



101ST GENERAL ASSEMBLY

State of Illinois

2019 and 2020

SB2135

Introduced 2/15/2019, by Sen. Terry Link

SYNOPSIS AS INTRODUCED:

5 ILCS 140/7

from Ch. 116, par. 207

Amends the Freedom of Information Act. Exempts from inspection and copying a law enforcement record created for law enforcement purposes if the public body that is the recipient of the request did not create the record and did not participate in or have a role in any of the events that are the subject of the record. Provides that if a public body receives a request for a law enforcement record created for law enforcement purposes that it did not create, the public body shall direct the requester to the public body that created the law enforcement record. Deletes language exempting from inspection and copying a law enforcement record created for law enforcement purposes and contained in a shared electronic record management system if the law enforcement agency that is the recipient of the request did not create the record, did not participate in or have a role in any of the events which are the subject of the record, and only has access to the record through the shared electronic record management system.

LRB101 09971 HEP 55073 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 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 if the public body that is the
4 recipient of the request did not create the record and did
5 not participate in or have a role in any of the events that
6 are the subject of the record. If a public body receives a
7 request for a law enforcement record created for law
8 enforcement purposes that it did not create, the public
9 body shall direct the requester to the public body that
10 created the law enforcement record. ~~A law enforcement~~
11 ~~record created for law enforcement purposes and contained~~
12 ~~in a shared electronic record management system if the law~~
13 ~~enforcement agency that is the recipient of the request did~~
14 ~~not create the record, did not participate in or have a~~
15 ~~role in any of the events which are the subject of the~~
16 ~~record, and only has access to the record through the~~
17 ~~shared electronic record management system.~~

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

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

26 (e-6) Records requested by persons committed to the

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

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

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

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

1 claim.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

25 (n) Records relating to a public body's adjudication of
26 employee grievances or disciplinary cases; however, this

1 exemption shall not extend to the final outcome of cases in
2 which discipline is imposed.

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

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

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

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

1 as may be allowed under discovery rules adopted by the
2 Illinois Supreme Court. The records, documents and
3 information relating to a real estate sale shall be exempt
4 until a sale is consummated.

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

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

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

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

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

12 (w) (Blank).

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

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

25 (z) Information about students exempted from
26 disclosure under Sections 10-20.38 or 34-18.29 of the

1 School Code, and information about undergraduate students
2 enrolled at an institution of higher education exempted
3 from disclosure under Section 25 of the Illinois Credit
4 Card Marketing Act of 2009.

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

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

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

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

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

25 (ff) The names, addresses, or other personal
26 information of participants and registrants in programs of

1 park districts, forest preserve districts, conservation
2 districts, recreation agencies, and special recreation
3 associations where such programs are targeted primarily to
4 minors.

5 (gg) Confidential information described in Section
6 1-100 of the Illinois Independent Tax Tribunal Act of 2012.

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

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

22 (jj) Confidential information described in Section
23 5-535 of the Civil Administrative Code of Illinois.

24 (1.5) Any information exempt from disclosure under the
25 Judicial Privacy Act shall be redacted from public records
26 prior to disclosure under this Act.

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

8 (3) This Section does not authorize withholding of
9 information or limit the availability of records to the public,
10 except as stated in this Section or otherwise provided in this
11 Act.

12 (Source: P.A. 99-298, eff. 8-6-15; 99-346, eff. 1-1-16; 99-642,
13 eff. 7-28-16; 100-26, eff. 8-4-17; 100-201, eff. 8-18-17;
14 100-732, eff. 8-3-18.)