



General Assembly

January Session, 2007

**Raised Bill No. 7044**

LCO No. 3629

\*        HB07044PS\_GAE030207        \*

Referred to Committee on Public Safety and Security

Introduced by:  
(PS)

**AN ACT CONCERNING THE DISCLOSURE OF SENSITIVE RECORDS.**

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

1 Section 1. Section 1-210 of the general statutes is repealed and the  
2 following is substituted in lieu thereof (*Effective October 1, 2007*):

3 (a) Except as otherwise provided by any federal law or state statute,  
4 all records maintained or kept on file by any public agency, whether or  
5 not such records are required by any law or by any rule or regulation,  
6 shall be public records and every person shall have the right to (1)  
7 inspect such records promptly during regular office or business hours,  
8 (2) copy such records in accordance with subsection (g) of section 1-  
9 212, or (3) receive a copy of such records in accordance with section 1-  
10 212. Any agency rule or regulation, or part thereof, that conflicts with  
11 the provisions of this subsection or diminishes or curtails in any way  
12 the rights granted by this subsection shall be void. Each such agency  
13 shall keep and maintain all public records in its custody at its regular  
14 office or place of business in an accessible place and, if there is no such  
15 office or place of business, the public records pertaining to such agency  
16 shall be kept in the office of the clerk of the political subdivision in  
17 which such public agency is located or of the Secretary of the State, as

18 the case may be. Any certified record hereunder attested as a true copy  
19 by the clerk, chief or deputy of such agency or by such other person  
20 designated or empowered by law to so act, shall be competent  
21 evidence in any court of this state of the facts contained therein. Each  
22 such agency shall make, keep and maintain a record of the proceedings  
23 of its meetings.

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

26 (1) Preliminary drafts or notes provided the public agency has  
27 determined that the public interest in withholding such documents  
28 clearly outweighs the public interest in disclosure;

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

31 (3) Records of law enforcement agencies not otherwise available to  
32 the public which records were compiled in connection with the  
33 detection or investigation of crime, if the disclosure of said records  
34 would not be in the public interest because it would result in the  
35 disclosure of (A) the identity of informants not otherwise known or the  
36 identity of witnesses not otherwise known whose safety would be  
37 endangered or who would be subject to threat or intimidation if their  
38 identity was made known, (B) signed statements of witnesses, (C)  
39 information to be used in a prospective law enforcement action if  
40 prejudicial to such action, (D) investigatory techniques not otherwise  
41 known to the general public, (E) arrest records of a juvenile, which  
42 shall also include any investigatory files, concerning the arrest of such  
43 juvenile, compiled for law enforcement purposes, (F) the name and  
44 address of the victim of a sexual assault under section 53a-70, 53a-70a,  
45 53a-71, 53a-72a, 53a-72b or 53a-73a, or injury or risk of injury, or  
46 impairing of morals under section 53-21, or of an attempt thereof, or  
47 (G) uncorroborated allegations subject to destruction pursuant to  
48 section 1-216;

49 (4) Records pertaining to strategy and negotiations with respect to

50 pending claims or pending litigation to which the public agency is a  
51 party until such litigation or claim has been finally adjudicated or  
52 otherwise settled;

53 (5) (A) Trade secrets, which for purposes of the Freedom of  
54 Information Act, are defined as information, including formulas,  
55 patterns, compilations, programs, devices, methods, techniques,  
56 processes, drawings, cost data, or customer lists that (i) derive  
57 independent economic value, actual or potential, from not being  
58 generally known to, and not being readily ascertainable by proper  
59 means by, other persons who can obtain economic value from their  
60 disclosure or use, and (ii) are the subject of efforts that are reasonable  
61 under the circumstances to maintain secrecy; and

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

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

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

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

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

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

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

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

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

96 (14) Adoption records and information provided for in sections 45a-  
97 746, 45a-750 and 45a-751;

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

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

109 (17) Educational records which are not subject to disclosure under

110 the Family Educational Rights and Privacy Act, 20 USC 1232g;

111 (18) Records, the disclosure of which the Commissioner of  
112 Correction, or as it applies to Whiting Forensic Division facilities of the  
113 Connecticut Valley Hospital, the Commissioner of Mental Health and  
114 Addiction Services, has reasonable grounds to believe may result in a  
115 safety risk, including the risk of harm to any person or the risk of an  
116 escape from, or a disorder in, a correctional institution or facility under  
117 the supervision of the Department of Correction or Whiting Forensic  
118 Division facilities. Such records shall include, but are not limited to:

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

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

123 (C) Operational specifications of security systems utilized by the  
124 Department of Correction at any correctional institution or facility or  
125 Whiting Forensic Division facilities, except that a general description  
126 of any such security system and the cost and quality of such system  
127 may be disclosed;

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

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

133 (F) Minutes or recordings of staff meetings of the Department of  
134 Correction or Whiting Forensic Division facilities, or portions of such  
135 minutes or recordings, that contain or reveal information relating to  
136 security or other records otherwise exempt from disclosure under this  
137 subdivision;

138 (G) Logs or other documents that contain information on the  
139 movement or assignment of inmates or staff at correctional institutions

140 or facilities; and

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

143 (19) Records when there are reasonable grounds to believe  
144 disclosure may result in a safety risk, including the risk of harm to any  
145 person, any government-owned or leased institution or facility or any  
146 fixture or appurtenance and equipment attached to, or contained in,  
147 such institution or facility, except that such records shall be disclosed  
148 to a law enforcement agency upon the request of the law enforcement  
149 agency. Such reasonable grounds shall be determined (A) (i) by the  
150 Commissioner of Public Works, after consultation with the chief  
151 executive officer of an executive branch state agency with respect to  
152 records concerning such agency; and (ii) by the Commissioner of  
153 Emergency Management and Homeland Security, after consultation  
154 with the chief executive officer of a municipal district or regional  
155 agency, with respect to records concerning [any executive branch  
156 agency of the state or any municipal, district or regional agency, by the  
157 Commissioner of Public Works, after consultation with the chief  
158 executive officer of the] such agency; (B) by the Chief Court  
159 Administrator with respect to records concerning the Judicial  
160 Department; [facilities, by the Chief Court Administrator;] and (C) by  
161 the executive director of the Joint Committee on Legislative  
162 Management, with respect to records concerning the Legislative  
163 Department. [, by the executive director of the Joint Committee on  
164 Legislative Management.] As used in this section, "government-owned  
165 or leased institution or facility" includes, but is not limited to, an  
166 institution or facility owned or leased by a public service company, as  
167 defined in section 16-1, a certified telecommunications provider, as  
168 defined in section 16-1, a water company, as defined in section 25-32a,  
169 or a municipal utility that furnishes electric, gas or water service, but  
170 does not include an institution or facility owned or leased by the  
171 federal government, and "chief executive officer" includes, but is not  
172 limited to, an agency head, department head, executive director or  
173 chief executive officer. Such records include, but are not limited to:

- 174 (i) Security manuals or reports;
- 175 (ii) Engineering and architectural drawings of government-owned  
176 or leased institutions or facilities;
- 177 (iii) Operational specifications of security systems utilized at any  
178 government-owned or leased institution or facility, except that a  
179 general description of any such security system and the cost and  
180 quality of such system, may be disclosed;
- 181 (iv) Training manuals prepared for government-owned or leased  
182 institutions or facilities that describe, in any manner, security  
183 procedures, emergency plans or security equipment;
- 184 (v) Internal security audits of government-owned or leased  
185 institutions or facilities;
- 186 (vi) Minutes or records of meetings, or portions of such minutes or  
187 records, that contain or reveal information relating to security or other  
188 records otherwise exempt from disclosure under this subdivision;
- 189 (vii) Logs or other documents that contain information on the  
190 movement or assignment of security personnel at government-owned  
191 or leased institutions or facilities;
- 192 (viii) Emergency plans and emergency recovery or response plans;  
193 and
- 194 (ix) With respect to a water company, as defined in section 25-32a,  
195 that provides water service: Vulnerability assessments and risk  
196 management plans, operational plans, portions of water supply plans  
197 submitted pursuant to section 25-32d that contain or reveal  
198 information the disclosure of which may result in a security risk to a  
199 water company, inspection reports, technical specifications and other  
200 materials that depict or specifically describe critical water company  
201 operating facilities, collection and distribution systems or sources of  
202 supply;

203 (20) Records of standards, procedures, processes, software and  
204 codes, not otherwise available to the public, the disclosure of which  
205 would compromise the security or integrity of an information  
206 technology system;

207 (21) The residential, work or school address of any participant in the  
208 address confidentiality program established pursuant to sections 54-  
209 240 to 54-240o, inclusive;

210 (22) The electronic mail address of any person that is obtained by  
211 the Department of Transportation in connection with the  
212 implementation or administration of any plan to inform individuals  
213 about significant highway or railway incidents.

214 (c) Whenever a public agency receives a request from any person  
215 confined in a correctional institution or facility or a Whiting Forensic  
216 Division facility, for disclosure of any public record under the  
217 Freedom of Information Act, the public agency shall promptly notify  
218 the Commissioner of Correction or the Commissioner of Mental Health  
219 and Addiction Services in the case of a person confined in a Whiting  
220 Forensic Division facility of such request, in the manner prescribed by  
221 the commissioner, before complying with the request as required by  
222 the Freedom of Information Act. If the commissioner believes the  
223 requested record is exempt from disclosure pursuant to subdivision  
224 (18) of subsection (b) of this section, the commissioner may withhold  
225 such record from such person when the record is delivered to the  
226 person's correctional institution or facility or Whiting Forensic  
227 Division facility.

228 (d) Whenever a public agency, except the Judicial Department or  
229 Legislative Department, receives a request from any person for  
230 disclosure of any records described in subdivision (19) of subsection  
231 (b) of this section under the Freedom of Information Act, the public  
232 agency shall promptly notify the Commissioner of Public Works and  
233 the Commissioner of Emergency Management and Homeland Security  
234 of such request, in the manner prescribed by the [commissioner]

235 commissioners, before complying with the request as required by the  
236 Freedom of Information Act and for information related to a water  
237 company, as defined in section 25-32a, the public agency shall  
238 promptly notify the water company before complying with the request  
239 as required by the Freedom of Information Act. If the commissioner,  
240 after consultation with the chief executive officer of the applicable  
241 agency or after consultation with the chief executive officer of the  
242 applicable water company for information related to a water company,  
243 as defined in section 25-32a, believes the requested record is exempt  
244 from disclosure pursuant to subdivision (19) of subsection (b) of this  
245 section, the commissioner may direct the agency to withhold such  
246 record from such person. In any appeal brought under the provisions  
247 of section 1-206 of the Freedom of Information Act for denial of access  
248 to records for any of the reasons described in subdivision (19) of  
249 subsection (b) of this section, such appeal shall be against the  
250 Commissioner of Public Works or the Commissioner of Emergency  
251 Management and Homeland Security, exclusively, or, in the case of  
252 records concerning Judicial Department facilities, the Chief Court  
253 Administrator or, in the case of records concerning the Legislative  
254 Department, the executive director of the Joint Committee on  
255 Legislative Management.

256 (e) Notwithstanding the provisions of subdivisions (1) and (16) of  
257 subsection (b) of this section, disclosure shall be required of:

258 (1) Interagency or intra-agency memoranda or letters, advisory  
259 opinions, recommendations or any report comprising part of the  
260 process by which governmental decisions and policies are formulated,  
261 except disclosure shall not be required of a preliminary draft of a  
262 memorandum, prepared by a member of the staff of a public agency,  
263 which is subject to revision prior to submission to or discussion among  
264 the members of such agency;

265 (2) All records of investigation conducted with respect to any  
266 tenement house, lodging house or boarding house as defined in section  
267 19a-355, or any nursing home, residential care home or rest home, as

268 defined in section 19a-490, by any municipal building department or  
269 housing code inspection department, any local or district health  
270 department, or any other department charged with the enforcement of  
271 ordinances or laws regulating the erection, construction, alteration,  
272 maintenance, sanitation, ventilation or occupancy of such buildings;  
273 and

274 (3) The names of firms obtaining bid documents from any state  
275 agency.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2007</i>	1-210

**PS**

*Joint Favorable C/R*

GAE