



99TH GENERAL ASSEMBLY

State of Illinois

2015 and 2016

HB4045

by Rep. Frances Ann Hurley

SYNOPSIS AS INTRODUCED:

5 ILCS 140/2

from Ch. 116, par. 202

5 ILCS 140/2.21 new

Amends the Freedom of Information Act. Defines "settlement agreement" and "severance agreement". Provides that a settlement agreement or severance agreement that is funded in whole or part by public moneys or that releases a claim against a public body shall not require or impose any condition on any party to keep allegations, evidence, settlement amounts, or any other information confidential, except that which is necessary to protect a trade secret, proprietary information, or information that is otherwise exempt from disclosure under the Act.

LRB099 09052 HEP 29241 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning government.

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

4 Section 5. The Freedom of Information Act is amended by
5 adding Sections 2 and 2.21 as follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

18 (h) "Voluminous request" means a request that: (i) includes
19 more than 5 individual requests for more than 5 different
20 categories of records or a combination of individual requests
21 that total requests for more than 5 different categories of
22 records in a period of 20 business days; or (ii) requires the
23 compilation of more than 500 letter or legal-sized pages of
24 public records unless a single requested record exceeds 500
25 pages. "Single requested record" may include, but is not
26 limited to, one report, form, e-mail, letter, memorandum, book,

1 map, microfilm, tape, or recording.

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

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

17 (i) "Settlement agreement" means any arrangement for
18 payment in exchange for the adjudication or release of a civil
19 claim established by an agreement between some or all of the
20 parties to the claim.

21 (j) "Severance agreement" means a mutual agreement between
22 any public body and its employee for the employee's resignation
23 in exchange for payment by the public body.

24 (Source: P.A. 97-579, eff. 8-26-11; 98-806, eff. 1-1-15;
25 98-1129, eff. 12-3-14; revised 12-19-14.)

1 (5 ILCS 140/2.21 new)

2 Sec. 2.21. Confidential settlement agreements and
3 confidential severance agreements prohibited.

4 (a) A settlement agreement that is funded in whole or part
5 by public moneys or that releases a claim against a public body
6 shall not require or impose any condition on any party to keep
7 allegations, evidence, settlement amounts, or any other
8 information confidential, except that which is necessary to
9 protect a trade secret, proprietary information, or
10 information otherwise exempt from disclosure under Section 7 of
11 this Act.

12 (b) A severance agreement that is funded in whole or part
13 by public moneys or that releases a claim against a public body
14 shall not require or impose any condition on any party to keep
15 allegations, evidence, settlement amounts, or any other
16 information confidential, except that which is necessary to
17 protect a trade secret, proprietary information, or
18 information otherwise exempt from disclosure under Section 7 of
19 this Act.