



House of Representatives

General Assembly

File No. 337

January Session, 2021

House Bill No. 6236

House of Representatives, April 8, 2021

The Committee on Higher Education and Employment Advancement reported through REP. ELLIOTT of the 88th Dist., Chairperson of the Committee on the part of the House, that the bill ought to pass.

***AN ACT EXEMPTING CERTAIN INFORMATION CONCERNING
CONCRETE FOUNDATIONS FROM PUBLIC DISCLOSURE UNDER
THE FREEDOM OF INFORMATION ACT.***

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

1 Section 1. Subsection (b) of section 1-210 of the general statutes is
2 repealed and the following is substituted in lieu thereof (*Effective July 1,*
3 *2021*):

4 (b) Nothing in the Freedom of Information Act shall be construed to
5 require disclosure of:

6 (1) Preliminary drafts or notes provided the public agency has
7 determined that the public interest in withholding such documents
8 clearly outweighs the public interest in disclosure;

9 (2) Personnel or medical files and similar files the disclosure of which
10 would constitute an invasion of personal privacy;

11 (3) Records of law enforcement agencies not otherwise available to
12 the public which records were compiled in connection with the

13 detection or investigation of crime, if the disclosure of such records
14 would not be in the public interest because it would result in the
15 disclosure of (A) the identity of informants not otherwise known or the
16 identity of witnesses not otherwise known whose safety would be
17 endangered or who would be subject to threat or intimidation if their
18 identity was made known, (B) the identity of minor witnesses, (C)
19 signed statements of witnesses, (D) information to be used in a
20 prospective law enforcement action if prejudicial to such action, (E)
21 investigatory techniques not otherwise known to the general public, (F)
22 arrest records of a juvenile, which shall also include any investigatory
23 files, concerning the arrest of such juvenile, compiled for law
24 enforcement purposes, (G) the name and address of the victim of a
25 sexual assault under section 53a-70, 53a-70a, 53a-71, 53a-72a, 53a-72b or
26 53a-73a, voyeurism under section 53a-189a, injury or risk of injury, or
27 impairing of morals under section 53-21 or family violence, as defined
28 in section 46b-38a, or of an attempt thereof, or (H) uncorroborated
29 allegations subject to destruction pursuant to section 1-216;

30 (4) Records pertaining to strategy and negotiations with respect to
31 pending claims or pending litigation to which the public agency is a
32 party until such litigation or claim has been finally adjudicated or
33 otherwise settled;

34 (5) (A) Trade secrets, which for purposes of the Freedom of
35 Information Act, are defined as information, including formulas,
36 patterns, compilations, programs, devices, methods, techniques,
37 processes, drawings, cost data, customer lists, film or television scripts
38 or detailed production budgets that (i) derive independent economic
39 value, actual or potential, from not being generally known to, and not
40 being readily ascertainable by proper means by, other persons who can
41 obtain economic value from their disclosure or use, and (ii) are the
42 subject of efforts that are reasonable under the circumstances to
43 maintain secrecy; and

44 (B) Commercial or financial information given in confidence, not
45 required by statute;

46 (6) Test questions, scoring keys and other examination data used to
47 administer a licensing examination, examination for employment or
48 academic examinations;

49 (7) The contents of real estate appraisals, engineering or feasibility
50 estimates and evaluations made for or by an agency relative to the
51 acquisition of property or to prospective public supply and construction
52 contracts, until such time as all of the property has been acquired or all
53 proceedings or transactions have been terminated or abandoned,
54 provided the law of eminent domain shall not be affected by this
55 provision;

56 (8) Statements of personal worth or personal financial data required
57 by a licensing agency and filed by an applicant with such licensing
58 agency to establish the applicant's personal qualification for the license,
59 certificate or permit applied for;

60 (9) Records, reports and statements of strategy or negotiations with
61 respect to collective bargaining;

62 (10) Records, tax returns, reports and statements exempted by federal
63 law or the general statutes or communications privileged by the
64 attorney-client relationship, marital relationship, clergy-penitent
65 relationship, doctor-patient relationship, therapist-patient relationship
66 or any other privilege established by the common law or the general
67 statutes, including any such records, tax returns, reports or
68 communications that were created or made prior to the establishment
69 of the applicable privilege under the common law or the general
70 statutes;

71 (11) Names or addresses of students enrolled in any public school or
72 college without the consent of each student whose name or address is to
73 be disclosed who is eighteen years of age or older and a parent or
74 guardian of each such student who is younger than eighteen years of
75 age, provided this subdivision shall not be construed as prohibiting the
76 disclosure of the names or addresses of students enrolled in any public
77 school in a regional school district to the board of selectmen or town

78 board of finance, as the case may be, of the town wherein the student
79 resides for the purpose of verifying tuition payments made to such
80 school;

81 (12) Any information obtained by the use of illegal means;

82 (13) Records of an investigation or the name of an employee
83 providing information under the provisions of section 4-61dd or
84 sections 4-276 to 4-280, inclusive;

85 (14) Adoption records and information provided for in sections 45a-
86 746, 45a-750 and 45a-751;

87 (15) Any page of a primary petition, nominating petition, referendum
88 petition or petition for a town meeting submitted under any provision
89 of the general statutes or of any special act, municipal charter or
90 ordinance, until the required processing and certification of such page
91 has been completed by the official or officials charged with such duty
92 after which time disclosure of such page shall be required;

93 (16) Records of complaints, including information compiled in the
94 investigation thereof, brought to a municipal health authority pursuant
95 to chapter 368e or a district department of health pursuant to chapter
96 368f, until such time as the investigation is concluded or thirty days
97 from the date of receipt of the complaint, whichever occurs first;

98 (17) Educational records which are not subject to disclosure under the
99 Family Educational Rights and Privacy Act, 20 USC 1232g;

100 (18) Records, the disclosure of which the Commissioner of
101 Correction, or as it applies to Whiting Forensic Hospital, the
102 Commissioner of Mental Health and Addiction Services, has reasonable
103 grounds to believe may result in a safety risk, including the risk of harm
104 to any person or the risk of an escape from, or a disorder in, a
105 correctional institution or facility under the supervision of the
106 Department of Correction or Whiting Forensic Hospital. Such records
107 shall include, but are not limited to:

108 (A) Security manuals, including emergency plans contained or
109 referred to in such security manuals;

110 (B) Engineering and architectural drawings of correctional
111 institutions or facilities or Whiting Forensic Hospital facilities;

112 (C) Operational specifications of security systems utilized by the
113 Department of Correction at any correctional institution or facility or
114 Whiting Forensic Hospital facilities, except that a general description of
115 any such security system and the cost and quality of such system may
116 be disclosed;

117 (D) Training manuals prepared for correctional institutions and
118 facilities or Whiting Forensic Hospital facilities that describe, in any
119 manner, security procedures, emergency plans or security equipment;

120 (E) Internal security audits of correctional institutions and facilities or
121 Whiting Forensic Hospital facilities;

122 (F) Minutes or recordings of staff meetings of the Department of
123 Correction or Whiting Forensic Hospital facilities, or portions of such
124 minutes or recordings, that contain or reveal information relating to
125 security or other records otherwise exempt from disclosure under this
126 subdivision;

127 (G) Logs or other documents that contain information on the
128 movement or assignment of inmates or staff at correctional institutions
129 or facilities; and

130 (H) Records that contain information on contacts between inmates, as
131 defined in section 18-84, and law enforcement officers;

132 (19) Records when there are reasonable grounds to believe disclosure
133 may result in a safety risk, including the risk of harm to any person, any
134 government-owned or leased institution or facility or any fixture or
135 appurtenance and equipment attached to, or contained in, such
136 institution or facility, except that such records shall be disclosed to a law
137 enforcement agency upon the request of the law enforcement agency.

138 Such reasonable grounds shall be determined (A) (i) by the
139 Commissioner of Administrative Services, after consultation with the
140 chief executive officer of an executive branch state agency, with respect
141 to records concerning such agency; and (ii) by the Commissioner of
142 Emergency Services and Public Protection, after consultation with the
143 chief executive officer of a municipal, district or regional agency, with
144 respect to records concerning such agency; (B) by the Chief Court
145 Administrator with respect to records concerning the Judicial
146 Department; and (C) by the executive director of the Joint Committee on
147 Legislative Management, with respect to records concerning the
148 Legislative Department. As used in this section, "government-owned or
149 leased institution or facility" includes, but is not limited to, an institution
150 or facility owned or leased by a public service company, as defined in
151 section 16-1, other than a water company, as defined in section 25-32a, a
152 certified telecommunications provider, as defined in section 16-1, or a
153 municipal utility that furnishes electric or gas service, but does not
154 include an institution or facility owned or leased by the federal
155 government, and "chief executive officer" includes, but is not limited to,
156 an agency head, department head, executive director or chief executive
157 officer. Such records include, but are not limited to:

158 (i) Security manuals or reports;

159 (ii) Engineering and architectural drawings of government-owned or
160 leased institutions or facilities;

161 (iii) Operational specifications of security systems utilized at any
162 government-owned or leased institution or facility, except that a general
163 description of any such security system and the cost and quality of such
164 system may be disclosed;

165 (iv) Training manuals prepared for government-owned or leased
166 institutions or facilities that describe, in any manner, security
167 procedures, emergency plans or security equipment;

168 (v) Internal security audits of government-owned or leased
169 institutions or facilities;

170 (vi) Minutes or records of meetings, or portions of such minutes or
171 records, that contain or reveal information relating to security or other
172 records otherwise exempt from disclosure under this subdivision;

173 (vii) Logs or other documents that contain information on the
174 movement or assignment of security personnel; and

175 (viii) Emergency plans and emergency preparedness, response,
176 recovery and mitigation plans, including plans provided by a person to
177 a state agency or a local emergency management agency or official;

178 (20) Records of standards, procedures, processes, software and codes,
179 not otherwise available to the public, the disclosure of which would
180 compromise the security or integrity of an information technology
181 system;

182 (21) The residential, work or school address of any participant in the
183 address confidentiality program established pursuant to sections 54-240
184 to 54-240o, inclusive;

185 (22) The electronic mail address of any person that is obtained by the
186 Department of Transportation in connection with the implementation
187 or administration of any plan to inform individuals about significant
188 highway or railway incidents;

189 (23) The name or address of any minor enrolled in any parks and
190 recreation program administered or sponsored by any public agency;

191 (24) Responses to any request for proposals or bid solicitation issued
192 by a public agency, responses by a public agency to any request for
193 proposals or bid solicitation issued by a private entity or any record or
194 file made by a public agency in connection with the contract award
195 process, until such contract is executed or negotiations for the award of
196 such contract have ended, whichever occurs earlier, provided the chief
197 executive officer of such public agency certifies that the public interest
198 in the disclosure of such responses, record or file is outweighed by the
199 public interest in the confidentiality of such responses, record or file;

200 (25) The name, address, telephone number or electronic mail address
201 of any person enrolled in any senior center program or any member of
202 a senior center administered or sponsored by any public agency;

203 (26) All records obtained during the course of inspection,
204 investigation, examination and audit activities of an institution, as
205 defined in section 19a-490, that are confidential pursuant to a contract
206 between the Department of Public Health and the United States
207 Department of Health and Human Services relating to the Medicare and
208 Medicaid programs;

209 (27) Any record created by a law enforcement agency or other federal,
210 state, or municipal governmental agency consisting of a photograph,
211 film, video or digital or other visual image depicting the victim of a
212 homicide, to the extent that such record could reasonably be expected
213 to constitute an unwarranted invasion of the personal privacy of the
214 victim or the victim's surviving family members;

215 (28) Any [documentation provided to or obtained] records
216 maintained or kept on file by an executive branch agency or a public
217 institution of higher education, including documentation [provided]
218 prepared or obtained prior to May 25, 2016, relating to claims of or
219 testing for faulty or failing concrete foundations in residential buildings
220 [by the owners of such residential buildings,] and documents or
221 materials prepared by an executive branch agency or public institution
222 of higher education relating to such [documentation] records, for seven
223 years after the date of receipt of the [documentation] records or seven
224 years after May 25, 2016, whichever is later.

This act shall take effect as follows and shall amend the following sections:		
Section 1	July 1, 2021	1-210(b)

HED *Joint Favorable*

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:

Agency Affected	Fund-Effect	FY 22 \$	FY 23 \$
UConn	Research - Potential Revenue Gain	See Below	See Below

Municipal Impact: None

Explanation

The bill extends the existing Freedom of Information Act (FOIA) exemption regarding failing concrete foundation records, to include such records maintained, kept, or prepared by a public institution of higher education. The bill results in a potential revenue gain in federal research funding to the University of Connecticut (UConn), associated with its research into failing concrete foundations.

The bill allows UConn (or other public colleges and universities) to access records held by other state agencies regarding concrete foundations and enables UConn to keep confidential the related data it is collecting. UConn currently has a federal grant for approximately \$768,000 regarding concrete foundations research, with a grant term of September 2020 through August 2022. It is possible that the bill's provisions will expand the scope of UConn's research, which could improve prospects for receiving further federal grants (revenue) in this area. The extent of the potential revenue gain is dependent on the amount of future federal grant revenue available, which is unknown.

The bill is not anticipated to result in a fiscal impact to the Freedom of Information Commission.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation.

OLR Bill Analysis**HB 6236*****AN ACT EXEMPTING CERTAIN INFORMATION CONCERNING CONCRETE FOUNDATIONS FROM PUBLIC DISCLOSURE UNDER THE FREEDOM OF INFORMATION ACT.*****SUMMARY**

This bill (1) broadens the current exemption of certain executive branch agency records related to faulty or failing concrete foundations from disclosure under the Freedom of Information Act (FOIA) and (2) applies the broadened exemption to the same types of records held by public higher education institutions.

Current law exempts from disclosure (1) documents executive branch agencies have on claims of faulty or failing concrete foundations in residential buildings by the buildings' owners and (2) associated agency-prepared documents. The disclosure protection lasts until the later of May 25, 2023, or seven years after the agency receives the documents.

Under the bill, the executive branch agency protection applies to (1) any records the agencies maintain or keep on file related to claims of faulty or failing residential concrete foundations, not just those related to owners' claims; (2) any records the agencies maintain or keep on file about testing these foundations; and (3) both documents and materials the agencies prepare related to the records.

The bill also applies this exemption to records public higher education institutions maintain or keep on file, or documents or materials the institutions prepare, concerning claims of and testing for faulty or failing concrete foundations.

EFFECTIVE DATE: July 1, 2021

COMMITTEE ACTION

Higher Education and Employment Advancement Committee

Joint Favorable

Yea 22 Nay 0 (03/22/2021)