

Public Safety and Security Committee JOINT FAVORABLE REPORT

Bill No.: SB-234

AN ACT EXEMPTING CERTAIN LAW ENFORCEMENT RECORDS FROM

Title: DISCLOSURE UNDER THE FREEDOM OF INFORMATION ACT.

Vote Date: 3/19/2024

Vote Action: Joint Favorable Substitute

PH Date: 2/29/2024

File No.:

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SPONSORS OF BILL:

Public Safety and Security Committee

REASONS FOR BILL:

This bill exempts certain law enforcement records from disclosure under the Freedom of Information Act. Any record created by law enforcement agency or other federal, state or municipal governmental agency consisting of film, video, photograph, video or digital or other visual image depicting a victim could constitute an unwarranted invasion of personal privacy of the victim or their surviving family members or a minor unless disclosure is required in accordance with the provisions of subdivision (2) of the subsection (g) of section 29-6d.

Substitute Language:

Language inserted disclosures to mandated reporters into the bill, Sec. 1, and added victims of domestic or sexual abuse, homicide or suicide and deceased victim of an accident and minors in Sec. 2, to constitute an unwarranted invasion of personal privacy.

RESPONSE FROM ADMINISTRATION/AGENCY:

State of Connecticut, Judicial Branch - External Affairs Division: Testified via correspondence on this bill. The Branch stated that the Judicial Branch takes no position on the policies furthered by the bill. Their Office of Victims Services is concerned that the proposal will have a deleterious impact on victims of crime and their families. Per testimony, the bill narrows records exempt from FOI disclosure to those that occur at a "scene of an incident" and the language is not present in the existing statute, which exempts from disclosure records depicting a homicide victim if such record could reasonably be expected to constitute an unwarranted invasion of the personal privacy of the victim or their surviving

family members. The absence of "scene of an incident" from current statute provides an extension of protection to records generated away from the scene of the incident. The "scene of an incident" language eliminates protections at other locations where records could be generated.

Evan Parzych, Assistant Public Defender – State of CT -Office of Chief Public

Defender: Testified via correspondence to this bill in opposition of Section 1 of the bill. Reason for the opposition is the discretion by law enforcement agencies in determining which public records are exempt under the FOIA is already in place however broadening this discretion to include witness statements generally, rather than only signed statements will result in less transparency while serving no legitimate public safety goal. This will not further the Freedom of Information Act's general policy of openness. Rather than expanding the exemption in the subsection proposed the agency recommends that the committee may wish to consider deleting this exemption entirely and requests that no action be taken on Section 1 of this bill.

NATURE AND SOURCES OF SUPPORT:

CT Police Chiefs Association: Testified via correspondence in support of this bill.

Testimony was collectively on behalf of the members of the association. Testimony cited an unfortunate problem that has begun to develop in recent years with the mandate of body and dash cameras. Agencies across the state are beginning to be burdened with a large amount of Freedom of Information Act (FOIA) requests from citizens. This takes hours and hundreds of hours of footage that needs redacting due to sensitive information in the footage. The removal of officers from other assignments in order to keep up with the FOIA requests for footage in another result of said requests. The association continued its testimony and requested the committee to include language in the bill to make sure that nothing could hinder the duties of the Office of the Inspector General.

Ronnell Higgins, Commissioner – DESPP: Testified via correspondence in support of this bill. Mr. Higgins testified that this bill is a proposal by DESPP. This bill would align the Freedom of Information (FOIA) statutes with the body worn camera record disclosure statutes. While the FOIA already exempts signed witness statements from disclosure, those statements are regularly captured in camera recordings. This proposal would apply to witness statements whether signed and captured on paper or recorded on video

Natasha Pierre, State Victim Advocate – Office of the Victim Advocate: Testified via correspondence in support of this bill with a suggested amendment as the agency is concerned that the inclusion of a scene of an incident will inadvertently undermine the original intent of the proposal. For example, once a victim is transported from the scene of an incident in an ambulance in route to the hospital there is potential for the victim to be photographed or filmed while away from said scene. This seemingly innocuous clarification subverts the protections otherwise afforded in this statute, hence the recommendation by the agency that the exemption be expanded to include minors, a victim of domestic violence or sexual abuse, a suicide victim or a deceased victim of an accident without limitation to the exemption to the scene of an incident.

NATURE AND SOURCES OF OPPOSITION:

Colleen Murphy, Executive Director – FOI Commission: Testified via correspondence in opposition to this bill. The Director's testimony stated that this proposal is broad and would open the door to the suppression of all information obtained from witnesses regardless of whether such information is contained within an official sworn statement. Also, it would allow the redaction of witness statements contained within police reports or recorded by video or audio, (e.g., 911 calls,) and such broad exemption would strike a critical blow to transparency in criminal investigations. Further testimony stated that the proposal is unnecessary because the FOI Act already provides mechanisms to protect the identity of witnesses under certain circumstances...when there are reasonable grounds to believe disclosure may result in a safety risk, including the risk of harm to any person. The commission suggests the use of narrower language rather than a broad exemption that would cover information that is currently routinely released.

The commission suggested that if the Government Administration and Election Committee chooses to move forward with this the proposed bill, the FOI Commission requests that the proposed language mirror the language in §29d(g)(2), or that the exemption in §1-210(b)(27) simply cite to §29-d(g)(2).

Jess Zaccagnino, Policy Council – ACLU-CT: Jess testified via correspondence in the capacity of a policy counsel of the ACLU-CT in opposition of this bill. Testimony stated that injustice thrives in the dark. The ACLU deeply believes in making and keeping governmental records open and available to all people in the widest possible range of circumstances. They believe, per testimony, that this bill would stifle people's accessibility to information they have a right to obtain by broadly expanding the current FOI exemption and that the ACLU-CT believes in open government for the good of democracy. They are encouraging the committee to also oppose this bill.

Michele Jacklin, Legislative Co-Chair – CT Council on FOI: Testified via correspondence in opposition to this bill. She testified that the proposed exemptions are not aligned with the exemptions in that law and the suggested exemptions created will be too sweeping. She believes the bill would cloak the transparency in criminal investigations. Section 2 of the bill does not accomplish what has been purported by the state police per her further testimony. She urges the committee to work with FOI Commission to draft language that would also help to create a very narrow exemption to the FOIA.

Reported by: Michelle Adams

Date: 3/20/2024