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March 19, 2024

The Honorable Evan P. Shanley, Chair  
House Committee on State Government and Elections  
State House  
82 Smith St  
Providence, RI 02903

**RE: H 7181 – An Act Relating to Public Records – Access to Public Records**

Dear Chair Shanley:

Please accept this letter in opposition to H 7181, legislation that would make significant changes to the Access to Public Records Act (APRA).

The Rhode Island Department of Health (RIDOH) believes that the current statutory scheme for requesting public records under APRA is appropriate, uncomplicated, and serves the public interest. RIDOH has an established centralized process to meet the demands of responding to more than 500 APRA requests that RIDOH receives annually across numerous divisions. The proposed amendments would not result in significantly greater public access, will impose onerous additional requirements, and will effectively function as an unfunded mandate.

The below outlines specific concerns about this proposed legislation from RIDOH's perspective:

**Amendments to R.I. Gen. Laws § 38-2-2**

- Subsection (P)
  - Creates an added layer of confusion because agencies already have discretion to release non-public records.
  - Includes ambiguous language including “upon good cause shown” and “completion of formal notification.”
- Subsection (Y)
  - May serve to impede ongoing investigations.
  - RIDOH sends and receives numerous subpoenas to federal and state agencies, could be used to circumvent investigatory privileges.

### **Amendments to R.I. Gen. Laws § 38-2-3**

- Subsection (b)
  - Would require an extraordinary amount of additional work without providing necessary additional resources.
  - Would require disclosure of non-public information, such as the existence of a confidential investigation.
  
- Subsection (c)
  - Would be better dealt with separately within the context of the Open Meetings Act.
  - Broadly expands the scope of public documents without regard to any exemptions under the Open Meetings Act.
  
- Subsection (e)
  - In-person requests invite risks of miscommunication and mistakes.
  - Allows public records requesters to bypass RIDOH's Public Records Officer altogether by delivering the request to any RIDOH employee, of which there are more than 500.
    - RIDOH's Public Records Officer is responsible for recording, monitoring, and responding to all APRA requests that RIDOH receives, which exceed 500 requests each year.
    - Establishing a new system that holds other RIDOH employees accountable (as opposed to only RIDOH's Public Records Officer) for APRA requests would likely confuse the public and result in un-centralized, uncoordinated, and scattered accountability by RIDOH for recording, monitoring, and responding to APRA requests.
    - Would also lessen current economies of scale, resulting in increased costs for RIDOH as RIDOH would have to establish multiple new internal systems for responding to such requests.
  
- Subsection (f)
  - Effectively destroys any meaningful expectation for compliance with written processes and invites public requesters to create and adhere to their own rules.

### **Amendments to R.I. Gen. Laws § 38-2-4**

- Subsection (e)
  - Agencies already have discretion related to whether to require payments.
  - Invites abuse through voluminous records requests by creating an arbitrary standard for "public interest."

Thank you for the opportunity to comment on the proposed legislation.

Sincerely,

A handwritten signature in cursive script, appearing to read "Utpala Bandy", followed by the word "for" in a smaller, simpler font.

Utpala Bandy, MD, MPH  
Interim Director

CC: The Honorable Members of the House Committee on State Government & Elections  
The Honorable Patricia A. Serpa  
Nicole McCarty, Esquire, Chief Legal Counsel to the Speaker of the House  
Lynne Urbani, Director of House Policy