



## 100TH GENERAL ASSEMBLY

### State of Illinois

2017 and 2018

HB3329

by Rep. Jeanne M Ives

#### SYNOPSIS AS INTRODUCED:

5 ILCS 160/2	from Ch. 116, par. 43.5
5 ILCS 160/3	from Ch. 116, par. 43.6
5 ILCS 160/3.3 new	
50 ILCS 205/3	from Ch. 116, par. 43.103
50 ILCS 205/3c new	
50 ILCS 205/4	from Ch. 116, par. 43.104

Amends the State Records Act. Provides that all records under the Act, including legal records and emails, shall be retained for a minimum of 7 years. Provides that every public employee, State and local, shall receive record retention training to comply with the Act. Modifies the term "record" or "records" to include any medium that stores or transmits information generated or used by a public body. Amends the Local Records Act to make similar changes.

LRB100 10922 RJF 21159 b

1 AN ACT concerning government.

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

4 Section 5. The State Records Act is amended by changing  
5 Sections 2 and 3 and by adding Section 3.3 as follows:

6 (5 ILCS 160/2) (from Ch. 116, par. 43.5)

7 Sec. 2. For the purposes of this Act:

8 "Secretary" means Secretary of State.

9 "Record" or "records" means any medium that stores or  
10 transmits information generated or used by the public body, as  
11 defined in Section 2 of the Freedom of Information Act. This  
12 shall include, but not be limited to, all books, papers,  
13 born-digital electronic material, digitized electronic  
14 material, electronic material with a combination of digitized  
15 and born-digital material, maps, photographs, databases, or  
16 other official documentary materials, regardless of physical  
17 form or characteristics, made, produced, executed, or received  
18 by any agency in the State in pursuance of State ~~state~~ law or  
19 in connection with the transaction of public business and  
20 preserved or appropriate for preservation by that agency or its  
21 successor as evidence of the organization, function, policies,  
22 decisions, procedures, operations, or other activities of the  
23 State or of the State Government, or because of the

1 informational data contained therein. Library and museum  
2 material made or acquired and preserved solely for reference or  
3 exhibition purposes, extra copies of documents preserved only  
4 for convenience of reference, and stocks of publications and of  
5 blank forms are not included within the definition of records  
6 as used in this Act. Reports of impaired physicians under  
7 Section 16.04 of the Medical Practice Act or Section 23 of the  
8 Medical Practice Act of 1987 are not included within the  
9 definition of records as used in this Act.

10 "Born-digital electronic material" means electronic  
11 material created in digital form rather than converted from  
12 print or analog form to digital form.

13 "Digitized electronic material" means electronic material  
14 converted from print or analog form to digital form.

15 "Agency" means all parts, boards, and commissions of the  
16 executive branch of the State government, including, but not  
17 limited to, State colleges and universities and their governing  
18 boards and all departments established by the "Civil  
19 Administrative Code of Illinois," ~~as heretofore or hereafter~~  
20 ~~amended.~~

21 "Public Officer" or "public officers" means all officers of  
22 the executive branch of the State government, all officers  
23 created by the "Civil Administrative Code of Illinois," ~~as~~  
24 ~~heretofore or hereafter amended,~~ and all other officers and  
25 heads, presidents, or chairmen of boards, commissions, and  
26 agencies of the State government.

1 "Commission" means the State Records Commission.

2 "Archivist" means the Secretary of State.

3 (Source: P.A. 99-147, eff. 1-1-16; revised 9-16-16.)

4 (5 ILCS 160/3) (from Ch. 116, par. 43.6)

5 Sec. 3. Records as property of State.

6 (a) All records created or received by or under the  
7 authority of or coming into the custody, control, or possession  
8 of public officials of this State in the course of their public  
9 duties are the property of the State. All records, including  
10 legal records and emails, shall be retained for a minimum of 7  
11 years. These records may not be mutilated, destroyed,  
12 transferred, removed, or otherwise damaged or disposed of, in  
13 whole or in part, except as provided by law. Any person shall  
14 have the right of access to any public records, unless access  
15 to the records is otherwise limited or prohibited by law. This  
16 subsection (a) does not apply to records that are subject to  
17 expungement under subsections (1.5) and (1.6) of Section 5-915  
18 of the Juvenile Court Act of 1987.

19 (b) Reports and records of the obligation, receipt and use  
20 of public funds of the State are public records available for  
21 inspection by the public, except as access to such records is  
22 otherwise limited or prohibited by law or pursuant to law.  
23 These records shall be kept at the official place of business  
24 of the State or at a designated place of business of the State.  
25 These records shall be available for public inspection during

1 regular office hours except when in immediate use by persons  
2 exercising official duties which require the use of those  
3 records. Nothing in this section shall require the State to  
4 invade or assist in the invasion of any person's right to  
5 privacy. Nothing in this Section shall be construed to limit  
6 any right given by statute or rule of law with respect to the  
7 inspection of other types of records.

8 Warrants and vouchers in the keeping of the State  
9 Comptroller may be destroyed by him as authorized in "An Act in  
10 relation to the reproduction and destruction of records kept by  
11 the Comptroller", approved August 1, 1949, as now or hereafter  
12 amended after obtaining the approval of the State Records  
13 Commission.

14 (Source: P.A. 98-637, eff. 1-1-15.)

15 (5 ILCS 160/3.3 new)

16 Sec. 3.3. Record retention training. Every public  
17 employee, State and local, shall receive record retention  
18 training to comply with this Act. There shall be no exceptions  
19 to any provisions in regards to training requirements.

20 Section 10. The Local Records Act is amended by changing  
21 Sections 3 and 4 and by adding Section 3c as follows:

22 (50 ILCS 205/3) (from Ch. 116, par. 43.103)

23 Sec. 3. Except where the context indicates otherwise, the

1 terms used in this Act are defined as follows:

2 "Agency" means any court, and all parts, boards,  
3 departments, bureaus and commissions of any county, municipal  
4 corporation or political subdivision.

5 "Archivist" means the Secretary of State.

6 "Born-digital electronic material" means electronic  
7 material created in digital form rather than converted from  
8 print or analog form to digital form.

9 "Commission" means a Local Records Commission.

10 "Court" means a court, other than the Supreme Court.

11 "Digitized electronic material" means electronic material  
12 converted from print or analog form to digital form.

13 "Officer" means any elected or appointed official of a  
14 court, county, municipal corporation or political subdivision.

15 "Public record" means any medium that stores or transmits  
16 information generated or used by the public body, as defined in  
17 Section 2 of the Freedom of Information Act. This shall  
18 include, but not be limited to, any book, paper, map,  
19 photograph, born-digital electronic material, digitized  
20 electronic material, electronic material with a combination of  
21 digitized and born-digital material, or other official  
22 documentary material, regardless of physical form or  
23 characteristics, made, produced, executed or received by any  
24 agency or officer pursuant to law or in connection with the  
25 transaction of public business and preserved or appropriate for  
26 preservation by such agency or officer, or any successor

1       thereof, as evidence of the organization, function, policies,  
2       decisions, procedures, or other activities thereof, or because  
3       of the informational data contained therein. Library and museum  
4       material made or acquired and preserved solely for reference or  
5       exhibition purposes, extra copies of documents preserved only  
6       for convenience of reference, and stocks of publications and of  
7       processed documents are not included within the definition of  
8       public record. Paper copies of registration records, as defined  
9       in Section 1 of the Library Records Confidentiality Act (75  
10       ILCS 70/1), shall not be considered public records once the  
11       information contained in the paper registration records is  
12       transferred into a secure electronic format and checked for  
13       accuracy.

14       (Source: P.A. 99-147, eff. 1-1-16.)

15               (50 ILCS 205/3c new)

16               Sec. 3c. Record retention training. Every public employee  
17       of a local agency under this Act shall receive record retention  
18       training to comply with this Act. There shall be no exceptions  
19       to any provisions in regards to training requirements.

20               (50 ILCS 205/4) (from Ch. 116, par. 43.104)

21               Sec. 4. (a) Except as otherwise provided in subsection (b)  
22       of this Section, all public records made or received by, or  
23       under the authority of, or coming into the custody, control or  
24       possession of any officer or agency, including legal records

1 and emails, shall be retained for a minimum of 7 years, and  
2 shall not be mutilated, destroyed, transferred, removed or  
3 otherwise damaged or disposed of, in whole or in part, except  
4 as provided by law. Any person who knowingly, without lawful  
5 authority and with the intent to defraud any party, public  
6 officer, or entity, alters, destroys, defaces, removes, or  
7 conceals any public record commits a Class 4 felony.

8 Court records filed with the clerks of the Circuit Court  
9 shall be destroyed in accordance with the Supreme Court's  
10 General Administrative Order on Recordkeeping in the Circuit  
11 Courts. The clerks of the Circuit Courts shall notify the  
12 Supreme Court, in writing, specifying case records or other  
13 documents which they intend to destroy. The Supreme Court shall  
14 review the schedule of items to be destroyed and notify the  
15 appropriate Local Records Commission of the Court's intent to  
16 destroy such records. The Local Records Commission, within 90  
17 days after receipt of the Supreme Court's notice, may undertake  
18 to photograph, microphotograph, or digitize electronically any  
19 or all such records and documents, or, in the alternative, may  
20 transport such original records to the State Archives or other  
21 storage location under its supervision.

22 The Archivist may accept for deposit in the State Archives  
23 or regional depositories official papers, drawings, maps,  
24 writings and records of every description of counties,  
25 municipal corporations, political subdivisions and courts of  
26 this State, when such materials are deemed by the Archivist to



1 have sufficient historical or other value to warrant their  
2 continued preservation by the State of Illinois.

3 The officer or clerk depositing such records may, upon  
4 request, obtain from the Archivist, without charge, a certified  
5 copy or reproduction of any specific record, paper or document  
6 when such record, paper or document is required for public use.

7 (b) Upon request from a chief of police, county sheriff, or  
8 State's Attorney, if a person has been arrested for a criminal  
9 offense and an investigation reveals that the person arrested  
10 was not in fact the individual the arresting officer believed  
11 him or her to be, the law enforcement agency whose officers  
12 made the arrest shall delete or retract the arrest records of  
13 that person whom the investigation revealed as not the  
14 individual the arresting officer believed him or her to be. In  
15 this subsection (b):

16 "Arrest records" are as described in Section 3b of this  
17 Act.

18 "Law enforcement agency" means an agency of a unit of  
19 local government which is vested by law or ordinance with  
20 the duty to maintain public order and to enforce criminal  
21 laws or ordinances.

22 (Source: P.A. 98-1063, eff. 1-1-15; 99-363, eff. 1-1-16.)