

Testimony of Common Cause Rhode Island in support of H 5454--An Act Relating to Public Records--Access to Public Records Act

Common Cause Rhode Island supports H 5454, a comprehensive set of amendments to the Access to Public Records Act (APRA).

The Access to Public Records Act is one of the primary tools for government accountability in Rhode Island. Like all tools it must be kept in working condition. These amendments do that by making changes that, among other things, deal with emerging technologies, correct some precedents that aren't in the public interest, and codify important changes already occurring in practice.

This testimony will not catalog all of the changes to the APRA proposed in H 5454. Instead, it will focus on changes that reduce the costs for the public to obtain records, and increase the fines for noncompliance.

§ 38-2-4(a) reduces the cost of a public record from fifteen to five cents per page. The person requesting the record should pay the actual cost of the copy. This change is made to reflect that goal.

§ 38-2-4(b) increases the minimum free search from one to two hours. It also excludes from the charge any time spent redacting documents or preparing a denial of a request. The public should not have to bear the cost of information that is being withheld.

§ 38-2-4(b) expands the section that allows the requester to seek a waiver of charges. Currently only a court must consider a request for a public interest waiver. That is expanded to include the public body and the Attorney General. While the current statute gives discretion to grant a waiver, the amended language requires that the public body, Attorney General, or court weigh whether the request is in the public interest. Finally, it grants a right to appeal any denial of a public interest waiver.

When governments inappropriately withhold public documents from the public they should face consequences. That is why § 38-2-9(d) raises the fines that can be levied against public bodies and officials who commit knowing and willful or reckless violations of the APRA. It also grants Superior Court the ability to impose fines of up to \$100 per day that records were withheld from the public. These penalties put significant teeth in the statute.

There are many other equally important changes in H 5454. Common Cause Rhode Island urges the committee to give it your consideration.