

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 Section 11 as follows:

6 (5 ILCS 140/11) (from Ch. 116, par. 211)

7 Sec. 11. (a) Any person denied access to inspect or  
8 copy any public record by the head of a public body may file  
9 suit for injunctive or declaratory relief.

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

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

18 (d) The circuit court shall have the jurisdiction to  
19 enjoin the public body from withholding public records and to  
20 order the production of any public records improperly  
21 withheld from the person seeking access. If the public body  
22 can show that exceptional circumstances exist, and that the  
23 body is exercising due diligence in responding to the  
24 request, the court may retain jurisdiction and allow the  
25 agency additional time to complete its review of the records.

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

30 (i) A description of the nature or contents of each  
31 document withheld, or each deletion from a released document,

1 provided, however, that the public body shall not be required  
2 to disclose the information which it asserts is exempt; and

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

5 (f) In any action considered by the court, the court  
6 shall consider the matter de novo, and shall conduct such in  
7 camera examination of the requested records as it finds  
8 appropriate to determine if such records or any part thereof  
9 may be withheld under any provision of this Act. The burden  
10 shall be on the public body to establish that its refusal to  
11 permit public inspection or copying is in accordance with the  
12 provisions of this Act.

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

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

23 (i) If a person seeking the right to inspect or receive  
24 a copy of a public record substantially prevails in a  
25 proceeding under this Section, the court may award such  
26 person reasonable attorneys' fees and costs. If, however,  
27 the court finds that the fundamental purpose of the request  
28 was to further the commercial interests of the requestor, the  
29 court may award reasonable attorneys' fees and costs if the  
30 court finds that the record or records in question were of  
31 clearly significant interest to the general public and that  
32 the public body lacked any reasonable basis in law for  
33 withholding the record.

1 (Source: P.A. 85-1357.)