

**STATEMENT OF THE FREEDOM OF INFORMATION COMMISSION ON  
RAISED BILL 6670, AN ACT CONCERNING THE RIGHTS OF CRIME VICTIMS  
AND THE DUTIES OF THE OFFICE OF THE VICTIM ADVOCATE**

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Good morning Senator McDonald, Representative Lawlor, and members of the committee. I am Colleen Murphy, Executive Director & General Counsel of the Freedom of Information Commission. I would like to comment on RB 6670, An Act Concerning the Rights of Crime Victims and the Duties of the Office of the Victim Advocate.

The FOI Commission strongly objects to the changes to the FOI Act proposed in Section 5 of this bill (lines 217-219). In a misplaced attempt to protect crime victims, RB 6670 makes sweeping changes to what has been a narrow exemption in the FOI Act. If enacted, these changes could severely erode the well-established right guaranteeing public access to public records, but they will not give victims of crime the sense of privacy they seek.

The proposed change to the statute would broaden the types of records covered by the invasion of privacy exemption. Under current law, the exemption applies *only* to personnel or medical and similar files. Case law has defined "similar files" to be those that are similar in kind to personnel or medical files, i.e., those files whose principal purpose is to furnish information to be used in making work-related or medical decisions.

RB 6670 would replace the word "similar", the scope of which has been defined by court decisions, with the word "other" files, resulting in a much broader approach that would apply to any record maintained by any agency. This new exemption would apply not only to personnel and medical files, but also to *all* public records.

Such new language would alter language that has been in the FOI Act for more than 30 years -- language that has been time-tested and relied upon, both by people who utilize the FOI law and public officials who have to follow it. The changes could prove costly, as each municipal and state agency would now be obligated to evaluate each of its records for potential privacy issues and then to try and make determinations about whether to withhold records.

By including changes to the FOI Act in this Victims' Rights bill, the bill's proponents seem to indicate that they believe the FOI Act fails to protect victims of crime. We must disagree. The FOI Act recognizes the many explicit statutory protections given to crime victims; records that are confidential by law may not be disclosed under the FOI Act. For example, laws protect the confidentiality of information about stalking victims, child abuse victims, family violence victims, victims of sexual assault, and autopsies of homicide victims. Other statutes protect the confidentiality of information provided to the Office of the Victim Advocate and the Office of the Child Advocate. The confidentiality of juvenile and youthful offender proceedings also shield the victims of crimes.

Those who advocate on behalf of victims often observe that crime victims are victimized twice – first by the perpetrator of the crime and then by “the system.” Clearly, the delays and other obstacles in the criminal justice system and sensational media coverage of crime are not always in a crime victim’s best interests. But that is where the problem lies and why this bill has gone astray. RB 6670’s proposed revision to our public records law does not address, or in any way remedy, those legitimate grievances.

The FOI law as it is now written works well and we don’t believe there is reason to change it in such a sweeping manner. However, if there is any specific area that needs protection, we’d like to know what that area is and to help craft a more narrow confidentiality provision.

In addition, the specific language of RB 6670’s proposed change to the FOI Act’s privacy exemption is confusing at best. The FOI Act applies only to public records and meetings. A record, by the statute’s definition, is “any recorded data or information” and already includes everything that the proposed bill specifically enumerates. Under current law, a public record would also include a “tangible item,” if that item is recorded data or information. While it is unclear what the proponents of RB 6670 intend by the words “tangible items,” it is clear that a public record is a tangible item and, therefore, is already covered by the FOI Act. The FOI Act does not apply to tangible items that are not recorded data or information – such as, for example, weapons or clothing, in a criminal prosecution. Thus, there should be no concern that such items would ever be disclosed pursuant to the FOI Act.

With respect to RB 6670’s proposed definition of “invasion of privacy” (Section 4., lines 211-213), the FOI Commission recognizes that the proposed language is an attempt to codify long-settled Connecticut Supreme Court case law as to the meaning of the phrase. However, this proposed change in the bill is also not artfully drawn. The FOI Commission welcomes the opportunity to work with this committee and others to revise this section of the bill so that the new law will accomplish its intended purpose.