

SB3766



102ND GENERAL ASSEMBLY

State of Illinois

2021 and 2022

SB3766

Introduced 1/21/2022, by Sen. John F. Curran

SYNOPSIS AS INTRODUCED:

50 ILCS 205/4

from Ch. 116, par. 43.104

Amends the Local Records Act. Provides that the use of any application, software, or other technology that prevents the maintenance or preservation of a public record through encryption, automatic deletion, or other means, or that results in a public record existing outside the possession or control of the applicable public body, shall be considered the concealment of a public record that is prohibited.

LRB102 23310 AWJ 32476 b

A BILL FOR

1 AN ACT concerning local government.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Local Records Act is amended by changing
5 Section 4 as follows:

6 (50 ILCS 205/4) (from Ch. 116, par. 43.104)

7 Sec. 4. (a) Except as otherwise provided in subsection (b)
8 of this Section, all public records made or received by, or
9 under the authority of, or coming into the custody, control or
10 possession of any officer or agency shall not be mutilated,
11 destroyed, transferred, removed or otherwise damaged or
12 disposed of, in whole or in part, except as provided by law.
13 Any person who knowingly, without lawful authority and with
14 the intent to defraud any party, public officer, or entity,
15 alters, destroys, defaces, removes, or conceals any public
16 record commits a Class 4 felony. The use of any application,
17 software, or other technology that prevents the maintenance or
18 preservation of a public record through encryption, automatic
19 deletion, or other means, or that results in a public record
20 existing outside the possession or control of the applicable
21 public body, shall be considered the concealment of a public
22 record that is prohibited by this Section.

23 Court records filed with the clerks of the Circuit Court

1 shall be destroyed in accordance with the Supreme Court's
2 General Administrative Order on Recordkeeping in the Circuit
3 Courts. The clerks of the Circuit Courts shall notify the
4 Supreme Court, in writing, specifying case records or other
5 documents which they intend to destroy. The Supreme Court
6 shall review the schedule of items to be destroyed and notify
7 the appropriate Local Records Commission of the Court's intent
8 to destroy such records. The Local Records Commission, within
9 90 days after receipt of the Supreme Court's notice, may
10 undertake to photograph, microphotograph, or digitize
11 electronically any or all such records and documents, or, in
12 the alternative, may transport such original records to the
13 State Archives or other storage location under its
14 supervision.

15 The Archivist may accept for deposit in the State Archives
16 or regional depositories official papers, drawings, maps,
17 writings and records of every description of counties,
18 municipal corporations, political subdivisions and courts of
19 this State, when such materials are deemed by the Archivist to
20 have sufficient historical or other value to warrant their
21 continued preservation by the State of Illinois.

22 The officer or clerk depositing such records may, upon
23 request, obtain from the Archivist, without charge, a
24 certified copy or reproduction of any specific record, paper
25 or document when such record, paper or document is required
26 for public use.

1 (b) Upon request from a chief of police, county sheriff,
2 or State's Attorney, if a person has been arrested for a
3 criminal offense and an investigation reveals that the person
4 arrested was not in fact the individual the arresting officer
5 believed him or her to be, the law enforcement agency whose
6 officers made the arrest shall delete or retract the arrest
7 records of that person whom the investigation revealed as not
8 the individual the arresting officer believed him or her to
9 be. In this subsection (b):

10 "Arrest records" are as described in Section 3b of
11 this Act.

12 "Law enforcement agency" means an agency of a unit of
13 local government which is vested by law or ordinance with
14 the duty to maintain public order and to enforce criminal
15 laws or ordinances.

16 (Source: P.A. 98-1063, eff. 1-1-15; 99-363, eff. 1-1-16.)