
OLR Bill Analysis

sSB 1110 (File 766, as amended by Senate "A")*

AN ACT CONCERNING ACCESS TO RECORDS BY PERSONS WHO ARE INJURED WHILE IN THE CUSTODY OF THE COMMISSIONER OF CORRECTION.

SUMMARY

This bill allows an inmate, his or her legal representative, or the legal representative of an inmate's estate, who makes a written request for documents to the Department of Correction (DOC) to receive them under certain circumstances. The bill applies to requests for documents in DOC's possession relating to injuries an inmate suffers while incarcerated that result in (1) fatality or (2) permanent disability.

The bill requires the department to ensure that the documents are provided within 60 days after receiving the written request unless the disclosure (1) could pose a risk to safety and security, (2) violates a common law privilege, or (3) is prohibited by state or federal law. By law, the Freedom of Information Act (FOIA) does not prohibit disclosure of certain DOC documents, but it exempts them from mandatory public disclosure if the commissioner reasonably believes they may result in a safety risk (CGS §§ 1-210(b)(18) & 1-210(c)).

Under the bill, if an inmate dies or becomes incapacitated due to an injury suffered while incarcerated, the department must notify the inmate's designated next of kin of the death or incapacitation unless doing so is inconsistent with the inmate's prior expressed preference communicated to the department.

The bill also requires the department to adopt implementing regulations, which must include (1) a dispute resolution process concerning DOC's production of documents under the bill; (2) the circumstances under which the deadline for document production may be extended beyond 60 days; and (3) the fees, if any, that DOC may impose when complying with a request for documents. (By law,

FOIA sets fee parameters (CGS § 1-212.)

The bill also requires DOC to:

1. post on its website, and in all of its medical units, notice informing inmates who wish to give their family or emergency contacts access to their medical information that the inmates are required to sign a release;
2. develop a frequently asked questions (FAQ) document that details the steps for investigating an inmate fatality or permanent injury and includes all relevant forms and contact information; and
3. post the release form and FAQ document on its website and make them available upon request in all of the department's medical units.

*Senate Amendment "A" (1) allows access to certain DOC documents related to the injury; (2) expands the exceptions to the disclosure requirement; (3) requires the DOC regulations to include circumstances under which the 60-day deadline may be extended; and (4) adds the provisions on the next of kin notification, the release form, and the FAQ document.

EFFECTIVE DATE: October 1, 2019

COMMITTEE ACTION

Judiciary Committee

Joint Favorable Substitute

Yea 39 Nay 0 (04/08/2019)