



Legislative Testimony
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**Written Testimony Opposing House Bill 5175,
An Act Concerning Appeals Under the Freedom of Information Act and
Opposing House Bill 5177, An Act Concerning Employee Notification of Requests
Made Under the Freedom of Information Act**

Senator McLachlan, Senator Flexer, Representative Fox, and distinguished members of the Government Administration and Elections Committee:

My name is Kaley Lentini, and I am legislative counsel for the American Civil Liberties Union of Connecticut (ACLU-CT). I am here to testify in opposition to House Bill 5175, An Act Concerning Appeals Under the Freedom of Information Act and in opposition to House Bill 5177, An Act Concerning Employee Notification of Requests Made Under the Freedom of Information Act. As an organization committed to government for and by the people, the ACLU-CT strongly supports robust, accessible Freedom of Information systems.

Injustice thrives in the dark. The ability to shed sunlight on government action through Freedom of Information requests is essential to holding public officials accountable and to preventing state-sanctioned discrimination, abuse, and mismanagement. When a member of the public believes that the government has unjustly denied a Freedom of Information request, he or she should be able to quickly and easily seek recourse.

The net effect of H.B. 5175, however, would be to stifle government transparency and accountability. By requiring members of the public to pay up front to appeal a denied Freedom of Information request and requiring mediation rather than a hearing by the Freedom of Information Commission in certain circumstances, this proposal would reward bad government behavior while punishing public attempts to secure transparency. Repeat government offenders would be able to routinely and unjustly deny Freedom of Information requests with impunity, while members of the public seeking transparency would be forced to pay up front to secure justice. Allowing the commission to award relief in the form of not complying with future requests from a so-called "vexatious requestor" for up to a year without any input from the

requestor is not a fair or just outcome. This goes against our democracy's principles of government by and for the people.

The ACLU-CT regularly files Freedom of Information requests in our efforts to ensure that the government upholds our Constitution's promises. Recently, we requested information from all police departments in the state regarding whether they had purchased or used drones or cellphone surveillance devices. Three departments refused to provide us with that information, and we appealed to the Freedom of Information Commission. The Commission ruled in our favor and ordered the departments to provide us with the records that we sought. This appeal process was an important mechanism for us to be able to obtain vital public information. Because of our requests, we—and, more importantly, other members of the public—have a better understanding of the scope of police surveillance programs in Connecticut, which have critical implications for privacy rights. Government transparency is critical to democracy, and Freedom of Information requests are a valuable tool for members of the public to ensure that their governments are working for them.

The ACLU-CT has similar concerns with House Bill 5177, which would require a public agency to notify an employee and a collective bargaining representative if it receives a request to inspect or copy records contained in that employee's files. The current exemption for agency records allows the agency to determine if the disclosure of the records would constitute an invasion of privacy. Though the law does not require an agency to withhold from disclosure the contents of the files when it does not reasonably believe that the disclosure would constitute an invasion of personal privacy, this is what often happens in practice. Therefore, we believe making the notification mandatory will only increase the occurrence of agencies withholding disclosures that do not warrant being withheld and create less transparency.

Because of these reasons, we urge you to oppose both House Bill 5175 and House Bill 5177.