Senate

General Assembly

File No. 49

February Session, 2010

Substitute Senate Bill No. 221

Senate, March 16, 2010

The Committee on Judiciary reported through SEN. MCDONALD of the 27th Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

AN ACT PROHIBITING THE DISCLOSURE OF EMPLOYEE FILES TO INMATES.

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

Section 1. (NEW) (*Effective July 1, 2010*) A personnel or medical file or similar file concerning a current or former employee of the Department of Correction or the Department of Mental Health and Addiction Services, including, but not limited to, a record of a security investigation of such employee by the department or an investigation by the department of a discrimination complaint by or against such employee, shall not be subject to disclosure under the Freedom of Information Act, as defined in section 1-200 of the general statutes, to any individual committed to the custody or supervision of the Commissioner of Correction or confined in a facility of the Whiting Forensic Division of the Connecticut Valley Hospital. For the purposes of this section, an "employee of the Department of Correction" includes a member or employee of the Board of Pardons and Paroles within the Department of Correction.

This act shall take effect as follows and shall amend the following sections:		
Section 1	*July 1, 2010*	New section

JUD *Joint Favorable Subst.*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 11 $	FY 12 $
Depts. of Correction, Mental Health and Addiction Services	GF - Cost Avoidance	Potential Minimal	Potential Minimal

Note: GF=General Fund

Municipal Impact: None

Explanation

Should enactment of this bill reduce the number of freedom of information act (FOIA) requests involving the Departments of Correction (DOC) or Mental Health and Addiction Services (DMHAS), the affected agency would avoid incurring potential minimal costs associated with overtime pay to ensure shift coverage for staff preparing for/attending hearings and mileage reimbursement.

Any such reduction in the volume of annual requests involving these agencies would be expected to be few in number. Thirteen FOIA requests involving personnel records of DOC staff (with ten resulting hearings) have occurred since May 2007. Approximately eighty man-hours on average have been dedicated by DOC employees to each case. The DMHAS has responded to seven requests involving personnel records since 2007.

This bill could also result in a reduction of workload to the Freedom of Information Commission (FOIC), to the extent that the bill results in a reduction of FOIA requests. Since the current number of FOIA requests for DOC employee files makes up a small percentage of FOIC's workload, this will not result in any fiscal impact.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation.

OLR Bill Analysis
sSB 221

AN ACT PROHIBITING THE DISCLOSURE OF EMPLOYEE FILES TO INMATES.

SUMMARY:

This bill exempts from disclosure under the Freedom of Information Act (FOIA) personnel, medical, or similar files about current or former Department of Correction (DOC) employees, Board of Pardons and Paroles members and employees, or Department of Mental Health and Addiction Services (DMHAS) employees to people under DOC custody or supervision or confined in a facility of the Whiting Forensic Division of Connecticut Valley Hospital. The exemption includes records of the departments' security investigations and investigations of discrimination complaints by or against employees.

Under current law, personnel, medical, or similar files are subject to disclosure under FOIA unless disclosure would constitute an invasion of personal privacy (CGS § 1-210(b)(2)). Under case law, disclosing these files is an invasion of privacy if the (1) records are not of legitimate public concern and (2) information in the files would be highly offensive to a reasonable person (*Perkins v. FOI*, 228 Conn. 158 (1993)).

BACKGROUND

FOIA Requests by Inmates to Other Agencies

A public agency that receives a FOIA request from someone confined in a DOC or Whiting Forensic Division facility must notify the DOC or DMHAS commissioner before complying with the request. The appropriate commissioner can withhold the record if he believes that the requested record is exempt from disclosure under FOIA as a safety risk, including the risk of harm to someone, escape, or disorder

in a facility.

EFFECTIVE DATE: July 1, 2010

COMMITTEE ACTION

Judiciary Committee

Joint Favorable Substitute
Yea 34 Nay 0 (03/03/2010)