



House of Representatives

General Assembly

File No. 760

January Session, 2015

Substitute House Bill No. 6750

House of Representatives, May 5, 2015

The Committee on Judiciary reported through REP. TONG of the 147th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

AN ACT CONCERNING THE REQUIREMENT FOR DISCLOSURE OF ARREST RECORDS UNDER THE FREEDOM OF INFORMATION ACT.

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

1 Section 1. Section 1-215 of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective October 1, 2015*):

3 (a) Notwithstanding any provision of the general statutes, [to the
4 contrary,] and except as otherwise provided in this section, any record
5 of the arrest of any person, other than a juvenile, except a record
6 erased pursuant to chapter 961a, shall be a public record from the time
7 of such arrest and shall be disclosed in accordance with the provisions
8 of section 1-212 and subsection (a) of section 1-210, except that
9 disclosure of data or information other than that set forth in
10 subdivision (1) of subsection (b) of this section shall be subject to [the
11 provisions of subdivision (3) of subsection (b) of section 1-210] any
12 applicable exemption for disclosure contained in any provision of the
13 general statutes. Any personal possessions or effects found on a person
14 at the time of such person's arrest shall not be disclosed unless such

15 possessions or effects are relevant to the crime for which such person
16 was arrested.

17 (b) For the purposes of this section, "record of the arrest" means (1)
18 the name and address of the person arrested, the date, time and place
19 of the arrest and the offense for which the person was arrested, and (2)
20 [at least one of the following, designated by the law enforcement
21 agency: The arrest report, incident report, news release or other similar
22 report of the arrest of a person] (A) in a case in which the arrest has
23 been made by warrant, the arrest warrant application, unless the
24 judicial authority has ordered that the supporting affidavits contained
25 in such application be sealed from public inspection or that disclosure
26 is limited, or (B) in a case in which the arrest has been made without a
27 warrant, a report setting forth a summary of the circumstances that led
28 to the arrest of the person and the information that gave rise to
29 probable cause to arrest.

This act shall take effect as follows and shall amend the following sections:		
Section 1	October 1, 2015	1-215

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:** None**Municipal Impact:** None**Explanation**

The bill, which modifies the treatment of records of arrest under the Freedom of Information Act, has no fiscal impact.

The Out Years**State Impact:** None**Municipal Impact:** None

OLR Bill Analysis

sHB 6750

AN ACT CONCERNING THE REQUIREMENT FOR DISCLOSURE OF ARREST RECORDS UNDER THE FREEDOM OF INFORMATION ACT.

SUMMARY:

This bill modifies law enforcement agencies' disclosure obligations under the Freedom of Information Act (FOIA) for records relating to a person's arrest. By law, when a person is arrested, a law enforcement agency must disclose the "record of the arrest" under FOIA unless it pertains to the arrest of a juvenile or has been erased in accordance with the law. Under current law, the "record of the arrest" consists of (1) the arrestee's name and address; the date, time, and place of the arrest; and the offense for which the person was arrested (i.e., "blotter information") and (2) at least one additional report designated by the agency. The additional report may be the arrest report, incident report, news release, or other similar report of the arrest.

The bill modifies the second part of the record of the arrest. It eliminates the requirement to disclose the one additional report and instead requires the law enforcement agency to disclose certain other records describing the arrest. Under the bill, if the arrest was made without a warrant, then the agency must disclose a report summarizing the circumstances that led to it and the information that gave rise to probable cause. If the arrest was made by warrant, then the agency must disclose the arrest warrant application unless the judicial authority orders that the application's supporting affidavits be sealed or that disclosure be limited. The bill does not specify what the agency must disclose in cases where the warrant application is sealed or disclosure is limited.

Under current law, the law enforcement agency may redact

information from the additional report in accordance with FOIA's eight law enforcement records exemptions (see BACKGROUND). The bill instead allows the agency to redact information from the warrant application or summary of the arrest and probable cause in accordance with any applicable statutory exemption from disclosure.

The bill also makes a technical change.

EFFECTIVE DATE: October 1, 2015

BACKGROUND

Law Enforcement Records Exemption

FOIA exempts law enforcement records from disclosure if they were compiled in connection with the detection or investigation of crime and disclosure would not be in the public interest because it would reveal:

1. the identity of informants or witnesses not otherwise known whose safety would be endangered or who would be subject to threat or intimidation if their identity was made known;
2. the identity of witnesses who are minors;
3. witnesses' signed statements;
4. information to be used in a prospective law enforcement action if prejudicial to the action;
5. investigatory techniques not otherwise known to the general public;
6. juvenile arrest records, including any associated investigatory files;
7. the name and address of the victim of (a) sexual assault or (b) risk of injury to a minor, or of an attempt thereof; or
8. uncorroborated allegations subject to destruction (CGS § 1-210(b)(3)).

Pending Prosecution

In *Commissioner of Public Safety v. Freedom of Information Commission*, 312 Conn. 513 (2014), the Connecticut Supreme Court held that, during a pending prosecution, only the “record of the arrest” (see above) is subject to disclosure by law enforcement agencies under FOIA.

Legislative History

The House referred the bill (File 676) to the Judiciary Committee, which reported a substitute that replaces the original file. The original file required that other records pertaining to a person's arrest (beyond the “record of the arrest”) be disclosed under FOIA, regardless of any pending prosecution, unless they are exempt from disclosure under one of FOIA's law enforcement records exemptions.

COMMITTEE ACTION

Government Administration and Elections Committee

Joint Favorable Substitute

Yea 10 Nay 5 (03/30/2015)

Judiciary Committee

Joint Favorable Substitute

Yea 39 Nay 0 (04/27/2015)