

**Testimony from Jordan Day, Associate Director
H 5442 / H 5454 – Relating to Public Records – Access to Public Records
House Committee on State Government & Elections – April 5, 2023**

Thank you, Chairperson Euer and members of the committee, for the opportunity to submit testimony with our thoughts on legislation that would amend the Access to Public Records Act (APRA).

We appreciate the sponsors' efforts to ensure that state law regarding public records keeps up with the advancement of relevant technology and changes to how government operates. The proposed amendments do present some significant concerns that our members believe would make it increasingly difficult to implement at the local level. This expansion sets up our current municipal staff responsible for gathering and complying with APRA for failure, especially given the shortened timelines and decreased fees. Further, the newly created exception without standards ends up swallowing the rule. Time spent gathering and redacting documents is done in the best interest of all parties and should be able to be accounted for in processing these types of requests.

Our main concern is that the expansion of applicable public records has the potential to violate due process. The purpose of documents reviewed in internal investigations is that they are intended to be exploratory, determine if there has been any wrongdoing and serve as guidance ahead of a final report on the investigation. While the proposed amendment outlines some potential exemptions, these documents are intended to be internal to protect the municipality as well as the victims and related members of the public.

The purpose of ARPA is "to facilitate public access to public records... [and]... to protect from disclosure information about particular individuals maintained in the files of public bodies when disclosure would constitute an unwarranted invasion of personal privacy." The proposed amendments directly conflict with this purpose by making internal affairs documents public records, innately having the increased potential to create an "unwarranted invasion of personal privacy." Our members have advocated for increased accountability for law enforcement officers through modifications to the Law Enforcement Officers Bill of Rights (LEOBOR). All public employees, regardless of the type of position, are eligible for internal review and those documents are confidential under state law, federal law and basic due process. This amendment creates a new standard for law enforcement officers that no other public employee is held to. We do not believe it is the intention of the sponsor to diminish the right to privacy for any public employee but to increase transparency for the public good.

We ask that the committee hold this bill for further study so that we can work with the sponsor to improve upon the language to address our concerns. Thank you for your consideration of our views.