



General Assembly

Amendment

January Session, 2009

LCO No. 9288

HB0640209288HDO

Offered by:
REP. O'CONNOR, 35th Dist.

To: Subst. House Bill No. 6402

File No. 919

Cal. No. 332

"AN ACT CONCERNING HUSKY REFORM."

1 After the last section, add the following and renumber sections and
2 internal references accordingly:

3 "Sec. 501. Section 1-218 of the general statutes is repealed and the
4 following is substituted in lieu thereof (*Effective July 1, 2009*):

5 (a) Each contract in excess of two million five hundred thousand
6 dollars between a public agency and a person for the performance of a
7 governmental function shall (1) provide that the public agency is
8 entitled to receive a copy of records and files related to the
9 performance of the governmental function, and (2) indicate that such
10 records and files are subject to the Freedom of Information Act and
11 may be disclosed by the public agency pursuant to the Freedom of
12 Information Act unless such disclosure is prohibited by subsection (b)
13 of section 1-210 as amended by this act. No request to inspect or copy
14 such records or files shall be valid unless the request is made to the
15 public agency in accordance with the Freedom of Information Act.

16 **(b) Any person that performs a governmental function may assert**
17 **any applicable statutory exemption, including, but not limited to, any**
18 **exemption under section 1-210 as amended by this act. With regard to**
19 **the records or files specified in subdivision (1) of subsection (a) of this**
20 **section, once a statutory exemption has been asserted by any person**
21 **that performs a governmental function, the public agency shall not**
22 **disclose such records and files unless ordered to do so by the Freedom**
23 **of Information Commission pursuant to section 1-206. Any complaint**
24 **by a person who is denied the right to inspect or copy such records or**
25 **files shall be brought to the Freedom of Information Commission in**
26 **accordance with the provisions of sections 1-205 and 1-206. Any person**
27 **that performs a governmental function who has asserted a statutory**
28 **exemption that subsequently results in a complaint by a person who is**
29 **denied the right to inspect or copy such records or files shall be**
30 **deemed to be a party to any proceeding to adjudicate such complaint.**

31 **(c) Any contract for the provision of managed care services or**
32 **administrative services by a managed care organization, as defined in**
33 **section 38a-478, or contract for the provision of administrative services**
34 **by any entity, to the Department of Social Services shall require the**
35 **disclosure of records and files created for the purpose of performing**
36 **such governmental function, including, but not limited to, the rates**
37 **paid by such managed care organizations to providers of medical**
38 **services for Medicaid managed care services.**

39 Sec. 502. Subsection (b) of section 1-210 of the general statutes is
40 repealed and the following is substituted in lieu thereof (*Effective July*
41 *1, 2009*):

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

44 (1) Preliminary drafts or notes provided the public agency has
45 determined that the public interest in withholding such documents
46 clearly outweighs the public interest in disclosure;

47 (2) Personnel or medical files and similar files the disclosure of

48 which would constitute an invasion of personal privacy;

49 (3) Records of law enforcement agencies not otherwise available to
50 the public which records were compiled in connection with the
51 detection or investigation of crime, if the disclosure of said records
52 would not be in the public interest because it would result in the
53 disclosure of (A) the identity of informants not otherwise known or the
54 identity of witnesses not otherwise known whose safety would be
55 endangered or who would be subject to threat or intimidation if their
56 identity was made known, (B) signed statements of witnesses, (C)
57 information to be used in a prospective law enforcement action if
58 prejudicial to such action, (D) investigatory techniques not otherwise
59 known to the general public, (E) arrest records of a juvenile, which
60 shall also include any investigatory files, concerning the arrest of such
61 juvenile, compiled for law enforcement purposes, (F) the name and
62 address of the victim of a sexual assault under section 53a-70, 53a-70a,
63 53a-71, 53a-72a, 53a-72b or 53a-73a, or injury or risk of injury, or
64 impairing of morals under section 53-21, or of an attempt thereof, or
65 (G) uncorroborated allegations subject to destruction pursuant to
66 section 1-216;

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

71 (5) (A) Trade secrets, which for purposes of the Freedom of
72 Information Act, are defined as information, including formulas,
73 patterns, compilations, programs, devices, methods, techniques,
74 processes, drawings, cost data, customer lists, film or television scripts
75 or detailed production budgets that (i) derive independent economic
76 value, actual or potential, from not being generally known to, and not
77 being readily ascertainable by proper means by, other persons who can
78 obtain economic value from their disclosure or use, and (ii) are the
79 subject of efforts that are reasonable under the circumstances to
80 maintain secrecy; and

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

83 (6) Test questions, scoring keys and other examination data used to
84 administer a licensing examination, examination for employment or
85 academic examinations;

86 (7) The contents of real estate appraisals, engineering or feasibility
87 estimates and evaluations made for or by an agency relative to the
88 acquisition of property or to prospective public supply and
89 construction contracts, until such time as all of the property has been
90 acquired or all proceedings or transactions have been terminated or
91 abandoned, provided the law of eminent domain shall not be affected
92 by this provision;

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

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

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

102 (11) Names or addresses of students enrolled in any public school or
103 college without the consent of each student whose name or address is
104 to be disclosed who is eighteen years of age or older and a parent or
105 guardian of each such student who is younger than eighteen years of
106 age, provided this subdivision shall not be construed as prohibiting the
107 disclosure of the names or addresses of students enrolled in any public
108 school in a regional school district to the board of selectmen or town
109 board of finance, as the case may be, of the town wherein the student
110 resides for the purpose of verifying tuition payments made to such
111 school;

- 112 (12) Any information obtained by the use of illegal means;
- 113 (13) Records of an investigation or the name of an employee
114 providing information under the provisions of section 4-61dd;
- 115 (14) Adoption records and information provided for in sections 45a-
116 746, 45a-750 and 45a-751;
- 117 (15) Any page of a primary petition, nominating petition,
118 referendum petition or petition for a town meeting submitted under
119 any provision of the general statutes or of any special act, municipal
120 charter or ordinance, until the required processing and certification of
121 such page has been completed by the official or officials charged with
122 such duty after which time disclosure of such page shall be required;
- 123 (16) Records of complaints, including information compiled in the
124 investigation thereof, brought to a municipal health authority pursuant
125 to chapter 368e or a district department of health pursuant to chapter
126 368f, until such time as the investigation is concluded or thirty days
127 from the date of receipt of the complaint, whichever occurs first;
- 128 (17) Educational records which are not subject to disclosure under
129 the Family Educational Rights and Privacy Act, 20 USC 1232g;
- 130 (18) Records, the disclosure of which the Commissioner of
131 Correction, or as it applies to Whiting Forensic Division facilities of the
132 Connecticut Valley Hospital, the Commissioner of Mental Health and
133 Addiction Services, has reasonable grounds to believe may result in a
134 safety risk, including the risk of harm to any person or the risk of an
135 escape from, or a disorder in, a correctional institution or facility under
136 the supervision of the Department of Correction or Whiting Forensic
137 Division facilities. Such records shall include, but are not limited to:
- 138 (A) Security manuals, including emergency plans contained or
139 referred to in such security manuals;
- 140 (B) Engineering and architectural drawings of correctional
141 institutions or facilities or Whiting Forensic Division facilities;

142 (C) Operational specifications of security systems utilized by the
143 Department of Correction at any correctional institution or facility or
144 Whiting Forensic Division facilities, except that a general description
145 of any such security system and the cost and quality of such system
146 may be disclosed;

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

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

152 (F) Minutes or recordings of staff meetings of the Department of
153 Correction or Whiting Forensic Division facilities, or portions of such
154 minutes or recordings, that contain or reveal information relating to
155 security or other records otherwise exempt from disclosure under this
156 subdivision;

157 (G) Logs or other documents that contain information on the
158 movement or assignment of inmates or staff at correctional institutions
159 or facilities; and

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

162 (19) Records when there are reasonable grounds to believe
163 disclosure may result in a safety risk, including the risk of harm to any
164 person, any government-owned or leased institution or facility or any
165 fixture or appurtenance and equipment attached to, or contained in,
166 such institution or facility, except that such records shall be disclosed
167 to a law enforcement agency upon the request of the law enforcement
168 agency. Such reasonable grounds shall be determined (A) (i) by the
169 Commissioner of Public Works, after consultation with the chief
170 executive officer of an executive branch state agency, with respect to
171 records concerning such agency; and (ii) by the Commissioner of
172 Emergency Management and Homeland Security, after consultation

173 with the chief executive officer of a municipal, district or regional
174 agency, with respect to records concerning such agency; (B) by the
175 Chief Court Administrator with respect to records concerning the
176 Judicial Department; and (C) by the executive director of the Joint
177 Committee on Legislative Management, with respect to records
178 concerning the Legislative Department. As used in this section,
179 "government-owned or leased institution or facility" includes, but is
180 not limited to, an institution or facility owned or leased by a public
181 service company, as defined in section 16-1, a certified
182 telecommunications provider, as defined in section 16-1, a water
183 company, as defined in section 25-32a, or a municipal utility that
184 furnishes electric, gas or water service, but does not include an
185 institution or facility owned or leased by the federal government, and
186 "chief executive officer" includes, but is not limited to, an agency head,
187 department head, executive director or chief executive officer. Such
188 records include, but are not limited to:

189 (i) Security manuals or reports;

190 (ii) Engineering and architectural drawings of government-owned
191 or leased institutions or facilities;

192 (iii) Operational specifications of security systems utilized at any
193 government-owned or leased institution or facility, except that a
194 general description of any such security system and the cost and
195 quality of such system, may be disclosed;

196 (iv) Training manuals prepared for government-owned or leased
197 institutions or facilities that describe, in any manner, security
198 procedures, emergency plans or security equipment;

199 (v) Internal security audits of government-owned or leased
200 institutions or facilities;

201 (vi) Minutes or records of meetings, or portions of such minutes or
202 records, that contain or reveal information relating to security or other
203 records otherwise exempt from disclosure under this subdivision;

204 (vii) Logs or other documents that contain information on the
205 movement or assignment of security personnel;

206 (viii) Emergency plans and emergency preparedness, response,
207 recovery and mitigation plans, including plans provided by a person
208 to a state agency or a local emergency management agency or official;
209 and

210 (ix) With respect to a water company, as defined in section 25-32a,
211 that provides water service: Vulnerability assessments and risk
212 management plans, operational plans, portions of water supply plans
213 submitted pursuant to section 25-32d that contain or reveal
214 information the disclosure of which may result in a security risk to a
215 water company, inspection reports, technical specifications and other
216 materials that depict or specifically describe critical water company
217 operating facilities, collection and distribution systems or sources of
218 supply;

219 (20) Records of standards, procedures, processes, software and
220 codes, not otherwise available to the public, the disclosure of which
221 would compromise the security or integrity of an information
222 technology system;

223 (21) The residential, work or school address of any participant in the
224 address confidentiality program established pursuant to sections 54-
225 240 to 54-240o, inclusive;

226 (22) The electronic mail address of any person that is obtained by
227 the Department of Transportation in connection with the
228 implementation or administration of any plan to inform individuals
229 about significant highway or railway incidents;

230 (23) The name or address of any minor enrolled in any parks and
231 recreation program administered or sponsored by any public agency;

232 (24) Responses to any request for proposals or bid solicitation issued
233 by a public agency or any record or file made by a public agency in

234 connection with the contract award process, until such contract is
235 executed or negotiations for the award of such contract have ended,
236 whichever occurs earlier, provided the chief executive officer of such
237 public agency certifies that the public interest in the disclosure of such
238 responses, record or file is outweighed by the public interest in the
239 confidentiality of such responses, record or file;

240 (25) Records or files related to programs or functions not created for
241 the purpose of performing a governmental function by the
242 organizations and entities specified in subsection (c) of section 1-218,
243 as amended by this act, or other records or files specifically exempted
244 from disclosure under a contract specified in subsection (c) of section
245 1-218, as amended by this act."