

# HB3868



## 102ND GENERAL ASSEMBLY

State of Illinois

2021 and 2022

**HB3868**

Introduced 2/22/2021, by Rep. Lance Yednock

### SYNOPSIS AS INTRODUCED:

5 ILCS 140/7

from Ch. 116, par. 207

Amends the Freedom of Information Act. To the list of records exempt from disclosure, adds records of a State's Attorney requested by persons committed to the Department of Corrections upon conviction of a felony, or otherwise currently incarcerated pursuant to a felony conviction, except as may be relevant to the requester's conviction.

LRB102 09950 HEP 15268 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 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  
10 disclosure under this Section, but also contains information  
11 that is not exempt from disclosure, the public body may elect  
12 to redact the information that is exempt. The public body  
13 shall make the remaining information available for inspection  
14 and copying. Subject to this requirement, the following shall  
15 be exempt from inspection and copying:

16 (a) Information specifically prohibited from  
17 disclosure by federal or State law or rules and  
18 regulations 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  
2 more law enforcement agencies regarding the physical or  
3 mental status of one or more individual subjects.

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

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

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

26 (ii) interfere with active administrative

1 enforcement proceedings conducted by the public body  
2 that is the recipient of the request;

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

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

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

26 (vi) endanger the life or physical safety of law

1 enforcement personnel or any other person; or  
2 (vii) obstruct an ongoing criminal investigation  
3 by the agency that is the recipient of the request.

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

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

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

20 (e-6) 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 include records from staff members' personnel  
24 files, staff rosters, or other staffing assignment  
25 information.

26 (e-7) Records requested by persons committed to the

1 Department of Corrections or Department of Human Services  
2 Division of Mental Health if those materials are available  
3 through an administrative request to the Department of  
4 Corrections or Department of Human Services Division of  
5 Mental Health.

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

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

22 (e-10) Law enforcement records of other persons  
23 requested by a person committed to the Department of  
24 Corrections, Department of Human Services Division of  
25 Mental Health, or a county jail, including, but not  
26 limited to, arrest and booking records, mug shots, and

1 crime scene photographs, except as these records may be  
2 relevant to the requester's current or potential case or  
3 claim.

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

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

22 The information included under this exemption includes  
23 all trade secrets and commercial or financial information  
24 obtained by a public body, including a public pension  
25 fund, from a private equity fund or a privately held  
26 company within the investment portfolio of a private

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

11 Nothing contained in this paragraph (g) shall be  
12 construed to prevent a person or business from consenting  
13 to disclosure.

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

22 (i) Valuable formulae, computer geographic systems,  
23 designs, drawings and research data obtained or produced  
24 by any public body when disclosure could reasonably be  
25 expected to produce private gain or public loss. The  
26 exemption for "computer geographic systems" provided in



1           this paragraph (i) does not extend to requests made by  
2           news media as defined in Section 2 of this Act when the  
3           requested information is not otherwise exempt and the only  
4           purpose of the request is to access and disseminate  
5           information regarding the health, safety, welfare, or  
6           legal rights of the general public.

7           (j)     The following information pertaining to  
8           educational matters:

9                   (i) test questions, scoring keys and other  
10                   examination data used to administer an academic  
11                   examination;

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

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

20                   (iv) course materials or research materials used  
21                   by faculty members.

22           (k)     Architects' plans, engineers' technical  
23           submissions, and other construction related technical  
24           documents for projects not constructed or developed in  
25           whole or in part with public funds and the same for  
26           projects constructed or developed with public funds,

1 including, but not limited to, power generating and  
2 distribution stations and other transmission and  
3 distribution facilities, water treatment facilities,  
4 airport facilities, sport stadiums, convention centers,  
5 and all government owned, operated, or occupied buildings,  
6 but only to the extent that disclosure would compromise  
7 security.

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

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

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

24 (o) Administrative or technical information associated  
25 with automated data processing operations, including, but  
26 not limited to, software, operating protocols, computer

1 program abstracts, file layouts, source listings, object  
2 modules, load modules, user guides, documentation  
3 pertaining to all logical and physical design of  
4 computerized systems, employee manuals, and any other  
5 information that, if disclosed, would jeopardize the  
6 security of the system or its data or the security of  
7 materials exempt under this Section.

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

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

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

26 (s) Any and all proprietary information and records

1 related to the operation of an intergovernmental risk  
2 management association or self-insurance pool or jointly  
3 self-administered health and accident cooperative or pool.  
4 Insurance or self insurance (including any  
5 intergovernmental risk management association or self  
6 insurance pool) claims, loss or risk management  
7 information, records, data, advice or communications.

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

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

20 (v) Vulnerability assessments, security measures, and  
21 response policies or plans that are designed to identify,  
22 prevent, or respond to potential attacks upon a  
23 community's population or systems, facilities, or  
24 installations, the destruction or contamination of which  
25 would constitute a clear and present danger to the health  
26 or safety of the community, but only to the extent that

1 disclosure could reasonably be expected to jeopardize the  
2 effectiveness of the measures or the safety of the  
3 personnel who implement them or the public. Information  
4 exempt under this item may include such things as details  
5 pertaining to the mobilization or deployment of personnel  
6 or equipment, to the operation of communication systems or  
7 protocols, or to tactical operations.

8 (w) (Blank).

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

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

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

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

3           (bb) Records and information provided to a mortality  
4           review team and records maintained by a mortality review  
5           team appointed under the Department of Juvenile Justice  
6           Mortality Review Team Act.

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

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

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

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

1           (gg) Confidential information described in Section  
2           1-100 of the Illinois Independent Tax Tribunal Act of  
3           2012.

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

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

19          (jj) Confidential information described in Section  
20          5-535 of the Civil Administrative Code of Illinois.

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

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

3           (mm) Records of a State's Attorney requested by  
4 persons committed to the Department of Corrections upon  
5 conviction of a felony, or otherwise currently  
6 incarcerated pursuant to a felony conviction, except as  
7 may be relevant to the requester's conviction.

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

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

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

22           (Source: P.A. 100-26, eff. 8-4-17; 100-201, eff. 8-18-17;  
23 100-732, eff. 8-3-18; 101-434, eff. 1-1-20; 101-452, eff.  
24 1-1-20; 101-455, eff. 8-23-19; revised 9-27-19.)