

# SB1977



## 100TH GENERAL ASSEMBLY

### State of Illinois

2017 and 2018

SB1977

Introduced 2/10/2017, by Sen. William R. Haine

#### SYNOPSIS AS INTRODUCED:

5 ILCS 140/1.2

5 ILCS 140/2

from Ch. 116, par. 202

Amends the Freedom of Information Act. Provides that all records of (instead of "in the custody or possession of") a public body are presumed to be open to inspection or copying. Changes the definition of "public records" by removing the inclusion of material having been or being used by, received by, in the possession of, or under the control of any public body.

LRB100 10752 HEP 20982 b

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 changing Sections 1.2 and 2 as follows:

6 (5 ILCS 140/1.2)

7 Sec. 1.2. Presumption. All records ~~in the custody or~~  
8 ~~possession~~ of a public body are presumed to be open to  
9 inspection or copying. Any public body that asserts that a  
10 record is exempt from disclosure has the burden of proving by  
11 clear and convincing evidence that it is exempt.

12 (Source: P.A. 96-542, eff. 1-1-10.)

13 (5 ILCS 140/2) (from Ch. 116, par. 202)

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

15 (a) "Public body" means all legislative, executive,  
16 administrative, or advisory bodies of the State, state  
17 universities and colleges, counties, townships, cities,  
18 villages, incorporated towns, school districts and all other  
19 municipal corporations, boards, bureaus, committees, or  
20 commissions of this State, any subsidiary bodies of any of the  
21 foregoing including but not limited to committees and  
22 subcommittees thereof, and a School Finance Authority created

1 under Article 1E of the School Code. "Public body" does not  
2 include a child death review team or the Illinois Child Death  
3 Review Teams Executive Council established under the Child  
4 Death Review Team Act, or a regional youth advisory board or  
5 the Statewide Youth Advisory Board established under the  
6 Department of Children and Family Services Statewide Youth  
7 Advisory Board Act.

8 (b) "Person" means any individual, corporation,  
9 partnership, firm, organization or association, acting  
10 individually or as a group.

11 (c) "Public records" means all records, reports, forms,  
12 writings, letters, memoranda, books, papers, maps,  
13 photographs, microfilms, cards, tapes, recordings, electronic  
14 data processing records, electronic communications, recorded  
15 information and all other documentary materials pertaining to  
16 the transaction of public business, regardless of physical form  
17 or characteristics, having been prepared by or for the public  
18 body ~~, or having been or being used by, received by, in the~~  
19 ~~possession of, or under the control of any public body.~~

20 (c-5) "Private information" means unique identifiers,  
21 including a person's social security number, driver's license  
22 number, employee identification number, biometric identifiers,  
23 personal financial information, passwords or other access  
24 codes, medical records, home or personal telephone numbers, and  
25 personal email addresses. Private information also includes  
26 home address and personal license plates, except as otherwise

1 provided by law or when compiled without possibility of  
2 attribution to any person.

3 (c-10) "Commercial purpose" means the use of any part of a  
4 public record or records, or information derived from public  
5 records, in any form for sale, resale, or solicitation or  
6 advertisement for sales or services. For purposes of this  
7 definition, requests made by news media and non-profit,  
8 scientific, or academic organizations shall not be considered  
9 to be made for a "commercial purpose" when the principal  
10 purpose of the request is (i) to access and disseminate  
11 information concerning news and current or passing events, (ii)  
12 for articles of opinion or features of interest to the public,  
13 or (iii) for the purpose of academic, scientific, or public  
14 research or education.

15 (d) "Copying" means the reproduction of any public record  
16 by means of any photographic, electronic, mechanical or other  
17 process, device or means now known or hereafter developed and  
18 available to the public body.

19 (e) "Head of the public body" means the president, mayor,  
20 chairman, presiding officer, director, superintendent,  
21 manager, supervisor or individual otherwise holding primary  
22 executive and administrative authority for the public body, or  
23 such person's duly authorized designee.

24 (f) "News media" means a newspaper or other periodical  
25 issued at regular intervals whether in print or electronic  
26 format, a news service whether in print or electronic format, a

1 radio station, a television station, a television network, a  
2 community antenna television service, or a person or  
3 corporation engaged in making news reels or other motion  
4 picture news for public showing.

5 (g) "Recurrent requester", as used in Section 3.2 of this  
6 Act, means a person that, in the 12 months immediately  
7 preceding the request, has submitted to the same public body  
8 (i) a minimum of 50 requests for records, (ii) a minimum of 15  
9 requests for records within a 30-day period, or (iii) a minimum  
10 of 7 requests for records within a 7-day period. For purposes  
11 of this definition, requests made by news media and non-profit,  
12 scientific, or academic organizations shall not be considered  
13 in calculating the number of requests made in the time periods  
14 in this definition when the principal purpose of the requests  
15 is (i) to access and disseminate information concerning news  
16 and current or passing events, (ii) for articles of opinion or  
17 features of interest to the public, or (iii) for the purpose of  
18 academic, scientific, or public research or education.

19 For the purposes of this subsection (g), "request" means a  
20 written document (or oral request, if the public body chooses  
21 to honor oral requests) that is submitted to a public body via  
22 personal delivery, mail, telefax, electronic mail, or other  
23 means available to the public body and that identifies the  
24 particular public record the requester seeks. One request may  
25 identify multiple records to be inspected or copied.

26 (h) "Voluminous request" means a request that: (i) includes

1 more than 5 individual requests for more than 5 different  
2 categories of records or a combination of individual requests  
3 that total requests for more than 5 different categories of  
4 records in a period of 20 business days; or (ii) requires the  
5 compilation of more than 500 letter or legal-sized pages of  
6 public records unless a single requested record exceeds 500  
7 pages. "Single requested record" may include, but is not  
8 limited to, one report, form, e-mail, letter, memorandum, book,  
9 map, microfilm, tape, or recording.

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

17 For the purposes of this subsection (h), "request" means a  
18 written document, or oral request, if the public body chooses  
19 to honor oral requests, that is submitted to a public body via  
20 personal delivery, mail, telefax, electronic mail, or other  
21 means available to the public body and that identifies the  
22 particular public record or records the requester seeks. One  
23 request may identify multiple individual records to be  
24 inspected or copied.

25 (i) "Severance agreement" means a mutual agreement between  
26 any public body and its employee for the employee's resignation

1 in exchange for payment by the public body.

2 (Source: P.A. 98-806, eff. 1-1-15; 98-1129, eff. 12-3-14;

3 99-78, eff. 7-20-15; 99-478, eff. 6-1-16.)