



102ND GENERAL ASSEMBLY

State of Illinois

2021 and 2022

HB5109

Introduced 1/27/2022, by Rep. Curtis J. Tarver, II

SYNOPSIS AS INTRODUCED:

5 ILCS 140/2
5 ILCS 140/7

from Ch. 116, par. 202
from Ch. 116, par. 207

Amends the Freedom of Information Act. Provides that "public body" includes judicial bodies of the State. Exempts from disclosure under the Act all records of a judicial body of this State related to court cases and court decision making.

LRB102 24969 HEP 34224 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 Freedom of Information Act is amended by
5 changing Sections 2 and 7 as follows:

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

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

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

23 (b) "Person" means any individual, corporation,

1 partnership, firm, organization or association, acting
2 individually or as a group.

3 (c) "Public records" means all records, reports, forms,
4 writings, letters, memoranda, books, papers, maps,
5 photographs, microfilms, cards, tapes, recordings, electronic
6 data processing records, electronic communications, recorded
7 information and all other documentary materials pertaining to
8 the transaction of public business, regardless of physical
9 form or characteristics, having been prepared by or for, or
10 having been or being used by, received by, in the possession
11 of, or under the control of any public body.

12 (c-5) "Private information" means unique identifiers,
13 including a person's social security number, driver's license
14 number, employee identification number, biometric identifiers,
15 personal financial information, passwords or other access
16 codes, medical records, home or personal telephone numbers,
17 and personal email addresses. Private information also
18 includes home address and personal license plates, except as
19 otherwise provided by law or when compiled without possibility
20 of attribution to any person.

21 (c-10) "Commercial purpose" means the use of any part of a
22 public record or records, or information derived from public
23 records, in any form for sale, resale, or solicitation or
24 advertisement for sales or services. For purposes of this
25 definition, requests made by news media and non-profit,
26 scientific, or academic organizations shall not be considered

1 to be made for a "commercial purpose" when the principal
2 purpose of the request is (i) to access and disseminate
3 information concerning news and current or passing events,
4 (ii) for articles of opinion or features of interest to the
5 public, or (iii) for the purpose of academic, scientific, or
6 public research or education.

7 (d) "Copying" means the reproduction of any public record
8 by means of any photographic, electronic, mechanical or other
9 process, device or means now known or hereafter developed and
10 available to the public body.

11 (e) "Head of the public body" means the president, mayor,
12 chairman, presiding officer, director, superintendent,
13 manager, supervisor or individual otherwise holding primary
14 executive and administrative authority for the public body, or
15 such person's duly authorized designee.

16 (f) "News media" means a newspaper or other periodical
17 issued at regular intervals whether in print or electronic
18 format, a news service whether in print or electronic format,
19 a radio station, a television station, a television network, a
20 community antenna television service, or a person or
21 corporation engaged in making news reels or other motion
22 picture news for public showing.

23 (g) "Recurrent requester", as used in Section 3.2 of this
24 Act, means a person that, in the 12 months immediately
25 preceding the request, has submitted to the same public body
26 (i) a minimum of 50 requests for records, (ii) a minimum of 15

1 requests for records within a 30-day period, or (iii) a
2 minimum of 7 requests for records within a 7-day period. For
3 purposes of this definition, requests made by news media and
4 non-profit, scientific, or academic organizations shall not be
5 considered in calculating the number of requests made in the
6 time periods in this definition when the principal purpose of
7 the requests is (i) to access and disseminate information
8 concerning news and current or passing events, (ii) for
9 articles of opinion or features of interest to the public, or
10 (iii) for the purpose of academic, scientific, or public
11 research or education.

12 For the purposes of this subsection (g), "request" means a
13 written document (or oral request, if the public body chooses
14 to honor oral requests) that is submitted to a public body via
15 personal delivery, mail, telefax, electronic mail, or other
16 means available to the public body and that identifies the
17 particular public record the requester seeks. One request may
18 identify multiple records to be inspected or copied.

19 (h) "Voluminous request" means a request that: (i)
20 includes more than 5 individual requests for more than 5
21 different categories of records or a combination of individual
22 requests that total requests for more than 5 different
23 categories of records in a period of 20 business days; or (ii)
24 requires the compilation of more than 500 letter or
25 legal-sized pages of public records unless a single requested
26 record exceeds 500 pages. "Single requested record" may

1 include, but is not limited to, one report, form, e-mail,
2 letter, memorandum, book, map, microfilm, tape, or recording.

3 "Voluminous request" does not include a request made by
4 news media and non-profit, scientific, or academic
5 organizations if the principal purpose of the request is: (1)
6 to access and disseminate information concerning news and
7 current or passing events; (2) for articles of opinion or
8 features of interest to the public; or (3) for the purpose of
9 academic, scientific, or public research or education.

10 For the purposes of this subsection (h), "request" means a
11 written document, or oral request, if the public body chooses
12 to honor oral requests, that is submitted to a public body via
13 personal delivery, mail, telefax, electronic mail, or other
14 means available to the public body and that identifies the
15 particular public record or records the requester seeks. One
16 request may identify multiple individual records to be
17 inspected or copied.

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

21 (Source: P.A. 98-806, eff. 1-1-15; 98-1129, eff. 12-3-14;
22 99-78, eff. 7-20-15; 99-478, eff. 6-1-16.)

23 (5 ILCS 140/7) (from Ch. 116, par. 207)

24 Sec. 7. Exemptions.

25 (1) When a request is made to inspect or copy a public

1 record that contains information that is exempt from
2 disclosure under this Section, but also contains information
3 that is not exempt from disclosure, the public body may elect
4 to redact the information that is exempt. The public body
5 shall make the remaining information available for inspection
6 and copying. Subject to this requirement, the following shall
7 be exempt from inspection and copying:

8 (a) Information specifically prohibited from
9 disclosure by federal or State law or rules and
10 regulations implementing federal or State law.

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

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

19 (c) Personal information contained within public
20 records, the disclosure of which would constitute a
21 clearly unwarranted invasion of personal privacy, unless
22 the disclosure is consented to in writing by the
23 individual subjects of the information. "Unwarranted
24 invasion of personal privacy" means the disclosure of
25 information that is highly personal or objectionable to a
26 reasonable person and in which the subject's right to

1 privacy outweighs any legitimate public interest in
2 obtaining the information. The disclosure of information
3 that bears on the public duties of public employees and
4 officials shall not be considered an invasion of personal
5 privacy.

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

11 (i) interfere with pending or actually and
12 reasonably contemplated law enforcement proceedings
13 conducted by any law enforcement or correctional
14 agency that is the recipient of the request;

15 (ii) interfere with active administrative
16 enforcement proceedings conducted by the public body
17 that is the recipient of the request;

18 (iii) create a substantial likelihood that a
19 person will be deprived of a fair trial or an impartial
20 hearing;

21 (iv) unavoidably disclose the identity of a
22 confidential source, confidential information
23 furnished only by the confidential source, or persons
24 who file complaints with or provide information to
25 administrative, investigative, law enforcement, or
26 penal agencies; except that the identities of

1 witnesses to traffic accidents, traffic accident
2 reports, and rescue reports shall be provided by
3 agencies of local government, except when disclosure
4 would interfere with an active criminal investigation
5 conducted by the agency that is the recipient of the
6 request;

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

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

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

19 (d-5) A law enforcement record created for law
20 enforcement purposes and contained in a shared electronic
21 record management system if the law enforcement agency
22 that is the recipient of the request did not create the
23 record, did not participate in or have a role in any of the
24 events which are the subject of the record, and only has
25 access to the record through the shared electronic record
26 management system.

1 (d-6) Records contained in the Officer Professional
2 Conduct Database under Section 9.2 ~~9.4~~ of the Illinois
3 Police Training Act, except to the extent authorized under
4 that Section. This includes the documents supplied to the
5 Illinois Law Enforcement Training Standards Board from the
6 Illinois State Police and Illinois State Police Merit
7 Board.

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

10 (e-5) Records requested by persons committed to the
11 Department of Corrections, Department of Human Services
12 Division of Mental Health, or a county jail if those
13 materials are available in the library of the correctional
14 institution or facility or jail where the inmate is
15 confined.

16 (e-6) Records requested by persons committed to the
17 Department of Corrections, Department of Human Services
18 Division of Mental Health, or a county jail if those
19 materials include records from staff members' personnel
20 files, staff rosters, or other staffing assignment
21 information.

22 (e-7) Records requested by persons committed to the
23 Department of Corrections or Department of Human Services
24 Division of Mental Health if those materials are available
25 through an administrative request to the Department of
26 Corrections or Department of Human Services Division of

1 Mental Health.

2 (e-8) Records requested by a person committed to the
3 Department of Corrections, Department of Human Services
4 Division of Mental Health, or a county jail, the
5 disclosure of which would result in the risk of harm to any
6 person or the risk of an escape from a jail or correctional
7 institution or facility.

8 (e-9) Records requested by a person in a county jail
9 or committed to the Department of Corrections or
10 Department of Human Services Division of Mental Health,
11 containing personal information pertaining to the person's
12 victim or the victim's family, including, but not limited
13 to, a victim's home address, home telephone number, work
14 or school address, work telephone number, social security
15 number, or any other identifying information, except as
16 may be relevant to a requester's current or potential case
17 or claim.

18 (e-10) Law enforcement records of other persons
19 requested by a person committed to the Department of
20 Corrections, Department of Human Services Division of
21 Mental Health, or a county jail, including, but not
22 limited to, arrest and booking records, mug shots, and
23 crime scene photographs, except as these records may be
24 relevant to the requester's current or potential case or
25 claim.

26 (f) Preliminary drafts, notes, recommendations,

1 memoranda and other records in which opinions are
2 expressed, or policies or actions are formulated, except
3 that a specific record or relevant portion of a record
4 shall not be exempt when the record is publicly cited and
5 identified by the head of the public body. The exemption
6 provided in this paragraph (f) extends to all those
7 records of officers and agencies of the General Assembly
8 that pertain to the preparation of legislative documents.

9 (g) Trade secrets and commercial or financial
10 information obtained from a person or business where the
11 trade secrets or commercial or financial information are
12 furnished under a claim that they are proprietary,
13 privileged, or confidential, and that disclosure of the
14 trade secrets or commercial or financial information would
15 cause competitive harm to the person or business, and only
16 insofar as the claim directly applies to the records
17 requested.

18 The information included under this exemption includes
19 all trade secrets and commercial or financial information
20 obtained by a public body, including a public pension
21 fund, from a private equity fund or a privately held
22 company within the investment portfolio of a private
23 equity fund as a result of either investing or evaluating
24 a potential investment of public funds in a private equity
25 fund. The exemption contained in this item does not apply
26 to the aggregate financial performance information of a

1 private equity fund, nor to the identity of the fund's
2 managers or general partners. The exemption contained in
3 this item does not apply to the identity of a privately
4 held company within the investment portfolio of a private
5 equity fund, unless the disclosure of the identity of a
6 privately held company may cause competitive harm.

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

10 (h) Proposals and bids for any contract, grant, or
11 agreement, including information which if it were
12 disclosed would frustrate procurement or give an advantage
13 to any person proposing to enter into a contractor
14 agreement with the body, until an award or final selection
15 is made. Information prepared by or for the body in
16 preparation of a bid solicitation shall be exempt until an
17 award or final selection is made.

18 (i) Valuable formulae, computer geographic systems,
19 designs, drawings and research data obtained or produced
20 by any public body when disclosure could reasonably be
21 expected to produce private gain or public loss. The
22 exemption for "computer geographic systems" provided in
23 this paragraph (i) does not extend to requests made by
24 news media as defined in Section 2 of this Act when the
25 requested information is not otherwise exempt and the only
26 purpose of the request is to access and disseminate

1 information regarding the health, safety, welfare, or
2 legal rights of the general public.

3 (j) The following information pertaining to
4 educational matters:

5 (i) test questions, scoring keys and other
6 examination data used to administer an academic
7 examination;

8 (ii) information received by a primary or
9 secondary school, college, or university under its
10 procedures for the evaluation of faculty members by
11 their academic peers;

12 (iii) information concerning a school or
13 university's adjudication of student disciplinary
14 cases, but only to the extent that disclosure would
15 unavoidably reveal the identity of the student; and

16 (iv) course materials or research materials used
17 by faculty members.

18 (k) Architects' plans, engineers' technical
19 submissions, and other construction related technical
20 documents for projects not constructed or developed in
21 whole or in part with public funds and the same for
22 projects constructed or developed with public funds,
23 including, but not limited to, power generating and
24 distribution stations and other transmission and
25 distribution facilities, water treatment facilities,
26 airport facilities, sport stadiums, convention centers,

1 and all government owned, operated, or occupied buildings,
2 but only to the extent that disclosure would compromise
3 security.

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

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

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

20 (o) Administrative or technical information associated
21 with automated data processing operations, including, but
22 not limited to, software, operating protocols, computer
23 program abstracts, file layouts, source listings, object
24 modules, load modules, user guides, documentation
25 pertaining to all logical and physical design of
26 computerized systems, employee manuals, and any other

1 information that, if disclosed, would jeopardize the
2 security of the system or its data or the security of
3 materials exempt under this Section.

4 (p) Records relating to collective negotiating matters
5 between public bodies and their employees or
6 representatives, except that any final contract or
7 agreement shall be subject to inspection and copying.

8 (q) Test questions, scoring keys, and other
9 examination data used to determine the qualifications of
10 an applicant for a license or employment.

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

22 (s) 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 Insurance or self insurance (including any

1 intergovernmental risk management association or self
2 insurance pool) claims, loss or risk management
3 information, records, data, advice or communications.

4 (t) Information contained in or related to
5 examination, operating, or condition reports prepared by,
6 on behalf of, or for the use of a public body responsible
7 for the regulation or supervision of financial
8 institutions, insurance companies, or pharmacy benefit
9 managers, unless disclosure is otherwise required by State
10 law.

11 (u) Information that would disclose or might lead to
12 the disclosure of secret or confidential information,
13 codes, algorithms, programs, or private keys intended to
14 be used to create electronic signatures under the Uniform
15 Electronic Transactions Act.

16 (v) Vulnerability assessments, security measures, and
17 response policies or plans that are designed to identify,
18 prevent, or respond to potential attacks upon a
19 community's population or systems, facilities, or
20 installations, the destruction or contamination of which
21 would constitute a clear and present danger to the health
22 or safety of the community, but only to the extent that
23 disclosure could reasonably be expected to jeopardize the
24 effectiveness of the measures or the safety of the
25 personnel who implement them or the public. Information
26 exempt under this item may include such things as details

1 pertaining to the mobilization or deployment of personnel
2 or equipment, to the operation of communication systems or
3 protocols, or to tactical operations.

4 (w) (Blank).

5 (x) Maps and other records regarding the location or
6 security of generation, transmission, distribution,
7 storage, gathering, treatment, or switching facilities
8 owned by a utility, by a power generator, or by the
9 Illinois Power Agency.

10 (y) Information contained in or related to proposals,
11 bids, or negotiations related to electric power
12 procurement under Section 1-75 of the Illinois Power
13 Agency Act and Section 16-111.5 of the Public Utilities
14 Act that is determined to be confidential and proprietary
15 by the Illinois Power Agency or by the Illinois Commerce
16 Commission.

17 (z) Information about students exempted from
18 disclosure under Sections 10-20.38 or 34-18.29 of the
19 School Code, and information about undergraduate students
20 enrolled at an institution of higher education exempted
21 from disclosure under Section 25 of the Illinois Credit
22 Card Marketing Act of 2009.

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

25 (bb) Records and information provided to a mortality
26 review team and records maintained by a mortality review

1 team appointed under the Department of Juvenile Justice
2 Mortality Review Team Act.

3 (cc) Information regarding interments, entombments, or
4 inurnments of human remains that are submitted to the
5 Cemetery Oversight Database under the Cemetery Care Act or
6 the Cemetery Oversight Act, whichever is applicable.

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

11 (ee) The names, addresses, or other personal
12 information of persons who are minors and are also
13 participants and registrants in programs of park
14 districts, forest preserve districts, conservation
15 districts, recreation agencies, and special recreation
16 associations.

17 (ff) The names, addresses, or other personal
18 information of participants and registrants in programs of
19 park districts, forest preserve districts, conservation
20 districts, recreation agencies, and special recreation
21 associations where such programs are targeted primarily to
22 minors.

23 (gg) Confidential information described in Section
24 1-100 of the Illinois Independent Tax Tribunal Act of
25 2012.

26 (hh) The report submitted to the State Board of

1 Education by the School Security and Standards Task Force
2 under item (8) of subsection (d) of Section 2-3.160 of the
3 School Code and any information contained in that report.

4 (ii) Records requested by persons committed to or
5 detained by the Department of Human Services under the
6 Sexually Violent Persons Commitment Act or committed to
7 the Department of Corrections under the Sexually Dangerous
8 Persons Act if those materials: (i) are available in the
9 library of the facility where the individual is confined;
10 (ii) include records from staff members' personnel files,
11 staff rosters, or other staffing assignment information;
12 or (iii) are available through an administrative request
13 to the Department of Human Services or the Department of
14 Corrections.

15 (jj) Confidential information described in Section
16 5-535 of the Civil Administrative Code of Illinois.

17 (kk) The public body's credit card numbers, debit card
18 numbers, bank account numbers, Federal Employer
19 Identification Number, security code numbers, passwords,
20 and similar account information, the disclosure of which
21 could result in identity theft or impersonation or defrauding
22 of a governmental entity or a person.

23 (ll) Records concerning the work of the threat
24 assessment team of a school district.

25 (mm) All records of a judicial body of this State
26 related to court cases and court decision making.

1 (1.5) Any information exempt from disclosure under the
2 Judicial Privacy Act shall be redacted from public records
3 prior to disclosure under this Act.

4 (2) A public record that is not in the possession of a
5 public body but is in the possession of a party with whom the
6 agency has contracted to perform a governmental function on
7 behalf of the public body, and that directly relates to the
8 governmental function and is not otherwise exempt under this
9 Act, shall be considered a public record of the public body,
10 for purposes of this Act.

11 (3) This Section does not authorize withholding of
12 information or limit the availability of records to the
13 public, except as stated in this Section or otherwise provided
14 in this Act.

15 (Source: P.A. 101-434, eff. 1-1-20; 101-452, eff. 1-1-20;
16 101-455, eff. 8-23-19; 101-652, eff. 1-1-22; 102-38, eff.
17 6-25-21; 102-558, eff. 8-20-21; revised 11-22-21.)