



102ND GENERAL ASSEMBLY

State of Illinois

2021 and 2022

SB0350

Introduced 2/19/2021, by Sen. Sally J Turner

SYNOPSIS AS INTRODUCED:

5 ILCS 140/7
10 ILCS 5/1A-55

from Ch. 116, par. 207

Amends the Freedom of Information Act. Exempts from disclosure risk and vulnerability assessments, security measures, schedules, certifications, and response policies or plans that are designed to detect, defend against, prevent, or respond to potential cyber attacks upon the State's or an election authority's network systems, or records that the disclosure of which would, in any way, constitute a risk to the proper administration of elections or voter registration. Provides that the information is exempt only to the extent that disclosure could reasonably be expected to jeopardize the effectiveness of the measures or the safety of computer systems. Provides that the exemption applies to records held by the State Board of Elections, the Department of Innovation and Technology, election authorities, and any other necessary party to protect the administration of elections. Amends the Election Code. In provisions governing the administration of the cyber navigator program, directs the allocation of resources received in accordance with the 2018 Help America Vote Act Election Security Grant (instead of the allocation of resources received in accordance with the federal Help America Vote Act). Effective immediately.

LRB102 04430 SMS 14448 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
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 impression 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) Risk and vulnerability assessments, security
4 measures, schedules, certifications, and response policies
5 or plans that are designed to detect, defend against,
6 prevent, or respond to potential cyber attacks upon the
7 State's or an election authority's network systems, or
8 records that the disclosure of which would, in any way,
9 constitute a risk to the proper administration of
10 elections or voter registration. Information under this
11 paragraph is exempt only to the extent that disclosure
12 could reasonably be expected to jeopardize the
13 effectiveness of the measures or the safety of computer
14 systems. Information exempt under this paragraph includes,
15 but is not limited to, details pertaining to the
16 mobilization or deployment of personnel or equipment, to
17 the operation of communication systems or protocols, or to
18 tactical operations. This exemption applies to records
19 held by the State Board of Elections, the Department of
20 Innovation and Technology, election authorities, and any
21 other necessary party to protect the administration of
22 elections.

23 (1.5) Any information exempt from disclosure under the
24 Judicial Privacy Act shall be redacted from public records
25 prior to disclosure under this Act.

26 (2) A public record that is not in the possession of a

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

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

11 (Source: P.A. 100-26, eff. 8-4-17; 100-201, eff. 8-18-17;
12 100-732, eff. 8-3-18; 101-434, eff. 1-1-20; 101-452, eff.
13 1-1-20; 101-455, eff. 8-23-19; revised 9-27-19.)

14 Section 10. The Election Code is amended by changing
15 Section 1A-55 as follows:

16 (10 ILCS 5/1A-55)

17 (Text of Section from P.A. 100-587)

18 Sec. 1A-55. ~~Cyber security efforts. The State Board of~~
19 ~~Elections shall provide by rule, after at least 2 public~~
20 ~~hearings of the Board and in consultation with the election~~
21 ~~authorities, a Cyber Navigator Program to support the efforts~~
22 ~~of election authorities to defend against cyber breaches and~~
23 ~~detect and recover from cyber attacks. The rules shall include~~
24 ~~the Board's plan to allocate any resources received in~~

1 ~~accordance with the Help America Vote Act and provide that no~~
2 ~~less than half of any such funds received shall be allocated to~~
3 ~~the Cyber Navigator Program. The Cyber Navigator Program~~
4 ~~should be designed to provide equal support to all election~~
5 ~~authorities, with allowable modifications based on need. The~~
6 ~~remaining half of the Help America Vote Act funds shall be~~
7 ~~distributed as the State Board of Elections may determine, but~~
8 ~~no grants may be made to election authorities that do not~~
9 ~~participate in the Cyber Navigator Program.~~

10 (Source: P.A. 100-587, eff. 6-4-18.)

11 (Text of Section from P.A. 100-623)

12 Sec. 1A-55. Cyber security efforts. The Board shall adopt
13 rules, after at least 2 public hearings of the Board and in
14 consultation with election authorities, establishing a cyber
15 navigator program to support election authorities' efforts to
16 defend against cyber breaches and detect and recover from
17 cyber attacks. The rules shall include the Board's plan to
18 allocate any resources received in accordance with the 2018
19 ~~federal~~ Help America Vote Act Election Security Grant and
20 provide that no less than half of the any funds received under
21 the 2018 federal Help America Vote Act Election Security Grant
22 shall be allocated to the cyber navigator program. The cyber
23 navigator program shall be designed to provide equal support
24 to all elections authorities with some modifications allowable
25 based on need. The remaining half of the 2018 federal Help

1 America Vote Act Election Security Grant funds shall be
2 distributed as the Board sees fit, but no grants may be made to
3 election authorities that do not participate in the cyber
4 navigator program managed by the Board.

5 (Source: P.A. 100-623, eff. 7-20-18.)

6 Section 99. Effective date. This Act takes effect upon
7 becoming law.