

**CONNECTICUT COUNCIL ON FREEDOM OF INFORMATION
STATEMENT ON RAISED BILL 5616, AN ACT CONCERNING
NOTICES AND PUBLIC SESSIONS**

March 17, 2016

The Connecticut Council on Freedom of Information (“CCFOI”) **opposes** Section 1 of Raised Bill No. 5616. Section 1(a) requires the redaction of date of birth information from voter lists. Section 1(b) makes it unlawful for any person to whom a public agency discloses a voter list to publish that list on the Internet or share it with any third party.

CCFOI appreciates the concerns regarding identity theft that appear to animate Section 1. On balance, however, CCFOI believes that the arguments in favor of disclosure of such identifying information outweigh the arguments against disclosure. The arguments in favor of disclosure of unredacted date of birth information have already been set forth in the written testimony of several parties concerning this bill, as well as Raised Bill 5613.¹ CCFOI supports and adopts those arguments.

With respect to Section 1(b), CCFOI opposes that provision because it is *unconstitutional*. The United States Supreme Court has long held that once a state places particular information in the public domain, it cannot forbid or punish further publication of that information. *Cox v. Cohn*, 420 U.S. 469, 496 (1975) (“Once true information is disclosed in public court documents open to public inspection, the press cannot be sanctioned for publishing it.”); *Smith v. Daily Mail Pub. Co.*, 443 U.S. 97, 103 (1979) (once truthful information is publicly revealed or in the public domain, the state cannot constitutionally restrain its dissemination.). At a minimum, before the state can punish a person for publishing truthful information lawfully obtained from public documents, the First Amendment requires the state to establish that the statutory prohibition is “narrowly tailored to a state interest of the highest order.” *The Florida Star v. B.J.F.*, 491 U.S. 524, 541 (1989). While reducing the incidence of identity theft is a legitimate state interest, it is not an interest of the “highest order,” nor is the prohibition in Section 1(b) narrowly tailored.

For these reasons, CCFOI opposes Section 1 of Raised Bill No. 5616.

Respectfully submitted,

Daniel J. Klau
CCFOI Legislative Chair

¹ The organizations that testified and/or submitted written testimony against the redaction proposal include the Judicial Branch, the Registrars of Voters Ass’n of Connecticut, the State Elections Enforcement Commission and the Freedom of Information Commission.