



101ST GENERAL ASSEMBLY

State of Illinois

2019 and 2020

HB4523

Introduced 2/5/2020, by Rep. Mary E. Flowers

SYNOPSIS AS INTRODUCED:

5 ILCS 160/17
50 ILCS 205/4

from Ch. 116, par. 43.20
from Ch. 116, par. 43.104

Amends the State Records Act and the Local Records Act. Provides that the arrest records of a person for whom an investigation revealed not to be the individual the arresting officer believed him or her to be shall, by court order, be deleted or retracted (currently, arresting law enforcement agency required to delete or retract). Makes conforming changes.

LRB101 18702 RJF 68157 b

1 AN ACT concerning government.

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

4 Section 5. The State Records Act is amended by changing
5 Section 17 as follows:

6 (5 ILCS 160/17) (from Ch. 116, par. 43.20)

7 Sec. 17. (a) Regardless of other authorization to the
8 contrary, except as otherwise provided in subsection (b) of
9 this Section, no record shall be disposed of by any agency of
10 the State, unless approval of the State Records Commission is
11 first obtained. The Commission shall issue regulations, not
12 inconsistent with this Act, which shall be binding on all
13 agencies. Such regulations shall establish procedures for
14 compiling and submitting to the Commission lists and schedules
15 of records proposed for disposal; procedures for the physical
16 destruction or other disposition of records proposed for
17 disposal; and standards for the reproduction of records by
18 digital, photographic, or microphotographic processes with the
19 view to the disposal of the original records. Such standards
20 shall relate to the electronic digital process and format,
21 quality of film used, preparation of the records for
22 reproduction, proper identification matter on the records so
23 that an individual document or series of documents can be

1 located on the film or electronic medium with reasonable
2 facility, and that the copies contain all significant record
3 detail, to the end that the photographic, microphotographic, or
4 digital copies will be adequate.

5 Such regulations shall also provide that the State
6 archivist may retain any records which the Commission has
7 authorized to be destroyed, where they have a historical value,
8 and that the State archivist may deposit them in the State
9 Archives or State Historical Library or with a historical
10 society, museum or library.

11 (b) Upon request from a chief of police, county sheriff, or
12 State's Attorney, if a person has been arrested for a criminal
13 offense and an investigation reveals that the person arrested
14 was not in fact the individual the arresting officer believed
15 him or her to be, ~~the law enforcement agency whose officers~~
16 ~~made the arrest shall delete or retract~~ the arrest records of
17 that person whom the investigation revealed as not the
18 individual the arresting officer believed him or her to be
19 shall, by court order, be deleted or retracted. In this
20 subsection (b), "arrest" ~~:- "Arrest~~ records" are as described in
21 Section 4a of this Act.

22 ~~"Law enforcement agency" means an agency of this State~~
23 ~~which is vested by law or ordinance with the duty to~~
24 ~~maintain public order and to enforce criminal laws or~~
25 ~~ordinances.~~

26 (Source: P.A. 99-363, eff. 1-1-16.)

1 Section 10. The Local Records Act is amended by changing
2 Section 4 as follows:

3 (50 ILCS 205/4) (from Ch. 116, par. 43.104)

4 Sec. 4. (a) Except as otherwise provided in subsection (b)
5 of this Section, all public records made or received by, or
6 under the authority of, or coming into the custody, control or
7 possession of any officer or agency shall not be mutilated,
8 destroyed, transferred, removed or otherwise damaged or
9 disposed of, in whole or in part, except as provided by law.
10 Any person who knowingly, without lawful authority and with the
11 intent to defraud any party, public officer, or entity, alters,
12 destroys, defaces, removes, or conceals any public record
13 commits a Class 4 felony.

14 Court records filed with the clerks of the Circuit Court
15 shall be destroyed in accordance with the Supreme Court's
16 General Administrative Order on Recordkeeping in the Circuit
17 Courts. The clerks of the Circuit Courts shall notify the
18 Supreme Court, in writing, specifying case records or other
19 documents which they intend to destroy. The Supreme Court shall
20 review the schedule of items to be destroyed and notify the
21 appropriate Local Records Commission of the Court's intent to
22 destroy such records. The Local Records Commission, within 90
23 days after receipt of the Supreme Court's notice, may undertake
24 to photograph, microphotograph, or digitize electronically any

1 or all such records and documents, or, in the alternative, may
2 transport such original records to the State Archives or other
3 storage location under its supervision.

4 The Archivist may accept for deposit in the State Archives
5 or regional depositories official papers, drawings, maps,
6 writings and records of every description of counties,
7 municipal corporations, political subdivisions and courts of
8 this State, when such materials are deemed by the Archivist to
9 have sufficient historical or other value to warrant their
10 continued preservation by the State of Illinois.

11 The officer or clerk depositing such records may, upon
12 request, obtain from the Archivist, without charge, a certified
13 copy or reproduction of any specific record, paper or document
14 when such record, paper or document is required for public use.

15 (b) Upon request from a chief of police, county sheriff, or
16 State's Attorney, if a person has been arrested for a criminal
17 offense and an investigation reveals that the person arrested
18 was not in fact the individual the arresting officer believed
19 him or her to be, ~~the law enforcement agency whose officers~~
20 ~~made the arrest shall delete or retract~~ the arrest records of
21 that person whom the investigation revealed as not the
22 individual the arresting officer believed him or her to be
23 shall, by court order, be deleted or retracted. In this
24 subsection (b), "arrest" ~~÷ "Arrest~~ records" are as described in
25 Section 3b of this Act.

26 ~~"Law enforcement agency" means an agency of a unit of~~

1 ~~local government which is vested by law or ordinance with~~
2 ~~the duty to maintain public order and to enforce criminal~~
3 ~~laws or ordinances.~~

4 (Source: P.A. 98-1063, eff. 1-1-15; 99-363, eff. 1-1-16.)