

Chloe White – April 11, 2018

ACLU-VT Language for Senate Gov Ops re: H. 910

These changes are rather minor but will make a huge difference for public records requests in Vermont.

Inspection: “Unless otherwise provided by law, a public agency shall not charge or collect a fee in response to a request to inspect a public record.”

Fee waivers: “The agency or official having custody or control of a public record subject to a request under this section shall [or may] waive part or all of the total fee charged if

- A. The requester is indigent; or
- B. Disclosure of the information is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government and is not primarily in the commercial interest of the requester.”

Fee waiver after petitioner is successful in lawsuit or head of agency reverses denial on appeal: the gist should be “Any fees assessed for the production of the public record must be waived if

- A. The head of an agency reverses a denial on appeal; or
- B. A court overturns a denial”

Penalty for willful violation of the law: “For every willful violation of the public records chapter, the agency whose employee committed the violation shall be liable for a civil violation for not more than \$2000.”

Definition of case – addition to 1 V.S.A. §319: “As used in this section, ‘case’ means the beginning of an attorney’s involvement in a request through the resolution of a request, including a lawsuit and negotiations for a settlement.” (this language could be modified to conform more with how these terms are used in VT law)

Exemption sunset: “In the 5th year after enactment of a new exemption or substantial amendment of an existing exemption, the exemption shall be repealed on July 1 of the 5th year, unless the Legislature acts to reenact the exemption. A law that enacts a new exemption or substantially amends an existing exemption must state that the record or meeting is repealed at the end of 5 years and that the exemption must be reviewed by the Legislature before the scheduled repeal date.”