

# SB3118



## 103RD GENERAL ASSEMBLY

State of Illinois

2023 and 2024

SB3118

Introduced 2/2/2024, by Sen. Craig Wilcox

### SYNOPSIS AS INTRODUCED:

5 ILCS 140/2  
5 ILCS 140/3.5

from Ch. 116, par. 202

Amends the Freedom of Information Act. Defines "public body official" as an elected or appointed officeholder of a public body. Provides that "public body official" does not include a private attorney or law firm appointed to represent the public body. Provides that a public body's Freedom of Information officer must be a public body official or employee of the public body.

LRB103 38068 AWJ 68200 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 Sections 2 and 3.5 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 (a-5) "Public body official" means an elected or appointed

1 officeholder of a public body. "Public body official" does not  
2 include a private attorney or law firm appointed to represent  
3 the public body.

4 (b) "Person" means any individual, corporation,  
5 partnership, firm, organization or association, acting  
6 individually or as a group.

7 (c) "Public records" means all records, reports, forms,  
8 writings, letters, memoranda, books, papers, maps,  
9 photographs, microfilms, cards, tapes, recordings, electronic  
10 data processing records, electronic communications, recorded  
11 information and all other documentary materials pertaining to  
12 the transaction of public business, regardless of physical  
13 form or characteristics, having been prepared by or for, or  
14 having been or being used by, received by, in the possession  
15 of, or under the control of any public body.

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

1 demographic information, contained within or extracted from an  
2 electronic medical records system operated or maintained by  
3 the public body in compliance with State and federal medical  
4 privacy laws and regulations, including, but not limited to,  
5 the Health Insurance Portability and Accountability Act and  
6 its regulations, 45 CFR Parts 160 and 164. As used in this  
7 subsection, "HIPAA-covered entity" has the meaning given to  
8 the term "covered entity" in 45 CFR 160.103.

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

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

25 (e) "Head of the public body" means the president, mayor,  
26 chairman, presiding officer, director, superintendent,

1 manager, supervisor or individual otherwise holding primary  
2 executive and administrative authority for the public body, or  
3 such person's duly authorized designee.

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

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

26 For the purposes of this subsection (g), "request" means a

1 written document (or oral request, if the public body chooses  
2 to honor oral requests) that is submitted to a public body via  
3 personal delivery, mail, telefax, electronic mail, or other  
4 means available to the public body and that identifies the  
5 particular public record the requester seeks. One request may  
6 identify multiple records to be inspected or copied.

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

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

24 For the purposes of this subsection (h), "request" means a  
25 written document, or oral request, if the public body chooses  
26 to honor oral requests, that is submitted to a public body via

1 personal delivery, mail, telefax, electronic mail, or other  
2 means available to the public body and that identifies the  
3 particular public record or records the requester seeks. One  
4 request may identify multiple individual records to be  
5 inspected or copied.

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

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

10 (5 ILCS 140/3.5)

11 Sec. 3.5. Freedom of Information officers.

12 (a) Each public body shall designate one or more public  
13 body officials or employees to act as its Freedom of  
14 Information officer or officers. Except in instances when  
15 records are furnished immediately, Freedom of Information  
16 officers, or their designees, shall receive requests submitted  
17 to the public body under this Act, ensure that the public body  
18 responds to requests in a timely fashion, and issue responses  
19 under this Act. Freedom of Information officers shall develop  
20 a list of documents or categories of records that the public  
21 body shall immediately disclose upon request.

22 Upon receiving a request for a public record, the Freedom  
23 of Information officer shall:

24 (1) note the date the public body receives the written  
25 request;

1           (2) compute the day on which the period for response  
2 will expire and make a notation of that date on the written  
3 request;

4           (3) maintain an electronic or paper copy of a written  
5 request, including all documents submitted with the  
6 request until the request has been complied with or  
7 denied; and

8           (4) create a file for the retention of the original  
9 request, a copy of the response, a record of written  
10 communications with the requester, and a copy of other  
11 communications.

12           (b) All Freedom of Information officers shall, within 6  
13 months after the effective date of this amendatory Act of the  
14 96th General Assembly, successfully complete an electronic  
15 training curriculum to be developed by the Public Access  
16 Counselor and thereafter successfully complete an annual  
17 training program. Thereafter, whenever a new Freedom of  
18 Information officer is designated by a public body, that  
19 person shall successfully complete the electronic training  
20 curriculum within 30 days after assuming the position.  
21 Successful completion of the required training curriculum  
22 within the periods provided shall be a prerequisite to  
23 continue serving as a Freedom of Information officer.

24           (Source: P.A. 96-542, eff. 1-1-10.)