 5627

**AN ACT CONCERNING THE DISCLOSURE OF SECURITY INFORMATION UNDER THE FREEDOM OF INFORMATION ACT****SUMMARY:**

This bill adds the adjutant general and municipal chief executive officers (CEO) to the list of officials who may direct public agencies to withhold certain security-related records from members of the public who request disclosure under the Freedom of Information Act (FOIA). The adjutant general's authority is limited to Military Department records and the CEOs' authority to municipal records.

Like they do with the other officials, agencies that receive requests must notify the adjutant general, or CEO in the case of municipal records, when they receive requests for these records. By law, the public works commissioner and the chief court administrator are authorized to keep confidential the same type of security records related to buildings and facilities under their management or control. The correction and mental health and addiction services commissioners can keep similar records relating to their facilities confidential.

The bill specifies that the authority of the adjutant general, public works commissioner, chief court administrator, and municipal CEOs to keep these records confidential does not affect law enforcement agencies' ability to access them. These officials must provide copies of records to law enforcement agencies that ask for them.

EFFECTIVE DATE: October 1, 2002, except the provision regarding law enforcement access is effective upon passage

**EXEMPT RECORDS**

The bill exempts the following records from disclosure under the FOIA if the adjutant general, or a CEO in the case of records concerning a municipal facility, has reasonable grounds to believe that their release could pose a safety risk, including harm to anyone or any facility or

equipment owned or leased by the state or a town. These records include:

1. engineering and architectural drawings;
2. security systems' operational specifications (except a general description, cost, and quality of such a system) ;
3. training manuals that describe security procedures, emergency plans, or security equipment;
4. internal security audits; and
5. logs or other documents containing information on security personnel movement or assignments.

The bill also exempts, under the same circumstances, (1) security manuals, including emergency plans, and (2) staff meeting minutes or recordings, or portions of them, that contain or reveal information about security or otherwise exempt records.

**NOTIFICATION**

When a public agency, other than the Judicial Department and the Division of Criminal Justice, receives a request for a public record covered under the bill, it must promptly notify the adjutant general, or CEO in the case of municipal records, in the manner he prescribes. The adjutant general or CEO can deny the request if the bill exempts the record from disclosure. The bill makes the adjutant general or CEO, as the case may be, rather than the agency, the defendant in the event of an appeal.

**COMMITTEE ACTION**

Government Administration and Elections Committee

Joint Favorable Substitute  
Yea 19    Nay 0