



101ST GENERAL ASSEMBLY

State of Illinois

2019 and 2020

HB5267

by Rep. Jaime M. Andrade, Jr.

SYNOPSIS AS INTRODUCED:

5 ILCS 140/7
775 ILCS 55/40 new

from Ch. 116, par. 207

Amends the Reproductive Health Act. Provides that a health care professional who provides abortion-related care may submit, to any government agency, person, business, or association, a written request that the government agency, person, business, or association refrain from disclosing any personal information about the health care professional. Provides that if a government agency receives a written request from a health care professional, the government agency shall not publicly post or display publicly available content that includes any personal information of the health care professional. Exempts the personal information of the health care professional from the Freedom of Information Act. Provides that if a person, business, or association receives a written request from a health care professional, the person, business, or association shall refrain from publicly posting or displaying on the Internet publicly available content that includes the personal information of a health care professional. Provides that no person, business, or association shall solicit, sell, or trade any personal information of the health care professional with the intent to post an imminent or serious threat to the health and safety of the health care professional or his or her immediate family. Allows a health care professional to bring an action against a government agency, person, business, or association, seeking injunctive or declaratory relief if a written request is violated. Provides that it is a Class 3 felony for any person to knowingly publicly post on the Internet the personal information of a health care professional or his or her immediate family if the person knows or reasonably should know that publicly posting the personal information poses an imminent and serious threat to the health and safety of the health care professional or his or her immediate family, and the violation is a proximate cause of bodily injury or death of the health care professional or his or her immediate family member. Makes a conforming change in the Freedom of Information Act.

LRB101 18481 LNS 67931 b

1 AN ACT concerning human rights.

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 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
17 disclosure by federal or State law or rules and regulations
18 implementing federal or State law.

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

22 (b-5) Files, documents, and other data or databases
23 maintained by one or more law enforcement agencies and

1 specifically designed to provide information to one or more
2 law enforcement agencies regarding the physical or mental
3 status of one or more individual subjects.

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

16 (d) Records in the possession of any public body
17 created in the course of administrative enforcement
18 proceedings, and any law enforcement or correctional
19 agency for law enforcement purposes, but only to the extent
20 that disclosure would:

21 (i) interfere with pending or actually and
22 reasonably contemplated law enforcement proceedings
23 conducted by any law enforcement or correctional
24 agency that is the recipient of the request;

25 (ii) interfere with active administrative
26 enforcement proceedings conducted by the public body

1 that is the recipient of the request;

2 (iii) create a substantial likelihood that a
3 person will be deprived of a fair trial or an impartial
4 hearing;

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

17 (v) disclose unique or specialized investigative
18 techniques other than those generally used and known or
19 disclose internal documents of correctional agencies
20 related to detection, observation or investigation of
21 incidents of crime or misconduct, and disclosure would
22 result in demonstrable harm to the agency or public
23 body that is the recipient of the request;

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

26 (vii) obstruct an ongoing criminal investigation

1 by the agency that is the recipient of the request.

2 (d-5) A law enforcement record created for law
3 enforcement purposes and contained in a shared electronic
4 record management system if the law enforcement agency that
5 is the recipient of the request did not create the record,
6 did not participate in or have a role in any of the events
7 which are the subject of the record, and only has access to
8 the record through the shared electronic record management
9 system.

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

12 (e-5) Records requested by persons committed to the
13 Department of Corrections, Department of Human Services
14 Division of Mental Health, or a county jail if those
15 materials are available in the library of the correctional
16 institution or facility or jail where the inmate is
17 confined.

18 (e-6) Records requested by persons committed to the
19 Department of Corrections, Department of Human Services
20 Division of Mental Health, or a county jail if those
21 materials include records from staff members' personnel
22 files, staff rosters, or other staffing assignment
23 information.

24 (e-7) Records requested by persons committed to the
25 Department of Corrections or Department of Human Services
26 Division of Mental Health if those materials are available

1 through an administrative request to the Department of
2 Corrections or Department of Human Services Division of
3 Mental Health.

4 (e-8) Records requested by a person committed to the
5 Department of Corrections, Department of Human Services
6 Division of Mental Health, or a county jail, the disclosure
7 of which would result in the risk of harm to any person or
8 the risk of an escape from a jail or correctional
9 institution or facility.

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

20 (e-10) Law enforcement records of other persons
21 requested by a person committed to the Department of
22 Corrections, Department of Human Services Division of
23 Mental Health, or a county jail, including, but not limited
24 to, arrest and booking records, mug shots, and crime scene
25 photographs, except as these records may be relevant to the
26 requester's current or potential case or claim.

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

10 (g) Trade secrets and commercial or financial
11 information obtained from a person or business where the
12 trade secrets or commercial or financial information are
13 furnished under a claim that they are proprietary,
14 privileged, or confidential, and that disclosure of the
15 trade secrets or commercial or financial information would
16 cause competitive harm to the person or business, and only
17 insofar as the claim directly applies to the records
18 requested.

19 The information included under this exemption includes
20 all trade secrets and commercial or financial information
21 obtained by a public body, including a public pension fund,
22 from a private equity fund or a privately held company
23 within the investment portfolio of a private equity fund as
24 a result of either investing or evaluating a potential
25 investment of public funds in a private equity fund. The
26 exemption contained in this item does not apply to the

1 aggregate financial performance information of a private
2 equity fund, nor to the identity of the fund's managers or
3 general partners. The exemption contained in this item does
4 not apply to the identity of a privately held company
5 within the investment portfolio of a private equity fund,
6 unless the disclosure of the identity of a privately held
7 company may cause competitive harm.

8 Nothing contained in this paragraph (g) shall be
9 construed to prevent a person or business from consenting
10 to disclosure.

11 (h) Proposals and bids for any contract, grant, or
12 agreement, including information which if it were
13 disclosed would frustrate procurement or give an advantage
14 to any person proposing to enter into a contractor
15 agreement with the body, until an award or final selection
16 is made. Information prepared by or for the body in
17 preparation of a bid solicitation shall be exempt until an
18 award or final selection is made.

19 (i) Valuable formulae, computer geographic systems,
20 designs, drawings and research data obtained or produced by
21 any public body when disclosure could reasonably be
22 expected to produce private gain or public loss. The
23 exemption for "computer geographic systems" provided in
24 this paragraph (i) does not extend to requests made by news
25 media as defined in Section 2 of this Act when the
26 requested information is not otherwise exempt and the only

1 purpose of the request is to access and disseminate
2 information regarding the health, safety, welfare, or
3 legal rights of the general public.

4 (j) The following information pertaining to
5 educational matters:

6 (i) test questions, scoring keys and other
7 examination data used to administer an academic
8 examination;

9 (ii) information received by a primary or
10 secondary school, college, or university under its
11 procedures for the evaluation of faculty members by
12 their academic peers;

13 (iii) information concerning a school or
14 university's adjudication of student disciplinary
15 cases, but only to the extent that disclosure would
16 unavoidably reveal the identity of the student; and

17 (iv) course materials or research materials used
18 by faculty members.

19 (k) Architects' plans, engineers' technical
20 submissions, and other construction related technical
21 documents for projects not constructed or developed in
22 whole or in part with public funds and the same for
23 projects constructed or developed with public funds,
24 including, but not limited to, power generating and
25 distribution stations and other transmission and
26 distribution facilities, water treatment facilities,

1 airport facilities, sport stadiums, convention centers,
2 and all government owned, operated, or occupied buildings,
3 but only to the extent that disclosure would compromise
4 security.

5 (l) Minutes of meetings of public bodies closed to the
6 public as provided in the Open Meetings Act until the
7 public body makes the minutes available to the public under
8 Section 2.06 of the Open Meetings Act.

9 (m) Communications between a public body and an
10 attorney or auditor representing the public body that would
11 not be subject to discovery in litigation, and materials
12 prepared or compiled by or for a public body in
13 anticipation of a criminal, civil, or administrative
14 proceeding upon the request of an attorney advising the
15 public body, and materials prepared or compiled with
16 respect to internal audits of public bodies.

17 (n) Records relating to a public body's adjudication of
18 employee grievances or disciplinary cases; however, this
19 exemption shall not extend to the final outcome of cases in
20 which discipline is imposed.

21 (o) Administrative or technical information associated
22 with automated data processing operations, including, but
23 not limited to, software, operating protocols, computer
24 program abstracts, file layouts, source listings, object
25 modules, load modules, user guides, documentation
26 pertaining to all logical and physical design of

1 computerized systems, employee manuals, and any other
2 information that, if disclosed, would jeopardize the
3 security of the system or its data or the security of
4 materials exempt under this Section.

5 (p) Records relating to collective negotiating matters
6 between public bodies and their employees or
7 representatives, except that any final contract or
8 agreement shall be subject to inspection and copying.

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

12 (r) The records, documents, and information relating
13 to real estate purchase negotiations until those
14 negotiations have been completed or otherwise terminated.
15 With regard to a parcel involved in a pending or actually
16 and reasonably contemplated eminent domain proceeding
17 under the Eminent Domain Act, records, documents, and
18 information relating to that parcel shall be exempt except
19 as may be allowed under discovery rules adopted by the
20 Illinois Supreme Court. The records, documents, and
21 information relating to a real estate sale shall be exempt
22 until a sale is consummated.

23 (s) Any and all proprietary information and records
24 related to the operation of an intergovernmental risk
25 management association or self-insurance pool or jointly
26 self-administered health and accident cooperative or pool.

1 Insurance or self insurance (including any
2 intergovernmental risk management association or self
3 insurance pool) claims, loss or risk management
4 information, records, data, advice or communications.

5 (t) Information contained in or related to
6 examination, operating, or condition reports prepared by,
7 on behalf of, or for the use of a public body responsible
8 for the regulation or supervision of financial
9 institutions, insurance companies, or pharmacy benefit
10 managers, unless disclosure is otherwise required by State
11 law.

12 (u) Information that would disclose or might lead to
13 the disclosure of secret or confidential information,
14 codes, algorithms, programs, or private keys intended to be
15 used to create electronic or digital signatures under the
16 Electronic Commerce Security Act.

17 (v) Vulnerability assessments, security measures, and
18 response policies or plans that are designed to identify,
19 prevent, or respond to potential attacks upon a community's
20 population or systems, facilities, or installations, the
21 destruction or contamination of which would constitute a
22 clear and present danger to the health or safety of the
23 community, but only to the extent that disclosure could
24 reasonably be expected to jeopardize the effectiveness of
25 the measures or the safety of the personnel who implement
26 them or the public. Information exempt under this item may

1 include such things as details pertaining to the
2 mobilization or deployment of personnel or equipment, to
3 the operation of communication systems or protocols, or to
4 tactical operations.

5 (w) (Blank).

6 (x) Maps and other records regarding the location or
7 security of generation, transmission, distribution,
8 storage, gathering, treatment, or switching facilities
9 owned by a utility, by a power generator, or by the
10 Illinois Power Agency.

11 (y) Information contained in or related to proposals,
12 bids, or negotiations related to electric power
13 procurement under Section 1-75 of the Illinois Power Agency
14 Act and Section 16-111.5 of the Public Utilities Act that
15 is determined to be confidential and proprietary by the
16 Illinois Power Agency or by the Illinois Commerce
17 Commission.

18 (z) Information about students exempted from
19 disclosure under Sections 10-20.38 or 34-18.29 of the
20 School Code, and information about undergraduate students
21 enrolled at an institution of higher education exempted
22 from disclosure under Section 25 of the Illinois Credit
23 Card Marketing Act of 2009.

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

26 (bb) Records and information provided to a mortality

1 review team and records maintained by a mortality review
2 team appointed under the Department of Juvenile Justice
3 Mortality Review Team Act.

4 (cc) Information regarding interments, entombments, or
5 inurnments of human remains that are submitted to the
6 Cemetery Oversight Database under the Cemetery Care Act or
7 the Cemetery Oversight Act, whichever is applicable.

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

12 (ee) The names, addresses, or other personal
13 information of persons who are minors and are also
14 participants and registrants in programs of park
15 districts, forest preserve districts, conservation
16 districts, recreation agencies, and special recreation
17 associations.

18 (ff) The names, addresses, or other personal
19 information of participants and registrants in programs of
20 park districts, forest preserve districts, conservation
21 districts, recreation agencies, and special recreation
22 associations where such programs are targeted primarily to
23 minors.

24 (gg) Confidential information described in Section
25 1-100 of the Illinois Independent Tax Tribunal Act of 2012.

26 (hh) The report submitted to the State Board of

1 Education by the School Security and Standards Task Force
2 under item (8) of subsection (d) of Section 2-3.160 of the
3 School Code and any information contained in that report.

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

15 (jj) Confidential information described in Section
16 5-535 of the Civil Administrative Code of Illinois.

17 (kk) The public body's credit card numbers, debit card
18 numbers, bank account numbers, Federal Employer
19 Identification Number, security code numbers, passwords,
20 and similar account information, the disclosure of which
21 could result in identity theft or impression or defrauding
22 of a governmental entity or a person.

23 (ll) ~~(kk)~~ Records concerning the work of the threat
24 assessment team of a school district.

25 (1.5) Any information exempt from disclosure under the
26 Judicial Privacy Act shall be redacted from public records

1 prior to disclosure under this Act.

2 (1.7) Any information exempt from disclosure under Section
3 40 of the Reproductive Health Act shall be redacted from public
4 records prior to disclosure under this Act.

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

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

16 (Source: P.A. 100-26, eff. 8-4-17; 100-201, eff. 8-18-17;
17 100-732, eff. 8-3-18; 101-434, eff. 1-1-20; 101-452, eff.
18 1-1-20; 101-455, eff. 8-23-19; revised 9-27-19.)

19 Section 10. The Reproductive Health Act is amended by
20 adding Section 40 as follows:

21 (775 ILCS 55/40 new)

22 Sec. 40. Health care professional privacy.

23 (a) A health care professional who provides
24 abortion-related care may submit, to any government agency,

1 person, business, or association, a written request that the
2 government agency, person, business, or association refrain
3 from disclosing any personal information about the health care
4 professional.

5 A representative from the health care professional's
6 employer may submit a written request on behalf of the health
7 care professional, if: (i) the health care professional gives
8 written consent to the representative; and (ii) the
9 representative agrees to furnish a copy of that consent when a
10 written request is made. The representative shall submit the
11 written request directly to a government agency, person,
12 business or association.

13 A written request is valid if the health care professional,
14 or representative of the health care professional's employer,
15 sends a written request directly to a government agency,
16 person, business, or association.

17 (b) The written request shall specify:

18 (1) what personal information of the health care
19 professional shall be maintained private;

20 (2) if a health care professional wishes to identify a
21 secondary residence as a home address, the designation of
22 such; and

23 (3) the identity of any immediate family, and any
24 personal information of those persons that shall be
25 excluded to the extent that it could reasonably be expected
26 to reveal the personal information of the health care

1 professional.

2 (c) A written request is valid until the health care
3 professional provides the government agency, person, business,
4 or association with written permission to release the personal
5 information. Otherwise, a written request from a health care
6 professional expires on death.

7 (d) If a government agency receives a written request from
8 a health care professional in accordance with subsections (a)
9 and (b), the government agency shall not publicly post or
10 display publicly available content that includes any personal
11 information of the health care professional. After receipt of
12 the request, the government agency shall remove any personal
13 information of the health care professional from the publicly
14 available content within 5 business days, and shall not
15 publicly post or display the personal information unless the
16 health care professional has given the government agency
17 written permission to release the personal information as
18 required under subsection (c). The personal information of the
19 health care professional is exempt from the Freedom of
20 Information Act unless the government agency receives consent
21 from the health care professional to make the personal
22 information available to the public.

23 (e) If a government agency fails to comply with a written
24 request under subsection (d), the health care professional may
25 bring an action seeking injunctive or declaratory relief in any
26 court of competent jurisdiction.

1 (f) If a person, business, or association receives a
2 written request from a health care professional in accordance
3 with subsections (a) and (b), the person, business, or
4 association shall refrain from publicly posting or displaying
5 on the Internet publicly available content that includes the
6 personal information of a health care professional. After
7 receipt of a written request, the person, business, or
8 association: (i) has 72 hours to remove the personal
9 information from the Internet; (ii) shall ensure that the
10 personal information of the health care professional is not
11 made available on any website or subsidiary website controlled
12 by that person, business, or association; and (iii) shall not
13 transfer the personal information of the health care
14 professional to any other person, business, or association
15 through any medium.

16 (g) No person, business, or association shall solicit,
17 sell, or trade on the Internet any personal information of the
18 health care professional with the intent to post an imminent or
19 serious threat to the health and safety of the health care
20 professional or his or her immediate family.

21 (h) A health care professional whose personal information
22 is made public as a result of a violation of subsection (f) or
23 (g) may bring an action seeking injunctive or declaratory
24 relief in any court of competent jurisdiction. A court shall
25 award a prevailing health care professional costs and
26 reasonable attorney's fees.

1 (i) No government agency, person, business, or association
2 shall be found to have violated any provision of this Section
3 if the health care professional fails to submit a written
4 request calling for the protection of the personal information
5 of the health care professional.

6 (j) It is unlawful for any person to knowingly publicly
7 post on the Internet the personal information of a health care
8 professional or his or her immediate family if the person knows
9 or reasonably should know that publicly posting the personal
10 information poses an imminent and serious threat to the health
11 and safety of the health care professional or his or her
12 immediate family, and the violation is a proximate cause of
13 bodily injury or death of the health care professional or his
14 or her immediate family member. A person who violates this
15 subsection is guilty of a Class 3 felony.

16 (k) It is not a violation of subsection (j) if an employee
17 of a government agency publishes personal information, in good
18 faith, on the website of the government agency in the ordinary
19 course of carrying out public functions if the employee
20 complied with the conditions of this Section.

21 (l) This Section and any rules adopted to implement this
22 Section shall be construed broadly to favor the protection of
23 the personal information of a health care professional.

24 (m) As used in this Section:

25 "Government agency" means all agencies, authorities,
26 boards, commissions, departments, institutions, offices, and

1 any other bodies politic and corporate of this State created by
2 the constitution or statute, whether in the executive,
3 judicial, or legislative branch; all units and corporate
4 outgrowths created by executive order of the Governor or any
5 constitutional officer, by the Supreme Court, or by resolution
6 of the General Assembly; or agencies, authorities, boards,
7 commissions, departments, institutions, offices, and any other
8 bodies politic and corporate of a unit of local government, or
9 school district.

10 "Home address" means a permanent residence of the health
11 care professional and any secondary residences affirmatively
12 identified by the health care professional.

13 "Immediate family" means a spouse, child, parent, or any
14 blood relative of the health care professional or the spouse of
15 the health care representative who lives in the same residence.

16 "Personal information" means a home address, home
17 telephone number, mobile telephone number, pager number,
18 personal email address, social security number, federal tax
19 identification number, checking and savings account numbers,
20 credit card numbers, marital status, and identity of children
21 under the age of 18.

22 "Publicly available content" means any written, printed,
23 or electronic document or record that provides information or
24 that serves as a document or record maintained, controlled, or
25 in the possession of a government agency that may be obtained
26 by any person or entity, from the Internet, from a government

1 agency upon request free of charge or for a fee, or in response
2 to a request under the Freedom of Information Act.

3 "Publicly post" or "publicly display" means to communicate
4 to another or otherwise make available to the general public.

5 "Written request" means written notice signed by a health
6 care professional requesting a government agency, person,
7 business, or association to refrain from posting or displaying
8 publicly available content that includes the personal
9 information of the health care professional.