

**LEAHY-CORNYN OPENNESS PROMOTES EFFECTIVENESS IN OUR
NATIONAL GOVERNMENT ACT OF 2007 (“OPEN GOVERNMENT ACT”)**

Led by U.S. Senators Patrick Leahy and John Cornyn , the OPEN Government Act of 2007 is a bipartisan effort to achieve meaningful reforms to federal government information laws – including, most notably, the Freedom of Information Act of 1966 (“FOIA”). The legislation would substantially enhance and expand the accessibility, accountability, and openness of the federal government. It has been nearly a decade since Congress has approved major reforms to FOIA.

This legislation is the culmination of extensive discussions between the offices of Senators Leahy and Cornyn and various members of the requestor community. The bill is supported by a broad coalition of organizations across the ideological spectrum, including:

American Association of Law Libraries	The Freedom of Information Foundation of Texas
American Civil Liberties Union	The Heritage Foundation/Center for Media and Public Policy
American Library Association	Information Trust
American Society of Newspaper Editors	National Conference of Editorial Writers
Associated Press Managing Editors	National Freedom of Information Coalition
Association of Health Care Journalists	National Newspaper Association
Center for Democracy & Technology	National Security Archive/George Washington University
Coalition of Journalists for Open Government	Newspaper Association of America
Committee of Concerned Journalists	People for the American Way
Education Writers Association	Project on Government Oversight
Electronic Privacy Information Center	Radio-Television News Directors Association
Federation of American Scientists/Project on Government Secrecy	The Reporters Committee for Freedom of the Press
Free Congress Foundation/Center for Privacy & Technology Policy	Society of Environmental Journalists
Freedom of Information Center, University of Missouri	

The bill contains important Congressional findings to reiterate and reinforce the view that the Freedom of Information Act establishes a presumption of openness, and that our government is based not on the need to know, but upon the fundamental right to know. The bill also contains over a dozen substantive provisions, designed to achieve the following four objectives:

- (1) Strengthen FOIA and close loopholes.
- (2) Help FOIA requestors obtain timely responses to their requests.
- (3) Ensure that agencies have strong incentives to act on FOIA requests in a timely fashion.
- (4) Provide FOIA officials with all of the tools they need to ensure that our government remains open and accessible.

STRENGTHEN FOIA AND CLOSE LOOPHOLES

- Ensure that FOIA applies when agency recordkeeping functions are outsourced.
- Establish a new open government impact statement, by requiring that any future Congressional attempt to create a new FOIA exemption be expressly stated within the text of the legislation.
- Impose annual reporting requirement on usage of the DHS disclosure exemption for critical infrastructure information.
- Protect access to FOIA fee waivers for legitimate journalists, regardless of institutional association – including bloggers and other Internet-based journalists.
- Provide reliable reporting of FOIA performance, by requiring agencies to distinguish between first person requests for personal information and other kinds of requests.

HELP FOIA REQUESTORS OBTAIN TIMELY RESPONSES

- Establish FOIA hotline services, either by telephone or on the Internet, to enable requestors to track the status of their requests.
- Create a new FOIA ombudsman, located at the Administrative Conference of the United States, to review agency FOIA compliance and provide alternatives to litigation.
- Restore the catalyst theory for the recovery of attorney fees when litigation is inevitable.

ENSURE THAT AGENCIES HAVE STRONG INCENTIVES TO ACT ON FOIA REQUESTS IN TIMELY FASHION

- Restore meaningful deadlines for agency action by ensuring that the 20-day statutory clock runs immediately upon the receipt of the request.
- Impose real consequences on federal agencies for missing statutory deadlines.
- Enhance authority of the Office of Special Counsel to take disciplinary action against government officials who arbitrarily and capriciously deny disclosure.
- Strengthen reporting requirements on FOIA compliance to identify agencies plagued by excessive delay, and to identify excessive delays in fee status determinations.

PROVIDE FOIA OFFICIALS WITH THE TOOLS THEY NEED TO ENSURE THAT OUR GOVERNMENT REMAINS OPEN AND ACCESSIBLE

- Improve personnel policies for FOIA officials to enhance agency FOIA performance.
- Examine the need for FOIA awareness training for federal employees.
- Determine appropriate funding levels needed to ensure agency FOIA compliance.