

1 AN ACT concerning freedom of information.

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 9, 10, and 11 as follows:

6 (5 ILCS 140/9) (from Ch. 116, par. 209)

7 Sec. 9. (a) Each public body or head of a public body
8 denying a request for public records shall notify by letter the
9 person making the request of the decision to deny such, the
10 reasons for the denial, and the names and titles or positions
11 of each person responsible for the denial. Each notice of
12 denial by a public body shall also inform such person of his
13 right to appeal to the head of the public body. ~~Each notice of~~
14 ~~denial of an appeal by the head of a public body shall inform~~
15 ~~such person of his right to judicial review under Section 11 of~~
16 ~~this Act.~~

17 (b) When a request for public records is denied on the
18 grounds that the records are exempt under Section 7 of this
19 Act, the notice of denial shall specify the exemption claimed
20 to authorize the denial. Copies of all notices of denial shall
21 be retained by each public body in a single central office file
22 that is open to the public and indexed according to the type of
23 exemption asserted and, to the extent feasible, according to
24 the types of records requested.

25 (Source: P.A. 83-1013.)

26 (5 ILCS 140/10) (from Ch. 116, par. 210)

27 Sec. 10. (a) Any person denied access to inspect or copy
28 any public record may appeal the denial by sending a written
29 notice of appeal to the head of the public body. Upon receipt
30 of such notice the head of the public body shall promptly
31 review the public record, determine whether under the

1 provisions of this Act such record is open to inspection and
2 copying, and notify the person making the appeal of such
3 determination within 7 working days after the notice of appeal.
4 Each notice of denial of an appeal by the head of a public body
5 shall inform the person of his or her right to judicial review
6 within 60 days after the denial under Section 11.

7 (b) Any person making a request for public records shall be
8 deemed to have exhausted his administrative remedies with
9 respect to such request if the head of the public body affirms
10 the denial or fails to act within the time limit provided in
11 subsection (a) of this Section.

12 (Source: P.A. 83-1013.)

13 (5 ILCS 140/11) (from Ch. 116, par. 211)

14 Sec. 11. (a) Any person denied access to inspect or copy
15 any public record by the head of a public body may file suit
16 for injunctive or declaratory relief. If the head of a public
17 body has issued a written denial of appeal as provided in
18 subsection (a) of Section 10, any suit for injunctive or
19 declaratory relief must be filed within 60 days after the
20 receipt of the denial of the appeal. For any written denial of
21 appeal issued before the effective date of this amendatory Act
22 of the 93rd General Assembly, suit for injunctive or
23 declaratory relief must be filed within 60 days after the
24 effective date of this amendatory Act of the 93rd General
25 Assembly.

26 (b) Where the denial is from the head of a public body of
27 the State, suit may be filed in the circuit court for the
28 county where the public body has its principal office or where
29 the person denied access resides.

30 (c) Where the denial is from the head of a municipality or
31 other public body, except as provided in subsection (b) of this
32 Section, suit may be filed in the circuit court for the county
33 where the public body is located.

34 (d) The circuit court shall have the jurisdiction to enjoin
35 the public body from withholding public records and to order

1 the production of any public records improperly withheld from
2 the person seeking access. If the public body can show that
3 exceptional circumstances exist, and that the body is
4 exercising due diligence in responding to the request, the
5 court may retain jurisdiction and allow the agency additional
6 time to complete its review of the records.

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

11 (i) A description of the nature or contents of each
12 document withheld, or each deletion from a released
13 document, provided, however, that the public body shall not
14 be required to disclose the information which it asserts is
15 exempt; and

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

18 (f) In any action considered by the court, the court shall
19 consider the matter de novo, and shall conduct such in camera
20 examination of the requested records as it finds appropriate to
21 determine if such records or any part thereof may be withheld
22 under any provision of this Act. The burden shall be on the
23 public body to establish that its refusal to permit public
24 inspection or copying is in accordance with the provisions of
25 this Act.

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

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

35 (i) If a person seeking the right to inspect or receive a
36 copy of a public record substantially prevails in a proceeding

1 under this Section, the court may award such person reasonable
2 attorneys' fees and costs. If, however, the court finds that
3 the fundamental purpose of the request was to further the
4 commercial interests of the requestor, the court may award
5 reasonable attorneys' fees and costs if the court finds that
6 the record or records in question were of clearly significant
7 interest to the general public and that the public body lacked
8 any reasonable basis in law for withholding the record.

9 (Source: P.A. 93-466, eff. 1-1-04.)

10 Section 99. Effective date. This Act takes effect upon
11 becoming law.