



General Assembly  
January Session, 2023

**Raised Bill No. 1221**  
LCO No. 5977

Referred to Committee on GOVERNMENT ADMINISTRATION  
AND ELECTIONS

Introduced by:  
(GAE)

**AN ACT CONCERNING THE ENFORCEMENT OF VIOLATIONS OF  
THE FREEDOM OF INFORMATION ACT AND THE REPORTING OF  
OPEN REQUESTS.**

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

1 Section 1. Subsection (b) of section 1-206 of the general statutes is  
2 repealed and the following is substituted in lieu thereof (*Effective October*  
3 *1, 2023*):

4 (b) (1) Any person denied the right to inspect or copy records under  
5 section 1-210 or wrongfully denied the right to attend any meeting of a  
6 public agency or denied any other right conferred by the Freedom of  
7 Information Act may appeal therefrom to the Freedom of Information  
8 Commission, by filing a notice of appeal with said commission. A notice  
9 of appeal shall be filed not later than thirty days after such denial, except  
10 in the case of an unnoticed or secret meeting, in which case the appeal  
11 shall be filed not later than thirty days after the person filing the appeal  
12 receives actual or constructive notice that such meeting was held. For  
13 purposes of this subsection, such notice of appeal shall be deemed to be  
14 filed on the date it is received by said commission or on the date it is

15 postmarked, if received more than thirty days after the date of the denial  
16 from which such appeal is taken. Upon receipt of such notice, the  
17 commission shall serve upon all parties, by certified or registered mail  
18 or by electronic transmission, a copy of such notice together with any  
19 other notice or order of such commission. In the case of the denial of a  
20 request to inspect or copy records contained in a public employee's  
21 personnel or medical file or similar file under subsection (c) of section 1-  
22 214, the commission shall include with its notice or order an order  
23 requiring the public agency to notify any employee whose records are  
24 the subject of an appeal, and the employee's collective bargaining  
25 representative, if any, of the commission's proceedings and, if any such  
26 employee or collective bargaining representative has filed an objection  
27 under said subsection (c), the agency shall provide the required notice  
28 to such employee and collective bargaining representative by certified  
29 mail, return receipt requested, by electronic transmission or by hand  
30 delivery with a signed receipt. A public employee whose personnel or  
31 medical file or similar file is the subject of an appeal under this  
32 subsection may intervene as a party in the proceedings on the matter  
33 before the commission. Said commission shall, after due notice to the  
34 parties, hear and decide the appeal [within] not later than one year after  
35 the filing of the notice of appeal. The commission shall adopt regulations  
36 in accordance with chapter 54, establishing criteria for those appeals  
37 which shall be privileged in their assignment for hearing. Any such  
38 appeal shall be heard not later than thirty days after receipt of a notice  
39 of appeal and decided not later than sixty days after the hearing. If a  
40 notice of appeal concerns an announced agency decision to meet in  
41 executive session or an ongoing agency practice of meeting in executive  
42 sessions, for a stated purpose, the commission or a member or members  
43 of the commission designated by its chairperson shall serve notice upon  
44 the parties in accordance with this section and hold a preliminary  
45 hearing on the appeal not later than seventy-two hours after receipt of  
46 the notice, provided such notice shall be given to the parties at least  
47 forty-eight hours prior to such hearing. During such preliminary  
48 hearing, the commission shall take evidence and receive testimony from  
49 the parties. If after the preliminary hearing the commission finds

50 probable cause to believe that the agency decision or practice is in  
51 violation of sections 1-200 and 1-225, the agency shall not meet in  
52 executive session for such purpose until the commission decides the  
53 appeal. If probable cause is found by the commission, it shall conduct a  
54 final hearing on the appeal and render its decision not later than five  
55 days after the completion of the preliminary hearing. Such decision shall  
56 specify the commission's findings of fact and conclusions of law.

57 (2) In any appeal to the Freedom of Information Commission under  
58 subdivision (1) of this subsection or subsection (c) of this section, the  
59 commission may confirm the action of the agency or order the agency  
60 to provide relief that the commission, in its discretion, believes  
61 appropriate to rectify the denial of any right conferred by the Freedom  
62 of Information Act. The commission may declare null and void any  
63 action taken at any meeting which a person was denied the right to  
64 attend and may require the production or copying of any public record.  
65 In addition, upon the finding that a denial of any right created by the  
66 Freedom of Information Act was without reasonable grounds and after  
67 the custodian or other official directly responsible for the denial has  
68 been given an opportunity to be heard at a hearing conducted in  
69 accordance with sections 4-176e to 4-184, inclusive, the commission  
70 may, in its discretion, impose against the custodian or other official a  
71 civil penalty of not less than twenty dollars nor more than [one] ten  
72 thousand dollars. If the commission finds that a person has taken an  
73 appeal under this subsection frivolously, without reasonable grounds  
74 and solely for the purpose of harassing the agency from which the  
75 appeal has been taken, after such person has been given an opportunity  
76 to be heard at a hearing conducted in accordance with sections 4-176e to  
77 4-184, inclusive, the commission may, in its discretion, impose against  
78 that person a civil penalty of not less than twenty dollars nor more than  
79 one thousand dollars. The commission shall notify a person of a penalty  
80 levied against [him] such person pursuant to this subsection by written  
81 notice sent by certified or registered mail or electronic transmission. If a  
82 person fails to pay the penalty [within] not later than thirty days [of]  
83 after receiving such notice, the Superior Court shall, on application of

84 the commission, issue an order requiring the person to pay the penalty  
85 imposed. If the executive director of the commission has reason to  
86 believe an appeal under subdivision (1) of this subsection or subsection  
87 (c) of this section (A) presents a claim beyond the commission's  
88 jurisdiction; (B) would perpetrate an injustice; or (C) would constitute  
89 an abuse of the commission's administrative process, the executive  
90 director shall not schedule the appeal for hearing without first seeking  
91 and obtaining leave of the commission. The commission shall provide  
92 due notice to the parties and review affidavits and written argument  
93 that the parties may submit and grant or deny such leave summarily at  
94 its next regular meeting. The commission shall grant such leave unless  
95 it finds that the appeal: (i) Does not present a claim within the  
96 commission's jurisdiction; (ii) would perpetrate an injustice; or (iii)  
97 would constitute an abuse of the commission's administrative process.  
98 Any party aggrieved by the commission's denial of such leave may  
99 apply to the superior court for the judicial district of New Britain,  
100 [within] not later than fifteen days of the commission meeting at which  
101 such leave was denied, for an order requiring the commission to hear  
102 such appeal.

103 (3) In making the findings and determination under subdivision (2)  
104 of this subsection the commission shall consider the nature of any  
105 injustice or abuse of administrative process, including, but not limited  
106 to: (A) The nature, content, language or subject matter of the request or  
107 the appeal, including, among other factors, whether the request or  
108 appeal is repetitious or cumulative; (B) the nature, content, language or  
109 subject matter of prior or contemporaneous requests or appeals by the  
110 person making the request or taking the appeal; (C) the nature, content,  
111 language or subject matter of other verbal and written communications  
112 to any agency or any official of any agency from the person making the  
113 request or taking the appeal; (D) any history of nonappearance at  
114 commission proceedings or disruption of the commission's  
115 administrative process, including, but not limited to, delaying  
116 commission proceedings; and (E) the refusal to participate in settlement  
117 conferences conducted by a commission ombudsman in accordance

118 with the commission's regulations.

119 (4) Notwithstanding any provision of this subsection, [to the  
120 contrary,] in the case of an appeal to the commission of a denial by a  
121 public agency, the commission may, upon motion of such agency,  
122 confirm the action of the agency and dismiss the appeal without a  
123 hearing if it finds, after examining the notice of appeal and construing  
124 all allegations most favorably to the appellant, that (A) the agency has  
125 not violated the Freedom of Information Act, or (B) the agency has  
126 committed a technical violation of the Freedom of Information Act that  
127 constitutes a harmless error that does not infringe the appellant's rights  
128 under said act.

129 (5) Notwithstanding any provision of this subsection, in the case of  
130 an appeal to the commission of a denial by a public agency where, after  
131 a hearing, the commission finds the public agency is engaging in a  
132 practice or pattern of conduct that constitutes an obstruction of the  
133 public's right to access information under the Freedom of Information  
134 Act or reckless, wilful or wanton misconduct with regard to the delay  
135 or denial of responses to requests for public records under said act, the  
136 commission may apply to the superior court for the judicial district of  
137 New Britain for further injunctive and equitable relief, damages,  
138 attorney's fees and costs, as the court may order.

139 [(5)] (6) Notwithstanding any provision of this subsection, a public  
140 agency may petition the commission for relief from a requester that the  
141 public agency alleges is a vexatious requester. Such petition shall be  
142 sworn under penalty of false statement, as provided in section 53a-157b,  
143 and shall detail the conduct which the agency alleges demonstrates a  
144 vexatious history of requests, including, but not limited to: (A) The  
145 number of requests filed and the total number of pending requests; (B)  
146 the scope of the requests; (C) the nature, content, language or subject  
147 matter of the requests; (D) the nature, content, language or subject  
148 matter of other oral and written communications to the agency from the  
149 requester; and (E) a pattern of conduct that amounts to an abuse of the  
150 right to access information under the Freedom of Information Act or an

151 interference with the operation of the agency. Upon receipt of such  
152 petition, the executive director of the commission shall review the  
153 petition and determine whether it warrants a hearing. If the executive  
154 director determines that a hearing is not warranted, the executive  
155 director shall recommend that the commission deny the petition  
156 without a hearing. The commission shall vote at its next regular meeting  
157 after such recommendation to accept or reject such recommendation  
158 and, after such meeting, shall issue a written explanation of the reasons  
159 for such acceptance or rejection. If the executive director determines that  
160 a hearing is warranted, the commission shall serve upon all parties, by  
161 certified or registered mail or electronic transmission, a copy of such  
162 petition together with any other notice or order of the commission. The  
163 commission shall, after due notice to the parties, hear and either grant  
164 or deny the petition [within] not later than one year after its filing. Upon  
165 a grant of such petition, the commission may provide appropriate relief  
166 commensurate with the vexatious conduct, including, but not limited  
167 to, an order that the agency need not comply with future requests from  
168 the vexatious requester for a specified period of time, but not to exceed  
169 one year. Any party aggrieved by the commission's granting of such  
170 petition may apply to the superior court for the judicial district of New  
171 Britain, [within] not later than fifteen days [of] after the commission  
172 meeting at which such petition was granted, for an order reversing the  
173 commission's decision.

174       Sec. 2. Section 1-212 of the general statutes is amended by adding  
175 subsection (h) as follows (*Effective October 1, 2023*):

176       (NEW) (h) On and after October 1, 2023, each public agency shall  
177 compile a list concerning requests for a copy of a record made under this  
178 chapter that contains: (1) The number of requests the agency has  
179 received that the agency has not fulfilled, (2) the date any such open  
180 request was received, (3) the date of any agency response to the  
181 requester, and (4) the total number of requests fulfilled during the prior  
182 month. Each public agency shall post such list in a prominent location  
183 on its Internet web site, or, if the agency does not have an Internet web  
184 site, in a prominent location in its regular office or place of business.

185 Each public agency shall update such list not less than monthly. The  
186 provisions of this subsection shall apply to any judicial office, official or  
187 body or committee thereof, but only in respect to its administrative  
188 functions.

This act shall take effect as follows and shall amend the following sections:		
Section 1	October 1, 2023	1-206(b)
Sec. 2	October 1, 2023	1-212(h)

**Statement of Purpose:**

To increase the maximum penalty for certain violations of the Freedom of Information Act to ten thousand dollars, to permit the Freedom of Information Commission to seek judicial relief for certain public agency misconduct and to require public agencies to post information about open requests.

*[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.]*