

To: Patricia Gable, General Counsel, Court Administrator's Office
From: Helena Gardner, Legislative Counsel
Re: Act 23 Questionnaire

1) Consolidated diversion exemption

Several Public Records Act exemptions relate to the adult and youth diversion process and related proceedings. The Public Records Study Committee ("Committee") is considering recommending a consolidated diversion-related exemption as follows.¹

(c) The following public records are exempt from public inspection and copying and shall not be released:

* * *

(#) records gathered in the course of a juvenile or adult diversion process and records of diversion proceedings, to the extent provided in 3 V.S.A. § 163 (juvenile diversion process and sealed proceedings); 3 V.S.A. § 164 (adult diversion process and sealed proceedings); and 12 V.S.A. §§ 7106 and 7108 (Windsor County Youth Court diversion proceedings);

Questions:

- Do you object to the draft consolidated diversion exemption?
- If you object to the language, but not to the concept of a consolidated diversion exemption, could you suggest alternative language?

2) Consolidated exemption for records of proceedings of nominating bodies and information from and about candidates

Three exemptions relate to records of proceedings of nominating bodies and information from and about the candidates they consider. The Committee is considering recommending the consolidated exemption below:²

(c) The following public records are exempt from public inspection and copying and shall not be released:

* * *

(#) records of nominating bodies and information from and about the candidates they consider, to the extent provided in 4 V.S.A. §§ 602 and 603 (Judicial Nominating Board proceedings; candidate information) and 18 V.S.A. § 9391 (Green Mountain Care Board Nominating Committee proceedings; candidate information);

Questions:

- Do you object to the draft language above, and if so why?
- If you object only to the language, but not to the concept of this consolidated exemption, could you suggest improvements to the language?

¹ This language is also being sent to Susanne Young of the Attorney General's Office for review.

² This language is also being sent to Sarah London for review.

3) Consolidated expunged and sealed criminal record-related exemption.

Three PRA exemptions relate to expunged or sealed criminal records or related indices. The Committee is considering recommending a consolidated exemption as follows:³

(c) The following public records are exempt from public inspection and copying and shall not be released:

* * *

(#) expunged or sealed criminal records or related indices, to the extent provided in 13 V.S.A. §§ 7041, 7606, and 7607;

Questions:

- Do you object to any or all of the above draft consolidated exemption, and if so, why?
- If you object only to the language of the consolidated exemption but not to the general concept, could you offer suggestions to improve the language?

4) Records related to juvenile judicial proceedings

Numerous PRA exemptions relate to juvenile judicial proceedings. The Committee is considering recommending the consolidated juvenile judicial proceeding exemption below, which is intended to be flexible to accommodate the many variations across these exemptions:⁴

(c) The following public records are exempt from public inspection and copying and shall not be released:

* * *

(#) records related to juvenile judicial proceedings, to the extent provided in 33 V.S.A. § 5117 (reports and files concerning a person subject to juvenile judicial proceedings); 33 V.S.A. § 5118 (notice to school officials that child has conducted a delinquent act requiring notice); 33 V.S.A. § 5119 (sealed juvenile delinquency records; special index of files or records that have been sealed; motion to unseal; victim information); 33 V.S.A. § 5201 (files related to withdrawn delinquency petition); 33 V.S.A. § 5204 (person under age 16 tried as an adult but acquitted; records of hearing regarding transfer to Criminal Division); 33 V.S.A. § 5205 (fingerprint files); 33 V.S.A. § 5234 (notice to victim prior to juvenile release; name of facility); 33 V.S.A. § 5282 (report from DCF as to whether a defendant should be treated as a youthful offender); 33 V.S.A. § 5287 (court records of youthful offender when youth successfully completes probation and offender status is terminated); 33 V.S.A. § 5309 (files related to a withdrawn petition that a child is in need of care or supervision);

Questions:

- Do you object to any or all of the above draft consolidated exemption?
- If you object only to the language of the consolidated exemption but not to the concept, could you offer suggestions to improve the language?

³ I am also sending this language to Rosemary Gretkowski.

⁴ I am also sending this language to Ken Schatz of AHS.