

**FREEDOM OF INFORMATION COMMISSION STATEMENT ON  
HB 5011, AN ACT CONCERNING THE COPYING OF PUBLIC RECORDS UNDER  
THE FREEDOM OF INFORMATION ACT**

**March 10, 2021**

The Freedom of Information (“FOI”) Commission supports House Bill 5011 proposing to decrease fees for copying public records and to update the definition of a “hand-held scanner” in Section 1-212 of the FOI Act.

Currently, Section 1-212 permits a state agency to charge up to twenty-five cents per page and all other public agencies to charge up to fifty cents per page for copies of public records. Such statute also permits all public agencies to charge up to twenty dollars (\$20) for copies made by hand-held scanner. The FOI Commission supports the Committee’s proposal to reduce these fees, and believes the proposed fee structure is reasonable, allows for greater access to public records at a modest cost to the public, and will likely reduce the amount of agency time and resources spent copying public records in response to FOI requests.

Additionally, the current definition of a hand-held scanner is very specific and has been cited and referenced in at least one court decision.<sup>1</sup> The problem is that the definition of scanner contained in the statute is obsolete. “Hand-held scanner” is defined in Section 1-212(g) as “a battery operated electronic scanning device the use of which (1) leaves no mark or impression on the public record, and (2) does not unreasonably interfere with the operation of the public agency.”

Within the last decade, the FOI Commission has experienced an increase in volume of cases and inquiries involving electronic devices, more specifically, portable scanners, copiers, cameras and cellphones equipped with cameras and recording devices. Many requesters are also asking to use their digital cameras or cellphones, equipped with scanning “apps,” in place of the hand-held scanners specified in statute. This leaves the records custodians with a conundrum. They realize that the technology is outdated and that using a camera or camera-phone actually could be less damaging to a public record than using a scanner, but are fearful of violating the specific FOI law and court decision. Many public agencies, in the spirit of cooperation and to further the cause of transparency, already offer requesters the opportunity to use their cameras or cellphones for the current \$20 fee.

The FOI Commission therefore endorses an expansion of the definition of hand-held scanner in Section 1-212(g) to include a mobile telephone or camera, and any similar devices, that exist now or will exist in the future. The Commission believes such a change will align the law with modern day technology and will permit the utilization of such technology in a way that enhances public access, without causing harm to or damaging public records. The Commission would be happy to work with the Committee to further develop this proposed definition.

For the foregoing reasons, the FOI Commission supports HB 5011.

For further information contact: Colleen M. Murphy, Executive Director and General Counsel or Mary Schwind, Managing Director and Associate General Counsel, at (860) 566-5682.

---

<sup>1</sup> See Thomas Germain v. Town of Manchester, et. al., 135 Conn. App. 202 (May 1, 2012).