
OLR Bill Analysis

SB 38

AN ACT CONCERNING THE FREEDOM OF INFORMATION ACT AND DIVISION OF PUBLIC DEFENDER SERVICES.

SUMMARY:

This bill exempts from disclosure under the Freedom of Information Act (FOIA) personnel, medical, or similar files about current or former employees of the Division of Public Defender Services to people in the custody or supervision of the Department of Corrections or confined in a facility of the Whiting Forensic Division of Connecticut Valley Hospital. It is unclear if the exemption includes records of (1) security investigations of such employees and (2) investigations of discrimination complaints by or against the employees.

The bill also requires public agencies to waive any fees for providing records requested under FOIA if the requestor (1) is a member of the Division of Public Defender Services or an attorney appointed by a court as a special assistant public defender and (2) certifies that the records pertain to his or her duties.

Lastly, the bill specifies that, for purposes of FOIA, the Division of Public Defender Services is considered to be a judicial office. By law, a judicial office is subject to FOIA only with respect to its administrative functions.

EFFECTIVE DATE: October 1, 2011

BACKGROUND

Disclosure of Personnel, Medical, or Similar Files

By law, unless specifically exempted, personnel, medical, and 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)).

Personnel, medical, or similar files about current or former employees of the (1) Department of Correction (DOC), including members and employees of the Board of Pardons and Paroles, and (2) Department of Mental Health and Addiction Services (DMHAS) are exempt from disclosure under FOIA to people in DOC custody or supervision or confined in a facility of the Whiting Forensic Division of Connecticut Valley Hospital. The exemption includes records of (1) the departments' security investigations of such employees and (2) investigations of discrimination complaints by or against the employees.

Administrative Functions

In *Clerk of the Superior Court, Geographical Area Number Seven et al. v. Freedom of Information Commission*, 278 Conn. 28 (2006), the Connecticut Supreme Court ruled that, for purposes of FOIA, a judicial office's administrative functions consist of activities relating to its budget, personnel, facilities, and physical operations.

COMMITTEE ACTION

Government Administration and Elections Committee

Joint Favorable

Yea 10 Nay 5 (04/01/2011)