

1 AN ACT concerning State government.

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

4 Section 5. The Illinois Administrative Procedure Act is
5 amended by adding Section 5-45.35 as follows:

6 (5 ILCS 100/5-45.35 new)

7 Sec. 5-45.35. Emergency rulemaking; Department of Natural
8 Resources. To provide for the expeditious and timely
9 implementation of Section 13 of the Human Remains Protection
10 Act, emergency rules implementing Section 13 of the Human
11 Remains Protection Act may be adopted in accordance with
12 Section 5-45 by the Department of Natural Resources. The
13 adoption of emergency rules authorized by Section 5-45 and
14 this Section is deemed to be necessary for the public
15 interest, safety, and welfare.

16 This Section is repealed one year after the effective date
17 of this amendatory Act of the 103rd General Assembly.

18 Section 10. The Freedom of Information Act is amended by
19 changing Section 7 as follows:

20 (5 ILCS 140/7)

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

1 Sec. 7. Exemptions.

2 (1) When a request is made to inspect or copy a public
3 record that contains information that is exempt from
4 disclosure under this Section, but also contains information
5 that is not exempt from disclosure, the public body may elect
6 to redact the information that is exempt. The public body
7 shall make the remaining information available for inspection
8 and copying. Subject to this requirement, the following shall
9 be exempt from inspection and copying:

10 (a) Information specifically prohibited from
11 disclosure by federal or State law or rules and
12 regulations implementing federal or State law.

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

16 (b-5) Files, documents, and other data or databases
17 maintained by one or more law enforcement agencies and
18 specifically designed to provide information to one or
19 more law enforcement agencies regarding the physical or
20 mental status of one or more individual subjects.

21 (c) Personal information contained within public
22 records, the disclosure of which would constitute a
23 clearly unwarranted invasion of personal privacy, unless
24 the disclosure is consented to in writing by the
25 individual subjects of the information. "Unwarranted
26 invasion of personal privacy" means the disclosure of

1 information that is highly personal or objectionable to a
2 reasonable person and in which the subject's right to
3 privacy outweighs any legitimate public interest in
4 obtaining the information. The disclosure of information
5 that bears on the public duties of public employees and
6 officials shall not be considered an invasion of personal
7 privacy.

8 (d) Records in the possession of any public body
9 created in the course of administrative enforcement
10 proceedings, and any law enforcement or correctional
11 agency for law enforcement purposes, but only to the
12 extent that disclosure would:

13 (i) interfere with pending or actually and
14 reasonably contemplated law enforcement proceedings
15 conducted by any law enforcement or correctional
16 agency that is the recipient of the request;

17 (ii) interfere with active administrative
18 enforcement proceedings conducted by the public body
19 that is the recipient of the request;

20 (iii) create a substantial likelihood that a
21 person will be deprived of a fair trial or an impartial
22 hearing;

23 (iv) unavoidably disclose the identity of a
24 confidential source, confidential information
25 furnished only by the confidential source, or persons
26 who file complaints with or provide information to

1 administrative, investigative, law enforcement, or
2 penal agencies; except that the identities of
3 witnesses to traffic accidents, traffic accident
4 reports, and rescue reports shall be provided by
5 agencies of local government, except when disclosure
6 would interfere with an active criminal investigation
7 conducted by the agency that is the recipient of the
8 request;

9 (v) disclose unique or specialized investigative
10 techniques other than those generally used and known
11 or disclose internal documents of correctional
12 agencies related to detection, observation, or
13 investigation of incidents of crime or misconduct, and
14 disclosure would result in demonstrable harm to the
15 agency or public body that is the recipient of the
16 request;

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

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

21 (d-5) A law enforcement record created for law
22 enforcement purposes and contained in a shared electronic
23 record management system if the law enforcement agency
24 that is the recipient of the request did not create the
25 record, did not participate in or have a role in any of the
26 events which are the subject of the record, and only has

1 access to the record through the shared electronic record
2 management system.

3 (d-6) Records contained in the Officer Professional
4 Conduct Database under Section 9.2 of the Illinois Police
5 Training Act, except to the extent authorized under that
6 Section. This includes the documents supplied to the
7 Illinois Law Enforcement Training Standards Board from the
8 Illinois State Police and Illinois State Police Merit
9 Board.

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

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

18 (e-6) Records requested by persons committed to the
19 Department of Corrections, Department of Human Services
20 Division of Mental Health, or a county jail if those
21 materials include records from staff members' personnel
22 files, staff rosters, or other staffing assignment
23 information.

24 (e-7) Records requested by persons committed to the
25 Department of Corrections or Department of Human Services
26 Division of Mental Health if those materials are available

1 through an administrative request to the Department of
2 Corrections or Department of Human Services Division of
3 Mental Health.

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

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

20 (e-10) Law enforcement records of other persons
21 requested by a person committed to the Department of
22 Corrections, Department of Human Services Division of
23 Mental Health, or a county jail, including, but not
24 limited to, arrest and booking records, mug shots, and
25 crime scene photographs, except as these records may be
26 relevant to the requester's current or potential case or

1 claim.

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

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

20 The information included under this exemption includes
21 all trade secrets and commercial or financial information
22 obtained by a public body, including a public pension
23 fund, from a private equity fund or a privately held
24 company within the investment portfolio of a private
25 equity fund as a result of either investing or evaluating
26 a potential investment of public funds in a private equity

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

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

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

20 (i) Valuable formulae, computer geographic systems,
21 designs, drawings, and research data obtained or produced
22 by any public body when disclosure could reasonably be
23 expected to produce private gain or public loss. The
24 exemption for "computer geographic systems" provided in
25 this paragraph (i) does not extend to requests made by
26 news media as defined in Section 2 of this Act when the

1 requested information is not otherwise exempt and the only
2 purpose of the request is to access and disseminate
3 information regarding the health, safety, welfare, or
4 legal rights of the general public.

5 (j) The following information pertaining to
6 educational matters:

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

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

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

18 (iv) course materials or research materials used
19 by faculty members.

20 (k) Architects' plans, engineers' technical
21 submissions, and other construction related technical
22 documents for projects not constructed or developed in
23 whole or in part with public funds and the same for
24 projects constructed or developed with public funds,
25 including, but not limited to, power generating and
26 distribution stations and other transmission and

1 distribution facilities, water treatment facilities,
2 airport facilities, sport stadiums, convention centers,
3 and all government owned, operated, or occupied buildings,
4 but only to the extent that disclosure would compromise
5 security.

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

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

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

22 (o) Administrative or technical information associated
23 with automated data processing operations, including, but
24 not limited to, software, operating protocols, computer
25 program abstracts, file layouts, source listings, object
26 modules, load modules, user guides, documentation

1 pertaining to all logical and physical design of
2 computerized systems, employee manuals, and any other
3 information that, if disclosed, would jeopardize the
4 security of the system or its data or the security of
5 materials exempt under this Section.

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

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

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

24 (s) Any and all proprietary information and records
25 related to the operation of an intergovernmental risk
26 management association or self-insurance pool or jointly

1 self-administered health and accident cooperative or pool.
2 Insurance or self-insurance ~~self-insurance~~ (including any
3 intergovernmental risk management association or
4 self-insurance ~~self-insurance~~ pool) claims, loss or risk
5 management information, records, data, advice, or
6 communications.

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

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

19 (v) Vulnerability assessments, security measures, and
20 response policies or plans that are designed to identify,
21 prevent, or respond to potential attacks upon a
22 community's population or systems, facilities, or
23 installations, but only to the extent that disclosure
24 could reasonably be expected to expose the vulnerability
25 or jeopardize the effectiveness of the measures, policies,
26 or plans, or the safety of the personnel who implement

1 them or the public. Information exempt under this item may
2 include such things as details pertaining to the
3 mobilization or deployment of personnel or equipment, to
4 the operation of communication systems or protocols, to
5 cybersecurity vulnerabilities, or to tactical operations.

6 (w) (Blank).

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

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

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

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

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

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

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

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

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

25 (gg) Confidential information described in Section
26 1-100 of the Illinois Independent Tax Tribunal Act of

1 2012.

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

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

17 (jj) Confidential information described in Section
18 5-535 of the Civil Administrative Code of Illinois.

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

25 (ll) Records concerning the work of the threat
26 assessment team of a school district, including, but not

1 limited to, any threat assessment procedure under the
2 School Safety Drill Act and any information contained in
3 the procedure.

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

7 (nn) ~~(mm)~~ Proprietary information submitted to the
8 Environmental Protection Agency under the Drug Take-Back
9 Act.

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

12 (pp) Any and all information regarding burials,
13 interments, or entombments of human remains as required to
14 be reported to the Department of Natural Resources
15 pursuant either to the Archaeological and Paleontological
16 Resources Protection Act or the Human Remains Protection
17 Act.

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; 102-694, eff. 1-7-22; 102-752,
9 eff. 5-6-22; 102-753, eff. 1-1-23; 102-776, eff. 1-1-23;
10 102-791, eff. 5-13-22; 102-1055, eff. 6-10-22; revised
11 12-13-22.)

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

13 Sec. 7. Exemptions.

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

22 (a) Information specifically prohibited from
23 disclosure by federal or State law or rules and
24 regulations implementing federal or State law.

25 (b) Private information, unless disclosure is required

1 by another provision of this Act, a State or federal law,
2 or a court order.

3 (b-5) Files, documents, and other data or databases
4 maintained by one or more law enforcement agencies and
5 specifically designed to provide information to one or
6 more law enforcement agencies regarding the physical or
7 mental status of one or more individual subjects.

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

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

26 (i) interfere with pending or actually and

1 reasonably contemplated law enforcement proceedings
2 conducted by any law enforcement or correctional
3 agency that is the recipient of the request;

4 (ii) interfere with active administrative
5 enforcement proceedings conducted by the public body
6 that is the recipient of the request;

7 (iii) create a substantial likelihood that a
8 person will be deprived of a fair trial or an impartial
9 hearing;

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

22 (v) disclose unique or specialized investigative
23 techniques other than those generally used and known
24 or disclose internal documents of correctional
25 agencies related to detection, observation, or
26 investigation of incidents of crime or misconduct, and

1 disclosure would result in demonstrable harm to the
2 agency or public body that is the recipient of the
3 request;

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

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

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

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

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

25 (e-5) 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 are available in the library of the correctional
3 institution or facility or jail where the inmate is
4 confined.

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6 Department of Corrections, Department of Human Services
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8 materials include records from staff members' personnel
9 files, staff rosters, or other staffing assignment
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11 (e-7) Records requested by persons committed to the
12 Department of Corrections or Department of Human Services
13 Division of Mental Health if those materials are available
14 through an administrative request to the Department of
15 Corrections or Department of Human Services Division of
16 Mental Health.

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18 Department of Corrections, Department of Human Services
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20 disclosure of which would result in the risk of harm to any
21 person or the risk of an escape from a jail or correctional
22 institution or facility.

23 (e-9) Records requested by a person in a county jail
24 or committed to the Department of Corrections or
25 Department of Human Services Division of Mental Health,
26 containing personal information pertaining to the person's

1 victim or the victim's family, including, but not limited
2 to, a victim's home address, home telephone number, work
3 or school address, work telephone number, social security
4 number, or any other identifying information, except as
5 may be relevant to a requester's current or potential case
6 or claim.

7 (e-10) Law enforcement records of other persons
8 requested by a person committed to the Department of
9 Corrections, Department of Human Services Division of
10 Mental Health, or a county jail, including, but not
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12 crime scene photographs, except as these records may be
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16 memoranda, and other records in which opinions are
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18 that a specific record or relevant portion of a record
19 shall not be exempt when the record is publicly cited and
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21 provided in this paragraph (f) extends to all those
22 records of officers and agencies of the General Assembly
23 that pertain to the preparation of legislative documents.

24 (g) Trade secrets and commercial or financial
25 information obtained from a person or business where the
26 trade secrets or commercial or financial information are

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

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

22 Nothing contained in this paragraph (g) shall be
23 construed to prevent a person or business from consenting
24 to disclosure.

25 (h) Proposals and bids for any contract, grant, or
26 agreement, including information which if it were

1 disclosed would frustrate procurement or give an advantage
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3 agreement with the body, until an award or final selection
4 is made. Information prepared by or for the body in
5 preparation of a bid solicitation shall be exempt until an
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10 expected to produce private gain or public loss. The
11 exemption for "computer geographic systems" provided in
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9 documents for projects not constructed or developed in
10 whole or in part with public funds and the same for
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12 including, but not limited to, power generating and
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14 distribution facilities, water treatment facilities,
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16 and all government owned, operated, or occupied buildings,
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11 not limited to, software, operating protocols, computer
12 program abstracts, file layouts, source listings, object
13 modules, load modules, user guides, documentation
14 pertaining to all logical and physical design of
15 computerized systems, employee manuals, and any other
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21 representatives, except that any final contract or
22 agreement shall be subject to inspection and copying.

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

26 (r) The records, documents, and information relating

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

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

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

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

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

19 (w) (Blank).

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

25 (y) Information contained in or related to proposals,
26 bids, or negotiations related to electric power

1 procurement under Section 1-75 of the Illinois Power
2 Agency Act and Section 16-111.5 of the Public Utilities
3 Act that is determined to be confidential and proprietary
4 by the Illinois Power Agency or by the Illinois Commerce
5 Commission.

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

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

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

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

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

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

1 information of persons who are minors and are also
2 participants and registrants in programs of park
3 districts, forest preserve districts, conservation
4 districts, recreation agencies, and special recreation
5 associations.

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

12 (gg) Confidential information described in Section
13 1-100 of the Illinois Independent Tax Tribunal Act of
14 2012.

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

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

1 or (iii) are available through an administrative request
2 to the Department of Human Services or the Department of
3 Corrections.

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

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

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

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

20 (nn) ~~(mm)~~ Proprietary information submitted to the
21 Environmental Protection Agency under the Drug Take-Back
22 Act.

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

25 (pp) Any and all information regarding burials,
26 interments, or entombments of human remains as required to

1 be reported to the Department of Natural Resources
2 pursuant either to the Archaeological and Paleontological
3 Resources Protection Act or the Human Remains Protection
4 Act.

5 (1.5) Any information exempt from disclosure under the
6 Judicial Privacy Act shall be redacted from public records
7 prior to disclosure under this Act.

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

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

19 (Source: P.A. 101-434, eff. 1-1-20; 101-452, eff. 1-1-20;
20 101-455, eff. 8-23-19; 101-652, eff. 1-1-22; 102-38, eff.
21 6-25-21; 102-558, eff. 8-20-21; 102-694, eff. 1-7-22; 102-752,
22 eff. 5-6-22; 102-753, eff. 1-1-23; 102-776, eff. 1-1-23;
23 102-791, eff. 5-13-22; 102-982, eff. 7-1-23; 102-1055, eff.
24 6-10-22; revised 12-13-22.)

25 Section 15. The Seizure and Forfeiture Reporting Act is

1 amended by changing Section 5 as follows:

2 (5 ILCS 810/5)

3 Sec. 5. Applicability. This Act is applicable to property
4 seized or forfeited under the following provisions of law:

5 (1) Section 3.23 of the Illinois Food, Drug and
6 Cosmetic Act;

7 (2) Section 44.1 of the Environmental Protection Act;

8 (3) Section 105-55 of the Herptiles-Herps Act;

9 (4) Section 1-215 of the Fish and Aquatic Life Code;

10 (5) Section 1.25 of the Wildlife Code;

11 (6) Section 17-10.6 of the Criminal Code of 2012
12 (financial institution fraud);

13 (7) Section 28-5 of the Criminal Code of 2012
14 (gambling);

15 (8) Article 29B of the Criminal Code of 2012 (money
16 laundering);

17 (9) Article 33G of the Criminal Code of 2012 (Illinois
18 Street Gang and Racketeer Influenced And Corrupt
19 Organizations Law);

20 (10) Article 36 of the Criminal Code of 2012 (seizure
21 and forfeiture of vessels, vehicles, and aircraft);

22 (11) Section 47-15 of the Criminal Code of 2012
23 (dumping garbage upon real property);

24 (12) Article 124B of the Code of Criminal Procedure of
25 1963 (forfeiture);

- 1 (13) the Drug Asset Forfeiture Procedure Act;
2 (14) the Narcotics Profit Forfeiture Act;
3 (15) the Illinois Streetgang Terrorism Omnibus
4 Prevention Act; ~~and~~
5 (16) the Illinois Securities Law of 1953;
6 (17) the Archaeological and Paleontological Resources
7 Protection Act; and
8 (18) the Human Remains Protection Act.

9 (Source: P.A. 102-558, eff. 8-20-21.)

10 Section 20. The Archaeological and Paleontological
11 Resources Protection Act is amended by changing Sections .02,
12 3, 5, 7, 8, 10, and 11 and by adding Section 12 as follows:

13 (20 ILCS 3435/.02) (from Ch. 127, par. 133c.02)

14 Sec. .02. Definitions. For purposes of this Act:

15 ~~(a)~~ "Archaeological resource" means any significant
16 material remains or localities of past human life or
17 activities on public land, including but not limited to
18 artifacts, historic and prehistoric human ~~skeletal~~ remains,
19 mounds, earthworks, shipwrecks, forts, village sites or mines.

20 ~~(b)~~ "Department" means the Department of Natural
21 Resources.

22 "Disturb" includes defacing, mutilating, injuring,
23 exposing, removing, destroying, desecrating or molesting in
24 any way.

1 "Human remains" include the bones and decomposed fleshy
2 parts of a deceased human body.

3 ~~(e)~~ "Paleontological resource" means any significant
4 fossil or material remains on public lands including traces or
5 impressions of animals or plants that occur as part of the
6 geological record that are known and are included in the files
7 maintained by the Department ~~Illinois State Museum~~ under
8 Section 10.

9 ~~(d)~~ "Person" means any natural individual, firm, trust,
10 estate, partnership, association, joint stock company, joint
11 venture, corporation or a receiver, trustee, guardian or other
12 representative appointed by order of any court, the federal
13 and State governments, including State universities created by
14 statute or any city, town, county or other political
15 subdivision of this State.

16 ~~(e)~~ "Public land" means any land owned, but does not
17 include land leased as lessee, by the State of Illinois or its
18 agencies, a State university created by statute, a
19 municipality or a unit of local government.

20 (Source: P.A. 86-459; 86-707.)

21 (20 ILCS 3435/3) (from Ch. 127, par. 133c3)

22 Sec. 3. Permits.

23 (a) It is unlawful for any person, either by himself or
24 through an agent, to knowingly explore, excavate, possess, or
25 collect any of the archaeological or paleontological resources

1 protected by this Act, unless such person obtains a permit
2 issued by the Department of Natural Resources.

3 (b) It is unlawful for any person, either by himself or
4 through an agent, to knowingly disturb any archaeological or
5 paleontological resource protected under this Act.

6 (c) It is unlawful for any person, either by himself or
7 through an agent, to offer any object for sale or exchange with
8 the knowledge that it has been previously collected or
9 excavated in violation of this Act.

10 (Source: P.A. 100-695, eff. 8-3-18.)

11 (20 ILCS 3435/5) (from Ch. 127, par. 133c5)

12 Sec. 5. Penalties. Any violation of Section 3 not
13 involving the disturbance of human ~~skeletal~~ remains is a Class
14 A misdemeanor and the violator shall also be subject to
15 ~~imprisonment~~ and a fine not in excess of \$5,000; any
16 subsequent violation is a Class 4 felony. Any violation of
17 Section 3 involving disturbance of human ~~skeletal~~ remains is a
18 Class 4 felony. Each disturbance of an archaeological site or
19 a paleontological site shall constitute a single offense.
20 Persons convicted of a violation of Section 3 shall also be
21 ordered to pay restitution. Such restitution is ~~liable for~~
22 ~~civil damages~~ to be assessed by the circuit court ~~and~~
23 ~~managing agency and the Department of Natural Resources.~~
24 Restitution ~~Civil damages~~ may include, but is not limited to:

25 (a) (blank); ~~forfeiture of any and all equipment used~~

1 ~~in acquiring the protected material;~~

2 (b) any and all costs incurred in cleaning, restoring,
3 analyzing, accessioning and curating the recovered
4 materials;

5 (c) any and all costs associated with restoring the
6 land to its original contour;

7 (d) any and all costs associated with recovery of data
8 and analyzing, publishing, accessioning and curating
9 materials when the prohibited activity is so extensive as
10 to preclude the restoration of the archaeological or
11 paleontological site;

12 (e) any and all costs associated with the
13 determination and collection of restitution ~~the civil~~
14 ~~damages~~.

15 When restitution is ordered in a case that is prosecuted
16 by civil damages are recovered through the Attorney General,
17 all restitution the proceeds shall be deposited into the
18 Historic Sites Fund; when restitution is ordered in a case
19 that is prosecuted by civil damages are recovered through the
20 State's Attorney, the proceeds shall be deposited into the
21 county fund designated by the county board.

22 (Source: P.A. 100-695, eff. 8-3-18.)

23 (20 ILCS 3435/7) (from Ch. 127, par. 133c7)

24 Sec. 7. Property of the State; Department management. All
25 materials and associated records remain the property of the

1 State and are managed by the Department ~~Illinois State Museum~~.
2 The ~~Illinois State Museum, in consultation with the~~ Department
3 ~~of Natural Resources,~~ is authorized to establish long-term
4 curation agreements with Tribal Nations, universities, museums
5 and other organizations.

6 (Source: P.A. 100-695, eff. 8-3-18.)

7 (20 ILCS 3435/8) (from Ch. 127, par. 133c8)

8 Sec. 8. Department exempt from permit requirements.

9 (a) The Department ~~Illinois State Museum~~ shall be exempt
10 from the permit requirements established by this Act for lands
11 under its direct management but shall register that
12 exploration ~~with the Department of Natural Resources;~~ such
13 registration shall include the information required under
14 subsection (c) of Section 6.

15 (b) Any agency or department of the State of Illinois
16 which has on its staff a professional archaeologist or
17 paleontologist who meets the minimum qualifications
18 established in Section 9 and which has in effect a memorandum
19 of agreement with the Department ~~of Natural Resources~~ for the
20 protection, preservation and management of archaeological and
21 paleontological resources shall be exempt from the permit
22 requirements established by this Act.

23 (c) Activities reviewed by the Department ~~of Natural~~
24 ~~Resources~~ pursuant to Section 106 of the National Historic
25 Preservation Act (16 U.S.C. 470f) shall be exempt from these

1 permitting requirements.

2 (d) Where a local government's activities are funded in
3 whole or in part by a State agency and the funded activities
4 are supervised or controlled by the State agency, the local
5 government shall be exempt from the permit requirements
6 established by this Act to the same extent that the State
7 agency is exempt. The State agency shall be responsible for
8 undertaking or causing to be undertaken any steps necessary to
9 comply with this Act for those local government actions so
10 exempted.

11 (Source: P.A. 100-695, eff. 8-3-18.)

12 (20 ILCS 3435/10) (from Ch. 127, par. 133c10)

13 Sec. 10. Files containing information on known
14 archaeological and paleontological sites. The ~~Illinois State~~
15 ~~Museum, in cooperation with the~~ Department of ~~Natural~~
16 ~~Resources,~~ shall develop and maintain files containing
17 information on known archaeological and paleontological sites
18 in the State, whether on State controlled or privately owned
19 property. The Department ~~of Natural Resources~~ shall ensure the
20 safety of those sites by promulgating regulations limiting
21 access to those files as necessary.

22 (Source: P.A. 100-695, eff. 8-3-18.)

23 (20 ILCS 3435/11) (from Ch. 127, par. 133c11)

24 Sec. 11. Violation of administrative rules. The Department

1 of Natural Resources, in consultation with other State
2 agencies and Departments that own or control land, shall
3 promulgate such regulations as may be necessary to carry out
4 the purposes of this Act.

5 It is unlawful to violate any administrative rule
6 promulgated pursuant to this Act. A violation of
7 administrative rules promulgated pursuant to this Act is a
8 Class B misdemeanor.

9 (Source: P.A. 100-695, eff. 8-3-18.)

10 (20 ILCS 3435/12 new)

11 Sec. 12. Seizure.

12 (a) Every device, equipment, tool, vehicle or conveyance,
13 when used or operated illegally, or attempted to be used or
14 operated illegally by any person in taking, transporting,
15 holding, disturbing, exploring, excavating, collecting or
16 conveying any archaeological or paleontological resources,
17 contrary to the provisions of this Act, including
18 administrative rules, is a public nuisance and subject to
19 seizure and confiscation by any authorized employee of the
20 Department; upon the seizure of such item the Department shall
21 take and hold the same until disposed of as hereinafter
22 provided.

23 (b) Upon the seizure of any property as herein provided,
24 the authorized employee of the Department making such seizure
25 shall forthwith cause a complaint to be filed before the

1 circuit court and a summons to be issued requiring the person
2 who illegally used or operated or attempted to use or operate
3 such property and the owner and person in possession of such
4 property to appear in court and show cause why the property
5 seized should not be forfeited to the State. Upon the return of
6 the summons duly served or other notice as herein provided,
7 the court shall proceed to determine the question of the
8 illegality of the use of the seized property and upon judgment
9 being entered to the effect that such property was illegally
10 used, an order may be entered providing for the forfeiture of
11 such seized property to the Department and shall thereupon
12 become the property of the Department; but the owner of such
13 property may have a jury determine the illegality of its use,
14 and shall have the right of an appeal, as in other cases. Such
15 confiscation or forfeiture shall not preclude or mitigate
16 against prosecution and assessment of penalties otherwise
17 provided in this Act.

18 (c) Upon seizure of any property under circumstances
19 supporting a reasonable belief that such property was
20 abandoned, lost or stolen or otherwise illegally possessed or
21 used contrary to the provisions of this Act, except property
22 seized during a search or arrest, and ultimately returned,
23 destroyed, or otherwise disposed of pursuant to order of a
24 court in accordance with this Act, the Department shall make
25 reasonable inquiry and efforts to identify and notify the
26 owner or other person entitled to possession thereof, and

1 shall return the property after such person provides
2 reasonable and satisfactory proof of his ownership or right to
3 possession and reimburses the Department for all reasonable
4 expenses of such custody. If the identity or location of the
5 owner or other person entitled to possession of the property
6 has not been ascertained within 6 months after the Department
7 obtains such possession, the Department shall effectuate the
8 sale of the property for cash to the highest bidder at a public
9 auction. The owner or other person entitled to possession of
10 such property may claim and recover possession of the property
11 at any time before its sale at public auction, upon providing
12 reasonable and satisfactory proof of ownership or right of
13 possession and reimbursing the Department for all reasonable
14 expenses of custody thereof.

15 (d) Any property forfeited to the State by court order
16 pursuant to this Section may be disposed of by public auction,
17 except that any property which is the subject of such a court
18 order shall not be disposed of pending appeal of the order. The
19 proceeds of the sales at auction shall be deposited in the
20 Historic Sites Fund.

21 (e) The Department shall pay all costs of notices required
22 by this Section.

23 Property seized or forfeited under this Section is subject
24 to reporting under the Seizure and Forfeiture Reporting Act.

25 (f) This Section does not apply to archaeological or
26 paleontological resources that were recovered by the

1 Department or other law enforcement agency during an
2 investigation of a violation of this Act.

3 Section 25. The Human Skeletal Remains Protection Act is
4 amended by changing Sections 0.01, 1, 2, 3, 4, 6, 8, 9, 10, 12,
5 13, 14, 15, and 16 and by adding Sections 3.5, 16.1, 16.2, and
6 16.3 as follows:

7 (20 ILCS 3440/0.01) (from Ch. 127, par. 2660)

8 Sec. 0.01. Short title. This Act may be cited as the Human
9 ~~Skeletal~~ Remains Protection Act.

10 (Source: P.A. 86-1324.)

11 (20 ILCS 3440/1) (from Ch. 127, par. 2661)

12 Sec. 1. Definitions. For the purposes of this Act:

13 "Department" means the Department of Natural Resources.

14 "Disturb" or "disturbance" includes excavating, removing,
15 exposing, probing, defacing, mutilating, destroying,
16 molesting, or desecrating in any way human remains,
17 unregistered graves, grave artifacts, and grave markers.

18 "Encounter" means to come upon human remains, grave
19 artifacts, grave markers, or unregistered graves at a location
20 where such viewing was not expected or anticipated.

21 "Grave artifacts" means any item of human manufacture or
22 use that is associated with the human remains in an
23 unregistered grave.

1 "Grave markers" means any tomb, monument, stone, ornament,
2 mound, or other item of human manufacture that is associated
3 with an unregistered grave.

4 ~~(a)~~ "Human ~~skeletal~~ remains" include the bones and
5 decomposed fleshy parts of a deceased human body.

6 "Person" means any natural individual, firm, trust,
7 estate, partnership, association, joint stock company, joint
8 venture, limited-liability company, corporation or a receiver,
9 trustee, guardian or other representatives appointed by order
10 of any court, the Federal and State governments, including
11 State Universities created by statute or any city, town,
12 county or other political subdivision of this State.

13 "Tribal consultation" means a form of communication
14 centered in trust, respect and shared responsibility that
15 upholds Tribal sovereignty. It is a free and open process
16 where the exchange of information and opinions are shared
17 among the participating parties.

18 "Undertaking" means any project, activity, or construction
19 that can result in changes to, disturbance of, moving, or
20 destruction of human remains, grave artifacts, grave markers
21 or unregistered graves.

22 ~~(b)~~ "Unregistered grave graves" means are any grave graves
23 or location ~~locations~~ where a human body has been buried or
24 deposited; is over 100 years old; and is not in a cemetery
25 registered with or licensed by the State Comptroller under the
26 Cemetery Care Act or under the authority of the Illinois

1 Department of Financial and Professional Regulation pursuant
2 to the Cemetery Oversight Act, whichever is applicable.

3 ~~(c) "Grave artifacts" are any item of human manufacture or~~
4 ~~use that is associated with the human skeletal remains in an~~
5 ~~unregistered grave.~~

6 ~~(d) "Grave markers" are any tomb, monument, stone,~~
7 ~~ornament, mound, or other item of human manufacture that is~~
8 ~~associated with an unregistered grave.~~

9 ~~(e) "Person" means any natural individual, firm, trust,~~
10 ~~estate, partnership, association, joint stock company, joint~~
11 ~~venture, corporation or a receiver, trustee, guardian or other~~
12 ~~representatives appointed by order of any court, the Federal~~
13 ~~and State governments, including State Universities created by~~
14 ~~statute or any city, town, county or other political~~
15 ~~subdivision of this State.~~

16 ~~(f) "Disturb" includes excavating, removing, exposing,~~
17 ~~defacing, mutilating, destroying, molesting, or desecrating in~~
18 ~~any way human skeletal remains, unregistered graves, and grave~~
19 ~~markers.~~

20 (Source: P.A. 96-863, eff. 3-1-10; 97-679, eff. 2-6-12.)

21 (20 ILCS 3440/2) (from Ch. 127, par. 2662)

22 Sec. 2. Legislative finding and intentions. The General
23 Assembly finds that existing laws do not provide equal or
24 adequate protection for all human graves. There is a ~~real and~~
25 ~~growing~~ threat to the safety and sanctity of unregistered and

1 unmarked graves. Numerous incidents in Illinois have resulted
2 in the desecration of human remains and vandalism to graves
3 and grave markers. Similar incidents have occurred in
4 neighboring states and as a result those states have increased
5 their criminal penalties for such conduct. Strong and
6 meaningful relationships between the State of Illinois and
7 tribal nations geographically and culturally affiliated to the
8 land now known as the State of Illinois must be cultivated.
9 ~~There is a strong likelihood that persons engaged for personal~~
10 ~~or financial gain in the mining of prehistoric and historic~~
11 ~~Indian, pioneer, and Civil War veteran's graves will move~~
12 ~~their operations to Illinois to avoid the increased penalties~~
13 ~~being imposed in neighboring states.~~ There is an immediate
14 need for legislation to protect the graves of Native Americans
15 and any other peoples geographically and culturally affiliated
16 to the land now known as the State of Illinois ~~these earlier~~
17 ~~Illinoisans~~ from such desecration. The General Assembly
18 intends to assure with this Act that all human burials be
19 accorded equal treatment and respect for human dignity ~~without~~
20 ~~reference to ethnic origins, cultural backgrounds or religious~~
21 ~~affiliations.~~

22 The General Assembly finds that the intentional looting
23 of, desecration of, or profiting from human remains and
24 mortuary objects are deplorable actions that must be
25 prohibited. When human remains and unregistered graves are
26 unintentionally encountered, they must be treated with respect

1 and in accordance with law. This Act is not intended ~~The~~
2 ~~General Assembly also finds that those persons engaged in the~~
3 ~~scientific study or collecting of artifacts which have not~~
4 ~~been acquired in violation of law are engaged in legitimate~~
5 ~~and worthy scientific, educational and recreational~~
6 ~~activities. This Act is not intended to interfere with the~~
7 ~~continued legitimate collecting activities or studies of such~~
8 ~~persons; nor is it intended to interfere with the normal~~
9 enjoyment of private property owners, farmers, or those
10 engaged in the development, mining or improvement of real
11 property.

12 (Source: P.A. 95-331, eff. 8-21-07.)

13 (20 ILCS 3440/3) (from Ch. 127, par. 2663)

14 Sec. 3. Notification to coroner and Department. Any person
15 who encounters ~~discovers~~ human ~~skeletal~~ remains subject to
16 this Act shall promptly notify the coroner and shall notify
17 the Department within 48 hours of the encounter. Any person
18 who knowingly fails to report such an encounter as required by
19 this section ~~a discovery within 48 hours~~ is guilty of a Class C
20 misdemeanor, unless such person has reasonable cause to
21 believe that the coroner and the Department had already been
22 so notified. If the human ~~skeletal~~ remains appear to be from an
23 unregistered grave, the coroner shall promptly notify the
24 Department ~~of Natural Resources prior to their removal.~~
25 Nothing in this Act shall be construed to apply to human

1 ~~skeletal~~ remains subject to "An Act to revise the law in
2 relation to coroners".

3 (Source: P.A. 100-695, eff. 8-3-18.)

4 (20 ILCS 3440/3.5 new)

5 Sec. 3.5. Encounter procedure. When an undertaking
6 encounters human remains, unregistered graves, grave markers,
7 or grave artifacts, all activities shall cease within a
8 100-foot radius of the encounter. The encountering party shall
9 notify the coroner and the Department as required in Section
10 3. If the coroner determines that the human remains are not
11 over 100 years old, no further action is required under this
12 Act. If the coroner does determine that the human remains are
13 over 100 years old, the Department shall review the
14 undertaking and may issue a permit pursuant to Section 13.
15 During its review, if it is determined by the Department that
16 the human remains, unregistered grave, grave marker, or grave
17 artifact are Native American in origin, the Department shall
18 conduct tribal consultation with the tribal nations that
19 identify as having or having had a historical, cultural, or
20 geographic affiliation on the land where the undertaking will
21 occur.

22 (20 ILCS 3440/4) (from Ch. 127, par. 2664)

23 Sec. 4. Disturbing human remains.

24 (a) It is unlawful for any person, ~~either by himself or~~

1 ~~through an agent,~~ to knowingly or recklessly disturb or to
2 knowingly or recklessly allow the disturbance of human
3 ~~skeletal~~ remains, unregistered graves, grave markers, or ~~and~~
4 grave artifacts that originated from any land that is now part
5 of the State of Illinois and in unregistered graves protected
6 by this Act unless such disturbance is authorized by person
7 ~~obtains~~ a permit issued by the Department ~~of Natural~~
8 ~~Resources~~. A violation of this Section is a Class 4 felony.

9 (b) This Section does not apply to:

10 (1) persons employed by or agents of a county medical
11 examiner's office or coroner's office acting within the
12 scope of their employment;

13 (2) the acts of a licensed funeral director or
14 embalmer while performing acts authorized by the Funeral
15 Directors and Embalmers Licensing Code;

16 (3) cemeteries and cemetery personnel while performing
17 acts pursuant to a bona fide request from the involved
18 cemetery consumer or his or her heirs, or pursuant to an
19 interment or disinterment permit or a court order, or as
20 authorized under Section 14.5 of the Cemetery Protection
21 Act, or any other actions legally authorized for cemetery
22 employees;

23 (4) the acts of emergency medical personnel or
24 physicians performed in good faith and according to the
25 usual and customary standards of medical practice in an
26 attempt to resuscitate a life;

1 (5) physicians licensed to practice medicine in all of
2 its branches or holding a visiting professor, physician,
3 or resident permit under the Medical Practice Act of 1987,
4 performing acts in accordance with usual and customary
5 standards of medical practice, or a currently enrolled
6 student in an accredited medical school in furtherance of
7 his or her education at the accredited medical school;

8 (6) removing or carrying away human remains by the
9 employees, independent contractors, or other persons
10 designated by the federally designated organ procurement
11 agency engaged in the organ and tissue procurement
12 process; or

13 (7) Department employees in the course of their
14 official duties pursuant to this Act.

15 (Source: P.A. 100-695, eff. 8-3-18.)

16 (20 ILCS 3440/6) (from Ch. 127, par. 2666)

17 Sec. 6. Violations.

18 (a) It is unlawful for any person, ~~either by himself or~~
19 ~~through an agent,~~ to knowingly or recklessly:

20 (1) charge admission or a fee to observe;

21 (2) sell;

22 (3) purchase; or

23 (4) transport for sale or to a location that will
24 charge admission or a fee to observe any human remains,
25 grave artifacts, or grave markers that are Native American

1 in origin or that originated from any land that is now part
2 of the State of Illinois.

3 A person who violates this Section commits a Class A
4 misdemeanor for a first violation and a Class 4 felony for a
5 second or subsequent violation ~~offer any human skeletal~~
6 ~~remains, grave artifacts or grave markers for sale or exchange~~
7 ~~with the knowledge that they have been collected or excavated~~
8 ~~in violation of this Act.~~

9 (b) This Section does not apply to:

10 (1) the acts of a licensed funeral director or
11 embalmer while performing acts authorized by the Funeral
12 Directors and Embalmers Licensing Code; or

13 (2) cemeteries and cemetery personnel while performing
14 acts pursuant to a bona fide request from the involved
15 cemetery consumer or his or her heirs, or pursuant to an
16 interment or disinterment permit or a court order, or as
17 authorized under Section 14.5 of the Cemetery Protection
18 Act, or any other actions legally authorized for cemetery
19 employees.

20 (Source: P.A. 86-151.)

21 (20 ILCS 3440/8) (from Ch. 127, par. 2668)

22 Sec. 8. Duties of the State's Attorney and Attorney
23 General. The State's Attorney of the county in which a
24 violation ~~of Sections 4, 5, 6, or 7~~ of this Act or
25 administrative rules is alleged to have occurred, or the

1 Attorney General, may be requested by the Department Director
2 ~~of Natural Resources~~ to initiate criminal prosecutions and ~~or~~
3 ~~to~~ seek restitution, civil damages, injunctive relief and any
4 other appropriate relief. The Department ~~of Natural Resources~~
5 shall co-operate with the State's Attorney or the Attorney
6 General. Persons wishing to report ~~aware of~~ any violations of
7 this Act shall contact the Department ~~of Natural Resources~~.

8 (Source: P.A. 100-695, eff. 8-3-18.)

9 (20 ILCS 3440/9) (from Ch. 127, par. 2669)

10 Sec. 9. Rewards for information leading to arrest of
11 violators of the Act. The Department ~~of Natural Resources~~ is
12 authorized to offer a reward of up to \$5,000 ~~\$2000~~ for
13 information leading to the arrest and conviction of persons
14 who violate ~~Sections 4, 5, 6, and 7 of~~ this Act.

15 (Source: P.A. 100-695, eff. 8-3-18.)

16 (20 ILCS 3440/10) (from Ch. 127, par. 2670)

17 Sec. 10. Penalties. Any violation of Sections 4, 6 or 7 of
18 this Act, unless otherwise specified, is a Class A misdemeanor
19 for a first violation and a Class 4 felony for a second or
20 subsequent violation. Any violation of administrative rules
21 adopted under this Act is a Class B misdemeanor ~~and the~~
22 ~~violation shall be subject to imprisonment for not more than 1~~
23 ~~year and a fine not in excess of \$10,000; any subsequent~~
24 ~~violation is a Class 4 felony.~~ Each disturbance of human

1 remains, an unregistered graves, grave markers, or grave
2 artifacts ~~grave~~ constitutes a separate offense.

3 (Source: P.A. 86-151.)

4 (20 ILCS 3440/12) (from Ch. 127, par. 2672)

5 Sec. 12. Restitution. Persons convicted of a violation of
6 Section 3, 3.5, 4, or 6 ~~Section 4 or 5~~ of this Act shall also
7 be liable for restitution ~~civil damages~~ to be assessed by the
8 circuit court ~~Historic Preservation Agency~~. Restitution ~~Civil~~
9 ~~damages~~ may include, but is not limited to:

10 (a) (blank); ~~forfeiture of any and all equipment used in~~
11 ~~disturbing the protected unregistered graves or grave markers;~~

12 (b) any and all costs incurred in cleaning, restoring,
13 repairing, analyzing, accessioning and curating the recovered
14 materials, including, but not limited to, fees for experts the
15 Department needed to complete any restoration or
16 identification required under this Act;

17 (c) any and all costs associated with restoring the land
18 to its original contour or the grave marker to its original
19 condition;

20 (d) any and all costs associated with recovery of data,
21 and analyzing, publishing, accessioning and curating materials
22 when the prohibited activity is so extensive as to preclude
23 the restoration of the unregistered burials or grave markers;

24 (e) any and all costs associated with the reinterment of
25 the human ~~skeletal~~ remains;

1 (f) any and all costs associated with the determination
2 and collection of restitution; and ~~the civil damages.~~

3 (g) for Native American remains and materials, any and all
4 costs of traveling for tribal nation representatives for
5 reinterment or repatriation activities and for non-Native
6 American remains and materials, any and all costs of traveling
7 for experts the Department needed to complete any restoration
8 or identification required under this Act.

9 When restitution is ordered in a case prosecuted by ~~civil~~
10 ~~damages are recovered through~~ the Attorney General, the
11 restitution proceeds shall be deposited into the Repatriation
12 and Reinterment Historic Sites Fund; when restitution is
13 ordered in a case prosecuted by ~~civil damages are recovered~~
14 ~~through~~ the State's Attorney, the proceeds shall be deposited
15 into the county funds designated by the county board that may
16 only be used for repatriation or reinterment.

17 (Source: P.A. 86-151.)

18 (20 ILCS 3440/13) (from Ch. 127, par. 2673)

19 Sec. 13. Notification.

20 (a) If an undertaking will occur on property that the
21 property owner has been notified in writing by the Department
22 that the land is likely to contain human remains, unregistered
23 graves, grave markers, or grave artifacts, a permit shall be
24 obtained by the landowner from the Department.

25 (b) If human remains, unregistered graves, grave markers,

1 or grave artifacts that were unknown and were encountered by
2 any person, a permit shall be obtained from the Department
3 before any work on the undertaking may continue.

4 (c) The Department of Natural Resources shall adopt
5 administrative rules ~~develop regulations, in consultation with~~
6 ~~the Illinois State Museum,~~ whereby permits shall ~~may~~ be issued
7 for the avoidance, disturbance, or removal of human remains,
8 unregistered graves, grave markers, or grave artifacts, or a
9 combination of those activities ~~removal of human skeletal~~
10 ~~remains and grave artifacts from unregistered graves or the~~
11 ~~removal of grave markers.~~ The Department may adopt emergency
12 rules in accordance with Sections 5-45 and 5-45.35 of the
13 Illinois Administrative Procedure Act. The adoption of
14 emergency rules authorized by Sections 5-45 and 5-45.35 of the
15 Illinois Administrative Procedure Act and this paragraph is
16 deemed to be necessary for the public interest, safety, and
17 welfare.

18 (d) ~~(b)~~ Each permit shall specify all terms and conditions
19 under which the avoidance, removal, or disturbance of human
20 ~~skeletal~~ remains, grave artifacts, ~~or~~ grave markers, or
21 unregistered graves shall be carried out. All costs accrued in
22 the removal of the aforementioned materials shall be borne by
23 the permit applicant. Within 60 days of the ~~Upon~~ completion of
24 the undertaking ~~project,~~ the permit holder shall submit a
25 report, on a form provided by the Department, of the results to
26 the Department ~~of Natural Resources.~~

1 (Source: P.A. 100-695, eff. 8-3-18.)

2 (20 ILCS 3440/14) (from Ch. 127, par. 2674)

3 Sec. 14. Native American human remains. All Native
4 American human remains, unregistered graves, grave markers,
5 and grave artifacts are the property of the Native American
6 nations geographically and culturally affiliated with
7 Illinois. The Department shall maintain and care for Native
8 American property until tribal consultation has been completed
9 and the tribes have made the final decision for repatriation
10 or other arrangements have been established. The Department
11 shall:

12 (1) maintain records;

13 (2) conduct tribal consultation;

14 (3) provide reports to tribal nations; and

15 (4) facilitate repatriation and reinterment efforts.

16 Such repatriation and reinterment efforts shall be with
17 tribal approval.

18 All non-Native American human ~~skeletal~~ remains, grave markers,
19 and grave artifacts in unregistered graves are held in trust
20 for the people of Illinois by the State and are under the
21 jurisdiction of the Department until and unless they are
22 repatriated to descendants or other arrangements have been
23 established. Unless and until they are repatriated, all ~~of~~
24 Natural Resources. All materials collected under this Act
25 shall be maintained, with dignity and respect, for the people

1 of the State under the care of the Department ~~Illinois State~~
2 ~~Museum~~.

3 (Source: P.A. 100-695, eff. 8-3-18.)

4 (20 ILCS 3440/15) (from Ch. 127, par. 2675)

5 Sec. 15. Rules. The Department of Natural Resources shall
6 adopt ~~promulgate~~ such administrative rules ~~regulations~~ as may
7 be necessary to carry out the purposes of this Act in
8 accordance with the Illinois Administrative Procedure Act.

9 (Source: P.A. 100-695, eff. 8-3-18.)

10 (20 ILCS 3440/16) (from Ch. 127, par. 2676)

11 Sec. 16. Exemptions. Activities reviewed by the Department
12 ~~of Natural Resources~~ pursuant to Section 106 of the National
13 Historic Preservation Act (16 U.S.C. 470f) and activities
14 permitted pursuant to the Federal Surface Mining Control and
15 Reclamation Act of 1977 (P.L. 95-87), or the rules and
16 regulations promulgated thereunder or any law, rule or
17 regulation adopted by the State of Illinois thereunder shall
18 be exempt from these permitting requirements.

19 (Source: P.A. 100-695, eff. 8-3-18.)

20 (20 ILCS 3440/16.1 new)

21 Sec. 16.1. Burial sites on Department owned lands. The
22 Department may create burial sites on Department owned lands
23 for the reburial of repatriated Native American human remains,

1 unregistered graves, grave markers, or grave artifacts after
2 tribal consultation with the federally recognized tribes with
3 geographical and cultural affiliation with Illinois. The
4 burial sites shall not be used by the public and shall be
5 protected by the State of Illinois.

6 (20 ILCS 3440/16.2 new)

7 Sec. 16.2. Repatriation and Reinterment Fund. The
8 Repatriation and Reinterment Fund is created in the State
9 treasury. All restitution collected from the prosecution of
10 any violation of this Act shall be deposited in the fund and
11 each deposit shall only be used to cover the restitution that
12 was so ordered in an individual case pursuant to Section 12.
13 The General Assembly may allocate appropriations to this fund
14 to cover the cost of, including but not limited to,
15 reinterment, repatriation, repair, or restoration of human
16 remains, unregistered graves, grave markers, or grave
17 artifacts that are in the custody of the Department.

18 (20 ILCS 3440/16.3 new)

19 Sec. 16.3. Forfeiture.

20 (a) Every device, equipment, tool, vehicle or conveyance,
21 when used or operated illegally, or attempted to be used or
22 operated illegally by any person in taking, transporting,
23 holding, disturbing, exploring, excavating, collecting or
24 conveying any human remains, grave artifacts, or grave

1 markers, contrary to the provisions of this Act, including
2 administrative rules, is a public nuisance and subject to
3 seizure and confiscation by any authorized employee of the
4 Department; upon the seizure of such item the Department shall
5 take and hold the same until disposed of as hereinafter
6 provided.

7 (b) Upon the seizure of any property as herein provided,
8 the authorized employee of the Department making such seizure
9 shall forthwith cause a complaint to be filed before the
10 circuit court and a summons to be issued requiring the person
11 who illegally used or operated or attempted to use or operate
12 such property and the owner and person in possession of such
13 property to appear in court and show cause why the property
14 seized should not be forfeited to the State. Upon the return of
15 the summons duly served or other notice as herein provided,
16 the court shall proceed to determine the question of the
17 illegality of the use of the seized property and upon judgment
18 being entered to the effect that such property was illegally
19 used, an order may be entered providing for the forfeiture of
20 such seized property to the Department and shall thereupon
21 become the property of the Department; but the owner of such
22 property may have a jury determine the illegality of its use,
23 and shall have the right of an appeal, as in other cases. Such
24 confiscation or forfeiture shall not preclude or mitigate
25 against prosecution and assessment of penalties otherwise
26 provided in this Act.

1 (c) Upon seizure of any property under circumstances
2 supporting a reasonable belief that such property was
3 abandoned, lost or stolen or otherwise illegally possessed or
4 used contrary to the provisions of this Act, except property
5 seized during a search or arrest, and ultimately returned,
6 destroyed, or otherwise disposed of pursuant to order of a
7 court in accordance with this Act, the Department shall make
8 reasonable inquiry and efforts to identify and notify the
9 owner or other person entitled to possession thereof, and
10 shall return the property after such person provides
11 reasonable and satisfactory proof of his ownership or right to
12 possession and reimburses the Department for all reasonable
13 expenses of such custody. If the identity or location of the
14 owner or other person entitled to possession of the property
15 has not been ascertained within 6 months after the Department
16 obtains such possession, the Department shall effectuate the
17 sale of the property for cash to the highest bidder at a public
18 auction. The owner or other person entitled to possession of
19 such property may claim and recover possession of the property
20 at any time before its sale at public auction, upon providing
21 reasonable and satisfactory proof of ownership or right of
22 possession and reimbursing the Department for all reasonable
23 expenses of custody thereof.

24 (d) Any property forfeited to the State by court order
25 pursuant to this Section may be disposed of by public auction,
26 except that any property which is the subject of such a court

1 order shall not be disposed of pending appeal of the order. The
2 proceeds of the sales at auction shall be deposited in the
3 Repatriation and Reinterment Fund.

4 (e) The Department shall pay all costs of notices required
5 by this Section.

6 (f) Property seized or forfeited under this Section is
7 subject to reporting under the Seizure and Forfeiture
8 Reporting Act.

9 (g) This Section does not apply to human remains, grave
10 artifacts, or grave markers that were recovered by the
11 Department or other law enforcement agency during an
12 investigation of a violation of this Act.

13 (20 ILCS 3440/5 rep.)

14 (20 ILCS 3440/7 rep.)

15 (20 ILCS 3440/11 rep.)

16 Section 30. The Human Skeletal Remains Protection Act is
17 amended by repealing Sections 5, 7, and 11.

18 Section 35. The State Finance Act is amended by adding
19 Section 5.990 as follows:

20 (30 ILCS 105/5.990 new)

21 Sec. 5.990. The Repatriation and Reinterment Fund.

22 Section 95. No acceleration or delay. Where this Act makes

1 changes in a statute that is represented in this Act by text
2 that is not yet or no longer in effect (for example, a Section
3 represented by multiple versions), the use of that text does
4 not accelerate or delay the taking effect of (i) the changes
5 made by this Act or (ii) provisions derived from any other
6 Public Act.

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