



103RD GENERAL ASSEMBLY

State of Illinois

2023 and 2024

HB2888

Introduced 2/16/2023, by

SYNOPSIS AS INTRODUCED:

5 ILCS 140/2
5 ILCS 140/7

from Ch. 116, par. 202

Amends the Freedom of Information Act. Modifies the definition of "private information" by providing that medical records include electronic medical records and the information contained within or extracted from an electronic medical records system operated or maintained by a Health Insurance Portability and Accountability Act covered entity. Exempts from disclosure all protected health information that may be contained within or extracted from any record held by a covered entity, including information that alone or compiled or under circumstances in which the patient information combined with other information could allow for patient identification, in compliance with the Health Insurance Portability and Accountability Act.

LRB103 26149 AWJ 52506 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 operated or maintained by a
19 Health Insurance Portability and Accountability Act (HIPAA)
20 covered entity, as defined at 45 CFR 160.103, including
21 information that alone or compiled, or under circumstances in
22 which the patient information combined with other information
23 could allow for patient identification, in compliance with
24 State and federal medical privacy laws and regulations,
25 including, but not limited to, HIPAA and its regulations under
26 45 CFR Parts 160 and 164), home or personal telephone numbers,

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

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

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

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

26 (f) "News media" means a newspaper or other periodical

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

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

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

1 particular public record the requester seeks. One request may
2 identify multiple records to be inspected or copied.

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

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

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

1 inspected or copied.

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

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

7 (5 ILCS 140/7)

8 (Text of Section before amendment by P.A. 102-982)

9 Sec. 7. Exemptions.

10 (1) When a request is made to inspect or copy a public
11 record that contains information that is exempt from
12 disclosure under this Section, but also contains information
13 that is not exempt from disclosure, the public body may elect
14 to redact the information that is exempt. The public body
15 shall make the remaining information available for inspection
16 and copying. Subject to this requirement, the following shall
17 be exempt from inspection and copying:

18 (a) Information specifically prohibited from
19 disclosure by federal or State law or rules and
20 regulations implementing federal or State law.

21 (b) Private information, unless disclosure is required
22 by another provision of this Act, a State or federal law,
23 or a court order.

24 (b-5) Files, documents, and other data or databases
25 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 (d-6) Records contained in the Officer Professional
13 Conduct Database under Section 9.2 of the Illinois Police
14 Training Act, except to the extent authorized under that
15 Section. This includes the documents supplied to the
16 Illinois Law Enforcement Training Standards Board from the
17 Illinois State Police and Illinois State Police Merit
18 Board.

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

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

1 (e-6) Records requested by persons committed to the
2 Department of Corrections, Department of Human Services
3 Division of Mental Health, or a county jail if those
4 materials include records from staff members' personnel
5 files, staff rosters, or other staffing assignment
6 information.

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

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

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

1 may be relevant to a requester's current or potential case
2 or claim.

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

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

20 (g) Trade secrets and commercial or financial
21 information obtained from a person or business where the
22 trade secrets or commercial or financial information are
23 furnished under a claim that they are proprietary,
24 privileged, or confidential, and that disclosure of the
25 trade secrets or commercial or financial information would
26 cause competitive harm to the person or business, and only

1 insofar as the claim directly applies to the records
2 requested.

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

18 Nothing contained in this paragraph (g) shall be
19 construed to prevent a person or business from consenting
20 to disclosure.

21 (h) Proposals and bids for any contract, grant, or
22 agreement, including information which if it were
23 disclosed would frustrate procurement or give an advantage
24 to any person proposing to enter into a contractor
25 agreement with the body, until an award or final selection
26 is made. Information prepared by or for the body in

1 preparation of a bid solicitation shall be exempt until an
2 award or final selection is made.

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

14 (j) The following information pertaining to
15 educational matters:

16 (i) test questions, scoring keys, and other
17 examination data used to administer an academic
18 examination;

19 (ii) information received by a primary or
20 secondary school, college, or university under its
21 procedures for the evaluation of faculty members by
22 their academic peers;

23 (iii) information concerning a school or
24 university's adjudication of student disciplinary
25 cases, but only to the extent that disclosure would
26 unavoidably reveal the identity of the student; and

1 (iv) course materials or research materials used
2 by faculty members.

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

15 (l) Minutes of meetings of public bodies closed to the
16 public as provided in the Open Meetings Act until the
17 public body makes the minutes available to the public
18 under Section 2.06 of the Open Meetings Act.

19 (m) Communications between a public body and an
20 attorney or auditor representing the public body that
21 would not be subject to discovery in litigation, and
22 materials prepared or compiled by or for a public body in
23 anticipation of a criminal, civil, or administrative
24 proceeding upon the request of an attorney advising the
25 public body, and materials prepared or compiled with
26 respect to internal audits of public bodies.

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

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

15 (p) Records relating to collective negotiating matters
16 between public bodies and their employees or
17 representatives, except that any final contract or
18 agreement shall be subject to inspection and copying.

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

22 (r) The records, documents, and information relating
23 to real estate purchase negotiations until those
24 negotiations have been completed or otherwise terminated.
25 With regard to a parcel involved in a pending or actually
26 and reasonably contemplated eminent domain proceeding

1 under the Eminent Domain Act, records, documents, and
2 information relating to that parcel shall be exempt except
3 as may be allowed under discovery rules adopted by the
4 Illinois Supreme Court. The records, documents, and
5 information relating to a real estate sale shall be exempt
6 until a sale is consummated.

7 (s) Any and all proprietary information and records
8 related to the operation of an intergovernmental risk
9 management association or self-insurance pool or jointly
10 self-administered health and accident cooperative or pool.
11 Insurance or self-insurance ~~self-insurance~~ (including any
12 intergovernmental risk management association or
13 self-insurance ~~self-insurance~~ pool) claims, loss or risk
14 management information, records, data, advice, or
15 communications.

16 (t) Information contained in or related to
17 examination, operating, or condition reports prepared by,
18 on behalf of, or for the use of a public body responsible
19 for the regulation or supervision of financial
20 institutions, insurance companies, or pharmacy benefit
21 managers, unless disclosure is otherwise required by State
22 law.

23 (u) Information that would disclose or might lead to
24 the disclosure of secret or confidential information,
25 codes, algorithms, programs, or private keys intended to
26 be used to create electronic signatures under the Uniform

1 Electronic Transactions Act.

2 (v) Vulnerability assessments, security measures, and
3 response policies or plans that are designed to identify,
4 prevent, or respond to potential attacks upon a
5 community's population or systems, facilities, or
6 installations, but only to the extent that disclosure
7 could reasonably be expected to expose the vulnerability
8 or jeopardize the effectiveness of the measures, policies,
9 or plans, or the safety of the personnel who implement
10 them or the public. Information exempt under this item may
11 include such things as details pertaining to the
12 mobilization or deployment of personnel or equipment, to
13 the operation of communication systems or protocols, to
14 cybersecurity vulnerabilities, or to tactical operations.

15 (w) (Blank).

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

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

1 Commission.

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

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

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

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

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

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

1 associations.

2 (ff) The names, addresses, or other personal
3 information of participants and registrants in programs of
4 park districts, forest preserve districts, conservation
5 districts, recreation agencies, and special recreation
6 associations where such programs are targeted primarily to
7 minors.

8 (gg) Confidential information described in Section
9 1-100 of the Illinois Independent Tax Tribunal Act of
10 2012.

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

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

26 (jj) Confidential information described in Section

1 5-535 of the Civil Administrative Code of Illinois.

2 (kk) The public body's credit card numbers, debit card
3 numbers, bank account numbers, Federal Employer
4 Identification Number, security code numbers, passwords,
5 and similar account information, the disclosure of which
6 could result in identity theft or impersonation or defrauding
7 of a governmental entity or a person.

8 (ll) Records concerning the work of the threat
9 assessment team of a school district, including, but not
10 limited to, any threat assessment procedure under the
11 School Safety Drill Act and any information contained in
12 the procedure.

13 (mm) Information prohibited from being disclosed under
14 subsections (a) and (b) of Section 15 of the Student
15 Confidential Reporting Act.

16 (nn) ~~(mm)~~ Proprietary information submitted to the
17 Environmental Protection Agency under the Drug Take-Back
18 Act.

19 (oo) ~~(mm)~~ Records described in subsection (f) of
20 Section 3-5-1 of the Unified Code of Corrections.

21 (1.5) Any information exempt from disclosure under the
22 Judicial Privacy Act shall be redacted from public records
23 prior to disclosure under this Act.

24 (2) A public record that is not in the possession of a
25 public body but is in the possession of a party with whom the
26 agency has contracted to perform a governmental function on

1 behalf of the public body, and that directly relates to the
2 governmental function and is not otherwise exempt under this
3 Act, shall be considered a public record of the public body,
4 for purposes of this Act.

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

9 (Source: P.A. 101-434, eff. 1-1-20; 101-452, eff. 1-1-20;
10 101-455, eff. 8-23-19; 101-652, eff. 1-1-22; 102-38, eff.
11 6-25-21; 102-558, eff. 8-20-21; 102-694, eff. 1-7-22; 102-752,
12 eff. 5-6-22; 102-753, eff. 1-1-23; 102-776, eff. 1-1-23;
13 102-791, eff. 5-13-22; 102-1055, eff. 6-10-22; revised
14 12-13-22.)

15 (Text of Section after amendment by P.A. 102-982)

16 Sec. 7. Exemptions.

17 (1) When a request is made to inspect or copy a public
18 record that contains information that is exempt from
19 disclosure under this Section, but also contains information
20 that is not exempt from disclosure, the public body may elect
21 to redact the information that is exempt. The public body
22 shall make the remaining information available for inspection
23 and copying. Subject to this requirement, the following shall
24 be exempt from inspection and copying:

25 (a) Information specifically prohibited from

1 disclosure by federal or State law or rules and
2 regulations 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,
5 or 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
9 more law enforcement agencies regarding the physical or
10 mental status of one or more individual subjects.

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

24 (d) Records in the possession of any public body
25 created in the course of administrative enforcement
26 proceedings, and any law enforcement or correctional

1 agency for law enforcement purposes, but only to the
2 extent that disclosure would:

3 (i) interfere with pending or actually and
4 reasonably contemplated law enforcement proceedings
5 conducted by any law enforcement or correctional
6 agency that is the recipient of the request;

7 (ii) interfere with active administrative
8 enforcement proceedings conducted by the public body
9 that is the recipient of the request;

10 (iii) create a substantial likelihood that a
11 person will be deprived of a fair trial or an impartial
12 hearing;

13 (iv) unavoidably disclose the identity of a
14 confidential source, confidential information
15 furnished only by the confidential source, or persons
16 who file complaints with or provide information to
17 administrative, investigative, law enforcement, or
18 penal agencies; except that the identities of
19 witnesses to traffic crashes, traffic crash reports,
20 and rescue reports shall be provided by agencies of
21 local government, except when disclosure would
22 interfere with an active criminal investigation
23 conducted by the agency that is the recipient of the
24 request;

25 (v) disclose unique or specialized investigative
26 techniques other than those generally used and known

1 or disclose internal documents of correctional
2 agencies related to detection, observation, or
3 investigation of incidents of crime or misconduct, and
4 disclosure would result in demonstrable harm to the
5 agency or public body that is the recipient of the
6 request;

7 (vi) endanger the life or physical safety of law
8 enforcement personnel or any other person; or

9 (vii) obstruct an ongoing criminal investigation
10 by the agency that is the recipient of the request.

11 (d-5) A law enforcement record created for law
12 enforcement purposes and contained in a shared electronic
13 record management system if the law enforcement agency
14 that is the recipient of the request did not create the
15 record, did not participate in or have a role in any of the
16 events which are the subject of the record, and only has
17 access to the record through the shared electronic record
18 management system.

19 (d-6) Records contained in the Officer Professional
20 Conduct Database under Section 9.2 of the Illinois Police
21 Training Act, except to the extent authorized under that
22 Section. This includes the documents supplied to the
23 Illinois Law Enforcement Training Standards Board from the
24 Illinois State Police and Illinois State Police Merit
25 Board.

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
23 disclosure of which would result in the risk of harm to any
24 person or 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

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

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

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

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

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

1 to disclosure.

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

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

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

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

26 (ii) information received by a primary or

1 secondary school, college, or university under its
2 procedures for the evaluation of faculty members by
3 their academic peers;

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

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

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

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

26 (m) Communications between a public body and an

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

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

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

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

26 (q) Test questions, scoring keys, and other

1 examination data used to determine the qualifications of
2 an applicant for a license or employment.

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

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

23 (t) Information contained in or related to
24 examination, operating, or condition reports prepared by,
25 on behalf of, or for the use of a public body responsible
26 for the regulation or supervision of financial

1 institutions, insurance companies, or pharmacy benefit
2 managers, unless disclosure is otherwise required by State
3 law.

4 (u) Information that would disclose or might lead to
5 the disclosure of secret or confidential information,
6 codes, algorithms, programs, or private keys intended to
7 be used to create electronic signatures under the Uniform
8 Electronic Transactions Act.

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

22 (w) (Blank).

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

1 Illinois Power Agency.

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

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

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

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

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

25 (dd) Correspondence and records (i) that may not be
26 disclosed under Section 11-9 of the Illinois Public Aid

1 Code or (ii) that pertain to appeals under Section 11-8 of
2 the Illinois Public Aid Code.

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

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

15 (gg) Confidential information described in Section
16 1-100 of the Illinois Independent Tax Tribunal Act of
17 2012.

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

22 (ii) Records requested by persons committed to or
23 detained by the Department of Human Services under the
24 Sexually Violent Persons Commitment Act or committed to
25 the Department of Corrections under the Sexually Dangerous
26 Persons Act if those materials: (i) are available in the

1 library of the facility where the individual is confined;
2 (ii) include records from staff members' personnel files,
3 staff rosters, or other staffing assignment information;
4 or (iii) are available through an administrative request
5 to the Department of Human Services or the Department of
6 Corrections.

7 (jj) Confidential information described in Section
8 5-535 of the Civil Administrative Code of Illinois.

9 (kk) The public body's credit card numbers, debit card
10 numbers, bank account numbers, Federal Employer
11 Identification Number, security code numbers, passwords,
12 and similar account information, the disclosure of which
13 could result in identity theft or impression or defrauding
14 of a governmental entity or a person.

15 (ll) Records concerning the work of the threat
16 assessment team of a school district, including, but not
17 limited to, any threat assessment procedure under the
18 School Safety Drill Act and any information contained in
19 the procedure.

20 (mm) Information prohibited from being disclosed under
21 subsections (a) and (b) of Section 15 of the Student
22 Confidential Reporting Act.

23 (nn) ~~(mm)~~ Proprietary information submitted to the
24 Environmental Protection Agency under the Drug Take-Back
25 Act.

26 (oo) ~~(mm)~~ Records described in subsection (f) of

1 Section 3-5-1 of the Unified Code of Corrections.

2 (pp) All protected health information, as defined by
3 45 CFR 16.103, that may be contained within or extracted
4 from any record held by a covered entity, as defined by 45
5 CFR 160.103, including information that alone or compiled
6 or under circumstances in which the patient information
7 combined with other information could allow for patient
8 identification, in compliance with the Health Insurance
9 Portability and Accountability Act.

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

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

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

24 (Source: P.A. 101-434, eff. 1-1-20; 101-452, eff. 1-1-20;
25 101-455, eff. 8-23-19; 101-652, eff. 1-1-22; 102-38, eff.
26 6-25-21; 102-558, eff. 8-20-21; 102-694, eff. 1-7-22; 102-752,

1 eff. 5-6-22; 102-753, eff. 1-1-23; 102-776, eff. 1-1-23;
2 102-791, eff. 5-13-22; 102-982, eff. 7-1-23; 102-1055, eff.
3 6-10-22; revised 12-13-22.)

4 Section 95. No acceleration or delay. Where this Act makes
5 changes in a statute that is represented in this Act by text
6 that is not yet or no longer in effect (for example, a Section
7 represented by multiple versions), the use of that text does
8 not accelerate or delay the taking effect of (i) the changes
9 made by this Act or (ii) provisions derived from any other
10 Public Act.