



Sen. Terry Link

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10100SB2135sam001

LRB101 09971 HEP 57902 a

1 AMENDMENT TO SENATE BILL 2135

2 AMENDMENT NO. \_\_\_\_\_. Amend Senate Bill 2135 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 if the law enforcement agency that is  
11 the recipient of the request did not create the record and  
12 did not participate in or have a role in any of the events  
13 that are the subject of the record. If a law enforcement  
14 agency receives a request for a law enforcement record  
15 created for law enforcement purposes that it did not  
16 create, the law enforcement agency shall direct the  
17 requester to the agency that created the law enforcement  
18 record. A law enforcement record created for law  
19 enforcement purposes and contained in a shared electronic  
20 record management system if the law enforcement agency that  
21 is the recipient of the request did not create the record,  
22 did not participate in or have a role in any of the events  
23 which are the subject of the record, and only has access to  
24 the record through the shared electronic record management  
25 system.

26 (e) Records that relate to or affect the security of

1 correctional institutions and detention facilities.

2 (e-5) Records requested by persons committed to the  
3 Department of Corrections, Department of Human Services  
4 Division of Mental Health, or a county jail if those  
5 materials are available in the library of the correctional  
6 institution or facility or jail where the inmate is  
7 confined.

8 (e-6) Records requested by persons committed to the  
9 Department of Corrections, Department of Human Services  
10 Division of Mental Health, or a county jail if those  
11 materials include records from staff members' personnel  
12 files, staff rosters, or other staffing assignment  
13 information.

14 (e-7) Records requested by persons committed to the  
15 Department of Corrections or Department of Human Services  
16 Division of Mental Health if those materials are available  
17 through an administrative request to the Department of  
18 Corrections or Department of Human Services Division of  
19 Mental Health.

20 (e-8) Records requested by a person committed to the  
21 Department of Corrections, Department of Human Services  
22 Division of Mental Health, or a county jail, the disclosure  
23 of which would result in the risk of harm to any person or  
24 the risk of an escape from a jail or correctional  
25 institution or facility.

26 (e-9) Records requested by a person in a county jail or

1 committed to the Department of Corrections or Department of  
2 Human Services Division of Mental Health, containing  
3 personal information pertaining to the person's victim or  
4 the victim's family, including, but not limited to, a  
5 victim's home address, home telephone number, work or  
6 school address, work telephone number, social security  
7 number, or any other identifying information, except as may  
8 be relevant to a requester's current or potential case or  
9 claim.

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

17 (f) Preliminary drafts, notes, recommendations,  
18 memoranda and other records in which opinions are  
19 expressed, or policies or actions are formulated, except  
20 that a specific record or relevant portion of a record  
21 shall not be exempt when the record is publicly cited and  
22 identified by the head of the public body. The exemption  
23 provided in this paragraph (f) extends to all those records  
24 of officers and agencies of the General Assembly that  
25 pertain to the preparation of legislative documents.

26 (g) Trade secrets and commercial or financial

1 information obtained from a person or business where the  
2 trade secrets or commercial or financial information are  
3 furnished under a claim that they are proprietary,  
4 privileged or confidential, and that disclosure of the  
5 trade secrets or commercial or financial information would  
6 cause competitive harm to the person or business, and only  
7 insofar as the claim directly applies to the records  
8 requested.

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

24 Nothing contained in this paragraph (g) shall be  
25 construed to prevent a person or business from consenting  
26 to disclosure.

1           (h) Proposals and bids for any contract, grant, or  
2 agreement, including information which if it were  
3 disclosed would frustrate procurement or give an advantage  
4 to any person proposing to enter into a contractor  
5 agreement with the body, until an award or final selection  
6 is made. Information prepared by or for the body in  
7 preparation of a bid solicitation shall be exempt until an  
8 award or final selection is made.

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

20           (j) The following information pertaining to  
21 educational matters:

22                 (i) test questions, scoring keys and other  
23 examination data used to administer an academic  
24 examination;

25                 (ii) information received by a primary or  
26 secondary school, college, or university under its



1 procedures for the evaluation of faculty members by  
2 their academic peers;

3 (iii) information concerning a school or  
4 university's adjudication of student disciplinary  
5 cases, but only to the extent that disclosure would  
6 unavoidably reveal the identity of the student; and

7 (iv) course materials or research materials used  
8 by faculty members.

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

21 (l) Minutes of meetings of public bodies closed to the  
22 public as provided in the Open Meetings Act until the  
23 public body makes the minutes available to the public under  
24 Section 2.06 of the Open Meetings Act.

25 (m) Communications between a public body and an  
26 attorney or auditor representing the public body that would

1 not be subject to discovery in litigation, and materials  
2 prepared or compiled by or for a public body in  
3 anticipation of a criminal, civil or administrative  
4 proceeding upon the request of an attorney advising the  
5 public body, and materials prepared or compiled with  
6 respect to internal audits of public bodies.

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

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

21 (p) Records relating to collective negotiating matters  
22 between public bodies and their employees or  
23 representatives, except that any final contract or  
24 agreement shall be subject to inspection and copying.

25 (q) Test questions, scoring keys, and other  
26 examination data used to determine the qualifications of an

1 applicant for a license or employment.

2 (r) The records, documents, and information relating  
3 to real estate purchase negotiations until those  
4 negotiations have been completed or otherwise terminated.  
5 With regard to a parcel involved in a pending or actually  
6 and reasonably contemplated eminent domain proceeding  
7 under the Eminent Domain Act, records, documents and  
8 information relating to that parcel shall be exempt except  
9 as may be allowed under discovery rules adopted by the  
10 Illinois Supreme Court. The records, documents and  
11 information relating to a real estate sale shall be exempt  
12 until a sale is consummated.

13 (s) Any and all proprietary information and records  
14 related to the operation of an intergovernmental risk  
15 management association or self-insurance pool or jointly  
16 self-administered health and accident cooperative or pool.  
17 Insurance or self insurance (including any  
18 intergovernmental risk management association or self  
19 insurance pool) claims, loss or risk management  
20 information, records, data, advice or communications.

21 (t) Information contained in or related to  
22 examination, operating, or condition reports prepared by,  
23 on behalf of, or for the use of a public body responsible  
24 for the regulation or supervision of financial  
25 institutions or insurance companies, unless disclosure is  
26 otherwise required by State law.

1           (u) Information that would disclose or might lead to  
2 the disclosure of secret or confidential information,  
3 codes, algorithms, programs, or private keys intended to be  
4 used to create electronic or digital signatures under the  
5 Electronic Commerce Security Act.

6           (v) Vulnerability assessments, security measures, and  
7 response policies or plans that are designed to identify,  
8 prevent, or respond to potential attacks upon a community's  
9 population or systems, facilities, or installations, the  
10 destruction or contamination of which would constitute a  
11 clear and present danger to the health or safety of the  
12 community, but only to the extent that disclosure could  
13 reasonably be expected to jeopardize the effectiveness of  
14 the measures or the safety of the personnel who implement  
15 them or the public. Information exempt under this item may  
16 include such things as details pertaining to the  
17 mobilization or deployment of personnel or equipment, to  
18 the operation of communication systems or protocols, or to  
19 tactical operations.

20           (w) (Blank).

21           (x) Maps and other records regarding the location or  
22 security of generation, transmission, distribution,  
23 storage, gathering, treatment, or switching facilities  
24 owned by a utility, by a power generator, or by the  
25 Illinois Power Agency.

26           (y) Information contained in or related to proposals,

1 bids, or negotiations related to electric power  
2 procurement under Section 1-75 of the Illinois Power Agency  
3 Act and Section 16-111.5 of the Public Utilities Act that  
4 is determined to be confidential and proprietary by the  
5 Illinois Power Agency or by the Illinois Commerce  
6 Commission.

7 (z) Information about students exempted from  
8 disclosure under Sections 10-20.38 or 34-18.29 of the  
9 School Code, and information about undergraduate students  
10 enrolled at an institution of higher education exempted  
11 from disclosure under Section 25 of the Illinois Credit  
12 Card Marketing Act of 2009.

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

15 (bb) Records and information provided to a mortality  
16 review team and records maintained by a mortality review  
17 team appointed under the Department of Juvenile Justice  
18 Mortality Review Team Act.

19 (cc) Information regarding interments, entombments, or  
20 inurnments of human remains that are submitted to the  
21 Cemetery Oversight Database under the Cemetery Care Act or  
22 the Cemetery Oversight Act, whichever is applicable.

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

1           (ee) The names, addresses, or other personal  
2 information of persons who are minors and are also  
3 participants and registrants in programs of park  
4 districts, forest preserve districts, conservation  
5 districts, recreation agencies, and special recreation  
6 associations.

7           (ff) The names, addresses, or other personal  
8 information of participants and registrants in programs of  
9 park districts, forest preserve districts, conservation  
10 districts, recreation agencies, and special recreation  
11 associations where such programs are targeted primarily to  
12 minors.

13           (gg) Confidential information described in Section  
14 1-100 of the Illinois Independent Tax Tribunal Act of 2012.

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

19           (ii) Records requested by persons committed to or  
20 detained by the Department of Human Services under the  
21 Sexually Violent Persons Commitment Act or committed to the  
22 Department of Corrections under the Sexually Dangerous  
23 Persons Act if those materials: (i) are available in the  
24 library of the facility where the individual is confined;  
25 (ii) include records from staff members' personnel files,  
26 staff rosters, or other staffing assignment information;

1 or (iii) are available through an administrative request to  
2 the Department of Human Services or the Department of  
3 Corrections.

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

6 (1.5) Any information exempt from disclosure under the  
7 Judicial Privacy Act shall be redacted from public records  
8 prior to disclosure under this Act.

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

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

20 (Source: P.A. 99-298, eff. 8-6-15; 99-346, eff. 1-1-16; 99-642,  
21 eff. 7-28-16; 100-26, eff. 8-4-17; 100-201, eff. 8-18-17;  
22 100-732, eff. 8-3-18.)".