

1 AN ACT concerning privacy.

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

4 Section 1. Short title. This Act may be cited as the  
5 Illinois Accurate Government Records Act.

6 Section 5. Findings. The General Assembly declares that the  
7 right to privacy is a personal and fundamental right protected  
8 by the Constitution of the United States and the Constitution  
9 of the State of Illinois and that all individuals have a right  
10 of privacy in information pertaining to them. The General  
11 Assembly further makes the following findings:

12 (1) The right to privacy is being threatened by the  
13 indiscriminate collection, maintenance, and dissemination  
14 of personal information and the lack of effective laws and  
15 legal remedies.

16 (2) The increasing use of computers and other  
17 sophisticated information technology has greatly magnified  
18 the potential risk to individual privacy that can occur  
19 from the maintenance of personal information.

20 (3) In order to protect the privacy of individuals, it  
21 is necessary that the maintenance and dissemination of  
22 personal information be subject to strict limits.

1 Section 10. Definitions. For purposes of this Act:

2 "Agency" means any State agency or local agency.

3 "Individual" means a natural person.

4 "Local agency" means any municipal corporation, school  
5 district, special purpose district, or township of the State or  
6 any elected officer or board, bureau, commission, department,  
7 division, institution, or instrumentality of a county.

8 "Maintain" means to maintain, collect, use, or  
9 disseminate.

10 "Personal record" means any item, collection, or grouping  
11 of information about an individual that is maintained by an  
12 agency. A personal record includes, but is not limited to, the  
13 individual's education, financial, medical, or employment  
14 history, or items that contain or make reference to the  
15 individual's name, identifying number, symbol, or other  
16 identifying particular assigned to the individual, such as a  
17 finger or voice print or a photograph.

18 "Routine use" means, with respect to the disclosure of a  
19 record, the use of the record for a purpose that is compatible  
20 with the purpose for which it was collected.

21 "State agency" means the office of any elected State  
22 officer and any agency, board, commission, department,  
23 division, or educational institution of the State.

24 "System of records" means a group of any records under the  
25 control of any agency from which information is retrieved by  
26 the name of the individual or by some identifying number,

1 symbol, or other identifying particular assigned to that  
2 individual.

3 Section 15. Access to personal records.

4 (a) Upon the request of an individual to gain access to the  
5 individual's personal record, an agency shall permit the  
6 individual to review the record and have a copy made within 10  
7 working days after the date of receipt of the request by the  
8 agency, unless the personal record requested is exempted under  
9 subsection (c) to this Section. The 10-day period may be  
10 extended for an additional 20 working days if the agency  
11 provides to the individual, within the initial 10 working days,  
12 a written explanation of unusual circumstances causing the  
13 delay.

14 (b) Each agency that maintains any accessible personal  
15 record shall make that record available to the individual to  
16 whom it pertains in a reasonably intelligible form. Where  
17 necessary the agency shall provide a translation into common  
18 terms of any machine readable code or any code or abbreviation  
19 employed for internal agency use.

20 (c) An agency is not required under this Section to grant  
21 an individual access to personal records or information in  
22 records:

23 (1) Maintained by an agency that performs as its or as  
24 a principal function any activity pertaining to the  
25 prevention, control, or reduction of crime, and which

1 consist of:

2 (A) information or reports prepared or compiled  
3 for the purpose of criminal intelligence or of a  
4 criminal investigation, including reports of  
5 informers, witnesses, and investigators; or

6 (B) reports prepared or compiled at any stage of  
7 the process of enforcement of the criminal laws from  
8 arrest or indictment through confinement, correctional  
9 supervision, and release from supervision.

10 (2) The disclosure of which would reveal the identity  
11 of a source who furnished information to the agency under  
12 an express or implied promise of confidentiality.

13 (3) Consisting of testing or examination material or  
14 scoring keys used solely to determine individual  
15 qualifications for appointment or promotion in public  
16 employment, or used as or to administer a licensing  
17 examination or an academic examination, the disclosure of  
18 which would compromise the objectivity, fairness, or  
19 effectiveness of the testing or examination process.

20 (4) Including investigative reports and materials,  
21 related to an upcoming, ongoing, or pending civil or  
22 criminal action or administrative proceeding against the  
23 individual.

24 (5) Required to be withheld from the individual to whom  
25 it pertains by statute or judicial decision or authorized  
26 to be so withheld by constitutional or statutory privilege.

1 (d) Nothing in this Section shall be construed to permit or  
2 require an agency to withhold or deny access to a personal  
3 record or any information in a personal record:

4 (1) when the agency is ordered to produce, disclose, or  
5 allow access to the record or information in the record, or  
6 when discovery of such record or information is allowed by  
7 prevailing rules of discovery or by subpoena, in any  
8 judicial or administrative proceeding; or

9 (2) where any statute, administrative rules, rule of  
10 court, judicial decision, or other law authorizes or allows  
11 an individual to gain access to a personal record or to any  
12 information in a personal record or requires that the  
13 individual be given such access.

14 Section 20. Correction of personal records.

15 (a) Each agency shall permit an individual to request in  
16 writing an amendment of a personal record, and shall within 30  
17 days after the date of receipt of such request:

18 (1) make each correction in accordance with the  
19 individual's request of any portion of a personal record  
20 that the individual believes is not accurate, relevant,  
21 timely, or complete and inform the individual of the  
22 corrections made in accordance with his or her request; or

23 (2) inform the individual of its refusal to amend the  
24 personal record in accordance with such individual's  
25 request, the reason for the refusal, the procedures

1           established by the agency for the individual to request a  
2           review by the head of the agency or an official  
3           specifically designated by the head of the agency of the  
4           refusal to amend, and the name, title, and business address  
5           of the reviewing official.

6           (b) Each agency shall permit any individual who disagrees  
7           with the refusal of the agency to amend a personal record to  
8           request a review of such refusal by the head of the agency or  
9           an official specifically designated by the head of the agency,  
10          and, not later than 30 days after the date on which the  
11          individual requests such review, complete the review and make a  
12          final determination unless, for good cause shown, the head of  
13          the agency extends the review period by 30 days.

14          (c) If, after review, the reviewing official refuses to  
15          amend the personal record in accordance with the request, the  
16          agency shall permit the individual to file with the agency a  
17          statement of reasonable length setting forth the reasons for  
18          the individual's disagreement.

19          (d) The agency, with respect to any disclosure containing  
20          information about which the individual has filed a statement of  
21          disagreement, shall clearly note any portion of the personal  
22          record that is disputed and make available copies of such  
23          individual's statement, and copies of a concise statement of  
24          the reasons of the agency for not making the amendment, to any  
25          person or agency to whom the disputed record has been or is  
26          disclosed.

1           Section 25. Limitations on an agency's disclosure of  
2 personal records.

3           (a) No agency shall disclose any personal record by any  
4 means of communication to any person, or to another agency,  
5 except pursuant to a written request by, or with the prior  
6 written consent of, the individual to whom the record pertains,  
7 unless disclosure of the record would be:

8                   (1) to those officers and employees of the agency that  
9 maintains the record who have a need for the record in the  
10 performance of their duties;

11                   (2) pursuant to and to the extent required by the  
12 Freedom of Information Act;

13                   (3) for a routine use;

14                   (4) to a recipient who has provided the agency with  
15 advance adequate written assurance that the record will be  
16 used solely as a statistical research or reporting record,  
17 and the record is to be transferred in a form that is not  
18 individually identifiable;

19                   (5) to the State archives as a record that has  
20 sufficient historical or other value to warrant its  
21 continued preservation;

22                   (6) to another agency or to an instrumentality of any  
23 governmental jurisdiction within or under the control of  
24 the United States for a civil or criminal law enforcement  
25 activity if the activity is authorized by law, and if the

1 head of the agency or instrumentality has made a written  
2 request to the agency which maintains the record specifying  
3 the particular portion desired and the law enforcement  
4 activity for which the record is sought;

5 (7) to a person pursuant to a showing of compelling  
6 circumstances affecting the health or safety of an  
7 individual if upon such disclosure notification is  
8 transmitted to the last known address of the individual;

9 (8) to either chamber of the General Assembly, or, to  
10 the extent of matter within its jurisdiction, any committee  
11 or subcommittee of the General Assembly;

12 (9) to either the Comptroller or the Auditor General,  
13 or any of his or her authorized representatives, in the  
14 course of the performance of his or her duties;

15 (10) pursuant to the order of a court of competent  
16 jurisdiction; or

17 (11) to a consumer reporting agency as permitted or  
18 allowed by federal or State statute.

19 (b) An individual's name and address may not be sold or  
20 rented by an agency unless that action is specifically  
21 authorized by law. This subsection (b) shall not be construed  
22 to require the withholding of names and addresses otherwise  
23 permitted to be made public.

24 Section 30. Limitations on an agency's maintenance of  
25 systems of personal records. Each agency that maintains a



1 system of records shall do all of the following:

2 (1) Maintain in its personal records only the  
3 information about an individual as is relevant and  
4 necessary to accomplish a purpose of the agency required or  
5 authorized by the Illinois Constitution or statute or  
6 mandated by the federal government.

7 (2) Collect information to the greatest extent  
8 practicable directly from the subject individual when the  
9 information may result in adverse determinations about an  
10 individual's rights, benefits, and privileges under State  
11 programs.

12 (3) Inform each individual whom it asks to supply  
13 personal information, on the form that it uses to collect  
14 the information or on a separate form that can be retained  
15 by the individual:

16 (A) the authority, whether granted by statute, or  
17 by executive order of the Governor, that authorizes the  
18 solicitation of the information and whether disclosure  
19 of the information is mandatory or voluntary;

20 (B) the principal purpose or purposes for which the  
21 information is intended to be used;

22 (C) the routine uses that may be made of the  
23 information; and

24 (D) the effects on the individual, if any, of not  
25 providing all or any part of the requested information.

26 (4) Publish upon establishment or revision a notice of

1 the existence and character of the system of records, which  
2 notice shall include the following:

3 (A) the name and location of the system;

4 (B) the categories of individuals on whom records  
5 are maintained in the system;

6 (C) the categories of records maintained in the  
7 system;

8 (D) each routine use of the records contained in  
9 the system, including the categories of users and the  
10 purpose of such use;

11 (E) the policies and practices of the agency  
12 regarding storage, retrievability, access controls,  
13 retention, and disposal of the records;

14 (F) the title and business address of the agency  
15 official who is responsible for the system of records;

16 (G) the agency procedures whereby an individual  
17 can be notified at his or her request if the system of  
18 records contains a record pertaining to him or her;

19 (H) the agency procedures whereby an individual  
20 can be notified at his or her request how he or she can  
21 gain access to any record pertaining to him or her  
22 contained in the system of records, and how he or she  
23 may contest its content; and

24 (I) the categories of sources of records in the  
25 system.

26 (5) Maintain all records that are used by the agency in

1 making any determination about any individual with  
2 accuracy, relevance, timeliness, and completeness as is  
3 reasonably necessary to ensure fairness to the individual  
4 in the determination.

5 (6) Prior to disseminating any record about an  
6 individual to any person other than an agency, unless the  
7 dissemination is made pursuant to the Freedom of  
8 Information Act, make reasonable efforts to ensure that the  
9 records are accurate, complete, timely, and relevant for  
10 agency purposes.

11 (7) Make reasonable efforts to serve notice on an  
12 individual when any record on such individual is made  
13 available to any person under compulsory legal process when  
14 such process becomes a matter of public record.

15 (8) Establish rules of conduct for persons involved in  
16 the design, development, operation, disclosure, or  
17 maintenance of records containing personal information and  
18 instruct each person with respect to such rules and the  
19 requirements of this Act, including any other rules and  
20 procedures adopted pursuant to this Act, and the remedies  
21 and penalties for noncompliance.

22 (9) Establish appropriate and reasonable  
23 administrative, technical, and physical safeguards to  
24 ensure compliance with the provisions of this Act, to  
25 ensure the security and confidentiality of records, and to  
26 protect against anticipated threats or hazards to their

1 security or integrity that could result in any injury.

2 Section 35. Limitations on an agency's maintenance of  
3 personal records. An agency shall maintain no personal record,  
4 whether or not the personal record is part of a system of  
5 records, describing how any individual exercises rights  
6 guaranteed by the First Amendment to the United States  
7 Constitution or Sections 3, 4, or 5 of Article I of the  
8 Illinois Constitution, unless expressly authorized by statute  
9 or by the individual about whom the record is maintained or  
10 unless pertinent to and within the scope of an authorized law  
11 enforcement activity.

12 Section 40. Civil remedies.

13 (a) An individual may bring a civil action against an  
14 agency in a circuit court of the State whenever an agency fails  
15 to comply with any provision of this Act, and after appropriate  
16 administrative remedies have been exhausted.

17 (b) In any action brought by an individual under this  
18 Section, the court may:

19 (1) order the agency to disclose, correct, or amend the  
20 individual's personal record;

21 (2) issue an injunction to require any other agency  
22 action, or to enjoin the agency from improper actions, as  
23 the court may deem necessary and appropriate to render  
24 substantial relief; and

1           (3) assess reasonable attorney's fees and other  
2           litigation costs reasonably incurred against the agency in  
3           any case in which the individual has partially prevailed.

4           (c) In any action brought by an individual under this  
5           Section in which the court determines that the agency knowingly  
6           or intentionally violated a provision of this Act, the agency  
7           shall be liable to the individual in an amount equal to the sum  
8           of:

9           (1) actual damages sustained by the individual as a  
10          result of the failure of the agency to properly maintain  
11          the personal record, but in no case shall an individual  
12          entitled to recovery receive less than the sum of \$1,000;  
13          and

14          (2) the costs of the action together with reasonable  
15          attorney's fees as determined by the court.

16          (d) An action may be brought in the circuit court where the  
17          complainant resides, the complainant's principal place of  
18          business is situated, or the complainant's relevant personal  
19          record is situated. No action shall be brought later than 2  
20          years after notification of the agency denial or, where  
21          applicable, the date of receipt of the final determination of  
22          the office of information practices.

23          (e) In addition to an action by an individual under this  
24          Act, actions for injunction under this Section may also be  
25          prosecuted by the Attorney General, or any State's Attorney in  
26          this State, in the name of the people of the State of Illinois.

1           (f) The rights and remedies set forth in this Act shall be  
2 deemed to be nonexclusive and are in addition to all those  
3 rights and remedies that are otherwise available under any  
4 other provision of law.

5           Section 45. Agency responsibilities. Each agency shall:  
6 (1) issue instructions and guidelines necessary to effectuate  
7 this Act; and (2) take steps to ensure that all its employees  
8 and officers responsible for the collection, maintenance, use,  
9 and dissemination of personal records are informed of the  
10 requirements of this Act.

11           Section 50. Attorney General responsibilities. The Office  
12 of the Attorney General of Illinois:

13                 (1) shall develop and, after notice and opportunity for  
14 public comment, prescribe guidelines and rules for the use  
15 of agencies in implementing the provisions of this Section;

16                 (2) shall provide continuing assistance to and  
17 oversight of the implementation of this Section by  
18 agencies;

19                 (3) shall biennially submit to the Speaker of the House  
20 of Representatives and the President of the Senate a  
21 report:

22                         (A) describing the actions of the Attorney General  
23 pursuant to this Section during the preceding 2 years;

24                         (B) describing the exercise of individual rights

1 of access and amendment under this Section during those  
2 years;

3 (C) identifying changes in or additions to systems  
4 of records; and

5 (D) containing such other information concerning  
6 administration of this Section as may be necessary or  
7 useful to the General Assembly in reviewing the  
8 effectiveness of this Section in carrying out the  
9 purposes of this Act;

10 (4) may, upon request by any person, provide advisory  
11 opinions or other information regarding that person's  
12 rights and the functions and responsibilities of agencies  
13 under this Act; and

14 (5) shall receive complaints from and actively solicit  
15 the comments of the public regarding the implementation of  
16 this Act.

17 Section 55. Government contractors. If an agency provides  
18 by a contract for the operation by or on behalf of the agency  
19 of a system of records to accomplish an agency function, then  
20 the agency shall, consistent with its authority, cause the  
21 requirements of this Section to be applied to that system.

22 Section 60. Rights of legal guardians. For the purposes of  
23 this Section, the parent of any minor, or the legal guardian of  
24 any individual who has been declared to be incompetent due to

1 physical or mental incapacity or age by a court of competent  
2 jurisdiction, may act on behalf of the individual.