

**FREEDOM OF INFORMATION COMMISSION
STATEMENT IN SUPPORT OF HOUSE BILL NO. 5528,
AN ACT CONCERNING THE FREEDOM OF INFORMATION ACT**

The Freedom of Information (“FOI”) Commission supports House Bill 5528, which would:

1. ensure public access to court records, other than those records that directly relate to judicial decision-making in individual court cases;
2. treat governmental employees equally under the FOI Act by extending to all governmental employees the limitation on disclosure of their residential addresses under the FOI Act; and
3. move the requirement that public agencies maintain a record of their proceedings to the appropriate section of the FOI Act.

1. THE NEED TO ENSURE CRITICAL PUBLIC ACCESS TO THE COURTS

The FOI Commission believes that this legislation is essential to greater accessibility and transparency to the judicial system. This proposal follows a sound approach – to amend the definition of administrative functions, thereby carving out those matters that are not part of the judicial decision-making in individual court cases, and ensuring that such matters will be open to the public. Functions included in the new definition are: the management of the internal institutional machinery of the judicial branch, including, but not limited to, budgeting, accounting, rule-making, personnel, facilities, physical operations, docketing, record-keeping and scheduling.

A definition is clearly necessary based upon past court precedents. If “administrative function” is not defined, we will continue on the path that has been traveled for the past three decades. The courts will provide their own definition on a case-by-case basis and will modify it to suit particular needs or concerns in given cases. That hasn’t worked very well, as everyone is well aware, particularly following the most recent of those past cases, Clerk v. Freedom of Information Commission, 278 Conn. 28 (2006).

Given the recent furor over lack of access to our judicial system, this bill represents a good approach to greater access and accountability. It provides clear direction, relies upon items that the Court has enunciated in the past and therefore cannot be viewed as overstepping the boundary between administrative and judicial.

2. NONDISCLOSURE OF ADDRESSES OF ALL GOVERNMENT EMPLOYEES

The purpose of this portion of the bill is to eliminate the inconsistent application of the FOI Act as it relates to the residential addresses of non-elected public officials and employees.

The FOI Commission understands the security concerns which initially led to the enactment of Section 1-217 of the General Statutes (part of the FOI Act). Thus that section originally permitted public agencies not to disclose the home addresses of an enumerated list of certain so-called “at risk” public officials such as police officers, judges, prosecutors and others directly involved in the criminal justice system. Over the last several years, however, numerous amendments to Section 1-217 have been enacted exempting the residential

addresses of other classifications of public officials and employees without an adequate showing of any significant security risk.

This burgeoning list of address exclusions in Section 1-217 makes a mockery of the intent of this provision and, in effect, renders it useless. If challenged in court, the section as currently written would be likely to be found unconstitutional on its face because there is no rational basis for differentiating between similar employees of different agencies. For example, the residential addresses of clerk-typists employed by the Department of Children and Families are exempt from disclosure, while the addresses of clerk-typists in the Department of Consumer Protection can be disclosed.

The purpose of this language in the bill is to provide equity for government employees by exempting the addresses of ALL government employees from disclosure under the FOI Act. The continued haphazard and piecemeal approach to 1-217 has resulted in a statute that the FOI Commission feels needs to be eliminated.

Moreover, as now written, Section 1-217 is meaningless, or problematic, for many officials and employees. Residential addresses are a matter of public record in any event on land records, grand lists and even voting registers. And, of course, the residential addresses of most people are now readily available for free, or for a nominal charge, on the Internet and through other commercial services.

3. TECHNICAL CHANGE TO PLACEMENT OF MINUTES REQUIREMENT

The purpose of this merely technical legislation is to simply move the requirement that public agencies maintain minutes of their proceedings to the appropriate section of the FOI Act.

This bill should be acted upon favorably.

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