

**FREEDOM OF INFORMATION COMMISSION STATEMENT
REGARDING RAISED BILL 1183
AN ACT CONCERNING INMATE REQUESTS FOR PUBLIC RECORDS**

PRESENTED BY: ERIC TURNER, MANAGING DIRECTOR & ASSOCIATE COUNSEL

The Freedom of Information Commission (FOIC) submits this statement regarding Raised Bill 1183 concerning the disclosure of public records to inmates.

This bill would amend §1-210(c)(1) of the FOI Act to require a “preliminary review” by a Judge Trial Referee (JTR) of inmate requests for copies of public records to determine the reasonableness of such requests. The FOIC appreciates the need to manage the volume of requests public agencies receive from this segment of the public. However, the Commission asks that the committee consider the following in this regard:

- **FOIC is familiar with unreasonable inmate requests.** Preliminary reviews are already part of the FOIC’s process. The FOIC has an established preliminary review process for complaints in which no complaint – including inmate complaints - is docketed without the viability of such complaints being established by the complainant and confirmed by knowledgeable staff. Over 65% of all complaints are disposed of through mediation, which often turns on the reasonableness of the request.
- **If the Committee still believes that a “preliminary review” ought to be statutorily mandated, the review can be performed by the FOIC at less cost.** The FOIC only requests that the legislature consider entrusting the “preliminary review” to the FOIC. More than a few JTRs will have to be engaged to undertake this task, not to mention the support staff that will necessarily have to accompany them. However, the FOIC already has the infrastructure to implement and effectively carry out this additional function without the level of expense that would be incurred by the Judiciary.

However, regardless of which agency undertakes the “preliminary review” function, the FOIC respectfully requests that it be a part of formulating the process by which the review is conducted because there still remains questions regarding the legal definition of what is a “reasonable” request, the time by when the determination must be made, and whether an inmate could appeal to the FOIC from the public agency’s denial based on the JTR’s order.

The bill also proposes to preclude inmates from accessing copies of statements filed by campaign treasurers with the State Elections Enforcement Commission. Because limiting access is a slippery slope, the FOIC submits that the language need not be so broad and that perhaps amending the language to preclude only the disclosure of the address of a contributor to an inmate would be enough to address the concern that disclosure of that sensitive information would create the safety and security risk that we are all careful to guard against.

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