
OLR Bill Analysis

sHB 5177

AN ACT CONCERNING EMPLOYEE NOTIFICATION OF REQUESTS MADE UNDER THE FREEDOM OF INFORMATION ACT.

SUMMARY

By law, records contained in employee personnel, medical, or similar files are considered public records under the Freedom of Information Act (FOIA) and are subject to disclosure, unless disclosure would constitute an invasion of personal privacy. This bill expands public agencies' duty under FOIA to notify their employees of requests for access to these records.

Under the bill, if a public agency receives a request to inspect or copy records contained in any of its employees' personnel, medical, or similar files, and it reasonably believes that disclosure would not constitute an invasion of privacy, it must (1) first disclose the records and (2) within a reasonable period of time after disclosure, make a reasonable attempt to send to each employee involved and any collective bargaining representative, a written or electronic copy of the request, if applicable, or a brief description of the request.

Under existing law, unchanged by the bill, if an agency receives such a request and it reasonably believes disclosure would constitute an invasion of privacy, it must immediately notify each employee involved and any collective bargaining representative. If the employee or collective bargaining representative objects within a specified period of time, the agency must deny access to the records, unless ordered to disclose them by the Freedom of Information Commission.

The bill also makes technical changes.

EFFECTIVE DATE: October 1, 2018

BACKGROUND

Personnel, Medical, or Similar Files

Connecticut courts have considered which records in employee personnel, medical, or similar files are subject to disclosure under FOIA and which, if disclosed, would constitute an invasion of personal privacy. Generally, they have held that time and attendance records, time off requests, and reports of investigations of employee misconduct are disclosable. On the other hand, tax and social security information is exempt and medical information is typically exempt (see e.g., *Director, Retirement & Benefits Services Division v. Freedom of Information Commission*, 256 Conn. 764 (2001); *Department of Public Safety v. Freedom of Information Commission*, 242 Conn. 79 (1997); *Kureczka v. Freedom of Information Commission*, 228 Conn. 271 (1994); *Perkins v. Freedom of Information Commission*, 228 Conn. 158 (1993)).

COMMITTEE ACTION

Government Administration and Elections Committee

Joint Favorable Substitute

Yea 16 Nay 0 (03/09/2018)