

**Government Administration and Elections Committee  
JOINT FAVORABLE REPORT**

**Bill No.:** HB-5177

AN ACT CONCERNING EMPLOYEE NOTIFICATION OF REQUESTS MADE

**Title:** UNDER THE FREEDOM OF INFORMATION ACT.

**Vote Date:** 3/9/2018

**Vote Action:** Joint Favorable Substitute

**PH Date:** 2/26/2018

**File No.:** 16

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**SPONSORS OF BILL:**

Government Administration and Elections Committee

**REASONS FOR BILL:**

The bill would require a public agency to notify an employee and a collective bargaining representative if it receives a request to inspect or copy records contained in that employee's files.

**Substitute Language: Whenever a public agency receives a request to inspect or copy records contained in any of its employees' personnel or medical files and similar files, and the agency reasonably believes that the disclosure of such records would not legally constitute an invasion of privacy, the agency shall first disclose the requested records to the person making the request to inspect or copy such records and subsequently, within a reasonable time after such disclosure, make a reasonable attempt to send a written or an electronic copy of the request to inspect or copy such records, if applicable, or a brief description of such request, to each employee concerned and the collective bargaining representative, if any, of each employee concerned.**

**RESPONSE FROM ADMINISTRATION/AGENCY:**

**Colleen M. Murphy, Executive Director and General Counsel, Freedom of Information Commission (FOIC)**

The Freedom of Information (FOI) Commission opposes Raised Bill 5177. Ms. Murphy asserts that it would disrupt an entire body of case law interpreting what constitutes an invasion of privacy, as well as the process that agencies must follow in response to requests for personnel, medical, and similar files. Perkins v. Freedom of Information Commission, 228 Conn. 158 (1993); Rocque v. Freedom of Information Commission, 255 Conn. 651 (2001). They also believe that the passage of the bill will likely result in the unwarranted withholding

of public records from a requestor, leading to additional complaints filed with the already resource-strapped FOI Commission.

#### **NATURE AND SOURCES OF SUPPORT:**

##### **Lori J. Pelletier, President, Connecticut AFL-CIO**

Ms. Pelletier explains that when Freedom of Information requests are made to public agencies regarding employee personnel, medical or other employee files that it is up to the agency to determine whether or not to inform the employee. Statute requires that they determine if the request invades the privacy of a public employee. The bill only requires that the agency inform employees. Furthermore, they argue that notification is essential to protect employees from harm or injury in the workplace and identity theft. Notifying employees would help to be one more safeguard in protecting these public servants.

##### **Stuart Savelkoul, Chief of Staff, American Federation of Teacher, Connecticut**

One of the many reasons they support the bill is because teachers and paraeducators are sometimes targeted by gangs. The legislation would help prevent information from being made available that may harm public employees and ensure that they and their union representative are notified when information is requested.

##### **Police Officers Association of CT**

The Police Officers Association supports the bill because they believe that FOI requests are often a “fishing expedition” to receive personal information about police officers from people who may wish to do them harm. They believe that police officers should have the opportunity to work with town officials to see if the request is an invasion of an officer’s personal privacy and if it is not related to issues of public concern and is designed to harass a police officer.

#### **NATURE AND SOURCES OF OPPOSITION:**

##### **Kaley Lentini, Legislative Counsel, American Civil Liberties Union of Connecticut (ACLU-CT)**

Ms. Lentini noted that the current exemption for agency records allows the agency to determine if the disclosure of the records would constitute an invasion of privacy. The ACLU believes that making the notification mandatory will only increase the occurrence of agencies withholding disclosures that do not warrant being withheld and create less transparency.

**Reported by: Susan Tufts**

**Date: 4/2/18**