

1 AMENDMENT TO SENATE BILL 1785

2 AMENDMENT NO. _____. Amend Senate Bill 1785 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Whistleblower Reward and Protection Act
5 is amended by changing Section 6 as follows:

6 (740 ILCS 175/6) (from Ch. 127, par. 4106)

7 Sec. 6. Subpoenas. ~~Civil-investigative-demands.~~

8 (a) In general.

9 (1) Issuance and service. Whenever the Attorney
10 General has reason to believe that any person may be in
11 possession, custody, or control of any documentary
12 material or information relevant to an investigation, the
13 Attorney General may, before commencing a civil
14 proceeding under this Act, issue in writing and cause to
15 be served upon such person, a subpoena ~~civil~~
16 ~~investigative-demand~~ requiring such person:

17 (A) to produce such documentary material for
18 inspection and copying,

19 (B) to answer, in writing, written
20 interrogatories with respect to such documentary
21 material or information,

22 (C) to give oral testimony concerning such

documentary material or information, or

(D) to furnish any combination of such material, answers, or testimony.

The Attorney General ~~may~~ shall delegate the authority to issue subpoenas ~~civil--investigative-demands~~ under this subsection (a) to the Department of State Police subject to conditions as the Attorney General deems appropriate.

Whenever a subpoena ~~civil--investigative--demand~~ is an express demand for any product of discovery, the Attorney General or his or her delegate,~~--an--Assistant--Attorney General--or--the--delegate--of--the--Department--of--State--Police~~ shall cause to be served, in any manner authorized by this Section, a copy of such demand upon the person from whom the discovery was obtained and shall notify the person to whom such demand is issued of the date on which such copy was served.

(2) Contents and deadlines. (A) Each subpoena ~~civil--investigative--demand~~ issued under paragraph (1):

(A) Shall state the nature of the conduct constituting an alleged violation that is under investigation and the applicable provision of law alleged to be violated.

(B) Shall identify the individual causing the subpoena to be served and to whom communications regarding the subpoena should be directed.

(C) Shall state the date, place, and time at which the person is required to appear, produce written answers to interrogatories, produce documentary material or give oral testimony. The date shall not be less than 10 days from the date of service of the subpoena. Compliance with the subpoena shall be at the Office of the Attorney General in either the Springfield or Chicago location or at other location by agreement.

1 (D) If the subpoena is for documentary
2 material or interrogatories, shall describe the
3 documents or information requested with specificity.

4 (E) Shall notify the person of the right to be
5 assisted by counsel.

6 (F) Shall advise that the person has 20 days
7 from the date of service or up until the return date
8 specified in the demand, whichever date is earlier,
9 to move, modify, or set aside the subpoena pursuant
10 to subparagraph (j)(2)(A) of this Section. shall
11 state--the--nature--of--the--conduct--constituting--and
12 alleged--violation--which--is--under--investigation,--and
13 the--applicable--provision--of--law--alleged--to--be
14 violated.

15 (B) If such demand is for the production of
16 documentary material, the demand shall:

17 (i) describe each class of documentary
18 material to be produced with such definiteness
19 and certainty as to permit such material to be
20 fairly identified;

21 (ii) prescribe a return date for each
22 such class which will provide a reasonable
23 period of time within which the material so
24 demand may be assembled and made available
25 for inspection and copying; and

26 (iii) identify the investigator to whom
27 such material shall be made available.

28 (C) If such demand is for answers to written
29 interrogatories, the demand shall:

30 (i) set forth with specificity the
31 written interrogatories to be answered;

32 (ii) prescribe dates at which time
33 answers to written interrogatories shall be
34 submitted; and

1 (iii)--identify-the-investigator--to--whom
2 such-answers-shall-be-submitted.

3 (D)--If--such--demand-is-for-the-giving-of-oral
4 testimony,--the-demand-shall:

5 (i)--prescribe-a-date,--time,--and-place--at
6 which-oral-testimony-shall-be-commenced;

7 (ii)--identify--an--investigator-who-shall
8 conduct-the-examination-and--the--custodian--to
9 whom--the--transcript-of-such-examination-shall
10 be-submitted;

11 (iii)--specify-that--such--attendance--and
12 testimony--are--necessary-to-the-conduct-of-the
13 investigation;

14 (iv)--notify--the--person--receiving--the
15 demand--of--the--right--to-be-accompanied-by-an
16 attorney-and-any-other-representative;--and

17 (v)--describe--the--general--purpose---for
18 which--the--demand--is--being--issued--and--the
19 general--nature-of-the-testimony,--including-the
20 primary-areas-of-inquiry,--which-will--be--taken
21 pursuant-to-the-demand.

22 (E)--Any--civil--investigative--demand--issued
23 under-this-Section-which-is-an--express--demand--for
24 any--product--of--discovery-shall-not-be-returned-or
25 returnable-until-20-days-after-a-copy-of-such-demand
26 has-been--served--upon--the--person--from--whom--the
27 discovery-was-obtained.

28 (F)--The--date--prescribed-for-the-commencement
29 of-oral-testimony-pursuant-to-a-civil--investigative
30 demand--issued--under--this--Section-shall-be-a-date
31 which-is-not-less-than-7--days--after--the--date--on
32 which--demand--is--received,--unless--the--Attorney
33 General-or-an-Assistant-Attorney-General--designated
34 by--the--Attorney--General--or--the--delegate-of-the

1 Department---of---State---Police---determines---that
 2 exceptional-circumstances-are-present-which--warrant
 3 the--commencement--of--such--testimony--within--a--lesser
 4 period-of-time.

5 (G)--The-Attorney-General-or--the--delegate--of
 6 the--Department--of--State-Police-shall-not-authorize
 7 the-issuance-under-this-Section--of--more--than--one
 8 civil-investigative-demand-for-oral-testimony-by-the
 9 same--person-unless-the-person-requests-otherwise-or
 10 unless-the-Attorney-General-or-the-delegate--of--the
 11 Department--of--State--Police,--after-investigation,
 12 notifies-that-person-in-writing-that--an--additional
 13 demand---for---oral--testimony--is--necessary.---The
 14 Attorney-General-shall-authorize-the-performance--by
 15 the--delegate--of--the-Department-of-State-Police-of
 16 any-function-vested-in-the--Attorney--General--under
 17 this-subparagraph-(G).

18 (b) Protected material or information.

19 (1) In general. A subpoena civil-investigative
 20 demand issued under subsection (a) may not require the
 21 production of any documentary material, the submission of
 22 any answers to written interrogatories, or the giving of
 23 any oral testimony if such material, answers, or
 24 testimony would be protected from disclosure under:

25 (A) the standards applicable to subpoenas or
 26 subpoenas duces tecum issued by a court of this
 27 State to aid in a grand jury investigation; or

28 (B) the standards applicable to discovery
 29 requests under the Code of Civil Procedure, to the
 30 extent that the application of such standards to any
 31 such subpoena demand is appropriate and consistent
 32 with the provisions and purposes of this Section.

33 (2) Effect on other orders, rules, and laws. Any
 34 such subpoena demand which is an express demand for any

1 product of discovery supersedes any inconsistent order,
 2 rule, or provision of law (other than this Section)
 3 preventing or restraining disclosure of such product of
 4 discovery to any person. Disclosure of any product of
 5 discovery pursuant to any such subpoena express-demand
 6 does not constitute a waiver of any right or privilege
 7 which the person making such disclosure may be entitled
 8 to invoke to resist discovery of trial preparation
 9 materials.

10 (c) Service in general;--jurisdiction. (1)--By--whom
 11 served. Any subpoena ~~civil-investigative-demand~~ issued under
 12 subsection (a) may be served by any person so authorized by
 13 the Attorney General an--investigator, or by any person
 14 authorized to serve process on individuals within Illinois,
 15 through any method prescribed in the Code of Civil Procedure
 16 or as otherwise set forth in this Act.

17 (2)--Service--in--foreign-countries.--Any-such-demand
 18 or-any-petition-filed-under-subsection-(j)-may-be--served
 19 upon--any-person-who-is-not-found-within-Illinois-in-such
 20 manner-as-the-Code--of--Civil--Procedure--prescribes--for
 21 service--of--process-outside-Illinois.--To-the-extent-that
 22 the-courts-of-this-State-can-assert-jurisdiction-over-any
 23 such--person-consistent-with-due-process,--the--courts--of
 24 this--State--shall-have-the-same-jurisdiction-to-take-any
 25 action-respecting-compliance-with--this--Section--by--any
 26 such--person--that--such--court-would-have-if-such-person
 27 were-personally-within-the-jurisdiction-of-such-court.

28 (d) Service upon legal entities and natural persons.

29 (1) Legal entities. Service of any subpoena ~~civil~~
 30 ~~investigative--demand~~ issued under subsection (a) or of
 31 any petition filed under subsection (j) may be made upon
 32 a partnership, corporation, association, or other legal
 33 entity by:

34 (A) delivering an executed copy of such

1 subpoena demand or petition to any partner,
2 executive officer, managing agent, general agent, or
3 registered agent of the partnership, corporation,
4 association or entity;

5 (B) delivering an executed copy of such
6 subpoena demand or petition to the principal office
7 or place of business of the partnership,
8 corporation, association, or entity; or

9 (C) depositing an executed copy of such
10 subpoena demand or petition in the United States
11 mails by registered or certified mail, with a return
12 receipt requested, addressed to such partnership,
13 corporation, association, or entity as its principal
14 office or place of business.

15 (2) Natural person. Service of any such subpoena
16 demand or petition may be made upon any natural person
17 by:

18 (A) delivering an executed copy of such
19 subpoena demand or petition to the person; or

20 (B) depositing an executed copy of such
21 subpoena demand or petition in the United States
22 mails by registered or certified mail, with a return
23 receipt requested, addressed to the person at the
24 person's residence or principal office or place of
25 business.

26 (e) Proof of service. A verified return by the
27 individual serving any subpoena ~~civil--investigative--demand~~
28 issued under subsection (a) or any petition filed under
29 subsection (j) setting forth the manner of such service shall
30 be proof of such service. In the case of service by
31 registered or certified mail, such return shall be
32 accompanied by the return post office receipt of delivery of
33 such subpoena demand.

34 (f) Documentary material.

1 (1) Sworn certificates. The production of
 2 documentary material in response to a subpoena civil
 3 investigative-demand served under this Section shall be
 4 made under a sworn certificate, in such form as the
 5 subpoena demand designates, by:

6 (A) in the case of a natural person, the
 7 person to whom the subpoena demand is directed, or

8 (B) in the case of a person other than a
 9 natural person, a person having knowledge of the
 10 facts and circumstances relating to such production
 11 and authorized to act on behalf of such person.

12 The certificate shall state that all of the documentary
 13 material required by the demand and in the possession,
 14 custody, or control of the person to whom the subpoena
 15 demand is directed has been produced and made available
 16 to the Attorney General investigator--identified--in--the
 17 demand.

18 (2) Production of materials. Any person upon whom
 19 any subpoena civil---investigative---demand for the
 20 production of documentary material has been served under
 21 this Section shall make such material available for
 22 inspection and copying to the Attorney General
 23 investigator-identified--in--such--demand at the place
 24 designated in the subpoena principal-place-of-business-of
 25 such--person, or at such other place as the Attorney
 26 General investigator and the person thereafter may agree
 27 and prescribe in writing, or as the court may direct
 28 under subsection (j)(1). Such material shall be made so
 29 available on the return date specified in such subpoena
 30 demand, or on such later date as the Attorney General
 31 investigator may prescribe in writing. Such person may,
 32 upon written agreement between the person and the
 33 Attorney General investigator, substitute copies for
 34 originals of all or any part of such material.

1 (g) Interrogatories. Each interrogatory in a subpoena
2 ~~eivil-investigative-demand~~ served under this Section shall be
3 answered separately and fully in writing under oath and shall
4 be submitted under a sworn certificate, in such form as the
5 subpoena demand designates by:

6 (1) in the case of a natural person, the person to
7 whom the subpoena demand is directed, or

8 (2) in the case of a person other than a natural
9 person, the person or persons responsible for answering
10 each interrogatory.

11 If any interrogatory is objected to, the reasons for the
12 objection shall be stated in the certificate instead of an
13 answer. The certificate shall state that all information
14 required by the subpoena demand and in the possession,
15 custody, control, or knowledge of the person to whom the
16 demand is directed has been submitted. To the extent that
17 any information is not furnished, the information shall be
18 identified and reasons set forth with particularity regarding
19 the reasons why the information was not furnished.

20 (h) Oral examinations.

21 (1) Procedures. The examination of any person
22 pursuant to a subpoena ~~eivil-investigative-demand~~ for
23 oral testimony served under this Section shall be taken
24 before an officer authorized to administer oaths and
25 affirmations by the laws of this State or of the place
26 where the examination is held. The officer before whom
27 the testimony is to be taken shall put the witness on
28 oath or affirmation and shall, personally or by someone
29 acting under the direction of the officer and in the
30 officer's presence, record the testimony of the witness.
31 The testimony shall be taken stenographically and shall
32 be transcribed. When the testimony is fully transcribed,
33 the officer before whom the testimony is taken shall
34 promptly transmit a certified copy of the transcript of

1 the testimony in accordance with the instructions of the
2 Attorney General ~~to the custodian~~. This subsection shall
3 not preclude the taking of testimony by any means
4 authorized by, and in a manner consistent with, the Code
5 of Civil Procedure.

6 (2) Persons present. The Attorney General may
7 ~~investigator--conducting--the--examination--shall~~ exclude
8 from the place where the examination is held all persons
9 except the person giving the testimony, the attorney for
10 the person and ~~any other--representative--of--the--person~~
11 ~~giving--the--testimony,~~ ~~the--attorney--for--the--State,~~ ~~any~~
12 ~~person--who--may--be--agreed--upon--by--the--attorney--for--the~~
13 ~~State--and--the--person--giving--the--testimony,~~ the officer
14 before whom the testimony is to be taken, and any other
15 persons as the Attorney General determines are necessary
16 for enforcement of the laws of this State and ~~any~~
17 ~~stenographer-taking-such-testimony.~~

18 (3) Where testimony taken. The oral testimony of
19 any person taken pursuant to a subpoena civil
20 ~~investigative--demand~~ served under this Section shall be
21 taken at the place designated in the subpoena ~~in--the~~
22 ~~county--within--which--such--person--resides,~~ ~~is--found,~~ ~~or~~
23 ~~transacts--business,~~ or in such other place as may be
24 agreed upon by the Attorney General ~~investigator~~
25 ~~conducting--the--examination~~ and such person.

26 (4) Transcript of testimony. When the testimony is
27 fully transcribed, the Attorney General ~~investigator~~ or
28 the officer before whom the testimony is taken shall
29 afford the witness, who may be accompanied by counsel, a
30 reasonable opportunity to review and correct ~~examine--and~~
31 ~~read~~ the transcript, in accordance with the rules
32 applicable to deposition witnesses in civil cases. Upon
33 payment of reasonable charges, the Attorney General shall
34 furnish a copy of the transcript to the witness, ~~except~~

1 that the Attorney General may, for good cause, limit the
2 witness to inspection of the official transcript of the
3 witness' testimony. unless-such-examination-and-reading
4 are-waived-by--the--witness,---Any--changes--in--form--or
5 substance--which--the--witness--desires--to-make-shall-be
6 entered-and-identified-upon-the-transcript-by-the-officer
7 or-the-investigator,--with--a--statement--of--the--reasons
8 given--by--the--witness--for--making--such--changes,---The
9 transcript-shall-then-be-signed-by--the--witness,--unless
10 the-witness-in-writing-waives-the-signing,--is-ill,--cannot
11 be--found,--or-refuses-to-sign,---If-the-transcript-is-not
12 signed-by-the-witness-within-30-days-after-being-afforded
13 a-reasonable-opportunity-to-examine-it,--the--officer--of
14 investigator--shall--sign--it-and-state-on-the-record-the
15 fact-of-the-waiver,--illness,--absence-of-the--witness,--or
16 the--refusal--to-sign,--together-with-the-reasons,--if-any,
17 given-therefor.

18 (5)--Certification-and-delivery-to-custodian,---The
19 officer--before-whom-the-testimony-is-taken-shall-certify
20 on-the-transcript-that--the--witness--was--sworn--by--the
21 officer--and--that-the-transcript-is-a-true-record-of-the
22 testimony-given--by--the--witness,--and--the--officer--or
23 investigator--shall--promptly--deliver-the-transcript,--or
24 send-the-transcript-by-registered-or-certified--mail,--to
25 the-custodian.

26 (6)--Furnishing--or--inspection--of--transcript--by
27 witness,--Upon-payment-of-reasonable-charges-therefor,--the
28 investigator-shall-furnish-a-copy-of--the--transcript--to
29 the--witness--only,--except-that-the-Attorney-General,--an
30 Assistant-Attorney-General-or-employee-of-the--Department
31 of--State--Police-may,--for-good-cause,--limit-such-witness
32 to-inspection-of-the-official-transcript-of-the--witness'
33 testimony.

34 (5) (7) Conduct of oral testimony.

1 (A) Any person compelled to appear for oral
2 testimony under a subpoena civil---investigative
3 demand issued under subsection (a) may be
4 accompanied, represented, and advised by counsel,
5 who may raise objections based on matters of
6 privilege in accordance with the rules applicable to
7 depositions in civil cases. Counsel may advise--such
8 person,--in confidence, with respect to any question
9 asked of such person. Such--person--or--counsel--may
10 object on the record to any question, in whole or in
11 part,--and--shall--briefly--state for the record the
12 reason for the objection. An objection may be--made,
13 received,--and--entered--upon--the record when it is
14 claimed that such person is entitled--to--refuse--to
15 answer---the---question---on---the--grounds--of--any
16 constitutional or other legal--right--or--privilege,
17 including--the privilege against self-incrimination.
18 If such person refuses to answer any question, a
19 petition may be filed in circuit court under
20 subsection (j)(1) for an order compelling such
21 person to answer such question.

22 (B) If such person refuses any question on the
23 grounds of the privilege against self-incrimination,
24 the testimony of such person may be compelled in
25 accordance with Article 106 of the Code of Criminal
26 Procedure of 1963.

27 (6) (8) Witness fees and allowances. Any person
28 appearing for oral testimony under a subpoena civil
29 investigative demand issued under subsection (a) shall be
30 entitled to the same fees and allowances which are paid
31 to witnesses in the circuit court.

32 (i) Custodians of documents, answers, and transcripts.

33 (1) Designation. The Attorney General or his or her
34 delegate shall designate the Department of State Police

1 to serve as custodian of documentary material, answers to
2 interrogatories, and transcripts of oral testimony
3 received under this Section, and shall designate
4 additional employees of the Department of State Police as
5 the Attorney General determines from time to time to be
6 necessary to serve as deputies to the custodian.

7 (2) Responsibility for materials; disclosure.

8 (A) An investigator who receives any
9 documentary material, answers to interrogatories, or
10 transcripts of oral testimony under this Section
11 shall transmit them to the custodian. The custodian
12 shall take physical possession of such material,
13 answers, or transcripts and shall be responsible for
14 the use made of them and for the return of
15 documentary material under paragraph (4).

16 (B) The custodian may cause the preparation of
17 such copies of such documentary material, answers to
18 interrogatories, or transcripts of oral testimony as
19 may be required for official use by any
20 investigator, or other officer or employee of the
21 Attorney General or employee of the Department of
22 State Police who is authorized for such use under
23 regulations which the Attorney General shall issue.
24 Such material, answers, and transcripts may be used
25 by any such authorized investigator or other officer
26 or employee in connection with the taking of oral
27 testimony under this Section.

28 (2) (C) Except as otherwise provided in this
29 Section subsection (i), no documentary material, answers
30 to interrogatories, or transcripts of oral testimony, or
31 copies thereof, while in the possession of the custodian,
32 shall be available for examination by any individual,
33 except as determined necessary by the Attorney General
34 and subject to the conditions imposed by him or her for

1 effective enforcement of the laws of this State, or as
 2 otherwise provided by court order. other---than---an
 3 investigator-or-other-officer-or-employee-of-the-Attorney
 4 General--or--employee--of--the-Department-of-State-Police
 5 authorized-under-subparagraph-(B).-The-prohibition-in-the
 6 preceding--sentence--on--the--availability--of--material,
 7 answers,-or-transcripts-shall-not--apply--if--consent--is
 8 given--by-the-person-who-produced-such-material,-answers,
 9 or-transcripts,-or,-in--the--case--of--any--product--of
 10 discovery-produced-pursuant-to-an-express-demand-for-such
 11 material,-consent--is--given-by-the-person-from-whom-the
 12 discovery-was-obtained.-Nothing-in-this--subparagraph--is
 13 intended--to--prevent-disclosure-to-the-General-Assembly,
 14 including-any-committee-or-subcommittee--of--the--General
 15 Assembly,-or--to--any-other-State-agency-for-use-by-such
 16 agency-in-furtherance-of-its-statutory--responsibilities.
 17 Disclosure--of-information-to-any-such-other-agency-shall
 18 be-allowed-only-upon-application,-made--by--the--Attorney
 19 General--to-a-circuit-court,-showing-substantial-need-for
 20 the-use-of-the-information-by-such-agency-in--furtherance
 21 of-its-statutory-responsibilities.

22 (D)--While--in--the-possession-of-the-custodian
 23 and-under-such-reasonable-terms--and--conditions--as
 24 the-Attorney-General-shall-prescribe:

25 (i)--documentary--material--and-answers-to
 26 interrogatories---shall---be---available---for
 27 examination--by--the--person--who-produced-such
 28 material-or-answers,-or-by-a-representative-for
 29 that--person--authorized--by--that--person---to
 30 examine-such-material-and-answers;-and

31 (ii)--transcripts--of-oral-testimony-shall
 32 be-available-for-examination-by-the-person--who
 33 produced-such-testimony,-or-by-a-representative
 34 of--that--person--authorized--by--that-person-to

1 examine-such-transcripts.

2 (3) Use of material, answers, or transcripts in
3 other proceedings. Whenever any attorney of the office of
4 the Attorney General, or State's Attorney, upon a
5 referral, has been designated to appear before any court,
6 grand jury, or State agency in any case or proceeding,
7 the custodian of any documentary material, answers to
8 interrogatories, or transcripts of oral testimony
9 received under this Section may deliver to such attorney
10 such material, answers, or transcripts for official use
11 in connection with any such case or proceeding as such
12 attorney determines to be required. Upon the completion
13 of any such case or proceeding, such attorney shall
14 return to the custodian any such material, answers, or
15 transcripts so delivered which have not passed into the
16 control of such court, grand jury, or agency through
17 introduction into the record of such case or proceeding.

18 (3) (4) Conditions for return of material. If any
19 documentary material has been produced by any person in
20 the course of any investigation pursuant to a subpoena
21 civil investigative demand under this Section and:

22 (A) any case or proceeding before the court or
23 grand jury arising out of such investigation, or any
24 proceeding before any State agency involving such
25 material, has been completed, or

26 (B) no case or proceeding in which such
27 material may be used has been commenced within a
28 reasonable time after completion of the examination
29 and analysis of all documentary material and other
30 information assembled in the course of such
31 investigation,

32 the custodian shall, upon written request of the person
33 who produced such material, return to such person any
34 such material (other than copies furnished to the

1 investigator--under--subsection--(f)(2)--or--made-for-the
2 Attorney-General-or-employee-of-the-Department--of--State
3 Police--under-paragraph-(2)(B)} which has not passed into
4 the control of any court, grand jury, or agency through
5 introduction into the record of such case or proceeding.

6 (5)--Appointment--of--successor--custodians.--In-the
7 event--of--the--death,--disability,--or--separation--from
8 service--in--the--Department--of--State--Police--of--the
9 custodian--of--any--documentary--material,--answers--to
10 interrogatories,--or--transcripts--of--oral--testimony
11 produced--pursuant--to-a-civil-investigative-demand-under
12 this-Section,--or-in-the-event-of-the-official--relief--of
13 such--custodian--from--responsibility-for-the-custody-and
14 control-of-such-material,--answers,--or--transcripts,--the
15 Attorney-General-shall-promptly:

16 (A)--designate--another--employee--of--the
17 Department-of-State-Police-to-serve-as-custodian--of
18 such-material,--answers,--or--transcripts,--and

19 (B)--transmit--in--writing--to--the--person-who
20 produced-such-material,--answers,--or--testimony-notice
21 of-the-identity-and--address--of--the--successor--so
22 designated.

23 Any-person-who-is-designated-to-be-a-successor-under-this
24 paragraph--(5)--shall-have,--with-regard-to-such-material,
25 answers,--or--transcripts,--the--same--duties--and
26 responsibilities--as--were--imposed--by-this-Section-upon
27 that-person's-predecessor--in--office,--except--that--the
28 successor--shall--not-be-held-responsible-for-any-default
29 or-dereliction-which-occurred-before-that-designation.

30 (j) Judicial proceedings.

31 (1) Petition for enforcement. Whenever any person
32 fails to comply with any subpoena civil-investigative
33 demand issued under subsection (a), or whenever
34 satisfactory copying or reproduction of any material

1 requested in such demand cannot be done and such person
2 refuses to surrender such material, the Attorney General
3 may file, in the circuit court of any county in which
4 such person resides, is found, or transacts business, or
5 the circuit court of the county in which an action filed
6 pursuant to Section 4 of this Act is pending if the
7 action relates to the subject matter of the subpoena and
8 serve upon such person a petition for an order of such
9 court for the enforcement of the subpoena ~~civil~~
10 ~~investigative-~~demand.

11 (2) Petition to modify or set aside subpoena
12 demand.

13 (A) Any person who has received a subpoena
14 ~~civil--investigative--demand~~ issued under subsection
15 (a) may file, in the circuit court of any county
16 within which such person resides, is found, or
17 transacts business, and serve upon the Attorney
18 General ~~investigator--identified--in--such-demand~~ a
19 petition for an order of the court to modify or set
20 aside such subpoena demand. In the case of a
21 petition addressed to an express demand for any
22 product of discovery, a petition to modify or set
23 aside such demand may be brought only in the circuit
24 court of the county in which the proceeding in which
25 such discovery was obtained is or was last pending.
26 Any petition under this subparagraph (A) must be
27 filed:

28 (i) within 20 days after the date of
29 service of the subpoena ~~civil--investigative~~
30 demand, or at any time before the return date
31 specified in the subpoena demand, whichever
32 date is earlier, or

33 (ii) within such longer period as may be
34 prescribed in writing by the Attorney General

1 any-investigator-identified-in-the-demand.

2 (B) The petition shall specify each ground
3 upon which the petitioner relies in seeking relief
4 under subparagraph (A), and may be based upon any
5 failure of the subpoena demand to comply with the
6 provisions of this Section or upon any
7 constitutional or other legal right or privilege of
8 such person. During the pendency of the petition in
9 the court, the court may stay, as it deems proper,
10 the running of the time allowed for compliance with
11 the subpoena demand, in whole or in part, except
12 that the person filing the petition shall comply
13 with any portion of the subpoena demand not sought
14 to be modified or set aside.

15 (3) Petition to modify or set aside demand for
16 product of discovery. (A) In the case of any subpoena
17 ~~civil--investigative--demand~~ issued under subsection (a)
18 which is an express demand for any product of discovery,
19 the person from whom such discovery was obtained may
20 file, in the circuit court of the county in which the
21 proceeding in which such discovery was obtained is or was
22 last pending, ~~and-serve-upon-any-investigator-identified~~
23 ~~in-the-demand-and-upon-the-recipient--of--the--demand,~~ a
24 petition for an order of such court to modify or set
25 aside those portions of the subpoena demand requiring
26 production of any such product of discovery, subject to
27 the same terms, conditions, and limitations set forth in
28 subparagraph (j)(2) of this Section. ~~Any-petition-under~~
29 ~~this-subparagraph-(A)-must-be-filed:~~

30 (i) ~~--within-20--days--after--the--date--of~~
31 ~~service--of--the-civil-investigative-demand,-or~~
32 ~~at-any-time-before-the-return-date-specified-in~~
33 ~~the-demand,-whichever-date-is-earlier,-or~~

34 (ii) ~~--within-such-longer-period-as-may--be~~

1 prescribed---in--writing--by--any--investigator
2 identified-in-the-demand.

3 (B)--The-petition--shall--specify--each--ground
4 upon--which--the-petitioner-relies-in-seeking-relief
5 under-subparagraph-(A),-and-may-be--based--upon--any
6 failure--of--the--portions--of-the-demand-from-which
7 relief-is-sought-to-comply-with--the--provisions--of
8 this--Section,-or--upon-any-constitutional-or-other
9 legal-right-or-privilege-of-the--petitioner.--During
10 the-pendency-of-the-petition,-the-court-may-stay,-as
11 it--deems-proper,-compliance-with-the-demand-and-the
12 running-of-the-time-allowed-from-compliance-with-the
13 demand.

14 (4)--Petition-to-require-performance-by-custodian-of
15 duties.-At-any-time-during--which--any--custodian--is--in
16 custody-or-control-of-any-documentary-material-or-answers
17 to--interrogatories--produced,-or--transcripts--of--oral
18 testimony--given,-by--any--person-in-compliance-with-any
19 civil-investigative-demand-issued-under--subsection--(a),
20 such-person,-and-in-the-case-of-an-express-demand-for-any
21 product-of-discovery,-the-person-from-whom-such-discovery
22 was--obtained,-may--file,-in--the--circuit-court-of-the
23 county-within-which--the--office--of--such--custodian--is
24 situated,-and--serve-upon-such-custodian,-a-petition-for
25 an-order-of-such-court-to-require-the-performance-by--the
26 custodian--of-any-duty-imposed-upon-the-custodian-by-this
27 Section.

28 (4) (5) Jurisdiction. Whenever any petition is
29 filed in any circuit court under this subsection (j),
30 such court shall have jurisdiction to hear and determine
31 the matter so presented, and to enter such orders as may
32 be required to carry out the provisions of this Section.
33 Any final order so entered shall be subject to appeal in
34 the same manner as appeals of other final orders in civil

1 matters. Any disobedience of any final order entered
2 under this Section by any court shall be punished as a
3 contempt of the court.

4 (k) Disclosure exemption. Any documentary material,
5 answers to written interrogatories, or oral testimony
6 provided under any subpoena ~~civil-investigative-demand~~ issued
7 under subsection (a) shall be exempt from disclosure under
8 the Illinois Administrative Procedure Act.

9 (Source: P.A. 92-651, eff. 7-11-02.)".