



Sen. David Koehler

**Filed: 3/15/2019**

10100SB1712sam002

LRB101 07078 HEP 58001 a

1 AMENDMENT TO SENATE BILL 1712

2 AMENDMENT NO. \_\_\_\_\_. Amend Senate Bill 1712 by replacing  
3 everything after the enacting clause with the following:

4 "Section 5. The Freedom of Information Act is amended by  
5 changing Section 7 as follows:

6 (5 ILCS 140/7) (from Ch. 116, par. 207)

7 Sec. 7. Exemptions.

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

16 (a) Information specifically prohibited from

1 disclosure by federal or State law or rules and regulations  
2 implementing federal or State law.

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

6 (b-5) Files, documents, and other data or databases  
7 maintained by one or more law enforcement agencies and  
8 specifically designed to provide information to one or more  
9 law enforcement agencies regarding the physical or mental  
10 status of one or more individual subjects.

11 (c) Personal information contained within public  
12 records, the disclosure of which would constitute a clearly  
13 unwarranted invasion of personal privacy, unless the  
14 disclosure is consented to in writing by the individual  
15 subjects of the information. "Unwarranted invasion of  
16 personal privacy" means the disclosure of information that  
17 is highly personal or objectionable to a reasonable person  
18 and in which the subject's right to privacy outweighs any  
19 legitimate public interest in obtaining the information.  
20 The disclosure of information that bears on the public  
21 duties of public employees and officials shall not be  
22 considered an invasion of personal privacy.

23 (d) Records in the possession of any public body  
24 created in the course of administrative enforcement  
25 proceedings, and any law enforcement or correctional  
26 agency for law enforcement purposes, but only to the extent

1           that disclosure would:

2                   (i) interfere with pending or actually and  
3 reasonably contemplated law enforcement proceedings  
4 conducted by any law enforcement or correctional  
5 agency that is the recipient of the request;

6                   (ii) interfere with active administrative  
7 enforcement proceedings conducted by the public body  
8 that is the recipient of the request;

9                   (iii) create a substantial likelihood that a  
10 person will be deprived of a fair trial or an impartial  
11 hearing;

12                   (iv) unavoidably disclose the identity of a  
13 confidential source, confidential information  
14 furnished only by the confidential source, or persons  
15 who file complaints with or provide information to  
16 administrative, investigative, law enforcement, or  
17 penal agencies; except that the identities of  
18 witnesses to traffic accidents, traffic accident  
19 reports, and rescue reports shall be provided by  
20 agencies of local government, except when disclosure  
21 would interfere with an active criminal investigation  
22 conducted by the agency that is the recipient of the  
23 request;

24                   (v) disclose unique or specialized investigative  
25 techniques other than those generally used and known or  
26 disclose internal documents of correctional agencies

1 related to detection, observation or investigation of  
2 incidents of crime or misconduct, and disclosure would  
3 result in demonstrable harm to the agency or public  
4 body that is the recipient of the request;

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

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

9 (d-5) A law enforcement record created for law  
10 enforcement purposes and contained in a shared electronic  
11 record management system if the law enforcement agency that  
12 is the recipient of the request did not create the record,  
13 did not participate in or have a role in any of the events  
14 which are the subject of the record, and only has access to  
15 the record through the shared electronic record management  
16 system.

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

19 (e-5) Records requested by persons committed to the  
20 Department of Corrections, Department of Human Services  
21 Division of Mental Health, or a county jail if those  
22 materials are available in the library of the correctional  
23 institution or facility or jail where the inmate is  
24 confined.

25 (e-6) Records requested by persons committed to the  
26 Department of Corrections, Department of Human Services

1 Division of Mental Health, or a county jail if those  
2 materials include records from staff members' personnel  
3 files, staff rosters, or other staffing assignment  
4 information.

5 (e-7) Records requested by persons committed to the  
6 Department of Corrections or Department of Human Services  
7 Division of Mental Health if those materials are available  
8 through an administrative request to the Department of  
9 Corrections or Department of Human Services Division of  
10 Mental Health.

11 (e-8) Records requested by a person committed to the  
12 Department of Corrections, Department of Human Services  
13 Division of Mental Health, or a county jail, the disclosure  
14 of which would result in the risk of harm to any person or  
15 the risk of an escape from a jail or correctional  
16 institution or facility.

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

1           (e-10) Law enforcement records of other persons  
2 requested by a person committed to the Department of  
3 Corrections, Department of Human Services Division of  
4 Mental Health, or a county jail, including, but not limited  
5 to, arrest and booking records, mug shots, and crime scene  
6 photographs, except as these records may be relevant to the  
7 requester's current or potential case or claim.

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

17           (g) Trade secrets and commercial or financial  
18 information obtained from a person or business where the  
19 trade secrets or commercial or financial information are  
20 furnished under a claim that they are proprietary,  
21 privileged or confidential, and that disclosure of the  
22 trade secrets or commercial or financial information would  
23 cause competitive harm to the person or business, and only  
24 insofar as the claim directly applies to the records  
25 requested.

26           The information included under this exemption includes

1 all trade secrets and commercial or financial information  
2 obtained by a public body, including a public pension fund,  
3 from a private equity fund or a privately held company  
4 within the investment portfolio of a private equity fund as  
5 a result of either investing or evaluating a potential  
6 investment of public funds in a private equity fund. The  
7 exemption contained in this item does not apply to the  
8 aggregate financial performance information of a private  
9 equity fund, nor to the identity of the fund's managers or  
10 general partners. The exemption contained in this item does  
11 not apply to the identity of a privately held company  
12 within the investment portfolio of a private equity fund,  
13 unless the disclosure of the identity of a privately held  
14 company may cause competitive harm.

15 Nothing contained in this paragraph (g) shall be  
16 construed to prevent a person or business from consenting  
17 to disclosure.

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

26 (i) Valuable formulae, computer geographic systems,

1 designs, drawings and research data obtained or produced by  
2 any public body when disclosure could reasonably be  
3 expected to produce private gain or public loss. The  
4 exemption for "computer geographic systems" provided in  
5 this paragraph (i) does not extend to requests made by news  
6 media as defined in Section 2 of this Act when the  
7 requested information is not otherwise exempt and the only  
8 purpose of the request is to access and disseminate  
9 information regarding the health, safety, welfare, or  
10 legal rights of the general public.

11 (j) The following information pertaining to  
12 educational matters:

13 (i) test questions, scoring keys and other  
14 examination data used to administer an academic  
15 examination;

16 (ii) information received by a primary or  
17 secondary school, college, or university under its  
18 procedures for the evaluation of faculty members by  
19 their academic peers;

20 (iii) information concerning a school or  
21 university's adjudication of student disciplinary  
22 cases, but only to the extent that disclosure would  
23 unavoidably reveal the identity of the student; and

24 (iv) course materials or research materials used  
25 by faculty members.

26 (k) Architects' plans, engineers' technical



1 submissions, and other construction related technical  
2 documents for projects not constructed or developed in  
3 whole or in part with public funds and the same for  
4 projects constructed or developed with public funds,  
5 including but not limited to power generating and  
6 distribution stations and other transmission and  
7 distribution facilities, water treatment facilities,  
8 airport facilities, sport stadiums, convention centers,  
9 and all government owned, operated, or occupied buildings,  
10 but only to the extent that disclosure would compromise  
11 security.

12 (l) Minutes of meetings of public bodies closed to the  
13 public as provided in the Open Meetings Act until the  
14 public body makes the minutes available to the public under  
15 Section 2.06 of the Open Meetings Act.

16 (m) Communications between a public body and an  
17 attorney or auditor representing the public body that would  
18 not be subject to discovery in litigation, and materials  
19 prepared or compiled by or for a public body in  
20 anticipation of a criminal, civil or administrative  
21 proceeding upon the request of an attorney advising the  
22 public body, and materials prepared or compiled with  
23 respect to internal audits of public bodies.

24 (n) Records relating to a public body's adjudication of  
25 employee grievances or disciplinary cases; however, this  
26 exemption shall not extend to the final outcome of cases in

1 which discipline is imposed.

2 (o) Administrative or technical information associated  
3 with automated data processing operations, including but  
4 not limited to software, operating protocols, computer  
5 program abstracts, file layouts, source listings, object  
6 modules, load modules, user guides, documentation  
7 pertaining to all logical and physical design of  
8 computerized systems, employee manuals, and any other  
9 information that, if disclosed, would jeopardize the  
10 security of the system or its data or the security of  
11 materials exempt under this Section.

12 (p) Records relating to collective negotiating matters  
13 between public bodies and their employees or  
14 representatives, except that any final contract or  
15 agreement shall be subject to inspection and copying.

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

19 (r) The records, documents, and information relating  
20 to real estate purchase negotiations until those  
21 negotiations have been completed or otherwise terminated.  
22 With regard to a parcel involved in a pending or actually  
23 and reasonably contemplated eminent domain proceeding  
24 under the Eminent Domain Act, records, documents and  
25 information relating to that parcel shall be exempt except  
26 as may be allowed under discovery rules adopted by the

1 Illinois Supreme Court. The records, documents and  
2 information relating to a real estate sale shall be exempt  
3 until a sale is consummated.

4 (s) Any and all proprietary information and records  
5 related to the operation of an intergovernmental risk  
6 management association or self-insurance pool or jointly  
7 self-administered health and accident cooperative or pool.  
8 Insurance or self insurance (including any  
9 intergovernmental risk management association or self  
10 insurance pool) claims, loss or risk management  
11 information, records, data, advice or communications.

12 (t) Information contained in or related to  
13 examination, operating, or condition reports prepared by,  
14 on behalf of, or for the use of a public body responsible  
15 for the regulation or supervision of financial  
16 institutions or insurance companies, unless disclosure is  
17 otherwise required by State law.

18 (u) Information that would disclose or might lead to  
19 the disclosure of secret or confidential information,  
20 codes, algorithms, programs, or private keys intended to be  
21 used to create electronic or digital signatures under the  
22 Electronic Commerce Security Act.

23 (v) Vulnerability assessments, security measures, and  
24 response policies or plans that are designed to identify,  
25 prevent, or respond to potential attacks upon a community's  
26 population or systems, facilities, or installations, the

1 destruction or contamination of which would constitute a  
2 clear and present danger to the health or safety of the  
3 community, but only to the extent that disclosure could  
4 reasonably be expected to jeopardize the effectiveness of  
5 the measures or the safety of the personnel who implement  
6 them or the public. Information exempt under this item may  
7 include such things as details pertaining to the  
8 mobilization or deployment of personnel or equipment, to  
9 the operation of communication systems or protocols, or to  
10 tactical operations.

11 (w) (Blank).

12 (x) Maps and other records regarding the location or  
13 security of generation, transmission, distribution,  
14 storage, gathering, treatment, or switching facilities  
15 owned by a utility, by a power generator, or by the  
16 Illinois Power Agency.

17 (y) Information contained in or related to proposals,  
18 bids, or negotiations related to electric power  
19 procurement under Section 1-75 of the Illinois Power Agency  
20 Act and Section 16-111.5 of the Public Utilities Act that  
21 is determined to be confidential and proprietary by the  
22 Illinois Power Agency or by the Illinois Commerce  
23 Commission.

24 (z) Information about students exempted from  
25 disclosure under Sections 10-20.38 or 34-18.29 of the  
26 School Code, and information about undergraduate students

1 enrolled at an institution of higher education exempted  
2 from disclosure under Section 25 of the Illinois Credit  
3 Card Marketing Act of 2009.

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

6 (bb) Records and information provided to a mortality  
7 review team and records maintained by a mortality review  
8 team appointed under the Department of Juvenile Justice  
9 Mortality Review Team Act.

10 (cc) Information regarding interments, entombments, or  
11 inurnments of human remains that are submitted to the  
12 Cemetery Oversight Database under the Cemetery Care Act or  
13 the Cemetery Oversight Act, whichever is applicable.

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

18 (ee) The names, addresses, or other personal  
19 information of persons who are minors and are also  
20 participants and registrants in programs of park  
21 districts, forest preserve districts, conservation  
22 districts, recreation agencies, and special recreation  
23 associations.

24 (ff) The names, addresses, or other personal  
25 information of participants and registrants in programs of  
26 park districts, forest preserve districts, conservation

1 districts, recreation agencies, and special recreation  
2 associations where such programs are targeted primarily to  
3 minors.

4 (gg) Confidential information described in Section  
5 1-100 of the Illinois Independent Tax Tribunal Act of 2012.

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

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

21 (jj) Confidential information described in Section  
22 5-535 of the Civil Administrative Code of Illinois.

23 (kk) The public body's credit card numbers, debit card  
24 numbers, bank account numbers, Federal Employer  
25 Identification Number, security code numbers, passwords,  
26 and similar account information, the disclosure of which

1       could result in identity theft or impression or defrauding  
2       of a governmental entity or a person.

3       (1.5) Any information exempt from disclosure under the  
4       Judicial Privacy Act shall be redacted from public records  
5       prior to disclosure under this Act.

6       (2) A public record that is not in the possession of a  
7       public body but is in the possession of a party with whom the  
8       agency has contracted to perform a governmental function on  
9       behalf of the public body, and that directly relates to the  
10      governmental function and is not otherwise exempt under this  
11      Act, shall be considered a public record of the public body,  
12      for purposes of this Act.

13      (3) This Section does not authorize withholding of  
14      information or limit the availability of records to the public,  
15      except as stated in this Section or otherwise provided in this  
16      Act.

17      (Source: P.A. 99-298, eff. 8-6-15; 99-346, eff. 1-1-16; 99-642,  
18      eff. 7-28-16; 100-26, eff. 8-4-17; 100-201, eff. 8-18-17;  
19      100-732, eff. 8-3-18.)".