



## 102ND GENERAL ASSEMBLY

### State of Illinois

2021 and 2022

**HB4642**

Introduced 1/21/2022, by Rep. Robyn Gabel

#### SYNOPSIS AS INTRODUCED:

5 ILCS 140/2  
5 ILCS 140/7

from Ch. 116, par. 202  
from Ch. 116, par. 207

Amends the Freedom of Information Act. Exempts from disclosure as private information all patient-related information that may be contained in any record held by a public hospital system outside of a medical records information system that alone or compiled, or under circumstances in which the patient information combined with other information could allow for patient identification, and also in compliance with State and federal medical privacy laws and regulations.

LRB102 24261 HEP 33492 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 Sections 2 and 7 as follows:

6 (5 ILCS 140/2) (from Ch. 116, par. 202)

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

8 (a) "Public body" means all legislative, executive,  
9 administrative, or advisory bodies of the State, state  
10 universities and colleges, counties, townships, cities,  
11 villages, incorporated towns, school districts and all other  
12 municipal corporations, boards, bureaus, committees, or  
13 commissions of this State, any subsidiary bodies of any of the  
14 foregoing including but not limited to committees and  
15 subcommittees thereof, and a School Finance Authority created  
16 under Article 1E of the School Code. "Public body" does not  
17 include a child death review team or the Illinois Child Death  
18 Review Teams Executive Council established under the Child  
19 Death Review Team Act, or a regional youth advisory board or  
20 the Statewide Youth Advisory Board established under the  
21 Department of Children and Family Services Statewide Youth  
22 Advisory Board Act.

23 (b) "Person" means any individual, corporation,

1 partnership, firm, organization or association, acting  
2 individually or as a group.

3 (c) "Public records" means all records, reports, forms,  
4 writings, letters, memoranda, books, papers, maps,  
5 photographs, microfilms, cards, tapes, recordings, electronic  
6 data processing records, electronic communications, recorded  
7 information and all other documentary materials pertaining to  
8 the transaction of public business, regardless of physical  
9 form or characteristics, having been prepared by or for, or  
10 having been or being used by, received by, in the possession  
11 of, or under the control of any public body.

12 (c-5) "Private information" means unique identifiers,  
13 including a person's social security number, driver's license  
14 number, employee identification number, biometric identifiers,  
15 personal financial information, passwords or other access  
16 codes, medical records (including electronic medical records  
17 and the information contained within or extracted from an  
18 electronic medical records system, including patient  
19 information that alone or compiled, or under circumstances in  
20 which the patient information combined with other information  
21 could allow for patient identification, in compliance with  
22 State and federal medical privacy laws and regulations,  
23 including, but not limited to, the Health Insurance  
24 Portability and Accountability Act of 1996 (HIPAA) and its  
25 regulations, 45 CFR Parts 160 and 164), home or personal  
26 telephone numbers, and personal email addresses. Private

1 information also includes home address and personal license  
2 plates, except as otherwise provided by law or when compiled  
3 without possibility of attribution to any person.

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

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

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

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

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

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

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

1 identify multiple records to be inspected or copied.

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

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

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

1 (i) "Severance agreement" means a mutual agreement between  
2 any public body and its employee for the employee's  
3 resignation in exchange for payment by the public body.

4 (Source: P.A. 98-806, eff. 1-1-15; 98-1129, eff. 12-3-14;  
5 99-78, eff. 7-20-15; 99-478, eff. 6-1-16.)

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  
24 specifically designed to provide information to one or  
25 more law enforcement agencies regarding the physical or

1           mental status of one or more individual subjects.

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

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

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

24           (ii) interfere with active administrative  
25 enforcement proceedings conducted by the public body  
26 that is the recipient of the request;



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

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

16           (v) disclose unique or specialized investigative  
17 techniques other than those generally used and known  
18 or disclose internal documents of correctional  
19 agencies related to detection, observation or  
20 investigation of incidents of crime or misconduct, and  
21 disclosure would result in demonstrable harm to the  
22 agency or public body that is the recipient of the  
23 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  
5 that is the recipient of the request did not create the  
6 record, did not participate in or have a role in any of the  
7 events which are the subject of the record, and only has  
8 access to the record through the shared electronic record  
9 management system.

10 (d-6) Records contained in the Officer Professional  
11 Conduct Database under Section 9.2 ~~9.4~~ of the Illinois  
12 Police Training Act, except to the extent authorized under  
13 that Section. This includes the documents supplied to the  
14 Illinois Law Enforcement Training Standards Board from the  
15 Illinois State Police and Illinois State Police Merit  
16 Board.

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

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

25 (e-6) Records requested by persons committed to the  
26 Department of Corrections, Department of Human Services

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

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

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

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

1           (e-10) Law enforcement records of other persons  
2 requested by a person committed to the Department of  
3 Corrections, Department of Human Services Division of  
4 Mental Health, or a county jail, including, but not  
5 limited to, arrest and booking records, mug shots, and  
6 crime scene photographs, except as these records may be  
7 relevant to the requester's current or potential case or  
8 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  
16 records of officers and agencies of the General Assembly  
17 that 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  
4           fund, from a private equity fund or a privately held  
5           company within the investment portfolio of a private  
6           equity fund as a result of either investing or evaluating  
7           a potential investment of public funds in a private equity  
8           fund. The exemption contained in this item does not apply  
9           to the aggregate financial performance information of a  
10          private equity fund, nor to the identity of the fund's  
11          managers or general partners. The exemption contained in  
12          this item does not apply to the identity of a privately  
13          held company within the investment portfolio of a private  
14          equity fund, unless the disclosure of the identity of a  
15          privately held 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  
3           by 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  
7           news 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          (1) 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  
16          under 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  
19          would not be subject to discovery in litigation, and  
20          materials 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  
26          of employee grievances or disciplinary cases; however,

1           this exemption shall not extend to the final outcome of  
2 cases in 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  
19 an 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, insurance companies, or pharmacy benefit  
18 managers, unless disclosure is otherwise required by State  
19 law.

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

25 (v) Vulnerability assessments, security measures, and  
26 response policies or plans that are designed to identify,

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

13 (w) (Blank).

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

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

26 (z) Information about students exempted from

1 disclosure under Sections 10-20.38 or 34-18.29 of the  
2 School Code, and information about undergraduate students  
3 enrolled at an institution of higher education exempted  
4 from disclosure under Section 25 of the Illinois Credit  
5 Card Marketing Act of 2009.

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

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

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

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

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

26 (ff) The names, addresses, or other personal

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

6 (gg) Confidential information described in Section  
7 1-100 of the Illinois Independent Tax Tribunal Act of  
8 2012.

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

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

24 (jj) Confidential information described in Section  
25 5-535 of the Civil Administrative Code of Illinois.

26 (kk) The public body's credit card numbers, debit card

1 numbers, bank account numbers, Federal Employer  
2 Identification Number, security code numbers, passwords,  
3 and similar account information, the disclosure of which  
4 could result in identity theft or impersonation or defrauding  
5 of a governmental entity or a person.

6 (ll) Records concerning the work of the threat  
7 assessment team of a school district.

8 (mm) All patient-related information that may be  
9 contained in any record held by a public hospital system  
10 outside of a medical records information system that alone  
11 or compiled, or under circumstances in which the patient  
12 information combined with other information could allow  
13 for patient identification, and also in compliance with  
14 State and federal medical privacy laws and regulations,  
15 including, but not limited to, the Health Insurance  
16 Portability and Accountability Act of 1996 (HIPAA) and its  
17 regulations, 45 CFR Parts 160 and 164.

18 (1.5) Any information exempt from disclosure under the  
19 Judicial Privacy Act shall be redacted from public records  
20 prior to disclosure under this Act.

21 (2) A public record that is not in the possession of a  
22 public body but is in the possession of a party with whom the  
23 agency has contracted to perform a governmental function on  
24 behalf of the public body, and that directly relates to the  
25 governmental function and is not otherwise exempt under this  
26 Act, shall be considered a public record of the public body,

1 for purposes of this Act.

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

6 (Source: P.A. 101-434, eff. 1-1-20; 101-452, eff. 1-1-20;  
7 101-455, eff. 8-23-19; 101-652, eff. 1-1-22; 102-38, eff.  
8 6-25-21; 102-558, eff. 8-20-21; revised 11-22-21.)