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To: House Government Operations Committee
From: Lindsey Owen, Staff Attorney, Disability Rights Vermont
Re: H. 18 Personal Information Exemption
Date: February 12, 2015

Disability Rights Vermont is the Protection and Advocacy System for the State of Vermont. We are a nonprofit legal organization federally mandated to advance and defend the rights of individuals with disabilities. We are also the designated Mental Healthcare Ombudsman for the State. Part of our work requires investigating and pursuing complaints against state agencies, places of public accommodation, employers and others for violating these individuals' rights. Thank you for inviting DRVT to testify on H.18 related to Public Records Access. In light of our work, DRVT understands the competing interests of ready access to public records and the importance of protecting individual privacy.

In preparation for today's testimony we have looked over the bill, the current law and the comments that have been submitted. DRVT will comment on Section 20 and 21 of the bill related to the personal records exemption found at 1 VSA 317(c)(7). Based on our review, DRVT has not identified any likely benefit to incorporating the amendment to current law proposed by this part of H. 18. DRVT is not aware of any problems with the law's current implementation. We are not aware of any bad outcomes resulting from judicial involvement that would be different if this amendment would be passed.

DRVT does find that the current statute, as interpreted by the Courts, appears to bring the right balance to when records must be disclosed in the public interest and is the best available alternative to satisfy the legislative intent to maximize access to public records while protecting individual privacy rights. Unfortunately, DRVT suggests that there is no easy way to define the balance inherent in the statute and legislative intent in terms of when public records that include employee personal information can be disclosed pursuant to a Public Records Act request. To address what we understand is the concern that is raised by this part of the proposed amendment, that municipal and state employees are confused about how to respond to Public Record Act requests that implicate documents that have personal information in them, DRVT suggests rather than amend the statute (which may cause more not less confusion), the legislature request that the Secretary of State and Attorney General provide educational materials and training to municipal employees reflecting the clarity that is available in the case law to help them respond to these requests.

Thank you for the opportunity to comment on H. 18. Please contact either myself or our Executive Director, Ed Paquin, for additional information on this issue or the other work that Disability Rights Vermont performs for Vermonters with disabilities.

DRVT is the protection and advocacy system for the State of Vermont.

DRVT is the Vermont Mental Health Care Ombudsman.

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