

# HB4401



## 103RD GENERAL ASSEMBLY

State of Illinois

2023 and 2024

HB4401

Introduced 1/16/2024, by Rep. Daniel Didech

### SYNOPSIS AS INTRODUCED:

5 ILCS 140/2  
50 ILCS 205/3

from Ch. 116, par. 202  
from Ch. 116, par. 43.103

Amends the Freedom of Information Act and the Local Records Act. In the definition provisions of those Acts, defines the term "junk mail" and specifies that the term "public record" does not include junk mail.

LRB103 36445 JDS 66547 b

A BILL FOR

1 AN ACT concerning government.

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

4 Section 5. The Freedom of Information Act is amended by  
5 changing Section 2 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. "Public records"  
12 does not include junk mail.

13 (c-5) "Private information" means unique identifiers,  
14 including a person's social security number, driver's license  
15 number, employee identification number, biometric identifiers,  
16 personal financial information, passwords or other access  
17 codes, medical records, home or personal telephone numbers,  
18 and personal email addresses. Private information also  
19 includes home address and personal license plates, except as  
20 otherwise provided by law or when compiled without possibility  
21 of attribution to any person. For a public body that is a  
22 HIPAA-covered entity, "private information" includes  
23 electronic medical records and all information, including  
24 demographic information, contained within or extracted from an  
25 electronic medical records system operated or maintained by  
26 the public body in compliance with State and federal medical

1 privacy laws and regulations, including, but not limited to,  
2 the Health Insurance Portability and Accountability Act and  
3 its regulations, 45 CFR Parts 160 and 164. As used in this  
4 subsection, "HIPAA-covered entity" has the meaning given to  
5 the term "covered entity" in 45 CFR 160.103.

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

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

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

1 (f) "News media" means a newspaper or other periodical  
2 issued at regular intervals whether in print or electronic  
3 format, a news service whether in print or electronic format,  
4 a radio station, a television station, a television network, a  
5 community antenna television service, or a person or  
6 corporation engaged in making news reels or other motion  
7 picture news for public showing.

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

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

1 means available to the public body and that identifies the  
2 particular public record the requester seeks. One request may  
3 identify multiple records to be inspected or copied.

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

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

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

1 request may identify multiple individual records to be  
2 inspected or copied.

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

6 (j) "Junk mail" means (i) any unsolicited commercial mail  
7 sent to a public body and not responded to by an official,  
8 employee, or agent of the public body or (ii) any unsolicited  
9 commercial electronic communication sent to a public body and  
10 not responded to by an official, employee, or agent of the  
11 public body.

12 (Source: P.A. 103-554, eff. 1-1-24.)

13 Section 10. The Local Records Act is amended by changing  
14 Section 3 as follows:

15 (50 ILCS 205/3) (from Ch. 116, par. 43.103)

16 Sec. 3. Except where the context indicates otherwise, the  
17 terms used in this Act are defined as follows:

18 "Agency" means any court, and all parts, boards,  
19 departments, bureaus and commissions of any county, municipal  
20 corporation or political subdivision.

21 "Archivist" means the Secretary of State.

22 "Born-digital electronic material" means electronic  
23 material created in digital form rather than converted from  
24 print or analog form to digital form.

1 "Commission" means a Local Records Commission.

2 "Court" means a court, other than the Supreme Court.

3 "Digitized electronic material" means electronic material  
4 converted from print or analog form to digital form.

5 "Junk mail" means (i) any unsolicited commercial mail sent  
6 to a public body and not responded to by an official, employee,  
7 or agent of the public body or (ii) any unsolicited commercial  
8 electronic communication sent to a public body and not  
9 responded to by an official, employee, or agent of the public  
10 body.

11 "Officer" means any elected or appointed official of a  
12 court, county, municipal corporation or political subdivision.

13 "Public record" means any book, paper, map, photograph,  
14 born-digital electronic material, digitized electronic  
15 material, electronic material with a combination of digitized  
16 and born-digital material, or other official documentary  
17 material, regardless of physical form or characteristics,  
18 made, produced, executed or received by any agency or officer  
19 pursuant to law or in connection with the transaction of  
20 public business and preserved or appropriate for preservation  
21 by such agency or officer, or any successor thereof, as  
22 evidence of the organization, function, policies, decisions,  
23 procedures, or other activities thereof, or because of the  
24 informational data contained therein. Library and museum  
25 material made or acquired and preserved solely for reference  
26 or exhibition purposes, extra copies of documents preserved



1 only for convenience of reference, ~~and~~ stocks of publications  
2 and of processed documents, and junk mail are not included  
3 within the definition of public record. Paper copies of  
4 registration records, as defined in Section 1 of the Library  
5 Records Confidentiality Act (75 ILCS 70/1), shall not be  
6 considered public records once the information contained in  
7 the paper registration records is transferred into a secure  
8 electronic format and checked for accuracy.

9 (Source: P.A. 99-147, eff. 1-1-16.)