



General Assembly

January Session, 2023

Raised Bill No. 1155

LCO No. 3295



Referred to Committee on GOVERNMENT ADMINISTRATION
AND ELECTIONS

Introduced by:
(GAE)

***AN ACT IMPLEMENTING RECOMMENDATIONS OF THE FREEDOM
OF INFORMATION COMMISSION.***

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

1 Section 1. Section 1-200 of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective October 1, 2023*):

3 As used in this chapter, the following words and phrases have the
4 following meanings, except where such terms are used in a context
5 which clearly indicates the contrary:

6 (1) "Public agency" or "agency" means:

7 (A) Any executive, administrative or legislative office of the state or
8 any political subdivision of the state and any state or town agency, any
9 department, institution, bureau, board, commission, authority or official
10 of the state or of any city, town, borough, municipal corporation, school
11 district, regional district or other district or other political subdivision of
12 the state, including any committee of, or created by, any such office,
13 subdivision, agency, department, institution, bureau, board,

14 commission, authority or official, and also includes any judicial office,
15 official, or body or committee thereof but only with respect to its or their
16 administrative functions, and for purposes of this subparagraph,
17 "judicial office" includes, but is not limited to, the Division of Public
18 Defender Services;

19 (B) Any person to the extent such person is deemed to be the
20 functional equivalent of a public agency pursuant to law; or

21 (C) Any "implementing agency", as defined in section 32-222.

22 (2) "Meeting" means any hearing or other proceeding of a public
23 agency, any convening or assembly of a quorum of a multimember
24 public agency, and any communication by or to a quorum of a
25 multimember public agency, whether in person or by means of
26 electronic equipment, to discuss or act upon a matter over which the
27 public agency has supervision, control, jurisdiction or advisory power.
28 "Meeting" does not include: Any meeting of a personnel search
29 committee for executive level employment candidates; any chance
30 meeting, or a social meeting neither planned nor intended for the
31 purpose of discussing matters relating to official business; strategy or
32 negotiations with respect to collective bargaining; a caucus of members
33 of a single political party notwithstanding that such members also
34 constitute a quorum of a public agency; an administrative or staff
35 meeting of a single-member public agency; and communication limited
36 to notice of meetings of any public agency or the agendas thereof. A
37 quorum of the members of a public agency who are present at any event
38 which has been noticed and conducted as a meeting of another public
39 agency under the provisions of the Freedom of Information Act shall not
40 be deemed to be holding a meeting of the public agency of which they
41 are members as a result of their presence at such event.

42 (3) "Caucus" means (A) a convening or assembly of the enrolled
43 members of a single political party who are members of a public agency
44 within the state or a political subdivision, or (B) the members of a
45 multimember public agency, which members constitute a majority of

46 the membership of the agency, or the other members of the agency who
47 constitute a minority of the membership of the agency, who register
48 their intention to be considered a majority caucus or minority caucus, as
49 the case may be, for the purposes of the Freedom of Information Act,
50 provided (i) the registration is made with the office of the Secretary of
51 the State for any such public agency of the state, in the office of the clerk
52 of a political subdivision of the state for any public agency of a political
53 subdivision of the state, or in the office of the clerk of each municipal
54 member of any multitown district or agency, (ii) no member is
55 registered in more than one caucus at any one time, (iii) no such
56 member's registration is rescinded during the member's remaining term
57 of office, and (iv) a member may remain a registered member of the
58 majority caucus or minority caucus regardless of whether the member
59 changes his or her party affiliation under chapter 143.

60 (4) "Person" means a natural person, partnership, corporation, limited
61 liability company, association or society.

62 (5) "Public records or files" means any recorded data or information
63 relating to the conduct of the public's business prepared, owned, used,
64 received or retained by a public agency, or to which a public agency is
65 entitled to receive a copy by law or contract under section 1-218, as
66 amended by this act, whether such data or information be handwritten,
67 typed, tape-recorded, videotaped, printed, photostated, photographed
68 or recorded by any other method.

69 (6) "Executive sessions" means a meeting of a public agency at which
70 the public is excluded for one or more of the following purposes: (A)
71 Discussion concerning the appointment, employment, performance,
72 evaluation, health or dismissal of a public officer or employee, provided
73 that such individual may require that discussion be held at an open
74 meeting; (B) strategy and negotiations with respect to pending claims or
75 pending litigation to which the public agency or a member thereof,
76 because of the member's conduct as a member of such agency, is a party
77 until such litigation or claim has been finally adjudicated or otherwise
78 settled; (C) matters concerning security strategy or the deployment of

79 security personnel, or devices affecting public security; (D) discussion
80 of the selection of a site or the lease, sale or purchase of real estate by the
81 state or a political subdivision of the state when publicity regarding such
82 site, lease, sale, purchase or construction would adversely impact the
83 price of such site, lease, sale, purchase or construction until such time as
84 all of the property has been acquired or all proceedings or transactions
85 concerning same have been terminated or abandoned; and (E)
86 discussion of any matter which would result in the disclosure of public
87 records or the information contained therein described in subsection (b)
88 of section 1-210, as amended by this act.

89 (7) "Personnel search committee" means a body appointed by a public
90 agency, whose sole purpose is to recommend to the appointing agency
91 a candidate or candidates for an executive-level employment position.
92 Members of a "personnel search committee" shall not be considered in
93 determining whether there is a quorum of the appointing or any other
94 public agency.

95 (8) "Pending claim" means a written notice to an agency which sets
96 forth a demand for legal relief or which asserts a legal right stating the
97 intention to institute an action in an appropriate forum if such relief or
98 right is not granted.

99 (9) "Pending litigation" means (A) a written notice to an agency which
100 sets forth a demand for legal relief or which asserts a legal right stating
101 the intention to institute an action before a court if such relief or right is
102 not granted by the agency; (B) the service of a complaint against an
103 agency returnable to a court which seeks to enforce or implement legal
104 relief or a legal right; or (C) the agency's consideration of action to
105 enforce or implement legal relief or a legal right.

106 (10) "Freedom of Information Act" means this chapter.

107 [(11) "Governmental function" means the administration or
108 management of a program of a public agency, which program has been
109 authorized by law to be administered or managed by a person, where
110 (A) the person receives funding from the public agency for

111 administering or managing the program, (B) the public agency is
112 involved in or regulates to a significant extent such person's
113 administration or management of the program, whether or not such
114 involvement or regulation is direct, pervasive, continuous or day-to-
115 day, and (C) the person participates in the formulation of governmental
116 policies or decisions in connection with the administration or
117 management of the program and such policies or decisions bind the
118 public agency. "Governmental function" shall not include the mere
119 provision of goods or services to a public agency without the delegated
120 responsibility to administer or manage a program of a public agency.]

121 [(12)] (11) "Electronic equipment" means any technology that
122 facilitates real-time public access to meetings, including, but not limited
123 to, telephonic, video or other conferencing platforms.

124 [(13)] (12) "Electronic transmission" means any form or process of
125 communication not directly involving the physical transfer of paper or
126 another tangible medium, which (A) is capable of being retained,
127 retrieved and reproduced by the recipient, and (B) is retrievable in paper
128 form by the recipient.

129 Sec. 2. Section 1-218 of the general statutes is repealed and the
130 following is substituted in lieu thereof (*Effective October 1, 2023*):

131 (a) For purposes of this section, "governmental function" means the
132 administration or management of a program of a public agency, which
133 program has been authorized by law to be administered or managed by
134 a person, where (1) the person receives funding from the public agency
135 for administering or managing the program, (2) the public agency is
136 involved in or regulates to a significant extent such person's
137 administration or management of the program, whether or not such
138 involvement or regulation is direct, pervasive, continuous or day-to-
139 day, and (3) the person participates in the formulation of governmental
140 policies or decisions in connection with the administration or
141 management of the program and such policies or decisions bind the
142 public agency. "Governmental function" does not include the mere

143 provision of goods or services to a public agency without the delegated
144 responsibility to administer or manage a program of a public agency.

145 (b) Each contract in excess of two million five hundred thousand
146 dollars between a public agency and a person for the performance of a
147 governmental function shall (1) provide that the public agency is
148 entitled to receive a copy of records and files related to the performance
149 of the governmental function, and (2) indicate that such records and files
150 are subject to the Freedom of Information Act and may be disclosed by
151 the public agency pursuant to the Freedom of Information Act. No
152 request to inspect or copy such records or files shall be valid unless the
153 request is made to the public agency in accordance with the Freedom of
154 Information Act. Any complaint by a person who is denied the right to
155 inspect or copy such records or files shall be brought to the Freedom of
156 Information Commission in accordance with the provisions of sections
157 1-205, as amended by this act, and 1-206.

158 Sec. 3. Subsection (b) of section 1-211 of the general statutes is
159 repealed and the following is substituted in lieu thereof (*Effective October*
160 *1, 2023*):

161 (b) Except as otherwise provided by state statute, no public agency
162 shall enter into a contract with, or otherwise obligate itself to, any person
163 if such contract or obligation impairs the right of the public under the
164 Freedom of Information Act to inspect or copy the agency's nonexempt
165 public records existing on-line in, or stored on a device or medium used
166 in connection with, a computer system owned, leased or otherwise used
167 by the agency. [in the course of its governmental functions.]

168 Sec. 4. Subsection (e) of section 1-205 of the general statutes is
169 repealed and the following is substituted in lieu thereof (*Effective October*
170 *1, 2023*):

171 (e) The Freedom of Information Commission shall conduct training
172 sessions, at least annually, for members of public agencies for the
173 purpose of educating such members as to the requirements of this
174 section and sections [1-7 to 1-14, inclusive, 1-16 to 1-18, inclusive,] 1-200

175 to 1-202, inclusive, as amended by this act, [1-205,] 1-206, 1-210 to [1-217]
176 1-219, inclusive, as amended by this act, 1-225 to 1-232, inclusive, as
177 amended by this act, 1-240 [, 1-241] and [19a-342] 1-242.

178 Sec. 5. Subdivision (17) of subsection (b) of section 1-210 of the general
179 statutes is repealed and the following is substituted in lieu thereof
180 (*Effective October 1, 2023*):

181 (17) [Educational] Education records which are not subject to
182 disclosure under the Family Educational Rights and Privacy Act, 20
183 USC 1232g;

184 Sec. 6. Subsection (g) of section 1-212 of the general statutes is
185 repealed and the following is substituted in lieu thereof (*Effective October*
186 *1, 2023*):

187 (g) Any individual may copy a public record through the use of a
188 hand-held scanner. A public agency may establish a fee structure not to
189 exceed twenty dollars for an individual to pay each time the individual
190 copies records at the agency with a hand-held scanner. As used in this
191 section, "hand-held scanner" means a battery operated electronic
192 scanning device the use of which (1) leaves no mark or impression on
193 the public record, and (2) does not unreasonably interfere with the
194 operation of the public agency. "Hand-held scanner" includes, but is not
195 limited to, a mobile telephone, camera or any other portable device
196 capable of capturing an image of a public record.

197 Sec. 7. Subsection (d) of section 1-225 of the general statutes is
198 repealed and the following is substituted in lieu thereof (*Effective October*
199 *1, 2023*):

200 (d) Notice of each special meeting of every public agency, except for
201 the General Assembly, either house thereof or any committee thereof,
202 shall be posted not less than twenty-four hours before the meeting to
203 which such notice refers on the public agency's Internet web site, if
204 available, and given not less than twenty-four hours prior to the time of
205 such meeting by filing a notice of the time and place thereof in the office

206 of the Secretary of the State for any such public agency of the state, in
207 the office of the clerk of such subdivision for any public agency of a
208 political subdivision of the state and in the office of the clerk of each
209 municipal member for any multitown district or agency. The secretary
210 or clerk shall cause any notice received under this section to be posted
211 in his or her office, and in the case of a notice of a public agency of the
212 state filed with the secretary, on the Secretary of the State's Internet web
213 site. Such notice shall be given not less than twenty-four hours prior to
214 the time of the special meeting; provided, in case of emergency, except
215 for the General Assembly, either house thereof or any committee
216 thereof, any such special meeting may be held without complying with
217 the foregoing requirement for the filing of notice but a copy of the
218 minutes of every such emergency special meeting adequately setting
219 forth the nature of the emergency and the proceedings occurring at such
220 meeting shall be filed with the Secretary of the State, the clerk of such
221 political subdivision, or the clerk of each municipal member of such
222 multitown district or agency, as the case may be, not later than seventy-
223 two hours following the holding of such meeting. The notice shall
224 specify the time and place of the special meeting and the business to be
225 transacted. No other business shall be considered at such meetings by
226 such public agency. In addition, such written notice shall be delivered
227 by electronic transmission or by mail to the usual place of abode of each
228 member of the public agency so that the same is received prior to such
229 special meeting. The requirement of delivery of such written notice may
230 be dispensed with as to any member who at or prior to the time the
231 meeting convenes files with the clerk or secretary of the public agency a
232 written waiver of delivery of such notice. Such waiver may be given by
233 [telegram] electronic transmission or by mail. The requirement of
234 delivery of such written notice may also be dispensed with as to any
235 member who is actually present at the meeting at the time it convenes.
236 Nothing in this section shall be construed to prohibit any agency from
237 adopting more stringent notice requirements.

238 Sec. 8. Subdivision (1) of section 4d-30 of the general statutes is
239 repealed and the following is substituted in lieu thereof (*Effective October*

240 1, 2023):

241 (1) "Contract" means a contract for state agency information system
242 or telecommunication system facilities, equipment or services, which is
243 awarded pursuant to this chapter, [or subsection (e) of section 1-205,]
244 subsection (c) of section 1-211, [subsection (b) of section 1-212, section 4-
245 5,] subsection (a) of section 10a-151b [,] or subsection (a) of section 19a-
246 110.

247 Sec. 9. Section 4d-47 of the general statutes is repealed and the
248 following is substituted in lieu thereof (*Effective October 1, 2023*):

249 With respect to any state employee whose position is eliminated or
250 who is laid off as a result of any contract or amendment to a contract
251 which is subject to the provisions of this chapter and [subsection (e) of
252 section 1-205,] subsection (c) of section 1-211, [subsection (b) of section
253 1-212, section 4-5,] section 4a-50, 4a-51, subsection (b) of section 4a-57,
254 subsection (a) of section 10a-151b [,] or subsection (a) of section 19a-110,
255 or any subcontract for work under such contract or amendment, (1) the
256 contractor shall hire the employee, upon application by the employee,
257 unless the employee is hired by a subcontractor of the contractor, or (2)
258 the employee may transfer to any vacant position in state service for
259 which such employee is qualified, to the extent allowed under the
260 provisions of existing collectively bargained agreements and the general
261 statutes. If the contractor or any such subcontractor hires any such state
262 employee and does not provide the employee with fringe benefits which
263 are equivalent to, or greater than, the fringe benefits that the employee
264 would have received in state service, the state shall, for two years after
265 the employee terminates from state service, provide to the employee
266 either (A) the same benefits that such employee received from the state,
267 or (B) compensation in an amount which represents the difference in the
268 value of the fringe benefits that such employee received when in state
269 service and the fringe benefits that such employee receives from the
270 contractor or subcontractor.

271 Sec. 10. Section 4d-48 of the general statutes is repealed and the

272 following is substituted in lieu thereof (*Effective October 1, 2023*):

273 No contract or subcontract for state agency information system or
274 telecommunication system facilities, equipment or services may be
275 awarded to any business entity or individual pursuant to this chapter,
276 [or subsection (e) of section 1-205,] subsection (c) of section 1-211,
277 [subsection (b) of section 1-212, section 4-5,] subsection (a) of section 10a-
278 151b [.] or subsection (a) of section 19a-110 if such business entity or
279 individual previously had a contract with the state or a state agency to
280 provide information system or telecommunication system facilities,
281 equipment or services and such prior contract was finally terminated by
282 the state or a state agency within the previous five years for the reason
283 that such business entity or individual failed to perform or otherwise
284 breached a material obligation of the contract related to information
285 system or telecommunication system facilities, equipment or services. If
286 the termination of any such previous contract is contested in an
287 arbitration or judicial proceeding, the termination shall not be final until
288 the conclusion of such arbitration or judicial proceeding. If the fact-
289 finder determines, or a settlement stipulates, that the contractor failed
290 to perform or otherwise breached a material obligation of the contract
291 related to information system or telecommunication system facilities,
292 equipment or services, any award of a contract pursuant to said chapter
293 or sections during the pendency of such arbitration or proceeding shall
294 be rescinded and the bar provided in this section shall apply to such
295 business entity or individual.

296 Sec. 11. Subsection (d) of section 1-210 of the general statutes is
297 repealed and the following is substituted in lieu thereof (*Effective October*
298 *1, 2023*):

299 (d) Whenever a public agency, except the Judicial Department or
300 Legislative Department, receives a request from any person for
301 disclosure of any records described in subdivision (19) of subsection (b)
302 of this section under the Freedom of Information Act, the public agency
303 shall promptly notify the Commissioner of Administrative Services or
304 the Commissioner of Emergency Services and Public Protection, as

305 applicable, of such request, in the manner prescribed by such
 306 commissioner, before complying with the request as required by the
 307 Freedom of Information Act. If the commissioner, after consultation
 308 with the chief executive officer of the applicable agency, believes the
 309 requested record is exempt from disclosure pursuant to subdivision (19)
 310 of subsection (b) of this section, the commissioner may direct the agency
 311 to withhold such record from such person. In any appeal brought under
 312 the provisions of section 1-206 of the Freedom of Information Act for
 313 denial of access to records for any of the reasons described in
 314 subdivision (19) of subsection (b) of this section, such appeal shall be
 315 against (1) the chief executive officer of the executive branch state
 316 agency or the municipal, district or regional agency that maintains or
 317 has custody of the requested record, and (2) the commissioner who
 318 issued the directive to the public agency to withhold such record
 319 pursuant to subdivision (19) of subsection (b) of this section,
 320 [exclusively, or ,] except, in the case of records concerning Judicial
 321 Department facilities, such appeal shall be against the Chief Court
 322 Administrator [or ,] and in the case of records concerning the Legislative
 323 Department, such appeal shall be against the executive director of the
 324 Joint Committee on Legislative Management.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2023</i>	1-200
Sec. 2	<i>October 1, 2023</i>	1-218
Sec. 3	<i>October 1, 2023</i>	1-211(b)
Sec. 4	<i>October 1, 2023</i>	1-205(e)
Sec. 5	<i>October 1, 2023</i>	1-210(b)(17)
Sec. 6	<i>October 1, 2023</i>	1-212(g)
Sec. 7	<i>October 1, 2023</i>	1-225(d)
Sec. 8	<i>October 1, 2023</i>	4d-30(1)
Sec. 9	<i>October 1, 2023</i>	4d-47
Sec. 10	<i>October 1, 2023</i>	4d-48
Sec. 11	<i>October 1, 2023</i>	1-210(d)

Statement of Purpose:

To make revisions to the Freedom of Information Act recommended by the Freedom of Information Commission, including concerning the application of the definition of "governmental function", which statutory provisions require training by the commission, the education records exemption, the definition of "hand-held scanner", electronic notice of special meetings and appeals for denial of access to certain public records.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]