



95TH GENERAL ASSEMBLY

State of Illinois

2007 and 2008

HB3446

Introduced 2/27/2007, by Rep. Sara Feigenholtz

SYNOPSIS AS INTRODUCED:

5 ILCS 140/7	from Ch. 116, par. 207
410 ILCS 525/4	from Ch. 111 1/2, par. 6704
410 ILCS 525/9	from Ch. 111 1/2, par. 6709
410 ILCS 525/12	from Ch. 111 1/2, par. 6712

Amends the Illinois Health and Hazardous Substances Registry Act and the Freedom of Information Act. Provides that certain data elements from the Illinois Health and Hazardous Substances Registry, alone or in combination, are confidential, shall not be open to public inspection or dissemination, and are exempt from disclosure under the Freedom of Information Act. Makes a corresponding change in the Freedom of Information Act. Provides that upon approval of an appropriate Institutional Review Board (IRB) or its equivalent on protection of human subjects in research, the Department of Public Health shall release data to researchers for purposes of medical and scientific research. In a Section concerning the annual report to be published by the Department, provides that identification or contact of individuals from public reports or data released under the Freedom of Information Act is prohibited. Provides that the Department shall make available on its web site non-confidential public use databases for easy and direct access and download by the public. Effective July 1, 2007.

LRB095 08750 KBJ 28934 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning public health.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Freedom of Information Act is amended by
5 changing Section 7 as follows:

6 (5 ILCS 140/7) (from Ch. 116, par. 207)

7 Sec. 7. Exemptions.

8 (1) The following shall be exempt from inspection and
9 copying:

10 (a) Information specifically prohibited from
11 disclosure by federal or State law or rules and regulations
12 adopted under federal or State law.

13 (b) Information that, if disclosed, would constitute a
14 clearly unwarranted invasion of personal privacy, unless
15 the disclosure is consented to in writing by the individual
16 subjects of the information. The disclosure of information
17 that bears on the public duties of public employees and
18 officials shall not be considered an invasion of personal
19 privacy. Information exempted under this subsection (b)
20 shall include but is not limited to:

21 (i) files and personal information maintained with
22 respect to clients, patients, residents, students or
23 other individuals receiving social, medical,

1 educational, vocational, financial, supervisory or
2 custodial care or services directly or indirectly from
3 federal agencies or public bodies;

4 (ii) personnel files and personal information
5 maintained with respect to employees, appointees or
6 elected officials of any public body or applicants for
7 those positions;

8 (iii) files and personal information maintained
9 with respect to any applicant, registrant or licensee
10 by any public body cooperating with or engaged in
11 professional or occupational registration, licensure
12 or discipline;

13 (iv) information required of any taxpayer in
14 connection with the assessment or collection of any tax
15 unless disclosure is otherwise required by State
16 statute;

17 (v) information revealing the identity of persons
18 who file complaints with or provide information to
19 administrative, investigative, law enforcement or
20 penal agencies; provided, however, that identification
21 of witnesses to traffic accidents, traffic accident
22 reports, and rescue reports may be provided by agencies
23 of local government, except in a case for which a
24 criminal investigation is ongoing, without
25 constituting a clearly unwarranted per se invasion of
26 personal privacy under this subsection; and

1 (vi) the names, addresses, or other personal
2 information of participants and registrants in park
3 district, forest preserve district, and conservation
4 district programs.

5 (c) Records compiled by any public body for
6 administrative enforcement proceedings and any law
7 enforcement or correctional agency for law enforcement
8 purposes or for internal matters of a public body, but only
9 to the extent that disclosure would:

10 (i) interfere with pending or actually and
11 reasonably contemplated law enforcement proceedings
12 conducted by any law enforcement or correctional
13 agency;

14 (ii) interfere with pending administrative
15 enforcement proceedings conducted by any public body;

16 (iii) deprive a person of a fair trial or an
17 impartial hearing;

18 (iv) unavoidably disclose the identity of a
19 confidential source or confidential information
20 furnished only by the confidential source;

21 (v) disclose unique or specialized investigative
22 techniques other than those generally used and known or
23 disclose internal documents of correctional agencies
24 related to detection, observation or investigation of
25 incidents of crime or misconduct;

26 (vi) constitute an invasion of personal privacy

1 under subsection (b) of this Section;

2 (vii) endanger the life or physical safety of law
3 enforcement personnel or any other person; or

4 (viii) obstruct an ongoing criminal investigation.

5 (d) Criminal history record information maintained by
6 State or local criminal justice agencies, except the
7 following which shall be open for public inspection and
8 copying:

9 (i) chronologically maintained arrest information,
10 such as traditional arrest logs or blotters;

11 (ii) the name of a person in the custody of a law
12 enforcement agency and the charges for which that
13 person is being held;

14 (iii) court records that are public;

15 (iv) records that are otherwise available under
16 State or local law; or

17 (v) records in which the requesting party is the
18 individual identified, except as provided under part
19 (vii) of paragraph (c) of subsection (1) of this
20 Section.

21 "Criminal history record information" means data
22 identifiable to an individual and consisting of
23 descriptions or notations of arrests, detentions,
24 indictments, informations, pre-trial proceedings, trials,
25 or other formal events in the criminal justice system or
26 descriptions or notations of criminal charges (including

1 criminal violations of local municipal ordinances) and the
2 nature of any disposition arising therefrom, including
3 sentencing, court or correctional supervision,
4 rehabilitation and release. The term does not apply to
5 statistical records and reports in which individuals are
6 not identified and from which their identities are not
7 ascertainable, or to information that is for criminal
8 investigative or intelligence purposes.

9 (e) Records that relate to or affect the security of
10 correctional institutions and detention facilities.

11 (f) Preliminary drafts, notes, recommendations,
12 memoranda and other records in which opinions are
13 expressed, or policies or actions are formulated, except
14 that a specific record or relevant portion of a record
15 shall not be exempt when the record is publicly cited and
16 identified by the head of the public body. The exemption
17 provided in this paragraph (f) extends to all those records
18 of officers and agencies of the General Assembly that
19 pertain to the preparation of legislative documents.

20 (g) Trade secrets and commercial or financial
21 information obtained from a person or business where the
22 trade secrets or information are proprietary, privileged
23 or confidential, or where disclosure of the trade secrets
24 or information may cause competitive harm, including:

25 (i) All information determined to be confidential
26 under Section 4002 of the Technology Advancement and

1 Development Act.

2 (ii) All trade secrets and commercial or financial
3 information obtained by a public body, including a
4 public pension fund, from a private equity fund or a
5 privately held company within the investment portfolio
6 of a private equity fund as a result of either
7 investing or evaluating a potential investment of
8 public funds in a private equity fund. The exemption
9 contained in this item does not apply to the aggregate
10 financial performance information of a private equity
11 fund, nor to the identity of the fund's managers or
12 general partners. The exemption contained in this item
13 does not apply to the identity of a privately held
14 company within the investment portfolio of a private
15 equity fund, unless the disclosure of the identity of a
16 privately held company may cause competitive harm.

17 Nothing contained in this paragraph (g) shall be construed
18 to prevent a person or business from consenting to disclosure.

19 (h) Proposals and bids for any contract, grant, or
20 agreement, including information which if it were
21 disclosed would frustrate procurement or give an advantage
22 to any person proposing to enter into a contractor
23 agreement with the body, until an award or final selection
24 is made. Information prepared by or for the body in
25 preparation of a bid solicitation shall be exempt until an
26 award or final selection is made.

1 (i) Valuable formulae, computer geographic systems,
2 designs, drawings and research data obtained or produced by
3 any public body when disclosure could reasonably be
4 expected to produce private gain or public loss. The
5 exemption for "computer geographic systems" provided in
6 this paragraph (i) does not extend to requests made by news
7 media as defined in Section 2 of this Act when the
8 requested information is not otherwise exempt and the only
9 purpose of the request is to access and disseminate
10 information regarding the health, safety, welfare, or
11 legal rights of the general public.

12 (j) Test questions, scoring keys and other examination
13 data used to administer an academic examination or
14 determined the qualifications of an applicant for a license
15 or employment.

16 (k) Architects' plans, engineers' technical
17 submissions, and other construction related technical
18 documents for projects not constructed or developed in
19 whole or in part with public funds and the same for
20 projects constructed or developed with public funds, but
21 only to the extent that disclosure would compromise
22 security, including but not limited to water treatment
23 facilities, airport facilities, sport stadiums, convention
24 centers, and all government owned, operated, or occupied
25 buildings.

26 (l) Library circulation and order records identifying

1 library users with specific materials.

2 (m) Minutes of meetings of public bodies closed to the
3 public as provided in the Open Meetings Act until the
4 public body makes the minutes available to the public under
5 Section 2.06 of the Open Meetings Act.

6 (n) Communications between a public body and an
7 attorney or auditor representing the public body that would
8 not be subject to discovery in litigation, and materials
9 prepared or compiled by or for a public body in
10 anticipation of a criminal, civil or administrative
11 proceeding upon the request of an attorney advising the
12 public body, and materials prepared or compiled with
13 respect to internal audits of public bodies.

14 (o) Information received by a primary or secondary
15 school, college or university under its procedures for the
16 evaluation of faculty members by their academic peers.

17 (p) Administrative or technical information associated
18 with automated data processing operations, including but
19 not limited to software, operating protocols, computer
20 program abstracts, file layouts, source listings, object
21 modules, load modules, user guides, documentation
22 pertaining to all logical and physical design of
23 computerized systems, employee manuals, and any other
24 information that, if disclosed, would jeopardize the
25 security of the system or its data or the security of
26 materials exempt under this Section.

1 (q) Documents or materials relating to collective
2 negotiating matters between public bodies and their
3 employees or representatives, except that any final
4 contract or agreement shall be subject to inspection and
5 copying.

6 (r) Drafts, notes, recommendations and memoranda
7 pertaining to the financing and marketing transactions of
8 the public body. The records of ownership, registration,
9 transfer, and exchange of municipal debt obligations, and
10 of persons to whom payment with respect to these
11 obligations is made.

12 (s) The records, documents and information relating to
13 real estate purchase negotiations until those negotiations
14 have been completed or otherwise terminated. With regard to
15 a parcel involved in a pending or actually and reasonably
16 contemplated eminent domain proceeding under the Eminent
17 Domain Act, records, documents and information relating to
18 that parcel shall be exempt except as may be allowed under
19 discovery rules adopted by the Illinois Supreme Court. The
20 records, documents and information relating to a real
21 estate sale shall be exempt until a sale is consummated.

22 (t) Any and all proprietary information and records
23 related to the operation of an intergovernmental risk
24 management association or self-insurance pool or jointly
25 self-administered health and accident cooperative or pool.

26 (u) Information concerning a university's adjudication

1 of student or employee grievance or disciplinary cases, to
2 the extent that disclosure would reveal the identity of the
3 student or employee and information concerning any public
4 body's adjudication of student or employee grievances or
5 disciplinary cases, except for the final outcome of the
6 cases.

7 (v) Course materials or research materials used by
8 faculty members.

9 (w) Information related solely to the internal
10 personnel rules and practices of a public body.

11 (x) Information contained in or related to
12 examination, operating, or condition reports prepared by,
13 on behalf of, or for the use of a public body responsible
14 for the regulation or supervision of financial
15 institutions or insurance companies, unless disclosure is
16 otherwise required by State law.

17 (y) Information the disclosure of which is restricted
18 under Section 5-108 of the Public Utilities Act.

19 (z) Manuals or instruction to staff that relate to
20 establishment or collection of liability for any State tax
21 or that relate to investigations by a public body to
22 determine violation of any criminal law.

23 (aa) Applications, related documents, and medical
24 records received by the Experimental Organ Transplantation
25 Procedures Board and any and all documents or other records
26 prepared by the Experimental Organ Transplantation

1 Procedures Board or its staff relating to applications it
2 has received.

3 (bb) Insurance or self insurance (including any
4 intergovernmental risk management association or self
5 insurance pool) claims, loss or risk management
6 information, records, data, advice or communications.

7 (cc) Information and records held by the Department of
8 Public Health and its authorized representatives relating
9 to known or suspected cases of sexually transmissible
10 disease or any information the disclosure of which is
11 restricted under the Illinois Sexually Transmissible
12 Disease Control Act.

13 (dd) Information the disclosure of which is exempted
14 under Section 30 of the Radon Industry Licensing Act.

15 (ee) Firm performance evaluations under Section 55 of
16 the Architectural, Engineering, and Land Surveying
17 Qualifications Based Selection Act.

18 (ff) Security portions of system safety program plans,
19 investigation reports, surveys, schedules, lists, data, or
20 information compiled, collected, or prepared by or for the
21 Regional Transportation Authority under Section 2.11 of
22 the Regional Transportation Authority Act or the St. Clair
23 County Transit District under the Bi-State Transit Safety
24 Act.

25 (gg) Information the disclosure of which is restricted
26 and exempted under Section 50 of the Illinois Prepaid

1 Tuition Act.

2 (hh) Information the disclosure of which is exempted
3 under the State Officials and Employees Ethics Act.

4 (ii) Beginning July 1, 1999, information that would
5 disclose or might lead to the disclosure of secret or
6 confidential information, codes, algorithms, programs, or
7 private keys intended to be used to create electronic or
8 digital signatures under the Electronic Commerce Security
9 Act.

10 (jj) Information contained in a local emergency energy
11 plan submitted to a municipality in accordance with a local
12 emergency energy plan ordinance that is adopted under
13 Section 11-21.5-5 of the Illinois Municipal Code.

14 (kk) Information and data concerning the distribution
15 of surcharge moneys collected and remitted by wireless
16 carriers under the Wireless Emergency Telephone Safety
17 Act.

18 (ll) Vulnerability assessments, security measures, and
19 response policies or plans that are designed to identify,
20 prevent, or respond to potential attacks upon a community's
21 population or systems, facilities, or installations, the
22 destruction or contamination of which would constitute a
23 clear and present danger to the health or safety of the
24 community, but only to the extent that disclosure could
25 reasonably be expected to jeopardize the effectiveness of
26 the measures or the safety of the personnel who implement

1 them or the public. Information exempt under this item may
2 include such things as details pertaining to the
3 mobilization or deployment of personnel or equipment, to
4 the operation of communication systems or protocols, or to
5 tactical operations.

6 (mm) Maps and other records regarding the location or
7 security of a utility's generation, transmission,
8 distribution, storage, gathering, treatment, or switching
9 facilities.

10 (nn) Law enforcement officer identification
11 information or driver identification information compiled
12 by a law enforcement agency or the Department of
13 Transportation under Section 11-212 of the Illinois
14 Vehicle Code.

15 (oo) Records and information provided to a residential
16 health care facility resident sexual assault and death
17 review team or the Executive Council under the Abuse
18 Prevention Review Team Act.

19 (pp) Information provided to the predatory lending
20 database created pursuant to Article 3 of the Residential
21 Real Property Disclosure Act, except to the extent
22 authorized under that Article.

23 (qq) Defense budgets and petitions for certification
24 of compensation and expenses for court appointed trial
25 counsel as provided under Sections 10 and 15 of the Capital
26 Crimes Litigation Act. This subsection (qq) shall apply

1 until the conclusion of the trial of the case, even if the
2 prosecution chooses not to pursue the death penalty prior
3 to trial or sentencing.

4 (rr) Information that is prohibited from being
5 disclosed under Section 4 of the Illinois Health and
6 Hazardous Substances Registry Act.

7 (2) This Section does not authorize withholding of
8 information or limit the availability of records to the public,
9 except as stated in this Section or otherwise provided in this
10 Act.

11 (Source: P.A. 93-43, eff. 7-1-03; 93-209, eff. 7-18-03; 93-237,
12 eff. 7-22-03; 93-325, eff. 7-23-03, 93-422, eff. 8-5-03;
13 93-577, eff. 8-21-03; 93-617, eff. 12-9-03; 94-280, eff.
14 1-1-06; 94-508, eff. 1-1-06; 94-664, eff. 1-1-06; 94-931, eff.
15 6-26-06; 94-953, eff. 6-27-06; 94-1055, eff. 1-1-07; revised
16 8-3-06.)

17 Section 10. The Illinois Health and Hazardous Substances
18 Registry Act is amended by changing Sections 4, 9, and 12 as
19 follows:

20 (410 ILCS 525/4) (from Ch. 111 1/2, par. 6704)

21 Sec. 4. (a) There is created the Health and Hazardous
22 Substances Coordinating Council, to be comprised of the
23 following persons ex officio or their designees: Dean of the
24 School of Public Health of the University of Illinois, Director

1 of Natural Resources, Director of Public Health, Director of
2 Labor, Director of Agriculture, Director of the Environmental
3 Protection Agency and the Director of Nuclear Safety.

4 The University of Illinois School of Public Health shall
5 advise the Department in the design, function and utilization
6 of the Registry.

7 (b) To facilitate the collection of cancer incidence
8 information, the Department, in consultation with the Advisory
9 Board of Cancer Control, shall have the authority to require
10 hospitals, laboratories or other facilities to report
11 incidences of cancer and other specified tumorous and
12 precancerous diseases to the Department, and to require the
13 submission of such other information pertaining to or in
14 connection with such reported cases as the Department deems
15 necessary or appropriate for the purposes of this Act. The
16 Department may promulgate rules or regulations specifying the
17 hospitals, laboratories or other facilities which are required
18 to submit information pursuant to this Section, the types of
19 information required to be submitted, methods of submitting
20 such information and any other detail deemed by the Department
21 to be necessary or appropriate for administration of this Act.
22 Nothing in this Act shall be construed to compel any individual
23 to submit to a medical examination or supervision.

24 (c) The Director shall by rule or regulation establish
25 standards or guidelines for ensuring the protection of
26 information made confidential or privileged under law.

1 (d) The identity, or any group of facts that tends to lead
2 to the identity, of any person whose condition or treatment is
3 submitted to the Illinois Health and Hazardous Substances
4 Registry is confidential and shall not be open to public
5 inspection or dissemination and is exempt from disclosure under
6 Section 7 of the Freedom of Information Act. The following data
7 elements, alone or in combination, are confidential, shall not
8 be open to public inspection or dissemination, and are exempt
9 from disclosure under Section 7 of the Freedom of Information
10 Act: name, social security number, street address, email
11 address, telephone number, fax number, medical record number,
12 certificate/license number, reporting source (unless permitted
13 by the reporting facility), age (unless aggregated for 5 or
14 more years, ZIP code (unless aggregated for 5 or more years),
15 and diagnosis date (unless aggregated for one or more years for
16 the entire State or for 3 or more years for a single county).
17 ~~Facts that tend to lead to the identity of a person include the~~
18 ~~following: name, social security number, address, and any other~~
19 ~~data element that, by itself or in combination with one or more~~
20 ~~other data elements, tends to identify any person.~~ The identity
21 of any person or persons claimed to be derived from cancer
22 registry data is not admissible in evidence, and no court shall
23 require information to be produced in discovery if it
24 determines that the information tends to lead to the identity
25 of any person. Information for specific research purposes may
26 be released in accordance with procedures established by the

1 Department. Except as provided by rule, and as part of an
2 epidemiologic investigation, an officer or employee of the
3 Department may interview a patient named in a report made under
4 this Act, or relatives of any such patient, only with the
5 express written consent of the patient.

6 (e) Hospitals, laboratories, other facilities or
7 physicians shall not be held liable for the release of
8 information or confidential data to the Department in
9 accordance with this Act. The Department shall protect any
10 information made confidential or privileged under law.

11 (Source: P.A. 89-445, eff. 2-7-96; 90-607, eff. 6-30-98.)

12 (410 ILCS 525/9) (from Ch. 111 1/2, par. 6709)

13 Sec. 9. The Department shall utilize the Registry to
14 conduct research on the relationships between hazardous
15 substances, hazardous nuclear materials, and public health
16 issues. In consultation with the Council, the Director shall
17 establish guidelines for determining the specific questions
18 and areas to be researched. The guidelines shall specifically
19 include the question of the potential public health
20 significance of an increase in cancer incidence. Upon the
21 approval of the Council, the information contained in the
22 Registry shall be available to other State agencies wishing to
23 conduct research on these issues. Upon approval of an
24 appropriate Institutional Review Board (IRB) or its equivalent
25 on protection of human subjects in research, the Department

1 shall release data to researchers for purposes of medical and
2 scientific research.

3 (Source: P.A. 85-1218.)

4 (410 ILCS 525/12) (from Ch. 111 1/2, par. 6712)

5 Sec. 12. All information contained in the Registry, as well
6 as all reports issued by the Department, including the annual
7 report, shall be made available to the public upon request;
8 provided, however, nothing in this Act permits public
9 disclosure of any information made confidential or privileged
10 pursuant to this Act or any other statute. Identification or
11 contact of individuals from public reports or data released
12 under the Freedom of Information Act is prohibited. The
13 Director may, by rule, establish fees to be charged to persons
14 or organizations other than State agencies for requested
15 summaries or analyses of data which are not otherwise included
16 in an annual report. The fees shall not be more than the cost
17 to the Department of supplying the requested information. The
18 Department shall make available on its web site
19 non-confidential public use databases for easy and direct
20 access and download by the public.

21 (Source: P.A. 90-607, eff. 6-30-98.)

22 Section 99. Effective date. This Act takes effect July 1,
23 2007.