



General Assembly

**Amendment**

February Session, 2014

LCO No. 5036

**\*HB0512505036SR0\***

Offered by:  
SEN. FASANO, 34<sup>th</sup> Dist.

To: Subst. House Bill No. 5125      File No. 133      Cal. No. 328

**"AN ACT LIMITING ACCESS TO CERTAIN INFORMATION REGARDING PROBATION OFFICERS UNDER THE FREEDOM OF INFORMATION ACT."**

1      After the last section, add the following and renumber sections and  
2      internal references accordingly:

3      "Sec. 501. Subsection (b) of section 1-210 of the 2014 supplement to  
4      the general statutes is repealed and the following is substituted in lieu  
5      thereof (*Effective October 1, 2014*):

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

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

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

13 (3) Records of law enforcement agencies not otherwise available to  
14 the public which records were compiled in connection with the  
15 detection or investigation of crime, if the disclosure of said records  
16 would not be in the public interest because it would result in the  
17 disclosure of (A) the identity of informants not otherwise known or the  
18 identity of witnesses not otherwise known whose safety would be  
19 endangered or who would be subject to threat or intimidation if their  
20 identity was made known, (B) the identity of [minor] witnesses (i) to a  
21 drug offense under chapter 420b, a sexual offense under subdivision  
22 (2) of subsection (a) of section 53-21 or part VI of chapter 952 or a crime  
23 of violence, (ii) who are under eighteen years of age at the time of  
24 witnessing such offense or crime or making a statement to a law  
25 enforcement agency concerning such offense or crime, (C) signed  
26 statements of witnesses, (D) information to be used in a prospective  
27 law enforcement action if prejudicial to such action, (E) investigatory  
28 techniques not otherwise known to the general public, (F) arrest  
29 records of a juvenile, which shall also include any investigatory files,  
30 concerning the arrest of such juvenile, compiled for law enforcement  
31 purposes, (G) the name and address of the victim of a sexual assault  
32 under section 53a-70, 53a-70a, 53a-71, 53a-72a, 53a-72b or 53a-73a, or  
33 injury or risk of injury, or impairing of morals under section 53-21, or  
34 of an attempt thereof, or (H) uncorroborated allegations subject to  
35 destruction pursuant to section 1-216;

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

40 (5) (A) Trade secrets, which for purposes of the Freedom of  
41 Information Act, are defined as information, including formulas,  
42 patterns, compilations, programs, devices, methods, techniques,  
43 processes, drawings, cost data, customer lists, film or television scripts  
44 or detailed production budgets that (i) derive independent economic  
45 value, actual or potential, from not being generally known to, and not

46 being readily ascertainable by proper means by, other persons who can  
47 obtain economic value from their disclosure or use, and (ii) are the  
48 subject of efforts that are reasonable under the circumstances to  
49 maintain secrecy; and

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

52 (6) Test questions, scoring keys and other examination data used to  
53 administer a licensing examination, examination for employment or  
54 academic examinations;

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

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

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

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

77 (11) Names or addresses of students enrolled in any public school or  
78 college without the consent of each student whose name or address is  
79 to be disclosed who is eighteen years of age or older and a parent or  
80 guardian of each such student who is younger than eighteen years of  
81 age, provided this subdivision shall not be construed as prohibiting the  
82 disclosure of the names or addresses of students enrolled in any public  
83 school in a regional school district to the board of selectmen or town  
84 board of finance, as the case may be, of the town wherein the student  
85 resides for the purpose of verifying tuition payments made to such  
86 school;

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

88 (13) Records of an investigation or the name of an employee  
89 providing information under the provisions of section 4-61dd or  
90 sections 17b-301c to 17b-301g, inclusive;

91 (14) Adoption records and information provided for in sections 45a-  
92 746, 45a-750 and 45a-751;

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

99 (16) Records of complaints, including information compiled in the  
100 investigation thereof, brought to a municipal health authority pursuant  
101 to chapter 368e or a district department of health pursuant to chapter  
102 368f, until such time as the investigation is concluded or thirty days  
103 from the date of receipt of the complaint, whichever occurs first;

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

106 (18) Records, the disclosure of which the Commissioner of

107 Correction, or as it applies to Whiting Forensic Division facilities of the  
108 Connecticut Valley Hospital, the Commissioner of Mental Health and  
109 Addiction Services, has reasonable grounds to believe may result in a  
110 safety risk, including the risk of harm to any person or the risk of an  
111 escape from, or a disorder in, a correctional institution or facility under  
112 the supervision of the Department of Correction or Whiting Forensic  
113 Division facilities. Such records shall include, but are not limited to:

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

116 (B) Engineering and architectural drawings of correctional  
117 institutions or facilities or Whiting Forensic Division facilities;

118 (C) Operational specifications of security systems utilized by the  
119 Department of Correction at any correctional institution or facility or  
120 Whiting Forensic Division facilities, except that a general description  
121 of any such security system and the cost and quality of such system  
122 may be disclosed;

123 (D) Training manuals prepared for correctional institutions and  
124 facilities or Whiting Forensic Division facilities that describe, in any  
125 manner, security procedures, emergency plans or security equipment;

126 (E) Internal security audits of correctional institutions and facilities  
127 or Whiting Forensic Division facilities;

128 (F) Minutes or recordings of staff meetings of the Department of  
129 Correction or Whiting Forensic Division facilities, or portions of such  
130 minutes or recordings, that contain or reveal information relating to  
131 security or other records otherwise exempt from disclosure under this  
132 subdivision;

133 (G) Logs or other documents that contain information on the  
134 movement or assignment of inmates or staff at correctional institutions  
135 or facilities; and

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

138 (19) Records when there are reasonable grounds to believe  
139 disclosure may result in a safety risk, including the risk of harm to any  
140 person, any government-owned or leased institution or facility or any  
141 fixture or appurtenance and equipment attached to, or contained in,  
142 such institution or facility, except that such records shall be disclosed  
143 to a law enforcement agency upon the request of the law enforcement  
144 agency. Such reasonable grounds shall be determined (A) (i) by the  
145 Commissioner of Administrative Services, after consultation with the  
146 chief executive officer of an executive branch state agency, with respect  
147 to records concerning such agency; and (ii) by the Commissioner of  
148 Emergency Services and Public Protection, after consultation with the  
149 chief executive officer of a municipal, district or regional agency, with  
150 respect to records concerning such agency; (B) by the Chief Court  
151 Administrator with respect to records concerning the Judicial  
152 Department; and (C) by the executive director of the Joint Committee  
153 on Legislative Management, with respect to records concerning the  
154 Legislative Department. As used in this section, "government-owned  
155 or leased institution or facility" includes, but is not limited to, an  
156 institution or facility owned or leased by a public service company, as  
157 defined in section 16-1, a certified telecommunications provider, as  
158 defined in section 16-1, a water company, as defined in section 25-32a,  
159 or a municipal utility that furnishes electric, gas or water service, but  
160 does not include an institution or facility owned or leased by the  
161 federal government, and "chief executive officer" includes, but is not  
162 limited to, an agency head, department head, executive director or  
163 chief executive officer. Such records include, but are not limited to:

164 (i) Security manuals or reports;

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

167 (iii) Operational specifications of security systems utilized at any

168 government-owned or leased institution or facility, except that a  
169 general description of any such security system and the cost and  
170 quality of such system, may be disclosed;

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

174 (v) Internal security audits of government-owned or leased  
175 institutions or facilities;

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

179 (vii) Logs or other documents that contain information on the  
180 movement or assignment of security personnel;

181 (viii) Emergency plans and emergency preparedness, response,  
182 recovery and mitigation plans, including plans provided by a person  
183 to a state agency or a local emergency management agency or official;  
184 and

185 (ix) With respect to a water company, as defined in section 25-32a,  
186 that provides water service: Vulnerability assessments and risk  
187 management plans, operational plans, portions of water supply plans  
188 submitted pursuant to section 25-32d that contain or reveal  
189 information the disclosure of which may result in a security risk to a  
190 water company, inspection reports, technical specifications and other  
191 materials that depict or specifically describe critical water company  
192 operating facilities, collection and distribution systems or sources of  
193 supply;

194 (20) Records of standards, procedures, processes, software and  
195 codes, not otherwise available to the public, the disclosure of which  
196 would compromise the security or integrity of an information  
197 technology system;

198 (21) The residential, work or school address of any participant in the  
199 address confidentiality program established pursuant to sections 54-  
200 240 to 54-240o, inclusive;

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

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

207 (24) Responses to any request for proposals or bid solicitation issued  
208 by a public agency or any record or file made by a public agency in  
209 connection with the contract award process, until such contract is  
210 executed or negotiations for the award of such contract have ended,  
211 whichever occurs earlier, provided the chief executive officer of such  
212 public agency certifies that the public interest in the disclosure of such  
213 responses, record or file is outweighed by the public interest in the  
214 confidentiality of such responses, record or file;

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

219 (26) All records obtained during the course of inspection,  
220 investigation, examination and audit activities of an institution, as  
221 defined in section 19a-490, that are confidential pursuant to a contract  
222 between the Department of Public Health and the United States  
223 Department of Health and Human Services relating to the Medicare  
224 and Medicaid programs;

225 (27) Any record created by a law enforcement agency or other  
226 federal, state, or municipal governmental agency consisting of a  
227 photograph, film, video or digital or other visual image depicting the  
228 body or any portion of the body of a victim of a homicide who was



229 eighteen years of age or older at the time the act or acts resulting in the  
230 homicide were committed, to the extent that the disclosure of such  
231 record could reasonably be expected to constitute an unwarranted  
232 invasion of [the] personal privacy, [of the victim or the victim's  
233 surviving family members.] provided nothing in this subdivision shall  
234 be construed to prohibit the inspection of such a record in accordance  
235 with section 503 of this act;

236 (28) Any record created by a law enforcement agency or other  
237 federal, state or municipal governmental agency consisting of an audio  
238 recording of an emergency 9-1-1 call or other call for assistance that is  
239 made by a member of the public when such call (A) relates to a  
240 homicide, and (B) captures, conveys or relates to the impaired physical  
241 condition of the caller or another person, to the extent that the  
242 disclosure of such record could reasonably be expected to constitute an  
243 unwarranted invasion of personal privacy, provided nothing in this  
244 subdivision shall be construed to prohibit listening to such record in  
245 accordance with section 503 of this act;

246 (29) Any record created by a law enforcement agency or other  
247 federal, state or municipal governmental agency consisting of an audio  
248 recording that is an operative communication among law enforcement  
249 personnel when such communication (A) relates to a homicide, and (B)  
250 captures, conveys or relates the impaired physical condition of the  
251 caller or another person, to the extent that the disclosure of such record  
252 could reasonably be expected to constitute an unwarranted invasion of  
253 personal privacy, provided nothing in this subdivision shall be  
254 construed to prohibit listening to such record in accordance with  
255 section 503 of this act.

256 Sec. 502. (NEW) (*Effective October 1, 2014*) No public agency may  
257 disclose, under the Freedom of Information Act, as defined in section  
258 1-200 of the general statutes, any record created by a law enforcement  
259 agency or other federal, state or municipal governmental agency  
260 consisting of a photograph, film, video or digital or other visual image  
261 depicting the body or any portion of the body of a victim of a homicide

262 who was under eighteen years of age at the time the act or acts  
263 resulting in the homicide were committed.

264 Sec. 503. (NEW) (*Effective October 1, 2014*) (a) As used in this section:

265 (1) "Image" means a record described in subdivision (27) of  
266 subsection (b) of section 1-210 of the general statutes, as amended by  
267 this act; and

268 (2) "Audio recording" means a record described in subdivision (28)  
269 or (29) of subsection (b) of section 1-210 of the general statutes, as  
270 amended by this act.

271 (b) A public agency shall permit any person to view an image or to  
272 listen to an audio recording at the office or place of business of such  
273 agency during regular office or business hours. In the case of an audio  
274 recording, the agency shall, upon request, provide a transcript of the  
275 audio recording for a fee not to exceed the cost to the agency of making  
276 such transcript.

277 (c) Whenever a public agency receives a request from any person to  
278 copy or receive a copy of any image or audio recording, and the public  
279 agency reasonably believes that the copying of such image or audio  
280 recording could constitute an unwarranted invasion of personal  
281 privacy, the public agency shall not provide a copy or permit the  
282 copying of the requested image or audio recording. Failure to comply  
283 with a request to copy or receive a copy of records under this section  
284 shall constitute a denial for the purposes of section 1-206 of the general  
285 statutes.

286 (d) Whenever a public agency receives a notice of appeal under  
287 section 1-206 of the general statutes concerning the public agency's  
288 denial of a request to copy or receive a copy of a record under  
289 subsection (c) of this section, the public agency shall make a reasonable  
290 effort to provide notice of such complaint to the next of kin of the  
291 homicide victim who is the subject of such record or, if an audio  
292 recording, to any person who is recorded on such audio recording, or

293 the legal representative of such next of kin or person. Any next of kin  
 294 of the homicide victim who is the subject of such record or, if an audio  
 295 recording, any person who is recorded on such audio recording, or the  
 296 legal representative of such next of kin or person, may intervene as a  
 297 party in such appeal before the Freedom of Information Commission.  
 298 The burden of proof in any appeal under this section shall be upon the  
 299 person requesting a copy of a record under subsection (c) of this  
 300 section to establish that the copying of such record could not  
 301 reasonably be expected to constitute an unwarranted invasion of  
 302 personal privacy.

303 (e) Any person who removes, copies or otherwise duplicates an  
 304 image or audio recording in violation of this section shall be guilty of a  
 305 class A misdemeanor and each distinct violation of this section shall  
 306 constitute a separate offense.

307 Sec. 504. (*Effective from passage*) The Legislative Program Review and  
 308 Investigations Committee shall conduct a study regarding victim  
 309 privacy and all of its aspects and make recommendations for any  
 310 necessary legislative changes. On or before January 1, 2015, said  
 311 committee shall submit its findings and recommendations concerning  
 312 such study to the joint standing committees of the General Assembly  
 313 having cognizance of matters relating to government administration  
 314 and the judiciary."

This act shall take effect as follows and shall amend the following sections:		
Sec. 501	<i>October 1, 2014</i>	1-210(b)
Sec. 502	<i>October 1, 2014</i>	New section
Sec. 503	<i>October 1, 2014</i>	New section
Sec. 504	<i>from passage</i>	New section