



103RD GENERAL ASSEMBLY

State of Illinois

2023 and 2024

HB5842

Introduced 5/14/2024, by Rep. Dave Vella

SYNOPSIS AS INTRODUCED:

See Index

Creates the State Public Defender Act. Creates the Office of State Public Defender as an agency of State government. Provides that the Office of State Public Defender shall be an independent agency within the judicial branch of government and the Office's records shall be subject to the Freedom of Information Act. Provides that the Office of State Public Defender shall be under the supervision and direction of the State Public Defender. Sets forth the powers and duties of the State Public Defender, including the duties of the initial State Public Defender. Provides that the initial State Public Defender shall be appointed by the Supreme Court. Sets forth specified duties and responsibilities of the initial State Public Defender. Creates the State Public Defender Commission. Sets forth membership and duties of the Commission, including appointments of the State Public Defender after the initial appointment. Amends the Public Defender and Appointed Counsel Division of the Counties Code. Provides that any 2 or more counties of this State that are within the same judicial circuit may by joint resolution of the several county boards involved create a common Office of public defender for the counties so joined or allow representation in one county by the public defender appointed in the collaborating county (rather than 2 or more adjoining counties within the same judicial circuit may create a common Office of public defender). Provides that, when a vacancy occurs in the position of public defender, the State Public Defender shall nominate and the State Public Defender Commission shall appoint a properly qualified public defender using the application and selection process developed under the State Public Defender Act. Removes certain differences based upon county populations. Removes provisions relating to the Public Defender Quality Defense Task Force. Provides that a public defender may be removed only for good cause or dereliction of duty after notice and a hearing before the State Public Defender Commission (rather than by the president of the county board after a notice and hearing of the county board). Modifies how a public defender is compensated and how moneys in the Public Defender Fund may be used. Makes other changes. Amends various Acts to make conforming changes.

LRB103 40494 RLC 72946 b

1 AN ACT concerning State government.

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

4 Section 1. Short title. This Act may be cited as the State
5 Public Defender Act.

6 Section 5. Legislative declaration. The General Assembly
7 recognizes that zealous legal representation in criminal,
8 juvenile delinquency and dependency proceedings and related
9 matters is a constitutional right of the people of the State of
10 Illinois and that high-quality legal representation should be
11 available regardless of a person's ability to pay. Therefore,
12 it is the intent of the General Assembly to provide for an
13 effective public defender system throughout the State and to
14 encourage the active and substantial participation of the
15 private bar in the representation of accused people.

16 Section 10. Definitions. As used in this Act, unless the
17 context otherwise requires:

18 "Commission" means the State Public Defender Commission
19 established under Section 40.

20 "Public defender" has the meaning ascribed to it in
21 Section 3-4000.1 of the Counties Code.

22 "State Public Defender" means the individual appointed as

1 State Public Defender under Section 30.

2 Section 15. Office of State Public Defender. The Office of
3 State Public Defender is hereby created as an agency of State
4 government and an independent agency within the judicial
5 branch of government. The Office of State Public Defender
6 shall be under the supervision and direction of the State
7 Public Defender, and its records shall be subject to the
8 Freedom of Information Act.

9 Section 20. Oath of office. The State Public Defender
10 shall take the oath of office provided by law before assuming
11 the duties of the Office of State Public Defender.

12 Section 25. Salary. The State Public Defender shall
13 receive an annual salary equivalent to that of the Attorney
14 General.

15 Section 30. Powers and duties of the State Public
16 Defender.

17 (a) The State Public Defender or the State Public
18 Defender's designee shall act as attorney when appointed by a
19 court, without fee, for all otherwise unrepresented persons
20 who are held in custody or who are charged with the commission
21 of any criminal offense before any court within any county,
22 and who the court finds are unable to afford counsel. The

1 Office of the State Public Defender shall be the attorney,
2 without fee, when so appointed by the court under the Juvenile
3 Court Act of 1987.

4 (b) The initial State Public Defender shall be nominated
5 by a nonprofit organization created by and composed of
6 Illinois' public defenders to advance public defense practice
7 and appointed for a 2-year term by a majority vote of the
8 Supreme Court. Each subsequent State Public Defender shall be
9 appointed for a 6-year term under Section 45. The State Public
10 Defender shall adopt rules, instructions, and orders
11 consistent with this Act, further defining the organization of
12 the Office of the State Public Defender and the duties of the
13 Office's employees.

14 (c) Before submitting a budget request to the General
15 Assembly, the State Public Defender shall submit the budget
16 request to the State Public Defender Commission for approval.

17 (d) The State Public Defender may:

18 (1) provide representation in counties located within
19 its regional offices in addition to appointed counsel and
20 county public defenders;

21 (2) provide county public defenders with the
22 assistance of attorneys, expert witnesses, investigators,
23 administrative staff, and social service staff;

24 (3) provide training to county public defenders;

25 (4) maintain a panel of private attorneys available to
26 serve as counsel on a case-by-case basis;

1 (5) establish programs, alone or in conjunction with
2 law schools, for the purpose of using law students as
3 legal assistants; and

4 (6) cooperate and consult with State and county
5 agencies, professional associations, and other groups
6 concerning the causes of criminal conduct, the
7 rehabilitation and support of persons charged with and
8 convicted of crime, the administration of criminal
9 justice, and the administration of juvenile delinquency
10 and dependency matters.

11 (e) The State Public Defender shall establish a
12 recruitment and retention plan to ensure a skilled and diverse
13 workforce is available to serve clients in every part of the
14 State.

15 (f) The State Public Defender shall establish and
16 supervise training programs for the State Public Defender's
17 employees.

18 (g) The State Public Defender shall adopt rules,
19 instructions, and orders, consistent with this Act to further
20 define the organization of the Office of State Public Defender
21 and the duties of employees of the Office of the State Public
22 Defender.

23 (h) The State Public Defender shall maintain a website to
24 provide the public with information about the Office of State
25 Public Defender and its organization, information on how to
26 join the Client Community Advisory Board, information for

1 people seeking employment in public defense, supplementary
2 statistics and reports of public interest, reports to the
3 Commission and State agencies, and agendas, minutes, and
4 documents for Commission meetings.

5 (i) The requirement for reporting to the General Assembly
6 shall be satisfied by filing copies of the report as required
7 by Section 3.1 of the General Assembly Organization Act and
8 filing such additional copies with the State Government Report
9 Distribution Center for the General Assembly as is required
10 under paragraph (t) of Section 7 of the State Library Act.

11 (j) All required reports shall be simultaneously
12 transmitted to the Supreme Court and to the Governor.

13 Section 35. Office of State Public Defender organization.

14 (a) During the initial State Public Defender's 2-year
15 term, the State Public Defender shall establish a Public
16 Defender Advisory Board, composed of attorneys providing
17 public defense services in this State, including public
18 defenders, which shall meet regularly to advise the Office of
19 the State Public Defender regarding legal practice issues and
20 resource needs around the State and establishing workload,
21 staffing, and salary standards for the provision of public
22 defense throughout the State.

23 (b) During the initial State Public Defender's term, the
24 State Public Defender shall collaborate with the Public
25 Defender Advisory Board to determine which judicial circuits

1 or geographic regions require State public defenders and how
2 many public defenders and staff are required to supplement
3 existing public defenders, staff, and appointed counsel for
4 the State in order to comply with the State's legal and ethical
5 obligations.

6 (c) During the initial State Public Defender's term, the
7 State Public Defender shall establish a Client Community
8 Advisory Board, composed of former clients and impacted
9 community members, which shall meet regularly to advise the
10 Office of the State Public Defender regarding client legal
11 issues and needs around the State.

12 (d) During the initial State Public Defender's term, the
13 State Public Defender shall collaborate with the Public
14 Defender Advisory Board to devise an application and selection
15 process for whenever there is an open public defender
16 position.

17 (e) During the initial State Public Defender's term, the
18 State Public Defender shall establish a working group to
19 assess the availability of public defender representation and
20 adequacy of resources in proceedings under Article II of the
21 Juvenile Court Act. The working group members shall include
22 current public defenders, non-public defenders that provide
23 legal representation to parents/respondents, and nonprofit
24 advocates with expertise in parent legal representation and
25 shall meet regularly to advise the Office of the State Public
26 Defender regarding client legal issues and needs around the

1 State.

2 (f) During the initial State Public Defender's term, the
3 State Public Defender shall establish a procedure for
4 distributions from the Public Defender Fund described under
5 Section 3-4014 of the Counties Code.

6 (1) The purpose of the Public Defender Fund is to
7 supplement, not displace, county-level public defender
8 offices' budgets and to aid county public defenders in
9 providing effective assistance of counsel to their
10 clients.

11 (2) State support, funding, and services provided to
12 any county public defender office shall neither affect nor
13 be offset by any reduction in existing or projected public
14 defender office budgets.

15 (3) Appropriate uses of funds include, but are not
16 limited to:

17 (A) hiring investigators, social workers, or
18 mental health clinicians;

19 (B) increasing compensation for attorney and
20 non-attorney employees;

21 (C) funding expert witnesses; and

22 (D) training attorney and non-attorney employees.

23 (4) Requests by countries for financial support from
24 the Public Defender Fund shall originate solely from the
25 chief public defender of any jurisdiction and shall be
26 submitted directly to the Office of the State Public

1 Defender. Financial support shall be paid to the county in
2 which the requesting chief public defender practices, and
3 the county treasurer shall cause that entire amount to be
4 placed in the operating budget of the public defender for
5 immediate use.

6 (5) County public defender offices shall provide the
7 Office of State Public Defender with a report including a
8 detailed accounting of the provided funds and an
9 evaluation of the impact of the provided funds within a
10 reasonable time frame established by the Office of State
11 Public Defender.

12 (g) Following the planning phase described in subsections
13 (a) through (f), the State Public Defender may establish
14 regional offices. The State Public Defender shall appoint a
15 deputy defender for each regional office who shall serve as
16 the administrator of that office. Each deputy defender must be
17 an attorney licensed to practice law in this State. Deputy
18 public defenders shall serve at the pleasure of the State
19 Public Defender.

20 (h) The Office of the State Public Defender shall hire and
21 train new State-employed personnel to carry out the Office's
22 duties under this Act, including, but not limited to,
23 attorneys licensed to practice law in this State, and
24 administrative, investigative, and social services employees.
25 Nothing in this Act shall be construed to invalidate,
26 diminish, or otherwise interfere with any collective

1 bargaining agreement or representation rights under the
2 Illinois Public Labor Relations Act, if applicable.

3 (i) Deputy defenders shall employ, with the approval of
4 the State Public Defender, assistant public defenders,
5 investigators, social services staff, administrative staff,
6 and other employees under their direct supervision, as
7 described in subsection (h) of this Section.

8 (j) Attorneys employed by the Office of the State Public
9 Defender shall devote full time to their duties, except as
10 provided in Section 50, and may not engage in the private
11 practice of law.

12 Section 40. State Public Defender Commission.

13 (a) The State Public Defender Commission is hereby created
14 as an independent body within the judicial branch. The
15 Commission shall be composed of 11 members, appointed as
16 follows:

17 (1) Two members appointed by the Governor from a panel
18 of 5 persons nominated by a nonprofit organization created
19 by and composed of Illinois' public defenders to advance
20 public defense practice;

21 (2) Two members appointed by the Supreme Court from a
22 panel of 5 persons nominated by an organization of
23 Illinois chief public defenders;

24 (3) One member appointed by the Supreme Court from a
25 panel of 3 criminal defense lawyers nominated by a

1 voluntary association of lawyers which aims to assist
2 Illinois lawyers in the practice of law and to promote the
3 advancement of justice;

4 (4) one member appointed by the Speaker of the House
5 of Representatives;

6 (5) one member appointed by the Minority Leader of the
7 House of Representatives;

8 (6) one member appointed by the President of the
9 Senate;

10 (7) one member appointed by the Minority Leader of the
11 Senate;

12 (8) one member appointed by the Governor representing
13 community-based organizations that support the success of
14 people impacted by the criminal or juvenile delinquency
15 and dependency legal systems; and

16 (9) one member appointed by the Governor representing
17 organizations advocating for civil rights or criminal or
18 juvenile delinquency or dependency legal system reform.

19 All appointments shall be filed with the Secretary of
20 State by the appointing authority. The terms of the original
21 members shall be as follows: 5 members shall be appointed to
22 2-year terms and until a successor is appointed and qualified
23 and 6 members shall be appointed to 4-year terms and until a
24 successor is appointed and qualified. Thereafter, all members
25 shall be appointed to 4-year terms and until a successor is
26 appointed and qualified. The chairperson, at the first meeting

1 of the Commission, shall conduct a drawing by lot to determine
2 whether each original member shall be appointed to a 2-year or
3 4-year term.

4 (b) Persons appointed to the Commission shall have
5 significant experience in the defense of indigent clients in
6 criminal or juvenile proceedings or shall have demonstrated a
7 strong commitment to quality representation in indigent
8 defense matters. No person shall be appointed to the
9 Commission who, within the 2 years prior to appointment, has
10 received compensation to be a judge, elected official,
11 judicial officer, prosecutor, or law enforcement official, or
12 who has served as an employee of such a person.

13 (c) No member may serve more than 2 full 4-year terms.
14 Vacancies in the membership of the Commission are to be filled
15 in the same manner as original appointments. A vacancy shall
16 be declared upon any member missing 3 or more meetings in a row
17 unless the chairperson finds there was good cause for the
18 absences. Appointments to fill vacancies occurring before the
19 expiration of a term are for the remainder of the unexpired
20 term.

21 (d) Members of the Commission shall elect from the
22 membership of the Commission a chairperson, vice-chairperson,
23 and secretary. No officer may serve more than one full 4-year
24 term as an officer. The Commission shall meet quarterly. The
25 chairperson shall determine the time and place of meetings.
26 Additional meetings may be held upon petition to the

1 chairperson by 7 or more members of the Commission or upon the
2 call of the chairperson after 7 days written notice to the
3 members.

4 (e) The Commission shall approve the Office of State
5 Public Defender distribution of the Public Defender Fund under
6 Section 3-4014 of the Counties Code.

7 (f) Members of the Commission may receive a stipend upon
8 demonstrated need, based on a decision of the chairperson.
9 Members of the Commission shall receive reimbursement for
10 actual expenses incurred in the performance of the member's
11 duties.

12 (g) Six members of the Commission constitute a quorum.

13 (h) Records and proceedings of the Commission shall be
14 subject to the Open Meetings Act and Freedom of Information
15 Act.

16 Section 45. Powers and Duties of the State Public Defender
17 Commission.

18 (a) After the term of the initial State Public Defender
19 concludes, the Commission, by a vote of a majority of the
20 members of the Commission, shall appoint a State Public
21 Defender for a 6-year term and until the State Public
22 Defender's successor is appointed and qualified. The State
23 Public Defender must be an attorney licensed to practice law
24 in this State and must have criminal defense experience. The
25 State Public Defender shall devote full time to the duties of

1 the Office of State Public Defender and may not engage in the
2 private practice of law.

3 (b) The State Public Defender shall draft, and the
4 Commission shall approve and publish, standards for
5 trial-level public defense in the State, including
6 identification of workload standards and ratios of attorney to
7 non-attorney staff, such as investigators, mitigators, social
8 workers, and administrative support staff.

9 (c) The Commission shall approve or modify an operational
10 budget and the Public Defender Fund expenditures submitted to
11 the Commission by the State Public Defender.

12 (d) The Commission may remove the State Public Defender
13 only for cause and after a hearing. The Commission may hold
14 such a hearing on the Commission's own motion and may adopt
15 rules establishing other procedures for the hearing.

16 (e) The State Public Defender shall submit reports to the
17 Commission on the operation of the Office of State Public
18 Defender at each quarterly meeting. The State Public Defender
19 shall submit a comprehensive report to the Commission at the
20 end of each fiscal year. The Commission may require the State
21 Public Defender to submit additional or amended reports on any
22 aspect of the operation of the Office of State Public
23 Defender.

24 Section 50. Shared position. For purposes of this Section,
25 "shared position" means a position in which individuals share

1 the salary and employee benefits. For purposes of seniority,
2 each individual shall receive credit at a rate equal to the
3 percentage of time employed in a shared position. Attorneys
4 sharing a position may not engage in the private practice of
5 law.

6 Section 80. The Freedom of Information Act is amended by
7 changing Section 7 as follows:

8 (5 ILCS 140/7)

9 Sec. 7. Exemptions.

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

18 (a) Records created or compiled by a State public
19 defender agency or commission subject to this Act that
20 contain: individual client identity; individual case file
21 information; records that are otherwise subject to
22 attorney-client privilege; records that would not be
23 discoverable in litigation; records under Section 2.15;
24 training materials; records related to attorney

1 consultation and representation strategy; or any of the
2 above concerning clients of county public defenders or
3 other defender agencies and firms. This exclusion does not
4 apply to de-identified, aggregated, administrative
5 records, such as general case processing and workload
6 information.

7 (a-5) ~~(a)~~ Information specifically prohibited from
8 disclosure by federal or State law or rules and
9 regulations implementing federal or State law.

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

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

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

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

5 (d) Records in the possession of any public body
6 created in the course of administrative enforcement
7 proceedings, and any law enforcement or correctional
8 agency for law enforcement purposes, but only to the
9 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 that is the recipient of the request;

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

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

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

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

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

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

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

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

26 (d-6) Records contained in the Officer Professional

1 Conduct Database under Section 9.2 of the Illinois Police
2 Training Act, except to the extent authorized under that
3 Section. This includes the documents supplied to the
4 Illinois Law Enforcement Training Standards Board from the
5 Illinois State Police and Illinois State Police Merit
6 Board.

7 (d-7) Information gathered or records created from the
8 use of automatic license plate readers in connection with
9 Section 2-130 of the Illinois Vehicle Code.

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

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

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

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

1 through an administrative request to the Department of
2 Corrections or Department of Human Services Division of
3 Mental Health.

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

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

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

1 claim.

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

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

20 The information included under this exemption includes
21 all trade secrets and commercial or financial information
22 obtained by a public body, including a public pension
23 fund, from a private equity fund or a privately held
24 company within the investment portfolio of a private
25 equity fund as a result of either investing or evaluating
26 a potential investment of public funds in a private equity

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

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

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

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

1 requested information is not otherwise exempt and the only
2 purpose of the request is to access and disseminate
3 information regarding the health, safety, welfare, or
4 legal rights of the general public.

5 (j) The following information pertaining to
6 educational matters:

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

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

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

18 (iv) course materials or research materials used
19 by faculty members.

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

1 distribution facilities, water treatment facilities,
2 airport facilities, sport stadiums, convention centers,
3 and all government owned, operated, or occupied buildings,
4 but only to the extent that disclosure would compromise
5 security.

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

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

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

22 (o) Administrative or technical information associated
23 with automated data processing operations, including, but
24 not limited to, software, operating protocols, computer
25 program abstracts, file layouts, source listings, object
26 modules, load modules, user guides, documentation

1 pertaining to all logical and physical design of
2 computerized systems, employee manuals, and any other
3 information that, if disclosed, would jeopardize the
4 security of the system or its data or the security of
5 materials exempt under this Section.

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

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

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

24 (s) Any and all proprietary information and records
25 related to the operation of an intergovernmental risk
26 management association or self-insurance pool or jointly

1 self-administered health and accident cooperative or pool.
2 Insurance or self-insurance (including any
3 intergovernmental risk management association or
4 self-insurance pool) claims, loss or risk management
5 information, records, data, advice, or communications.

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

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

18 (v) Vulnerability assessments, security measures, and
19 response policies or plans that are designed to identify,
20 prevent, or respond to potential attacks upon a
21 community's population or systems, facilities, or
22 installations, but only to the extent that disclosure
23 could reasonably be expected to expose the vulnerability
24 or jeopardize the effectiveness of the measures, policies,
25 or plans, or the safety of the personnel who implement
26 them or the public. Information exempt under this item may

1 include such things as details pertaining to the
2 mobilization or deployment of personnel or equipment, to
3 the operation of communication systems or protocols, to
4 cybersecurity vulnerabilities, or to tactical operations.

5 (w) (Blank).

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

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

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

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

26 (bb) Records and information provided to a mortality

1 review team and records maintained by a mortality review
2 team appointed under the Department of Juvenile Justice
3 Mortality Review Team Act.

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

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

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

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

24 (gg) Confidential information described in Section
25 1-100 of the Illinois Independent Tax Tribunal Act of
26 2012.

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

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

16 (jj) Confidential information described in Section
17 5-535 of the Civil Administrative Code of Illinois.

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

24 (ll) Records concerning the work of the threat
25 assessment team of a school district, including, but not
26 limited to, any threat assessment procedure under the

1 School Safety Drill Act and any information contained in
2 the procedure.

3 (mm) Information prohibited from being disclosed under
4 subsections (a) and (b) of Section 15 of the Student
5 Confidential Reporting Act.

6 (nn) Proprietary information submitted to the
7 Environmental Protection Agency under the Drug Take-Back
8 Act.

9 (oo) Records described in subsection (f) of Section
10 3-5-1 of the Unified Code of Corrections.

11 (pp) Any and all information regarding burials,
12 interments, or entombments of human remains as required to
13 be reported to the Department of Natural Resources
14 pursuant either to the Archaeological and Paleontological
15 Resources Protection Act or the Human Remains Protection
16 Act.

17 (qq) ~~(pp)~~ Reports described in subsection (e) of
18 Section 16-15 of the Abortion Care Clinical Training
19 Program Act.

20 (rr) ~~(pp)~~ Information obtained by a certified local
21 health department under the Access to Public Health Data
22 Act.

23 (ss) ~~(pp)~~ For a request directed to a public body that
24 is also a HIPAA-covered entity, all information that is
25 protected health information, including demographic
26 information, that may be contained within or extracted

1 from any record held by the public body in compliance with
2 State and federal medical privacy laws and regulations,
3 including, but not limited to, the Health Insurance
4 Portability and Accountability Act and its regulations, 45
5 CFR Parts 160 and 164. As used in this paragraph,
6 "HIPAA-covered entity" has the meaning given to the term
7 "covered entity" in 45 CFR 160.103 and "protected health
8 information" has the meaning given to that term in 45 CFR
9 160.103.

10 (1.5) Any information exempt from disclosure under the
11 Judicial Privacy Act shall be redacted from public records
12 prior to disclosure under this Act.

13 (2) A public record that is not in the possession of a
14 public body but is in the possession of a party with whom the
15 agency has contracted to perform a governmental function on
16 behalf of the public body, and that directly relates to the
17 governmental function and is not otherwise exempt under this
18 Act, shall be considered a public record of the public body,
19 for purposes of this Act.

20 (3) This Section does not authorize withholding of
21 information or limit the availability of records to the
22 public, except as stated in this Section or otherwise provided
23 in this Act.

24 (Source: P.A. 102-38, eff. 6-25-21; 102-558, eff. 8-20-21;
25 102-694, eff. 1-7-22; 102-752, eff. 5-6-22; 102-753, eff.
26 1-1-23; 102-776, eff. 1-1-23; 102-791, eff. 5-13-22; 102-982,

1 eff. 7-1-23; 102-1055, eff. 6-10-22; 103-154, eff. 6-30-23;
2 103-423, eff. 1-1-24; 103-446, eff. 8-4-23; 103-462, eff.
3 8-4-23; 103-540, eff. 1-1-24; 103-554, eff. 1-1-24; revised
4 9-7-23.)

5 Section 85. The Counties Code is amended by changing
6 Sections 3-4000, 3-4000.1, 3-4001, 3-4002, 3-4003, 3-4004,
7 3-4004.2, 3-4005, 3-4007, 3-4008.1, 3-4009, 3-4010.1, and
8 3-4014 as follows:

9 (55 ILCS 5/3-4000) (from Ch. 34, par. 3-4000)

10 Sec. 3-4000. Legislative declaration. The General Assembly
11 recognizes that quality legal representation in criminal,
12 juvenile delinquency, and dependency proceedings and related
13 matters is a constitutional ~~proceedings is a fundamental~~ right
14 of the people of the State of Illinois and that there should be
15 no distinction in the availability of quality legal
16 representation based upon a person's ability ~~inability~~ to pay.
17 Therefore, it is the intent of the General Assembly to provide
18 for an effective county public defense system ~~defender systems~~
19 throughout the State and encourage the active and substantial
20 participation of the private bar in the representation of
21 accused people ~~indigent defendants~~.

22 (Source: P.A. 87-111.)

23 (55 ILCS 5/3-4000.1) (from Ch. 34, par. 3-4000.1)

1 Sec. 3-4000.1. Definitions. In this Division, except when
2 a particular context clearly requires a different meaning, the
3 following definitions apply:

4 "Board" means the county board of commissioners.

5 "President" means the president, speaker, or chair of the
6 county board.

7 "Public defender" means a county chief public defender
8 appointed to the office of public defender by one or more
9 counties under Section 3-4001, 3-4002, or 3-4003.

10 "State Public Defender" has the meaning ascribed to it in
11 Section 3 of the State Public Defender Act.

12 (Source: P.A. 87-111.)

13 (55 ILCS 5/3-4001) (from Ch. 34, par. 3-4001)

14 Sec. 3-4001. Public defender in counties over 35,000. In
15 each county of this State containing 35,000 or more
16 inhabitants there is created the Office ~~office~~ of Public
17 Defender and the person or persons to be appointed to such
18 office shall be known as the Public Defender. No person shall
19 be eligible to ~~or~~ hold such office unless he is duly licensed
20 as an attorney ~~and counsellor at law~~ in this State.

21 (Source: P.A. 86-962.)

22 (55 ILCS 5/3-4002) (from Ch. 34, par. 3-4002)

23 Sec. 3-4002. Public defender in counties of less than
24 35,000. In each county of this State containing less than

1 35,000 inhabitants, the county board may, by resolution,
2 create the Office ~~office~~ of Public Defender and the person
3 appointed to such office shall be known as the Public
4 Defender. No person shall be eligible to or hold such office
5 unless he or she is duly licensed as an attorney ~~at law~~ in this
6 State.

7 (Source: P.A. 86-962.)

8 (55 ILCS 5/3-4003) (from Ch. 34, par. 3-4003)

9 Sec. 3-4003. Public defender in collaboration within the
10 same judicial circuit ~~adjoining~~ counties. Any 2 or more
11 ~~adjoining~~ counties of this State that are within the same
12 judicial circuit, ~~may~~ may, by joint resolution of the several
13 county boards involved, create a common Office ~~office~~ of
14 Public Defender for the counties so joined or allow
15 representation in one county by the public defender appointed
16 in the collaborating county. The person or persons appointed
17 to the Office ~~such office~~ shall be known as the Public
18 Defender. No person shall be eligible to or hold the Office
19 ~~such office~~ unless he or she is duly licensed as an attorney ~~at~~
20 ~~law~~ in this State.

21 (Source: P.A. 86-962.)

22 (55 ILCS 5/3-4004) (from Ch. 34, par. 3-4004)

23 Sec. 3-4004. Appointment of Public Defender ~~in counties~~
24 ~~under 1,000,000~~. When a vacancy occurs in the position of

1 public defender, the State Public Defender shall nominate and
2 the State Public Defender Commission shall appoint a properly
3 qualified public defender using the application and selection
4 process developed under Section 35 of the State Public
5 Defender Act, ~~As soon as may be after this Division becomes~~
6 ~~applicable to a county with a population under 1,000,000, the~~
7 ~~judges of the Circuit Court of the circuit in which the county~~
8 ~~is located shall, by a majority vote of the entire number of~~
9 ~~those judges, appoint to the office of Public Defender a~~
10 ~~properly qualified person, who shall hold office, his death or~~
11 ~~resignation not intervening, at the pleasure of the judges~~
12 ~~competent to appoint. Whenever a vacancy occurs in the office~~
13 ~~it shall be filled in the same manner,~~ and the person appointed
14 to fill the vacancy shall have the same tenure of office.

15 (Source: P.A. 86-962; 87-111.)

16 (55 ILCS 5/3-4004.2) (from Ch. 34, par. 3-4004.2)

17 Sec. 3-4004.2. Qualifications of Public Defender and terms
18 of employment in counties over 35,000 ~~1,000,000~~. In counties
19 with a population over 1,000,000, the following qualifications
20 and terms of employment shall apply:

21 (a) The public defender shall be ~~The president shall~~
22 ~~select as Public Defender only a person with the following~~
23 ~~qualifications:~~ an attorney whose practice of law has
24 clearly demonstrated experience in the representation of
25 persons accused of crime; who has been licensed to

1 practice law in this State or in another state for at least
2 5 years; who has had administrative experience; and who is
3 dedicated to the goals of providing high quality
4 representation for eligible persons and to improving the
5 quality of defense services generally.

6 (b) The Public Defender shall devote full time to the
7 duties of the public defender system and shall not
8 otherwise engage in the practice of law.

9 (c) Once approved, the ~~The~~ Public Defender ~~once~~
10 ~~approved by the Board~~ shall serve for 6 years and may be
11 removed ~~by the President~~ only for good cause or
12 dereliction of duty after notice and a hearing before the
13 State Public Defender Commission Board. ~~The effective date~~
14 ~~of this amendatory Act of 1991 shall be deemed the~~
15 ~~commencement of the term of the current public defender.~~

16 (d) (Blank). ~~The Public Defender's compensation shall~~
17 ~~be set at a level that is commensurate with his~~
18 ~~qualifications and experience and professionally~~
19 ~~appropriate with the responsibility of the position. The~~
20 ~~Public Defender's compensation shall be comparable with~~
21 ~~that paid to circuit court judges, but in no event shall be~~
22 ~~more than that of the State's Attorney of the county.~~

23 (Source: P.A. 87-111.)

24 (55 ILCS 5/3-4005) (from Ch. 34, par. 3-4005)

25 Sec. 3-4005. Oath of office. The person appointed as

1 Public Defender, before entering on the duties of his office,
2 shall take and subscribe an oath of office in writing before
3 one of the judges qualified to administer it ~~competent to~~
4 ~~appoint~~, which oath shall be filed in the office of the County
5 Clerk.

6 (Source: P.A. 86-962.)

7 (55 ILCS 5/3-4007) (from Ch. 34, par. 3-4007)

8 Sec. 3-4007. Compensation.

9 (a) The public defender shall be paid out of the county
10 treasury, and, subject to appropriation, shall be paid by the
11 Department of Revenue out of the Personal Property Tax
12 Replacement Fund or the General Revenue Fund as provided in
13 subsection (b), as the sole compensation for his or her
14 services a salary in an amount fixed by the County Board. ~~When~~
15 ~~a Public Defender in a county of 30,000 or more population is~~
16 ~~receiving not less than 90% of the compensation of the State's~~
17 ~~Attorney of such county, that Public Defender shall not engage~~
18 ~~in the private practice of law.~~

19 (b) ~~The State must pay 66 2/3% of the public defender's~~
20 ~~annual salary.~~ If the public defender is employed full-time in
21 that capacity, his or her salary must be at least equal to 90%
22 ~~of~~ that county's State's Attorney's ~~attorney's~~ annual
23 compensation and will be eligible for the same amount of
24 reimbursement as that county's State's Attorney under Section
25 4-2001. Funding for assistant public defenders must be at

1 least proportionate to that of assistant State's Attorneys,
2 including supplements for counties housing certain State
3 institutions as described Section 4-2001 of the Counties Code.

4 Subject to appropriation, these amounts furnished by the State
5 shall be payable monthly by the Department of Revenue out of
6 the Personal Property Tax Replacement Fund or the General
7 Revenue Fund to the county in which each Public Defender is
8 employed.

9 (c) In cases where 2 or more ~~adjoining~~ counties have
10 joined to form a common office of Public Defender or otherwise
11 collaborate under Section 3-4003, the salary of the Public
12 Defender shall be set and paid as provided by a joint
13 resolution of the various county boards involved.

14 (Source: P.A. 97-72, eff. 7-1-11.)

15 (55 ILCS 5/3-4008.1) (from Ch. 34, par. 3-4008.1)

16 Sec. 3-4008.1. Assistant public defenders ~~Assistants in~~
17 ~~counties over 1,000,000~~. The Public Defender ~~in counties with~~
18 ~~a population over 1,000,000~~ shall appoint assistants, all duly
19 licensed practitioners, as that Public Defender shall deem
20 necessary for the proper discharge of the duties of the
21 office, who shall serve at the pleasure of the Public
22 Defender. The Public Defender shall also, in like manner,
23 appoint clerks and other employees necessary for the
24 transaction of the business of the office. The compensation of
25 and the appropriate number of assistants, clerks, and

1 employees shall be fixed by the County Board and paid out of
2 the county treasury.

3 (Source: P.A. 87-111.)

4 (55 ILCS 5/3-4009) (from Ch. 34, par. 3-4009)

5 Sec. 3-4009. Office quarters; expenses. ~~The County Boards~~
6 ~~Board~~ shall provide suitable office quarters for the use of
7 the Public Defender, and shall pay out of the county treasury
8 for necessary office, travel and other expenses incurred in
9 the defense of cases, including, but not limited to, social
10 workers, investigators, expert witnesses, mitigators, and
11 administrative staff. ~~In counties of less than 500,000~~
12 ~~population, such payment shall be made after the circuit court~~
13 ~~of the county approves such expenses as being necessary and~~
14 ~~proper.~~ In cases where 2 or more adjoining counties have
15 joined to form a common office of Public Defender or otherwise
16 collaborate under Section 3-4003, the expenses incurred under
17 this Section shall be paid as provided for in a joint
18 resolution of the various county boards involved.

19 (Source: P.A. 86-962.)

20 (55 ILCS 5/3-4010.1) (from Ch. 34, par. 3-4010.1)

21 Sec. 3-4010.1. Records; reports ~~in counties over~~
22 ~~1,000,000.~~ The public defender in counties with a population
23 over 35,000 ~~1,000,000~~ shall keep a record of the services
24 rendered by the public defender ~~him~~ and prepare and file

1 quarterly with the president and Commission a written report
2 of those services. If 2 or more adjoining counties have joined
3 to form a common Office of public defender or otherwise
4 collaborate under Section 3-4003, the public defender so
5 appointed shall file his or her quarterly report with each of
6 the several county boards involved.

7 (Source: P.A. 87-111.)

8 (55 ILCS 5/3-4014)

9 Sec. 3-4014. Public Defender Fund.

10 (a) (Blank).

11 (b) The Public Defender Fund is created as a special fund
12 in the State treasury. All money in the Public Defender Fund
13 shall be used, subject to appropriation, by the State Public
14 Defender ~~Illinois Supreme Court~~ to provide funding to counties
15 ~~with a population of 3,000,000 or less~~ for use by public
16 defenders for ~~and~~ public defender services and related
17 expenses pursuant to this Section 3-4014.

18 (Source: P.A. 102-1104, eff. 12-6-22; 103-8, eff. 7-1-23.)

19 (55 ILCS 5/3-4004.1 rep.)

20 (55 ILCS 5/3-4008 rep.)

21 (55 ILCS 5/3-4010 rep.)

22 (55 ILCS 5/3-4011 rep.)

23 (55 ILCS 5/3-4013 rep.)

24 Section 90. The Counties Code is amended by repealing

1 Sections 3-4004.1, 3-4008, 3-4010, 3-4011, and 3-4013.

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