



Rep. Jeanne M Ives

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LRB098 19312 HEP 58063 a

1 AMENDMENT TO HOUSE BILL 5862

2 AMENDMENT NO. _____. Amend House Bill 5862 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Freedom of Information Act is amended by
5 changing Sections 2.15 and 7 as follows:

6 (5 ILCS 140/2.15)

7 Sec. 2.15. Arrest reports and criminal history records.

8 (a) Arrest reports. The following chronologically
9 maintained arrest and criminal history information maintained
10 by State or local criminal justice agencies shall be furnished
11 as soon as practical, but in no event later than 72 hours after
12 the arrest, notwithstanding the time limits otherwise provided
13 for in Section 3 of this Act: (i) information that identifies
14 the individual, including the name, age, address, and
15 photograph, when and if available; (ii) information detailing
16 any charges relating to the arrest; (iii) the time and location

1 of the arrest; (iv) the name of the investigating or arresting
2 law enforcement agency; (v) if the individual is incarcerated,
3 the amount of any bail or bond; and (vi) if the individual is
4 incarcerated, the time and date that the individual was
5 received into, discharged from, or transferred from the
6 arresting agency's custody.

7 (b) Criminal history records. The following documents
8 maintained by a public body pertaining to criminal history
9 record information are public records subject to inspection and
10 copying by the public pursuant to this Act: (i) court records
11 that are public; (ii) records that are otherwise available
12 under State or local law; and (iii) records in which the
13 requesting party is the individual identified, except as
14 provided under subdivisions (1) (d) (vi) and (1) (ii) of Section 7
15 of this Act ~~7(1)(d)(vi)~~.

16 (c) Information described in items (iii) through (vi) of
17 subsection (a) may be withheld if it is determined that
18 disclosure would: (i) interfere with pending or actually and
19 reasonably contemplated law enforcement proceedings conducted
20 by any law enforcement agency; (ii) endanger the life or
21 physical safety of law enforcement or correctional personnel or
22 any other person; or (iii) compromise the security of any
23 correctional facility.

24 (d) The provisions of this Section do not supersede the
25 confidentiality provisions for arrest records of the Juvenile
26 Court Act of 1987.

1 (Source: P.A. 96-542, eff. 1-1-10.)

2 (5 ILCS 140/7) (from Ch. 116, par. 207)

3 Sec. 7. Exemptions.

4 (1) When a request is made to inspect or copy a public
5 record that contains information that is exempt from disclosure
6 under this Section, but also contains information that is not
7 exempt from disclosure, the public body may elect to redact the
8 information that is exempt. The public body shall make the
9 remaining information available for inspection and copying.
10 Subject to this requirement, the following shall be exempt from
11 inspection and copying:

12 (a) Information specifically prohibited from
13 disclosure by federal or State law or rules and regulations
14 implementing federal or State law.

15 (b) Private information, unless disclosure is required
16 by another provision of this Act, a State or federal law or
17 a court order.

18 (b-5) Files, documents, and other data or databases
19 maintained by one or more law enforcement agencies and
20 specifically designed to provide information to one or more
21 law enforcement agencies regarding the physical or mental
22 status of one or more individual subjects.

23 (c) Personal information contained within public
24 records, the disclosure of which would constitute a clearly
25 unwarranted invasion of personal privacy, unless the

1 disclosure is consented to in writing by the individual
2 subjects of the information. "Unwarranted invasion of
3 personal privacy" means the disclosure of information that
4 is highly personal or objectionable to a reasonable person
5 and in which the subject's right to privacy outweighs any
6 legitimate public interest in obtaining the information.
7 The disclosure of information that bears on the public
8 duties of public employees and officials shall not be
9 considered an invasion of personal privacy.

10 (d) Records in the possession of any public body
11 created in the course of administrative enforcement
12 proceedings, and any law enforcement or correctional
13 agency for law enforcement purposes, but only to the extent
14 that disclosure would:

15 (i) interfere with pending or actually and
16 reasonably contemplated law enforcement proceedings
17 conducted by any law enforcement or correctional
18 agency that is the recipient of the request;

19 (ii) interfere with active administrative
20 enforcement proceedings conducted by the public body
21 that is the recipient of the request;

22 (iii) create a substantial likelihood that a
23 person will be deprived of a fair trial or an impartial
24 hearing;

25 (iv) unavoidably disclose the identity of a
26 confidential source, confidential information

1 furnished only by the confidential source, or persons
2 who file complaints with or provide information to
3 administrative, investigative, law enforcement, or
4 penal agencies; except that the identities of
5 witnesses to traffic accidents, traffic accident
6 reports, and rescue reports shall be provided by
7 agencies of local government, except when disclosure
8 would interfere with an active criminal investigation
9 conducted by the agency that is the recipient of the
10 request;

11 (v) disclose unique or specialized investigative
12 techniques other than those generally used and known or
13 disclose internal documents of correctional agencies
14 related to detection, observation or investigation of
15 incidents of crime or misconduct, and disclosure would
16 result in demonstrable harm to the agency or public
17 body that is the recipient of the request;

18 (vi) endanger the life or physical safety of law
19 enforcement personnel or any other person; or

20 (vii) obstruct an ongoing criminal investigation
21 by the agency that is the recipient of the request.

22 (d-5) A law enforcement record created for law
23 enforcement purposes and contained in a shared electronic
24 record management system if the law enforcement agency that
25 is the recipient of the request did not create the record,
26 did not participate in or have a role in any of the events

1 which are the subject of the record, and only has access to
2 the record through the shared electronic record management
3 system.

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

6 (e-5) Records requested by persons committed to the
7 Department of Corrections if those materials are available
8 in the library of the correctional facility where the
9 inmate is confined.

10 (e-6) Records requested by persons committed to the
11 Department of Corrections if those materials include
12 records from staff members' personnel files, staff
13 rosters, or other staffing assignment information.

14 (e-7) Records requested by persons committed to the
15 Department of Corrections if those materials are available
16 through an administrative request to the Department of
17 Corrections.

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

1 (g) Trade secrets and commercial or financial
2 information obtained from a person or business where the
3 trade secrets or commercial or financial information are
4 furnished under a claim that they are proprietary,
5 privileged or confidential, and that disclosure of the
6 trade secrets or commercial or financial information would
7 cause competitive harm to the person or business, and only
8 insofar as the claim directly applies to the records
9 requested.

10 The information included under this exemption includes
11 all trade secrets and commercial or financial information
12 obtained by a public body, including a public pension fund,
13 from a private equity fund or a privately held company
14 within the investment portfolio of a private equity fund as
15 a result of either investing or evaluating a potential
16 investment of public funds in a private equity fund. The
17 exemption contained in this item does not apply to the
18 aggregate financial performance information of a private
19 equity fund, nor to the identity of the fund's managers or
20 general partners. The exemption contained in this item does
21 not apply to the identity of a privately held company
22 within the investment portfolio of a private equity fund,
23 unless the disclosure of the identity of a privately held
24 company may cause competitive harm.

25 Nothing contained in this paragraph (g) shall be
26 construed to prevent a person or business from consenting

1 to disclosure.

2 (h) Proposals and bids for any contract, grant, or
3 agreement, including information which if it were
4 disclosed would frustrate procurement or give an advantage
5 to any person proposing to enter into a contractor
6 agreement with the body, until an award or final selection
7 is made. Information prepared by or for the body in
8 preparation of a bid solicitation shall be exempt until an
9 award or final selection is made.

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

21 (j) The following information pertaining to
22 educational matters:

23 (i) test questions, scoring keys and other
24 examination data used to administer an academic
25 examination;

26 (ii) information received by a primary or

1 secondary school, college, or university under its
2 procedures for the evaluation of faculty members by
3 their academic peers;

4 (iii) information concerning a school or
5 university's adjudication of student disciplinary
6 cases, but only to the extent that disclosure would
7 unavoidably reveal the identity of the student; and

8 (iv) course materials or research materials used
9 by faculty members.

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

22 (l) Minutes of meetings of public bodies closed to the
23 public as provided in the Open Meetings Act until the
24 public body makes the minutes available to the public under
25 Section 2.06 of the Open Meetings Act.

26 (m) Communications between a public body and an

1 attorney or auditor representing the public body that would
2 not be subject to discovery in litigation, and materials
3 prepared or compiled by or for a public body in
4 anticipation of a criminal, civil or administrative
5 proceeding upon the request of an attorney advising the
6 public body, and materials prepared or compiled with
7 respect to internal audits of public bodies.

8 (n) Records relating to a public body's adjudication of
9 employee grievances or disciplinary cases; however, this
10 exemption shall not extend to the final outcome of cases in
11 which discipline is imposed.

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

22 (p) Records relating to collective negotiating matters
23 between public bodies and their employees or
24 representatives, except that any final contract or
25 agreement shall be subject to inspection and copying.

26 (q) Test questions, scoring keys, and other

1 examination data used to determine the qualifications of an
2 applicant for a license or employment.

3 (r) The records, documents, and information relating
4 to real estate purchase negotiations until those
5 negotiations have been completed or otherwise terminated.
6 With regard to a parcel involved in a pending or actually
7 and reasonably contemplated eminent domain proceeding
8 under the Eminent Domain Act, records, documents and
9 information relating to that parcel shall be exempt except
10 as may be allowed under discovery rules adopted by the
11 Illinois Supreme Court. The records, documents and
12 information relating to a real estate sale shall be exempt
13 until a sale is consummated.

14 (s) Any and all proprietary information and records
15 related to the operation of an intergovernmental risk
16 management association or self-insurance pool or jointly
17 self-administered health and accident cooperative or pool.
18 Insurance or self insurance (including any
19 intergovernmental risk management association or self
20 insurance pool) claims, loss or risk management
21 information, records, data, advice or communications.

22 (t) Information contained in or related to
23 examination, operating, or condition reports prepared by,
24 on behalf of, or for the use of a public body responsible
25 for the regulation or supervision of financial
26 institutions or insurance companies, unless disclosure is

1 otherwise required by State law.

2 (u) Information that would disclose or might lead to
3 the disclosure of secret or confidential information,
4 codes, algorithms, programs, or private keys intended to be
5 used to create electronic or digital signatures under the
6 Electronic Commerce Security Act.

7 (v) Vulnerability assessments, security measures, and
8 response policies or plans that are designed to identify,
9 prevent, or respond to potential attacks upon a community's
10 population or systems, facilities, or installations, the
11 destruction or contamination of which would constitute a
12 clear and present danger to the health or safety of the
13 community, but only to the extent that disclosure could
14 reasonably be expected to jeopardize the effectiveness of
15 the measures or the safety of the personnel who implement
16 them or the public. Information exempt under this item may
17 include such things as details pertaining to the
18 mobilization or deployment of personnel or equipment, to
19 the operation of communication systems or protocols, or to
20 tactical operations.

21 (w) (Blank).

22 (x) Maps and other records regarding the location or
23 security of generation, transmission, distribution,
24 storage, gathering, treatment, or switching facilities
25 owned by a utility, by a power generator, or by the
26 Illinois Power Agency.

1 (y) Information contained in or related to proposals,
2 bids, or negotiations related to electric power
3 procurement under Section 1-75 of the Illinois Power Agency
4 Act and Section 16-111.5 of the Public Utilities Act that
5 is determined to be confidential and proprietary by the
6 Illinois Power Agency or by the Illinois Commerce
7 Commission.

8 (z) Information about students exempted from
9 disclosure under Sections 10-20.38 or 34-18.29 of the
10 School Code, and information about undergraduate students
11 enrolled at an institution of higher education exempted
12 from disclosure under Section 25 of the Illinois Credit
13 Card Marketing Act of 2009.

14 (aa) Information the disclosure of which is exempted
15 under the Viatical Settlements Act of 2009.

16 (bb) Records and information provided to a mortality
17 review team and records maintained by a mortality review
18 team appointed under the Department of Juvenile Justice
19 Mortality Review Team Act.

20 (cc) Information regarding interments, entombments, or
21 inurnments of human remains that are submitted to the
22 Cemetery Oversight Database under the Cemetery Care Act or
23 the Cemetery Oversight Act, whichever is applicable.

24 (dd) Correspondence and records (i) that may not be
25 disclosed under Section 11-9 of the Public Aid Code or (ii)
26 that pertain to appeals under Section 11-8 of the Public

1 Aid Code.

2 (ee) The names, addresses, or other personal
3 information of persons who are minors and are also
4 participants and registrants in programs of park
5 districts, forest preserve districts, conservation
6 districts, recreation agencies, and special recreation
7 associations.

8 (ff) The names, addresses, or other personal
9 information of participants and registrants in programs of
10 park districts, forest preserve districts, conservation
11 districts, recreation agencies, and special recreation
12 associations where such programs are targeted primarily to
13 minors.

14 (gg) Confidential information described in Section
15 1-100 of the Illinois Independent Tax Tribunal Act of 2012.

16 (hh) The report submitted to the State Board of
17 Education by the School Security and Standards Task Force
18 under item (8) of subsection (d) of Section 2-3.157 of the
19 School Code and any information contained in that report.

20 (ii) Law enforcement and court records of juveniles
21 charged with county or municipal ordinance violations.

22 (1.5) Any information exempt from disclosure under the
23 Judicial Privacy Act shall be redacted from public records
24 prior to disclosure under this Act.

25 (2) A public record that is not in the possession of a
26 public body but is in the possession of a party with whom the

1 agency has contracted to perform a governmental function on
2 behalf of the public body, and that directly relates to the
3 governmental function and is not otherwise exempt under this
4 Act, shall be considered a public record of the public body,
5 for purposes of this Act.

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

10 (Source: P.A. 97-333, eff. 8-12-11; 97-385, eff. 8-15-11;
11 97-452, eff. 8-19-11; 97-783, eff. 7-13-12; 97-813, eff.
12 7-13-12; 97-847, eff. 9-22-12; 97-1065, eff. 8-24-12; 97-1129,
13 eff. 8-28-12; 98-463, eff. 8-16-13; 98-578, eff. 8-27-13.)".