



Rep. Terri Bryant

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LRB099 17902 HEP 47151 a

1 AMENDMENT TO HOUSE BILL 4715

2 AMENDMENT NO. _____. Amend House Bill 4715 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 and 11 as follows:

6 (5 ILCS 140/2) (from Ch. 116, par. 202)

7 (Text of Section before amendment by P.A. 99-478)

8 Sec. 2. Definitions. As used in this Act:

9 (a) "Public body" means all legislative, executive,
10 administrative, or advisory bodies of the State, state
11 universities and colleges, counties, townships, cities,
12 villages, incorporated towns, school districts and all other
13 municipal corporations, boards, bureaus, committees, or
14 commissions of this State, any subsidiary bodies of any of the
15 foregoing including but not limited to committees and
16 subcommittees thereof, and a School Finance Authority created

1 under Article 1E of the School Code. "Public body" does not
2 include a child death review team or the Illinois Child Death
3 Review Teams Executive Council established under the Child
4 Death Review Team Act, or a regional youth advisory board or
5 the Statewide Youth Advisory Board established under the
6 Department of Children and Family Services Statewide Youth
7 Advisory Board Act.

8 (b) "Person" means any individual, corporation,
9 partnership, firm, organization or association, acting
10 individually or as a group.

11 (c) "Public records" means all records, reports, forms,
12 writings, letters, memoranda, books, papers, maps,
13 photographs, microfilms, cards, tapes, recordings, electronic
14 data processing records, electronic communications, recorded
15 information and all other documentary materials pertaining to
16 the transaction of public business, regardless of physical form
17 or characteristics, having been prepared by or for, or having
18 been or being used by, received by, in the possession of, or
19 under the control of any public body.

20 (c-5) "Private information" means unique identifiers,
21 including a person's social security number, driver's license
22 number, employee identification number, biometric identifiers,
23 personal financial information, passwords or other access
24 codes, medical records, home or personal telephone numbers, and
25 personal email addresses. Private information also includes
26 home address and personal license plates, except as otherwise

1 provided by law or when compiled without possibility of
2 attribution to any person.

3 (c-10) "Commercial purpose" means the use of any part of a
4 public record or records, or information derived from public
5 records, in any form for sale, resale, or solicitation or
6 advertisement for sales or services. For purposes of this
7 definition, requests made by news media and non-profit,
8 scientific, or academic organizations shall not be considered
9 to be made for a "commercial purpose" when the principal
10 purpose of the request is (i) to access and disseminate
11 information concerning news and current or passing events, (ii)
12 for articles of opinion or features of interest to the public,
13 or (iii) for the purpose of academic, scientific, or public
14 research or education.

15 (d) "Copying" means the reproduction of any public record
16 by means of any photographic, electronic, mechanical or other
17 process, device or means now known or hereafter developed and
18 available to the public body.

19 (e) "Head of the public body" means the president, mayor,
20 chairman, presiding officer, director, superintendent,
21 manager, supervisor or individual otherwise holding primary
22 executive and administrative authority for the public body, or
23 such person's duly authorized designee.

24 (f) "News media" means a newspaper or other periodical
25 issued at regular intervals whether in print or electronic
26 format, a news service whether in print or electronic format, a

1 radio station, a television station, a television network, a
2 community antenna television service, or a person or
3 corporation engaged in making news reels or other motion
4 picture news for public showing.

5 (g) "Recurrent requester", as used in Section 3.2 of this
6 Act, means a person that, in the 12 months immediately
7 preceding the request, has submitted to the same public body
8 (i) a minimum of 50 requests for records, (ii) a minimum of 15
9 requests for records within a 30-day period, or (iii) a minimum
10 of 7 requests for records within a 7-day period. For purposes
11 of this definition, requests made by news media and non-profit,
12 scientific, or academic organizations shall not be considered
13 in calculating the number of requests made in the time periods
14 in this definition when the principal purpose of the requests
15 is (i) to access and disseminate information concerning news
16 and current or passing events, (ii) for articles of opinion or
17 features of interest to the public, or (iii) for the purpose of
18 academic, scientific, or public research or education.

19 For the purposes of this subsection (g), "request" means a
20 written document (or oral request, if the public body chooses
21 to honor oral requests) that is submitted to a public body via
22 personal delivery, mail, telefax, electronic mail, or other
23 means available to the public body and that identifies the
24 particular public record the requester seeks. One request may
25 identify multiple records to be inspected or copied.

26 (h) "Voluminous request" means a request that: (i) includes

1 more than 5 individual requests for more than 5 different
2 categories of records or a combination of individual requests
3 that total requests for more than 5 different categories of
4 records in a period of 20 business days; or (ii) requires the
5 compilation of more than 500 letter or legal-sized pages of
6 public records unless a single requested record exceeds 500
7 pages. "Single requested record" may include, but is not
8 limited to, one report, form, e-mail, letter, memorandum, book,
9 map, microfilm, tape, or recording.

10 "Voluminous request" does not include a request made by
11 news media and non-profit, scientific, or academic
12 organizations if the principal purpose of the request is: (1)
13 to access and disseminate information concerning news and
14 current or passing events; (2) for articles of opinion or
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22 particular public record or records the requester seeks. One
23 request may identify multiple individual records to be
24 inspected or copied.

25 (Source: P.A. 98-806, eff. 1-1-15; 98-1129, eff. 12-3-14;
26 99-78, eff. 7-20-15.)

1 (Text of Section after amendment by P.A. 99-478)

2 Sec. 2. Definitions. As used in this Act:

3 (a) "Public body" means all legislative, executive,
4 administrative, or advisory bodies of the State, state
5 universities and colleges, counties, townships, cities,
6 villages, incorporated towns, school districts and all other
7 municipal corporations, boards, bureaus, committees, or
8 commissions of this State, any subsidiary bodies of any of the
9 foregoing including but not limited to committees and
10 subcommittees thereof, and a School Finance Authority created
11 under Article 1E of the School Code. "Public body" does not
12 include a child death review team or the Illinois Child Death
13 Review Teams Executive Council established under the Child
14 Death Review Team Act, or a regional youth advisory board or
15 the Statewide Youth Advisory Board established under the
16 Department of Children and Family Services Statewide Youth
17 Advisory Board Act.

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19 partnership, firm, organization or association, acting
20 individually or as a group.

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24 data processing records, electronic communications, recorded
25 information and all other documentary materials pertaining to

1 the transaction of public business, regardless of physical form
2 or characteristics, having been prepared by or for, or having
3 been or being used by, received by, in the possession of, or
4 under the control of any public body.

5 (c-5) "Private information" means unique identifiers,
6 including a person's social security number, driver's license
7 number, employee identification number, biometric identifiers,
8 personal financial information, passwords or other access
9 codes, medical records, home or personal telephone numbers, and
10 personal email addresses. Private information also includes
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24 or (iii) for the purpose of academic, scientific, or public
25 research or education.

26 (d) "Copying" means the reproduction of any public record

1 by means of any photographic, electronic, mechanical or other
2 process, device or means now known or hereafter developed and
3 available to the public body.

4 (e) "Head of the public body" means the president, mayor,
5 chairman, presiding officer, director, superintendent,
6 manager, supervisor or individual otherwise holding primary
7 executive and administrative authority for the public body, or
8 such person's duly authorized designee.

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15 picture news for public showing.

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17 Act, means a person that, in the 12 months immediately
18 preceding the request, has submitted to the same public body
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4 to honor oral requests, that is submitted to a public body via
5 personal delivery, mail, telefax, electronic mail, or other
6 means available to the public body and that identifies the
7 particular public record or records the requester seeks. One
8 request may identify multiple individual records to be
9 inspected or copied.

10 (i) "Severance agreement" means a mutual agreement between
11 any public body and its employee for the employee's resignation
12 in exchange for payment by the public body.

13 (j) "Prevails" means the plaintiff achieves his or her
14 desired outcome through a court order or production of all
15 requested documents.

16 (Source: P.A. 98-806, eff. 1-1-15; 98-1129, eff. 12-3-14;
17 99-78, eff. 7-20-15; 99-478, eff. 6-1-16.)

18 (5 ILCS 140/11) (from Ch. 116, par. 211)

19 Sec. 11. (a) Any person denied access to inspect or copy
20 any public record by a public body may, after seeking and
21 obtaining an opinion from the Public Access Counselor under
22 Section 9.5 of this Act, file suit for injunctive or
23 declaratory relief.

24 (b) Where the denial is from a public body of the State,
25 suit may be filed in the circuit court for the county where the

1 public body has its principal office or where the person denied
2 access resides.

3 (c) Where the denial is from a municipality or other public
4 body, except as provided in subsection (b) of this Section,
5 suit may be filed in the circuit court for the county where the
6 public body is located.

7 (d) The circuit court shall have the jurisdiction to enjoin
8 the public body from withholding public records and to order
9 the production of any public records improperly withheld from
10 the person seeking access. If the public body can show that
11 exceptional circumstances exist, and that the body is
12 exercising due diligence in responding to the request, the
13 court may retain jurisdiction and allow the agency additional
14 time to complete its review of the records.

15 (e) On motion of the plaintiff, prior to or after in camera
16 inspection, the court shall order the public body to provide an
17 index of the records to which access has been denied. The index
18 shall include the following:

19 (i) A description of the nature or contents of each
20 document withheld, or each deletion from a released
21 document, provided, however, that the public body shall not
22 be required to disclose the information which it asserts is
23 exempt; and

24 (ii) A statement of the exemption or exemptions claimed
25 for each such deletion or withheld document.

26 (f) In any action considered by the court, the court shall

1 consider the matter de novo, and shall conduct such in camera
2 examination of the requested records as it finds appropriate to
3 determine if such records or any part thereof may be withheld
4 under any provision of this Act. The burden shall be on the
5 public body to establish that its refusal to permit public
6 inspection or copying is in accordance with the provisions of
7 this Act. Any public body that asserts that a record is exempt
8 from disclosure has the burden of proving that it is exempt by
9 clear and convincing evidence.

10 (g) In the event of noncompliance with an order of the
11 court to disclose, the court may enforce its order against any
12 public official or employee so ordered or primarily responsible
13 for such noncompliance through the court's contempt powers.

14 (h) Except as to causes the court considers to be of
15 greater importance, proceedings arising under this Section
16 shall take precedence on the docket over all other causes and
17 be assigned for hearing and trial at the earliest practicable
18 date and expedited in every way.

19 (i) If a person seeking the right to inspect or receive a
20 copy of a public record prevails in a proceeding under this
21 Section, the court shall award such person reasonable
22 attorney's ~~attorneys'~~ fees and costs. In determining what
23 amount of attorney's fees is reasonable, the court shall
24 consider the degree to which the relief obtained relates to the
25 relief sought. The changes contained in this subsection apply
26 to an action filed on or after January 1, 2010 (the effective

1 date of Public Act 96-542) ~~this amendatory Act of the 96th~~
2 ~~General Assembly.~~

3 (j) If the court determines that a public body willfully
4 and intentionally failed to comply with this Act, or otherwise
5 acted in bad faith, the court shall also impose upon the public
6 body a civil penalty of not less than \$2,500 nor more than
7 \$10,000 ~~\$5,000~~ for each occurrence. In assessing the civil
8 penalty, the court shall consider in aggravation or mitigation
9 the budget of the public body and whether the public body has
10 previously been assessed penalties for violations of this Act.
11 If the public body fails to comply with the court's order after
12 30 days, the court may impose an additional penalty of up to
13 \$1,000 for each day the violation continues. The changes
14 contained in this subsection that are made by Public Act 96-542
15 apply to an action filed on or after January 1, 2010 (the
16 effective date of Public Act 96-542) ~~this amendatory Act of the~~
17 ~~96th General Assembly.~~

18 (Source: P.A. 96-542, eff. 1-1-10; 97-813, eff. 7-13-12;
19 revised 10-14-15.)

20 Section 95. No acceleration or delay. Where this Act makes
21 changes in a statute that is represented in this Act by text
22 that is not yet or no longer in effect (for example, a Section
23 represented by multiple versions), the use of that text does
24 not accelerate or delay the taking effect of (i) the changes
25 made by this Act or (ii) provisions derived from any other

1 Public Act."