



General Assembly

February Session, 2010

Governor's Bill No. 30

LCO No. 412

00412_____

Referred to Committee on Government Administration and Elections

Introduced by:

SEN. MCKINNEY, 28th Dist.

REP. CAFERO, 142nd Dist.

AN ACT CONCERNING LEGISLATIVE AND JUDICIAL RECORDS AND CONCERNING THE FREEDOM OF INFORMATION ACT EXEMPTION FROM DISCLOSURE FOR PRELIMINARY DRAFTS OR NOTES.

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

1 Section 1. Section 11-8 of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective October 1, 2010*):

3 (a) Under the direction of the State Library Board, the State
4 Librarian shall be responsible for developing and directing a records
5 management program for the books, records, papers and documents of
6 all state agencies within the executive, [department,] legislative and
7 judicial departments, and the books, records, papers and documents of
8 the several towns, cities, boroughs, districts and other political
9 subdivisions of the state, including the probate districts, pursuant to
10 the provisions of section 11-8a. The State Librarian shall also supervise
11 the operation of state records centers; provide photoduplication and
12 microfilming service and document repair and restoration service for

13 state and local records; approve security storage facilities, within or
14 without the state, or establish and operate such facilities within the
15 state, for the safe storage of original public records or security copies
16 thereof; and carry out a program for the identification and
17 preservation of essential records of the state and of its political
18 subdivisions. [He] The State Librarian shall, with the approval of the
19 State Library Board, and in accordance with the provisions of chapter
20 54, adopt regulations for the creation and preservation of the records
21 of the several towns, cities, boroughs and districts, including probate
22 districts, of the state. Such regulations shall establish the physical
23 characteristics required for papers, inks, typewriter ribbons, carbon
24 papers, loose-leaf binders, photographic films or other supplies and
25 materials, including photographic or other processes for recording
26 documents, used in the creation of public records; and the design,
27 construction and degree of fire resistance required for safes, cabinets,
28 vaults and file rooms in which public records are housed. [He] The
29 State Librarian shall ascertain from time to time whether the
30 provisions of the general statutes and of such regulations relating to
31 the recording, filing, indexing, maintenance and disposition of such
32 records are being carried out. [He] The State Librarian may order any
33 person having the care and custody of such records to comply with
34 such statutes or with such regulations. [He] The State Librarian shall
35 send a copy of such order to the chief administrative officer of the
36 town, city, borough or district to which the records relate. The order
37 shall specify the time within which it shall be complied with; and, in
38 setting such time, [he] the State Librarian shall take into consideration
39 the availability of facilities or equipment or the need for the
40 construction or purchase thereof. The State Librarian may cause the
41 enforcement of any such order by application to the Superior Court, or
42 to any judge thereof if said court is not then sitting, to issue an
43 appropriate decree or process, which application shall be brought and
44 the proceedings thereon conducted by the Attorney General.

45 (b) The State Librarian shall, subject to the provisions of chapter 67,
46 appoint an assistant who shall be the Public Records Administrator.

47 All powers, functions and duties assigned to the Examiner of Public
48 Records are hereby transferred to the Public Records Administrator.

49 Sec. 2. Subsection (b) of section 1-210 of the 2010 supplement to the
50 general statutes is repealed and the following is substituted in lieu
51 thereof (*Effective October 1, 2010*):

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

54 (1) Preliminary drafts or notes provided, (A) for each specific
55 request for disclosure, the public agency has [determined] made an
56 individual determination that the public interest in withholding such
57 documents clearly outweighs the public interest in disclosure, and (B)
58 any denial of a request for such documents references such specific
59 request and is not a general statement of public agency policy against
60 disclosure of such documents;

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

63 (3) Records of law enforcement agencies not otherwise available to
64 the public which records were compiled in connection with the
65 detection or investigation of crime, if the disclosure of said records
66 would not be in the public interest because it would result in the
67 disclosure of (A) the identity of informants not otherwise known or the
68 identity of witnesses not otherwise known whose safety would be
69 endangered or who would be subject to threat or intimidation if their
70 identity was made known, (B) signed statements of witnesses, (C)
71 information to be used in a prospective law enforcement action if
72 prejudicial to such action, (D) investigatory techniques not otherwise
73 known to the general public, (E) arrest records of a juvenile, which
74 shall also include any investigatory files, concerning the arrest of such
75 juvenile, compiled for law enforcement purposes, (F) the name and
76 address of the victim of a sexual assault under section 53a-70, 53a-70a,
77 53a-71, 53a-72a, 53a-72b or 53a-73a, or injury or risk of injury, or

78 impairing of morals under section 53-21, or of an attempt thereof, or
79 (G) uncorroborated allegations subject to destruction pursuant to
80 section 1-216;

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

85 (5) (A) Trade secrets, which for purposes of the Freedom of
86 Information Act, are defined as information, including formulas,
87 patterns, compilations, programs, devices, methods, techniques,
88 processes, drawings, cost data, customer lists, film or television scripts
89 or detailed production budgets that (i) derive independent economic
90 value, actual or potential, from not being generally known to, and not
91 being readily ascertainable by proper means by, other persons who can
92 obtain economic value from their disclosure or use, and (ii) are the
93 subject of efforts that are reasonable under the circumstances to
94 maintain secrecy; and

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

97 (6) Test questions, scoring keys and other examination data used to
98 administer a licensing examination, examination for employment or
99 academic examinations;

100 (7) The contents of real estate appraisals, engineering or feasibility
101 estimates and evaluations made for or by an agency relative to the
102 acquisition of property or to prospective public supply and
103 construction contracts, until such time as all of the property has been
104 acquired or all proceedings or transactions have been terminated or
105 abandoned, provided the law of eminent domain shall not be affected
106 by this provision;

107 (8) Statements of personal worth or personal financial data required

108 by a licensing agency and filed by an applicant with such licensing
109 agency to establish the applicant's personal qualification for the
110 license, certificate or permit applied for;

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

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

116 (11) Names or addresses of students enrolled in any public school or
117 college without the consent of each student whose name or address is
118 to be disclosed who is eighteen years of age or older and a parent or
119 guardian of each such student who is younger than eighteen years of
120 age, provided this subdivision shall not be construed as prohibiting the
121 disclosure of the names or addresses of students enrolled in any public
122 school in a regional school district to the board of selectmen or town
123 board of finance, as the case may be, of the town wherein the student
124 resides for the purpose of verifying tuition payments made to such
125 school;

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

127 (13) Records of an investigation or the name of an employee
128 providing information under the provisions of section 4-61dd or
129 sections 17b-301c to 17b-301g, inclusive;

130 (14) Adoption records and information provided for in sections 45a-
131 746, 45a-750 and 45a-751;

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

138 (16) Records of complaints, including information compiled in the
139 investigation thereof, brought to a municipal health authority pursuant
140 to chapter 368e or a district department of health pursuant to chapter
141 368f, until such time as the investigation is concluded or thirty days
142 from the date of receipt of the complaint, whichever occurs first;

143 (17) Educational records which are not subject to disclosure under
144 the Family Educational Rights and Privacy Act, 20 USC 1232g;

145 (18) Records, the disclosure of which the Commissioner of
146 Correction, or as it applies to Whiting Forensic Division facilities of the
147 Connecticut Valley Hospital, the Commissioner of Mental Health and
148 Addiction Services, has reasonable grounds to believe may result in a
149 safety risk, including the risk of harm to any person or the risk of an
150 escape from, or a disorder in, a correctional institution or facility under
151 the supervision of the Department of Correction or Whiting Forensic
152 Division facilities. Such records shall include, but are not limited to:

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

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

157 (C) Operational specifications of security systems utilized by the
158 Department of Correction at any correctional institution or facility or
159 Whiting Forensic Division facilities, except that a general description
160 of any such security system and the cost and quality of such system
161 may be disclosed;

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

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

167 (F) Minutes or recordings of staff meetings of the Department of
168 Correction or Whiting Forensic Division facilities, or portions of such
169 minutes or recordings, that contain or reveal information relating to
170 security or other records otherwise exempt from disclosure under this
171 subdivision;

172 (G) Logs or other documents that contain information on the
173 movement or assignment of inmates or staff at correctional institutions
174 or facilities; and

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

177 (19) Records when there are reasonable grounds to believe
178 disclosure may result in a safety risk, including the risk of harm to any
179 person, any government-owned or leased institution or facility or any
180 fixture or appurtenance and equipment attached to, or contained in,
181 such institution or facility, except that such records shall be disclosed
182 to a law enforcement agency upon the request of the law enforcement
183 agency. Such reasonable grounds shall be determined (A) (i) by the
184 Commissioner of Public Works, after consultation with the chief
185 executive officer of an executive branch state agency, with respect to
186 records concerning such agency; and (ii) by the Commissioner of
187 Emergency Management and Homeland Security, after consultation
188 with the chief executive officer of a municipal, district or regional
189 agency, with respect to records concerning such agency; (B) by the
190 Chief Court Administrator with respect to records concerning the
191 Judicial Department; and (C) by the executive director of the Joint
192 Committee on Legislative Management, with respect to records
193 concerning the Legislative Department. As used in this section,
194 "government-owned or leased institution or facility" includes, but is
195 not limited to, an institution or facility owned or leased by a public
196 service company, as defined in section 16-1, a certified
197 telecommunications provider, as defined in section 16-1, a water
198 company, as defined in section 25-32a, or a municipal utility that

199 furnishes electric, gas or water service, but does not include an
200 institution or facility owned or leased by the federal government, and
201 "chief executive officer" includes, but is not limited to, an agency head,
202 department head, executive director or chief executive officer. Such
203 records include, but are not limited to:

204 (i) Security manuals or reports;

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

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

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

214 (v) Internal security audits of government-owned or leased
215 institutions or facilities;

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

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

221 (viii) Emergency plans and emergency preparedness, response,
222 recovery and mitigation plans, including plans provided by a person
223 to a state agency or a local emergency management agency or official;
224 and

225 (ix) With respect to a water company, as defined in section 25-32a,
226 that provides water service: Vulnerability assessments and risk

227 management plans, operational plans, portions of water supply plans
228 submitted pursuant to section 25-32d that contain or reveal
229 information the disclosure of which may result in a security risk to a
230 water company, inspection reports, technical specifications and other
231 materials that depict or specifically describe critical water company
232 operating facilities, collection and distribution systems or sources of
233 supply;

234 (20) Records of standards, procedures, processes, software and
235 codes, not otherwise available to the public, the disclosure of which
236 would compromise the security or integrity of an information
237 technology system;

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

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

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

248 (24) Responses to any request for proposals or bid solicitation issued
249 by a public agency or any record or file made by a public agency in
250 connection with the contract award process, until such contract is
251 executed or negotiations for the award of such contract have ended,
252 whichever occurs earlier, provided the chief executive officer of such
253 public agency certifies that the public interest in the disclosure of such
254 responses, record or file is outweighed by the public interest in the
255 confidentiality of such responses, record or file.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2010</i>	11-8
Sec. 2	<i>October 1, 2010</i>	1-210(b)

Statement of Purpose:

To implement the Governor's budget recommendations.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]