COALITION FOR SENSIBLE PUBLIC RECORDS ACCESS

Date: May 1, 2026
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House and Senate Commerce and Economic Development Committees
Members of the Vermont Legislature
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Re: **Comments on H. 211 and the House Amendment to S. 71**

Who We Are

The Coalition for Sensible Public Records Access (CSPRA) is a non-profit organization dedicated to promoting the principle of open public records access to ensure individuals, the press, advocates, and businesses the continued freedom to collect and use the information made available in the public record for personal, governmental, commercial, and societal benefit. Members of CSPRA are just a few of the many entities that comprise a vital link in the flow of information for these purposes and provide services that are widely used by constituents in your state. Collectively, CSPRA members alone employ over 75,000 persons across the U.S. The economic and societal activity that relies on entities such as CSPRA members is valued in the trillions of dollars and employs millions of people. Our economy and society depend on value-added information and services that includes public record data for many important aspects of our daily lives and work, and we work to protect those sensible uses of public records. This letter is supplemental to that which we submitted last year, and which is attached for reference. Please keep us informed on any opportunity to testify about the bill via video conference.

We support a More Standard Publicly Available Information (PAI) Exemption

The H.211 and the House Amendment to S.71 have a definition of Publicly Available Information (PAI) that excludes several categories of information that will make Vermont an outlier among states. These exceptions go far beyond the statutory frameworks for public records and other public information as well as the ULC Model Act and all other comprehensive state privacy statutes and associated rules. This narrower PAI definition makes compliance harder and leaves holes in the information on which the public depends that will both harm societally beneficial uses of the data and allow malign actors to use deletion requests in harmful

ways. We support the broad, clean, and compatible definition of PAI that is in the Senate passed version of S. 71.

Sections (B) (iii), (iv), and (vi) on Page 11 of H. 211 and Page 14 of the House Amendment to S.71 are particularly problematic. We will address them one at a time and recommend striking all three from both bills.

Making Public Data Private If It Is Sold

Subsection (B)(iii) turns PAI into private data if the information is made available for sale. Every day, Vermonters rely on a myriad of services that depend on PAI that is organized and made useful by private entities that sell their services and that PAI data as a part of that service. Vermont consumers and businesses alike depend on these value-added services for everyday work, transactions, and protections. Not only would this clause harm the delivery of this myriad of services, but it would also fatally undermine the people's right to use public records in lawful and productive ways which is protected by both Constitutional and common law. The Public Record does not stop being public because it was organized into a fee-based service. It is still a ground source of truth that must be protected from deletion and preserved for societally useful and lawful purposes.

Making Inferences Private Data If Derived from Purchased Public Data

Subsection (B)(iv) makes inferences made from PAI private if the information used to make the inference is purchased. This clause compounds the problems caused by Subsection (B)(iii). Making inferences from PAI needs to be preserved as a matter of free speech and one of the critical uses that the Constitution, States, and local governments intend when they provide public information and the right to free speech about it. We need our citizenry and businesses making inferences from this information to make our society work. To put limits on lawful inferential uses of such information effectively nullifies their public nature and use. The purpose of obtaining public records is not just to disseminate them but to **use them**. One cannot use that information without making inferences about what the information implies.

For example, an if elected official owns property and the roads in front of the property received improvements and maintenance that were outside normal procedures, a citizen should be allowed to make the inference that the elected official may have received special treatment and protect that inference from deletion by the elected official. Another example is where a person appears in commercial database as having several judgements and liens against them for non-payment of debts and unpaid court ordered payments to successful plaintiffs and owns property. A third party who has been asked to extend credit to or do business with this person should be able to infer they are a bad credit and business risk and that inference should be protected from restriction by the subject of the inference. There are thousands of inferences made from public records every day that are lawful and part of the reason we make public records available for public use. Saying that members of the public cannot make and keep inferential judgements about the information they receive not only violates their right of free speech, but it also violates their right to have thoughts.

Combining Public Records, Other Publicly Available, and Personal Data Should Not Change the Public Data Into Personal Information

Subsection (B)(vi) makes PAI private when combined with other personally identifiable information (PII) and records. Such an exception has Constitutional First Amendment commercial speech implications. Non-standard and constitutionally suspect language will make compliance a significant issue of concern, raise practical and cost issues to implement, and have detrimental effects on those who use and rely on services that depend, in part, on public records. The result is that the exception limits the use of public records and other PAI because they are in a database that has been combined with PII.

Not only does this exception go beyond the plain language of other statutes and models, but it is also unclear what purpose this prohibition serves. Persons already have rights related to personal data under these proposed privacy laws. Combining data does not convert or change the publicly available parts of such information into covered personal data, nor should it. Allowing an individual to delete and opt out of having lawful public records about them used or to demand that they be allowed to have opt-out or deletion rights on such information defeats the purpose of having a public record and a PAI exemption. Allowing these public records and PAI to be deleted and their use to be restricted would undermine and destroy numerous essential uses of these records by organizations as well as by the government itself as a purchaser of data services from the private sector.

Government agencies partner with private industry to effectuate public needs such as child support and tax collection, law enforcement, judicial processes, and land use planning and zoning. Persons should not be able to delete facts about themselves that people and businesses have a right to know and use in making decisions ranging from the personal to the commercial. This could endanger the lives of citizens as many safety systems in areas such as transportation, employment, and protection of vulnerable persons combine public and private data. For example, a person with a public history of stalking and domestic violence could force a dating site to remove those facts from their security and safety systems because that data is comingled. Keeping public data in a database even if associated private data is allowed to be deleted keeps essential facts available for essential societal purposes and makes compliance with the law less burdensome.

Compliance and Alignment

In addition to the constitutional and operational concerns that these three provisions pose, it is also important to reinforce the fact that these proposed exceptions would significantly deviate from all other comprehensive privacy laws that are in effect across the country and in New England. This would lead to enormous compliance obligations that do not currently exist in other jurisdictions. It would put an undue burden on small and medium sized Vermont businesses to comply with these Vermont-only provisions. Many organizations have invested significantly in compliance programs that can be applied across jurisdictions; the proposed exceptions above would make this approach impossible.

Protect Legal and Beneficial Uses of Public Records

Information is so intricately embedded in so many aspects of life and commerce that it is difficult to predict all the ways a change in information policy will affect various people, products, services, uses, and government functions. CSPRA has tracked such policies over the last three decades and we often see many unintended consequences of limits on access and use of public records and PAI. Our suggestions in this letter are aimed at preventing those kinds of consequences while still protecting privacy and consumers.

Thank you for your consideration of our input.

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A non-profit organization dedicated to promoting the principle of open public records access to ensure individuals, the press, advocates, and businesses the continued freedom to collect and use the information made available in the public record for personal, commercial, and societal benefit.