

Vermont Legislative Council

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MEMORANDUM

To: Rep. Mike Fisher, Chair, House Committee on Health Care
Sen. Claire Ayer, Chair, Senate Committee on Health and Welfare

From: Public Records Study Committee

Date: January #, 2015

Subject: Public Records Act exemptions

The Public Records Study Committee (Committee) was created in 2011 and charged with reviewing all of the statutory exemptions to the Public Records Act, and recommending whether each exemption should be amended, repealed, or kept in its existing form.

Over the last several years, the Committee has fulfilled its charge and, in doing so, has concluded that some exemptions raise issues more appropriately addressed by the relevant committees of jurisdiction.

Below is a description of an exemption that the Committee recommended be reviewed by the House Committee on Health Care and the Senate Committee on Health and Welfare.

We thank you in advance for considering our recommendation.

13 V.S.A. § 3504(g) (information collected in support of investigations regarding illness, disease, or death likely to have been caused by a weapon of mass destruction)

13 V.S.A. § 3504 requires:

- health care providers to report to the Commissioner of Health cases of illnesses, diseases, injuries, or death likely to be caused by a weapon of mass destruction;
- pharmacists to report unusual or increased prescription requests or unusual trends in pharmacy visits “that may result from bioterrorist acts, epidemic or pandemic disease, or novel and highly fatal infectious agents or biological toxins”; and
- veterinarians and livestock owners to report animal diseases (or suspected diseases) that “can result from bioterrorism, epidemic or pandemic disease, or novel and highly fatal infectious agents or biological toxins....”

Subsection (g) of this section provides that “[i]nformation collected pursuant to this section and in support of investigations and studies undertaken by the commissioner in

response to reports made pursuant to this section shall be privileged and confidential” but that “[t]his subsection shall not apply to the disclosure of information to a law enforcement agency for a legitimate law enforcement purpose.”

At its October 10 meeting, the Committee heard from witnesses from the Departments of Health and of Public Safety to learn if this provision had been used and, if so, if the Departments viewed the language as preventing all investigation information from being released for all time. At this hearing, questions arose as to:

- i. whether investigations under this section should be subject to the same standards as criminal detection and investigation standards generally, under 1 V.S.A. § 317(c)(5);
- ii. whether the exemption should be time-limited; and
- iii. whether the definition of “weaponized biological or biologic warfare agents” at 13 V.S.A. § 3501, which is itself used in the definition of “weapon of mass destruction,” should be updated.

Because these questions more properly fall under the purview of the committees of jurisdiction, the Committee recommended that your committees (as well as the Committees on Judiciary) review 13 V.S.A. §§ 3501 and 3504 in light of the questions above to determine if any amendments would be appropriate.