

**FINAL REPORT  
PUBLIC ACCESS AND ACCOUNTABILITY LEGISLATION  
CONNECTICUT GENERAL ASSEMBLY  
2014 REGULAR SESSION**

By  
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*Summary of Legislative Session:*

During the short 2014 legislative session there were numerous pieces of legislation introduced that would impact the public's right to access government records. Some of the bills proposed to increase the public's right to access (e.g. SB 29, HB 5124, HB 5312, HB 5466, HB 5596, *discussed below*) and certain entities (e.g., HB 5127, *discussed below*). There were many other proposals, however, aimed at limiting access (e.g., SB 273, SB 381, SB 388, HB 5063, HB 5481, HB 5537, HB 5597, *discussed below*). Ultimately, most of the notable legislation that would have affected the cause of open and accessible government was defeated.

The most significant challenge this session pertained to the recommendations of the Task Force on Victim Privacy and the Public's Right to Know, which was established pursuant to Public Act 13-311, *An Act Limiting the Disclosure of Certain Records of Law Enforcement Agencies and Establishing a Task Force concerning Victim Privacy under the Freedom of Information Act*. Public Act 13-311 was passed in the early morning hours of the last day of the 2013 legislative session, without a public hearing or debate. In addition to establishing the Task Force, P.A. 13-311 amends the Freedom of Information (FOI) Act and restricts access to certain law enforcement records (including the identity of minor witnesses), visual images of homicide victims, and audio recordings.<sup>1</sup> The restrictions to audio recordings sunset on May 7, 2014.

The Task Force's recommendations were submitted to the General Assembly in January 2014.<sup>2</sup> Subsequently, two legislative proposals were introduced to implement such recommendations: **Senate Bill 381**, *An Act Concerning the Task Force on Victim Privacy and the Public's Right to Know* was introduced by the Government Administration and Elections Committee (GAE) and **Senate Bill 388**, *An Act Implementing the Recommendations of the Task Force on Victim Privacy and the Public's Right to Know* was introduced by the Judiciary Committee.

Senate Bills 381 and 388, as originally written, contained similar language. Both bills sought to: (1) exempt the identity of minor witnesses (under the age of 18) for crimes of

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<sup>1</sup> A copy of P.A. 13-311 can be found on the General Assembly website at: <http://www.cga.ct.gov/2013/ACT/PA/2013PA-00311-R00SB-01149-PA.htm>.

<sup>2</sup> A copy of the Task Force's Final Report (dated January 27, 2014) can be found on the General Assembly website at: <http://www.cga.ct.gov/GAE/VPTF/taskforce.asp>.

violence, drug offenses, or sexual offenses; (2) expand the “unwarranted invasion of privacy” standard that was created in P.A. 13-311 for homicide images to everyone, not just the victim and the victim’s family; (3) expand the “unwarranted invasion of privacy” standard to 9-1-1 calls on homicides and communications among emergency personnel; (4) impose a duty on the public agency to “immediately” notify a homicide victim’s next of kin before disclosing a copy of a homicide image, and in the case of a request for an audio recording, to “immediately” notify any person recorded on such recording; (5) impose criminal misdemeanor liability on any person who improperly removes, copies or duplicates a homicide image or audio recording; and (6) require the legislature’s Program Review and Investigations Committee to further study the issue of victim privacy in all of its aspects. Significantly, both proposals would permit inspection of homicide images but a requester could not obtain a copy unless he could overcome his burden of proof and establish that disclosure of the record is warranted.

The FOI Commission and open government advocates opposed the proposals because they significantly altered the FOI Act without a demonstrated need to do so. The FOI Act is not the source of any perceived problems that the proposed bills sought to remedy. The most objectionable provision was the new “unwarranted invasion of privacy” standard shifting the burden to the requester of a record to prove that disclosure is “warranted.” These unnecessary new exemptions and new standards would impede the public’s ability to oversee police and emergency response and will make more difficult the public’s effort to examine and understand acts of violence and murder.

Senate Bills 381 and 388 received a public hearing (on the same day, at the same time) and made it out of their respective committees with substitute language. With respect to Senate Bill 381, the GAE Committee removed the “immediate” notification requirement and any proposed restrictions on access to 9-1-1 calls and other audio recordings, and explicitly placed the burden of proof on the agency claiming that disclosure of a homicide images could constitute an unwarranted invasion of privacy. Senate Bill 381, with the GAE Committee substitute language, was later referred to the Judiciary Committee where it was never taken up. With respect to Senate Bill 388, the Judiciary Committee removed the “immediate” notification requirement, but voted to implement the remainder of the Task Force recommendations and to further include an absolute prohibition on the disclosure of visual images of a homicide victim who was under the age of 18. Senate Bill 388, with the Judiciary Committee substitute language, was later referred to the GAE Committee which amended and voted the bill out of committee with the same language as in substituted Senate Bill 381 (which was voted out of the GAE Committee). Senate Bill 388 was never taken up by the Senate.<sup>3</sup> Ultimately, none of the proposals implementing the Task Force recommendations passed.

The Commission remains concerned with the restrictions on access to homicide photographs and the incorporation of the “unwarranted invasion of privacy” standard that were added to the FOI Act in 2013. However, it believes that implementation of the Task Force

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<sup>3</sup> Notably, amendments proposing similar language as substituted by the Judiciary Committee in SB 388, was offered by Senator Len Fasano (R-34<sup>th</sup> District) on various unrelated bills but were never called (e.g., LCO## 4568, 3954, 5036 and 4607).

recommendations would have resulted in greater hurdles on the public's right to know and would have applied to a greater number of law enforcement records.

***Acknowledgements:***

We would like to provide special recognition to Claude Albert, Jim Smith and Chris VanDeHoef for their tireless efforts during the legislative session to advocate for freedom of information and good government. The successful defeat of numerous anti-FOI proposals this session was due in large part to the rapid response of the media and members of CCFOI. The FOI Commission thanks them for writing about the subjects and raising the necessary questions, with the right people, in such a timely manner. Their efforts made a significant and positive impact.

We also thank the following legislators for their assistance: Senator Donald Williams (D-29<sup>th</sup> District); Senator Anthony Musto (D-22<sup>nd</sup> District); Representative Ed Jutila (D-37<sup>th</sup> Assembly District); Representative Bob Godfrey (D-110<sup>th</sup> Assembly District); and Representative Matthew Lesser (D-100<sup>th</sup> Assembly District).

***Bill Tracking:***

During the regular legislative session, we monitored 99 bills. A total of 97 received public hearings and FOI Commission staff prepared statements for and/or testified on 13 of those bills. All of the 97 bills became public acts. As of June 18, 2014, the Governor vetoed one bill and signed the remaining 96 bills.

Below is a brief description of the bills of note:

**FAVORABLE RESULTS - BILLS PASSED**

**HB 5312; P.A. 14-188. AN ACT CONCERNING STATE CONTRACTING, GOVERNMENT ADMINISTRATION AND NOTIFICATION REGARDING EXTENSIONS OF POLLING PLACE HOURS.**

House Bill 5312 provides greater transparency regarding the awarding of contracts by the Department of Administrative Services (DAS). Under current law, most contracts awarded by DAS must go through a competitive bid process. Under certain situations, however, DAS may extend existing contracts without utilizing the competitive process. The bill requires DAS to post on their website an explanation of reasons why any contract for goods and services was extended without using competitive bidding.

**HB 5466; P.A. 14-155. AN ACT CONCERNING THE DEPARTMENT OF REVENUE SERVICES' STATUTES AND PROCEDURES, INCLUDING BACKGROUND CHECKS FOR EMPLOYEES, THE MASTER SETTLEMENT AGREEMENT, THE MOTOR VEHICLE FUELS TAX, THE ESTATE TAX, ADDITIONS AND CHANGES TO VARIOUS PUBLIC LISTS MAINTAINED BY THE DEPARTMENT, THE PAYMENT SCHEDULE FOR THE SALES AND USE TAX, A DATA MATCH SYSTEM WITH FINANCIAL INSTITUTIONS, THE PERSONAL INCOME TAX AND TECHNICAL CORRECTIONS.**

House Bill 5466 makes numerous changes to the tax and tobacco settlement statutes including, but not limited to, increasing access to information pertaining to delinquent taxpayers. Under current law, the Commissioner of the Department of Revenue Services (DRS) must maintain a publicly available list of delinquent taxpayers. The bill requires the DRS Commissioner, prior to eliminating a taxpayer's name from the delinquent taxpayer list, to indicate whether the delinquency was resolved by negotiated settlement, paid in full or designated as uncollectable.

Under the bill, the DRS Commissioner may also make available for public inspection a list of those individuals whose (1) application for a license, permit or certificate was denied or (2) license was suspended, revoked or not renewed. The list must be arranged by tax type and may include the date on which an application was denied or the date on which the license, permit or certificate was revoked, suspended or not renewed, and may include the reason for each such action.

**HB 5596; P.A. 14-47. AN ACT MAKING ADJUSTMENTS TO STATE EXPENDITURES AND REVENUES FOR THE FISCAL YEAR ENDING JUNE 30, 2015. (BUDGET)**

Under the budget bill, funding for the Connecticut Television Network (CT-N) was increased from \$2.5 to \$3.2 million. With additional funding, CT-N will be able to provide greater coverage of state government deliberations and public policy events. See also Senate Bill 29 (*discussed below*).

A similar bill, Senate Bill 469, *An Act Concerning Television Coverage of State Government Deliberations and Distribution of Proceeds from New Lottery Games* that proposed to increase CT-N's funding from \$2.5 to \$6 million made it out of the Finance, Revenue and Bonding committee, but died on the Senate calendar.

The FOI Commission, State Elections Enforcement Commission ("SEEC") and the Office of State Ethics ("OSE") expressed their support of Senate Bill 469. The FOI Commission, SEEC and OSE are aware of a CT-N project entitled "CT-N 2.0" that will improve and significantly extend CT-N's coverage of all three branches of government.<sup>4</sup> Using modern technology and all of its associated tools (*e.g.*, remotely-controlled cameras and remote production work spaces), in the manner envisioned by CT-N, will increase government transparency and encourage citizen engagement.

**SB 29, P.A.14-98. AN ACT AUTHORIZING AND ADJUSTING BONDS OF THE STATE FOR CAPITAL IMPROVEMENTS, TRANSPORTATION AND OTHER PURPOSES, AND CONCERNING MISCELLANEOUS PROGRAMS, INCLUDING THE SMART START PROGRAM, THE WATER IMPROVEMENT SYSTEM PROGRAM, SCHOOL SECURITY GRANTS, THE REGENERATIVE MEDICINE RESEARCH FUND, THE CONNECTICUT MANUFACTURING INNOVATION FUND AND THE BOARD OF REGENTS FOR HIGHER EDUCATION INFRASTRUCTURE ACT.**

In addition to the \$3.2 million in operating funds awarded to CT-N under Public Act 14-47, *above*, CT-N was included in the bonding package with \$3,230,000 available for production and studio equipment. Again, with additional funding, CT-N can provide greater coverage of state government deliberations and public policy events which will increase transparency in government.

The Office of Governmental Accountability (OGA)<sup>5</sup> was also included in the bonding package with \$1 million available for information technology improvements. It is uncertain what kind of IT improvements will be made and which divisions within the OGA will be the beneficiaries of such improvements.

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<sup>4</sup> A copy of the conceptual plan for "CT-N 2.0, The Next Generation State Public Affairs Network for the 21<sup>st</sup> Century Citizen" is attached to the written statement of the President & CEO of the CT Public Affairs Network on Senate Bill 469, which was provided to the Finance committee. ([http://www.cga.ct.gov/asp/menu/CommDocTmyBillAllComm.asp?bill=SB-00469&doc\\_year=2014](http://www.cga.ct.gov/asp/menu/CommDocTmyBillAllComm.asp?bill=SB-00469&doc_year=2014)).

<sup>5</sup> The OGA consists of the FOI Commission, Office of State Ethics, State Elections Enforcement Commission, Judicial Review Council, Judicial Selection Commission, Board of Firearms Permit Examiners, Office of the Child Advocate, Office of the Victim Advocate and State Contracting Standards Board.

## **UNFAVORABLE RESULTS - BILLS PASSED**

### **HB 5537; P.A. 14-231. AN ACT CONCERNING THE DEPARTMENT OF PUBLIC HEALTH'S RECOMMENDATIONS REGARDING VARIOUS REVISIONS TO THE PUBLIC HEALTH STATUTES.**

House Bill 5537 exempts from disclosure the “strike contingency plan” that an “emergency medical service organization” must file with the Department of Public Health (DPH) when the organization receives notice from a labor union that the union intends to strike. The bill deems the strike contingency plan as a “statement of strategy and negotiations with respect to collective bargaining,” within the meaning of §1-210(b)(9) of the FOI Act. The FOI Commission disagrees that the strike contingency plan is a statement of strategy and negotiation with respect to collective bargaining and could not find (and is still unaware of) any reason that this plan, which would presumably be of great interest to the public, should be exempt from disclosure. At the very least, the confidentiality language should have been narrowed to include a temporal limitation on the DPH’s ability to withhold this record from the public.

### **HB 5597; P.A. 14-217. AN ACT IMPLEMENTING PROVISIONS OF THE STATE BUDGET FOR THE FISCAL YEAR ENDING JUNE 30, 2015.**

The budget implementer expands, in part, the scope of Connecticut’s False Claims Act to all state-administered health or human service programs. Under sections 2, 3 and 18 of the bill,<sup>6</sup> certain information pertaining to investigations and litigation of false or fraudulent claims under a state-administered health or human services program are exempt from disclosure.

The proposal was originally raised in Senate Bill 22, *An Act Concerning the Prevention of Fraud in Government Programs*, which was introduced to prevent fraud in all-state administered programs. Senate Bill 22 made it out of the Judiciary committee, but died on the Senate calendar.

## **FAVORABLE RESULTS - BILLS DEFEATED**

### **SB 273. AN ACT CONCERNING THE NONDISCLOSURE OF THE RESIDENTIAL ADDRESS OF SWORN MEMBERS OF A LAW ENFORCEMENT UNIT.**

Raised Bill 273 proposed to amend the residential address exemption in §1-217 of the FOI Act to include the residential address of a sworn member of a “law enforcement unit, as defined in section 7-294a.”<sup>7</sup>

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<sup>6</sup> Section 18 of House Bill 5597 explicitly amends §1-210(b)(13) of the FOI Act to exempt “records of an investigation or the name of an employee providing information under the provisions of section 4-61dd or sections [17b-301c to 17b-301g] 3 to 7, inclusive, of this act.”

<sup>7</sup> The proposal would expand the category to include a sworn member of “any agency, organ or department of this state or a subdivision or municipality thereof, or, if created and governed by a

The FOI Commission objected to the proposal because: (1) it was unclear from the language precisely to whom the exemption would apply; (2) it was unknown whether such employees are any more “at risk” than other public employees; and (3) the proposal would provide very little protection to those employees.<sup>8</sup>

The Connecticut Police & Fire Union submitted a statement in favor of the proposal arguing that every individual who enforces laws, makes arrests and takes an oath to protect and serve deserves protection under §1-217 of the FOI Act. The union represents individuals who are certified police officers at the University of Connecticut, state universities and community colleges, Department of Mental Health and Addiction Services, Department of Children and Families, Special Revenue and the Department of Motor Vehicles, as well as members who are State Liquor Control Agents and Animal Control Officers. (Notably, during the 2013 legislative session, proposals to add sworn motor vehicle inspectors of the Department of Motor Vehicles and certain University of Connecticut Health Center employees were defeated. See Senate Bill 889, Senate Bill 970 and House Bill 6495).

Raised Bill 273 made it out of committee with substitute language narrowing the applicability of the proposed exemption to a sworn member of a law enforcement unit “who has obtained certification, as defined in section 7-294a, from the Police Officer Standards and Training Council.” The bill died on the Senate calendar.

### **SB 381. AN ACT CONCERNING THE TASK FORCE ON VICTIM PRIVACY AND THE PUBLIC'S RIGHT TO KNOW.**

*Please see discussion of Senate Bill 381, above.*

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memorandum of agreement under section 2 of this act, of the Mashantucket Pequot Tribe or the Mohegan Tribe of Indians of Connecticut, whose primary functions include the enforcement of criminal or traffic laws, the preservation of public order, the protection of life and property, or the prevention, detection or investigation of crime.” See Conn. Gen. Stat. §7-294a.

<sup>8</sup> With the enactment of Public Act 12-3, *An Act Concerning the Exemption from Disclosure of Certain Addresses under the Freedom of Information Act*, section 1-217 of the FOI Act is now quite limited in scope. Under §1-217, land records (Gen. Stat. §7-35bb), voter lists (Title 9), and grand lists (Gen. Stat. §12-55) are no longer subject to the nondisclosure requirements. Section 1-217 prohibits employers of protected public employees from disclosing the employees’ residential addresses contained in their personnel files. With respect to public agencies (that are not the employer), disclosure is only prohibited in limited circumstances where (1) a request “specifically names” a protected person who has requested confidentiality; (2) the address can be redacted by a “reasonable effort” from a searchable electronic database; or (3) the agency has voluntarily created a record in response to an FOI request. (Conn. Gen. Stat. §1-217(c)(1) and (2)). Under these circumstances, individuals in the categories named in §1-217 must take affirmative steps to keep confidential their residential addresses.

**SB 388. AN ACT IMPLEMENTING THE RECOMMENDATIONS OF THE TASK FORCE ON VICTIM PRIVACY AND THE PUBLIC'S RIGHT TO KNOW.** *(original title)*

*Please see discussion of Senate Bill 388, above.*

**HB 5063. AN ACT CONCERNING THE DISCLOSURE OF PARDON APPLICATIONS.**

For the second year in a row, a proposal limiting access to pardon applications was taken up by the General Assembly.<sup>9</sup> House Bill 5063, *An Act Concerning the Disclosure of Pardon Applications* would exempt from public disclosure all applications to the Board of Pardons and Paroles for its consideration in connection with the granting of a pardon. By designating all pardon applications as confidential, the bill would also exclude the public from the Board's decision-making process.<sup>10</sup> The Board would no longer be able to conduct its pardon hearings in public. The bill would, however, permit disclosure of the applications to a state's attorney upon his or her request.

Supporters of the confidentiality provision, including Greater Hartford Legal Aid, argued that confidentiality was critical to the pardons process (*e.g.*, to encourage applicants to be forthcoming in giving details about their efforts to rehabilitate).

The FOI Commission believed that this sweeping confidentiality provision, unlimited in both scope and time, would permit the Board to keep secret all information upon which its decisions to pardon applicants are based. It would also prevent the public from learning the state's attorney's recommendation and his or her reasons whether to grant the pardon. The bill would revoke forever the public's ability to oversee the Board's exercise of its power to pardon.

Although the bill received a public hearing and was voted out of the Labor and Public Employees Committee, it was later referred to the Judiciary Committee where it died.

**HB 5481. AN ACT ESTABLISHING THE CENTRAL OFFICE OF ADMINISTRATIVE HEARINGS.**

House Bill 5481 proposed to place a Central Office of Administrative Hearings ("COAH") within the OGA, and transfer the hearings functions (including legal and administrative staff) of a multitude of agencies, such as the Department of Transportation, Commission on Human Rights & Opportunities, Department of Children & Families, FOI Commission, SEEC and OSE

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<sup>9</sup> A similar proposal was submitted by the Governor's Office in 2013 exempting all records (*e.g.*, applications, reports and records) provided to the Board for its consideration in connection with the granting of a pardon. See Senate Bill 846, *An Act Decreasing Recidivism and Promoting Responsible Reintegration*. Senate Bill 846 made it out of committee, but was later recommitted by the Senate to the Judiciary committee.

<sup>10</sup> Pursuant to Section 1-200(6) of the FOI Act, an agency may enter into executive session to discuss any matter that would result in disclosure of the information in public records that are exempt from disclosure.



into COAH. Under the proposal, hearings would be conducted, and final decisions issued, under the authority of a Chief Administrative Law Judge who would be appointed, and subject to removal, by the Governor.<sup>11</sup>

The FOI Commission argued that the proposed model in HB 5481 threatened the independence of the FOIC and other watchdog agencies. The proposal disregarded the core independent missions of the watchdog agencies and failed to incorporate or to take into account the practices and procedures under which these agencies operate under existing statute and regulation. The creation of COAH would also result in additional financial costs without a demonstrated need for this new agency. In addition, the proposal would result in unnecessary conflicts because future complaints against state agencies would be reviewed and heard by staff that can be hired and fired by a gubernatorial appointee. The FOI Commission would also have jurisdiction over the COAH, its personnel and the Chief Administrative Law Judge. The creation of the COAH would also deprive CT citizens of the specialized expertise of the individuals who currently work for the FOI Commission, OSE and SEEC.

Other individuals and entities opposing the bill included SEEC, OSE, CCFOI, the Society of Professional Journalists (CT Chapter), the Judicial Branch, Council 4 AFSCME, League of Women Voters of Connecticut and the Governor's Office.

Significantly, at the time of the public hearing on House Bill 5481, the proponents of the bill recommended an amendment eliminating the FOI Commission, SEEC, OSE and the Judicial Review Council from the proposal. The bill never made it out of the GAE committee.

### **UNFAVORABLE RESULTS - BILLS DEFEATED**

#### **HB 5124. AN ACT CONCERNING THE PRESERVATION OF HISTORICAL RECORDS AND ACCESS TO RESTRICTED RECORDS IN THE STATE ARCHIVES.**

House Bill 5124 required the preservation of records of historical value and lifted restrictions on access to government and medical records after a certain amount of time has passed.

Specifically, with respect to medical records, House Bill 5124 lifted any prohibition against viewing a medical record that has been deposited in the state archives, *50 years* after the death of the individual who is the subject of such record. With increased access to such records, there

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<sup>11</sup> House Bill 5481 is very similar to a proposal raised during the 2013 legislative session. House Bill 6354, *An Act Implementing the Governor's Budget Recommendation* (sections 131, 133 and 141) sought to transfer the staff and substantive functions from the FOI Commission and other watchdog agencies into a new legal and enforcement division (*i.e.*, Office of Hearings). This new division would have authority over the conduct of hearings and issuance of decisions for those independent agencies. In addition, the Office of Hearings would be overseen by a gubernatorial appointee. Fortunately, the General Assembly recognized that House Bill 6354 was ill-considered and failed.

would be greater transparency in government and historians would be able to conduct valuable historical research.<sup>12</sup>

Opponents of the bill including the Department of Mental Health and Addiction Services argued that disclosure of such records would be an invasion of privacy of the deceased and their family members and would result in discrimination against relatives of the deceased. They suggested redacting the names of the deceased individuals. However, supporters of the bill maintained that having access to the names is critical in order to have a full understanding of the past and any impact information acquired through historical research may have on the present and future. Supporters of the bill also argued that the language of the bill mirrors the federal standard from which we should not deviate.<sup>13</sup> In addition, they argued that the State Library would be unduly burdened if required to redact names or other identifying information from all medical records archived at the Library.

House Bill 5124 made it out of the GAE committee with an amendment requiring that the deceased individual's name, address and social security number be redacted before the records were released. The bill was never taken up by the House.

**HB 5127. AN ACT DEFINING THE UCONN FOUNDATION AS A PUBLIC AGENCY FOR PURPOSES OF THE FREEDOM OF INFORMATION ACT AND REQUIRING AUDITING OF THE FOUNDATION BY THE AUDITORS OF PUBLIC ACCOUNTS.**

House Bill 5127 proposed to subject the UConn Foundation to the FOI Act including access to the foundation's books and records maintained by the University of Connecticut. In addition, the bill proposed to subject the UConn Foundation to audits by the Auditors of Public Accounts.

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<sup>12</sup> Notably, in 2011, the General Assembly passed Public Act 11-242, *An Act Concerning Various Revisions to Public Health Related Statutes* that expanded the privileged communications exemption in the FOI Act to exempt from disclosure certain records containing privileged communications relating to the doctor-patient relationship and therapist-patient relationship, among others. *See* Conn. Gen. Stat. §1-210(b)(10). Such exemption may apply to certain medical records maintained by state agencies such as the Department of Mental Health and Addiction Services.

<sup>13</sup> In January 2013, the definition of "protected health information" in HIPAA was modified to provide that the Privacy and Security Rules do not protect the individually identifiable health information of persons who have been deceased for more than 50 years. *See* Federal Register, Final Rule (Vol. 78, No.17) and Omnibus Rule, *Modifications to the HIPAA Privacy, Security, Enforcement, and Breach Notification Rules Under the Health Information Technology for Economic and Clinical Health Act and the Genetic Information Nondiscrimination Act; Other Modifications to the HIPAA Rules* (<http://federalregister.gov/a/2013-01073>).

Supporters of the bill, including the FOI Commission and CCFOI, argued that arrangements between the UConn Foundation and the University are part of the conduct of the public's business and ought to be subject to greater scrutiny under the FOI Act.

The UConn Foundation maintained that the foundation's ability to fulfill its purpose would be negatively impacted and its fundraising dramatically curtailed if House Bill 5127 were enacted. See Written Testimony of Joshua Newton, President and CEO of the UConn Foundation, submitted to the GAE committee (dated February 19, 2014). The foundation contended that specifically exempting the UConn Foundation from the FOI Act is crucial to safeguard donor privacy and advance the foundation's mission. According to UConn, if greater information concerning donors is subject to public disclosure, it would have a chilling effect on the foundation's ability to fundraise. Supporters of the bill, such as the FOI Commission and CCFOI, argued that the public should have the right to access information to determine whether UConn and the UConn Foundation have properly allocated resources and transacted business appropriately. Further, if there are concerns regarding disclosure of proprietary and commercial information, the foundation can avail itself of exemptions already existing in the FOI Act.

House Bill 5127 never made it out of the GAE committee. Notably, amendments proposing similar language were offered by Senator Michael McLachlan (R-24<sup>th</sup> District) on various unrelated bills that were never called. See LCO ## 4348, 4344, 4346 and 4349.

### **NEUTRAL - BILLS PASSED**

#### **HB 5125; P.A. 14-34. AN ACT LIMITING ACCESS TO CERTAIN INFORMATION REGARDING PROBATION OFFICERS UNDER THE FREEDOM OF INFORMATION ACT.**

As originally written, House Bill 5125 provided a blanket prohibition on the disclosure of "personnel or medical files or similar files" including discrimination complaints and security investigations concerning probation officers (both current and former) to individuals under the supervision of the Court Support Services Division or certain individuals committed to the custody or supervision of the Commissioner of Correction.

The proponents of the bill contended that the proposal was necessary to prevent intimidation and harassment of probation officers by criminal offenders on probation and those who have violated their probation. The FOI Commission, however, argued that the proposal was unnecessary because there is already an exemption contained in the FOI Act providing for the non-disclosure of personnel, medical or similar files that, if disclosed, would constitute an invasion of personal privacy. See Conn. Gen. Stat. §1-210(b)(2).

In an attempt to address both the FOI Commission's and the probation officers' concerns, the Commission and the probation officers reached an agreement to narrow the scope of the proposal in a manner that coincides with the existing exemption in §1-210(b)(2), G.S. The bill that passed the General Assembly exempts *only* personal information *not related* to the probation officer's duties or employment, including dates of birth, social security numbers, current and former e-

mail addresses, telephone numbers, home addresses, photographs and driver's license information.

A similar bill – Senate Bill 387, *An Act Concerning the Nondisclosure of Certain Personnel or Medical File Information of a Probation Officer to a Person who is under Probation Supervision* – did not make it out of the Judiciary committee.