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for purposes of identification.*

March 19, 2021

The Honorable Andy Beshear  
Governor  
Commonwealth of Kentucky

## VIA EMAIL

Re: House Bill 312

Dear Governor Beshear,

The Reporters Committee for Freedom of the Press (the “Reporters Committee” or “RCFP”) writes to urge you to veto House Bill 312,<sup>1</sup> which recently passed the General Assembly. The Reporters Committee is a nonprofit association whose attorneys provide pro bono legal representation, amicus curiae support, and other legal resources to protect First Amendment freedoms and the newsgathering rights of journalists across the country, including in Kentucky.

Portions of HB 312 appear designed to make it more difficult for members of the press and the public to obtain the records of the Legislative Research Commission (“LRC”), as well as to obtain judicial review of denials of access to such records. *See* HB 312 § 6. Any attempt to legislatively hamper public access to these records is contrary to the public interest. For example, in 2019 the Kentucky Supreme Court addressed a request to the LRC for records related to an employee’s complaint alleging sexual harassment by a state representative—a matter of serious public concern. *See Harilson v. Shepherd*, 585 S.W.3d 748, 750 (Ky. 2019). Indeed, the Kentucky Center for Investigative Reporting has reported on the breadth of sexual harassment within the Kentucky government, and the inconsistent responses thereto. *See* Eleanor Klibanoff, ‘Lack of Good Behavior’? *Kentucky Government’s Inconsistent Response to Sexual Harassment*, Kentucky Center for Investigative Reporting (March 5, 2018), <https://perma.cc/GG2H-PGHR>. Using public records requests and other newsgathering tools, it uncovered at least 130 sexual harassment complaints filed by state employees between 2012 and 2018. *Id.* It is essential that members of the news media and Kentuckians continue to have access to records of all governmental bodies to ensure the public is informed about such issues.

Moreover, and contrary to the LRC’s prior arguments, there is no separation of powers concern implicated by judicial review under the current statutory regime in KRS § 7.119. As the Kentucky Supreme Court unanimously concluded in *Harilson*, “[i]nterpretation of a statute detailing review of a

<sup>1</sup> <https://apps.legislature.ky.gov/record/21RS/hb312.html>

legislative records request is in no way an encroachment on the legislative function, it is a quintessentially judicial function.” 585 S.W.3d at 759. Neutral judicial review of denials of access to government records is an important check that should not be impeded.

For these reasons, the Reporters Committee urges you to veto HB 312, and to ensure Kentuckians have robust access to government records.

Sincerely,

The Reporters Committee for  
Freedom of the Press