

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 3. The Freedom of Information Act is amended by
5 changing Sections 2, 6, and 9.5 and by adding Section 3.2 as
6 follows:

7 (5 ILCS 140/2) (from Ch. 116, par. 202)

8 Sec. 2. Definitions. As used in this Act:

9 (a) "Public body" means all legislative, executive,
10 administrative, or advisory bodies of the State, state
11 universities and colleges, counties, townships, cities,
12 villages, incorporated towns, school districts and all other
13 municipal corporations, boards, bureaus, committees, or
14 commissions of this State, any subsidiary bodies of any of the
15 foregoing including but not limited to committees and
16 subcommittees thereof, and a School Finance Authority created
17 under Article 1E of the School Code. "Public body" does not
18 include a child death review team or the Illinois Child Death
19 Review Teams Executive Council established under the Child
20 Death Review Team Act.

21 (b) "Person" means any individual, corporation,
22 partnership, firm, organization or association, acting
23 individually or as a group.

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

10 (c-5) "Private information" means unique identifiers,
11 including a person's social security number, driver's license
12 number, employee identification number, biometric identifiers,
13 personal financial information, passwords or other access
14 codes, medical records, home or personal telephone numbers, and
15 personal email addresses. Private information also includes
16 home address and personal license plates, except as otherwise
17 provided by law or when compiled without possibility of
18 attribution to any person.

19 (c-10) "Commercial purpose" means the use of any part of a
20 public record or records, or information derived from public
21 records, in any form for sale, resale, or solicitation or
22 advertisement for sales or services. For purposes of this
23 definition, requests made by news media and non-profit,
24 scientific, or academic organizations shall not be considered
25 to be made for a "commercial purpose" when the principal
26 purpose of the request is (i) to access and disseminate

1 information concerning news and current or passing events, (ii)
2 for articles of opinion or features of interest to the public,
3 or (iii) for the purpose of academic, scientific, or public
4 research or education.

5 (d) "Copying" means the reproduction of any public record
6 by means of any photographic, electronic, mechanical or other
7 process, device or means now known or hereafter developed and
8 available to the public body.

9 (e) "Head of the public body" means the president, mayor,
10 chairman, presiding officer, director, superintendent,
11 manager, supervisor or individual otherwise holding primary
12 executive and administrative authority for the public body, or
13 such person's duly authorized designee.

14 (f) "News media" means a newspaper or other periodical
15 issued at regular intervals whether in print or electronic
16 format, a news service whether in print or electronic format, a
17 radio station, a television station, a television network, a
18 community antenna television service, or a person or
19 corporation engaged in making news reels or other motion
20 picture news for public showing.

21 (g) "Recurrent requester", as used in Section 3.2 of this
22 Act, means a person that, in the 12 months immediately
23 preceding the request, has submitted to the same public body
24 (i) a minimum of 50 requests for records, (ii) a minimum of 15
25 requests for records within a 30-day period, or (iii) a minimum
26 of 7 requests for records within a 7-day period. For purposes

1 of this definition, requests made by news media and non-profit,
2 scientific, or academic organizations shall not be considered
3 in calculating the number of requests made in the time periods
4 in this definition when the principal purpose of the requests
5 is (i) to access and disseminate information concerning news
6 and current or passing events, (ii) for articles of opinion or
7 features of interest to the public, or (iii) for the purpose of
8 academic, scientific, or public research or education.

9 For the purposes of this subsection (g), "request" means a
10 written document (or oral request, if the public body chooses
11 to honor oral requests) that is submitted to a public body via
12 personal delivery, mail, telefax, electronic mail, or other
13 means available to the public body and that identifies the
14 particular public record the requester seeks. One request may
15 identify multiple records to be inspected or copied.

16 (Source: P.A. 96-261, eff. 1-1-10; 96-542, eff. 1-1-10;
17 96-1000, eff. 7-2-10.)

18 (5 ILCS 140/3.2 new)

19 Sec. 3.2. Recurrent requesters.

20 (a) Notwithstanding any provision of this Act to the
21 contrary, a public body shall respond to a request from a
22 recurrent requester, as defined in subsection (g) of Section 2,
23 within 21 business days after receipt. The response shall (i)
24 provide to the requester an estimate of the time required by
25 the public body to provide the records requested and an

1 estimate of the fees to be charged, which the public body may
2 require the person to pay in full before copying the requested
3 documents, (ii) deny the request pursuant to one or more of the
4 exemptions set out in this Act, (iii) notify the requester that
5 the request is unduly burdensome and extend an opportunity to
6 the requester to attempt to reduce the request to manageable
7 proportions, or (iv) provide the records requested.

8 (b) Within 5 business days after receiving a request from a
9 recurrent requester, as defined in subsection (g) of Section 2,
10 the public body shall notify the requester (i) that the public
11 body is treating the request as a request under subsection (g)
12 of Section 2, (ii) of the reasons why the public body is
13 treating the request as a request under subsection (g) of
14 Section 2, and (iii) that the public body will send an initial
15 response within 21 business days after receipt in accordance
16 with subsection (a) of this Section. The public body shall also
17 notify the requester of the proposed responses that can be
18 asserted pursuant to subsection (a) of this Section.

19 (c) Unless the records are exempt from disclosure, a public
20 body shall comply with a request within a reasonable period
21 considering the size and complexity of the request.

22 (5 ILCS 140/6) (from Ch. 116, par. 206)

23 Sec. 6. Authority to charge fees.

24 (a) When a person requests a copy of a record maintained in
25 an electronic format, the public body shall furnish it in the

1 electronic format specified by the requester, if feasible. If
2 it is not feasible to furnish the public records in the
3 specified electronic format, then the public body shall furnish
4 it in the format in which it is maintained by the public body,
5 or in paper format at the option of the requester. A public
6 body may charge the requester for the actual cost of purchasing
7 the recording medium, whether disc, diskette, tape, or other
8 medium. A public body may not charge the requester for the
9 costs of any search for and review of the records or other
10 personnel costs associated with reproducing the records,
11 except for commercial requests as provided in subsection (f) of
12 this Section. Except to the extent that the General Assembly
13 expressly provides, statutory fees applicable to copies of
14 public records when furnished in a paper format shall not be
15 applicable to those records when furnished in an electronic
16 format.

17 (b) Except when a fee is otherwise fixed by statute, each
18 public body may charge fees reasonably calculated to reimburse
19 its actual cost for reproducing and certifying public records
20 and for the use, by any person, of the equipment of the public
21 body to copy records. No fees shall be charged for the first 50
22 pages of black and white, letter or legal sized copies
23 requested by a requester. The fee for black and white, letter
24 or legal sized copies shall not exceed 15 cents per page. If a
25 public body provides copies in color or in a size other than
26 letter or legal, the public body may not charge more than its

1 actual cost for reproducing the records. In calculating its
2 actual cost for reproducing records or for the use of the
3 equipment of the public body to reproduce records, a public
4 body shall not include the costs of any search for and review
5 of the records or other personnel costs associated with
6 reproducing the records, except for commercial requests as
7 provided in subsection (f) of this Section. Such fees shall be
8 imposed according to a standard scale of fees, established and
9 made public by the body imposing them. The cost for certifying
10 a record shall not exceed \$1.

11 (c) Documents shall be furnished without charge or at a
12 reduced charge, as determined by the public body, if the person
13 requesting the documents states the specific purpose for the
14 request and indicates that a waiver or reduction of the fee is
15 in the public interest. Waiver or reduction of the fee is in
16 the public interest if the principal purpose of the request is
17 to access and disseminate information regarding the health,
18 safety and welfare or the legal rights of the general public
19 and is not for the principal purpose of personal or commercial
20 benefit. For purposes of this subsection, "commercial benefit"
21 shall not apply to requests made by news media when the
22 principal purpose of the request is to access and disseminate
23 information regarding the health, safety, and welfare or the
24 legal rights of the general public. In setting the amount of
25 the waiver or reduction, the public body may take into
26 consideration the amount of materials requested and the cost of

1 copying them.

2 (d) The imposition of a fee not consistent with subsections
3 (6)(a) and (b) of this Act constitutes a denial of access to
4 public records for the purposes of judicial review.

5 (e) The fee for each abstract of a driver's record shall be
6 as provided in Section 6-118 of "The Illinois Vehicle Code",
7 approved September 29, 1969, as amended, whether furnished as a
8 paper copy or as an electronic copy.

9 (f) A public body may charge up to \$10 for each hour spent
10 by personnel in searching for and retrieving a requested
11 record. No fees shall be charged for the first 8 hours spent by
12 personnel in searching for or retrieving a requested record. A
13 public body may charge the actual cost of retrieving and
14 transporting public records from an off-site storage facility
15 when the public records are maintained by a third-party storage
16 company under contract with the public body. If a public body
17 imposes a fee pursuant to this subsection (f), it must provide
18 the requester with an accounting of all fees, costs, and
19 personnel hours in connection with the request for public
20 records. The provisions of this subsection (f) apply only to
21 commercial requests.

22 (Source: P.A. 96-542, eff. 1-1-10; 96-1000, eff. 7-2-10.)

23 (5 ILCS 140/9.5)

24 Sec. 9.5. Public Access Counselor; opinions.

25 (a) A person whose request to inspect or copy a public

1 record is denied by a public body, except the General Assembly
2 and committees, commissions, and agencies thereof, may file a
3 request for review with the Public Access Counselor established
4 in the Office of the Attorney General not later than 60 days
5 after the date of the final denial. The request for review must
6 be in writing, signed by the requester, and include (i) a copy
7 of the request for access to records and (ii) any responses
8 from the public body.

9 (b) A person whose request to inspect or copy a public
10 record is made for a commercial purpose as defined in
11 subsection (c-10) of Section 2 of this Act may not file a
12 request for review with the Public Access Counselor. A person
13 whose request to inspect or copy a public record was treated by
14 the public body as a request for a commercial purpose under
15 Section 3.1 of this Act may file a request for review with the
16 Public Access Counselor for the limited purpose of reviewing
17 whether the public body properly determined that the request
18 was made for a commercial purpose. A public body that receives
19 ~~a request for records, and asserts that the records are exempt~~
20 ~~under subsection (1)(c) or (1)(f) of Section 7 of this Act,~~
21 ~~shall, within the time periods provided for responding to a~~
22 ~~request, provide written notice to the requester and the Public~~
23 ~~Access Counselor of its intent to deny the request in whole or~~
24 ~~in part. The notice shall include: (i) a copy of the request~~
25 ~~for access to records; (ii) the proposed response from the~~
26 ~~public body; and (iii) a detailed summary of the public body's~~

~~basis for asserting the exemption. Upon receipt of a notice of intent to deny from a public body, the Public Access Counselor shall determine whether further inquiry is warranted. Within 5 working days after receipt of the notice of intent to deny, the Public Access Counselor shall notify the public body and the requester whether further inquiry is warranted. If the Public Access Counselor determines that further inquiry is warranted, the procedures set out in this Section regarding the review of denials, including the production of documents, shall also be applicable to the inquiry and resolution of a notice of intent to deny from a public body. Times for response or compliance by the public body under Section 3 of this Act shall be tolled until the Public Access Counselor concludes his or her inquiry.~~

(c) Upon receipt of a request for review, the Public Access Counselor shall determine whether further action is warranted. If the Public Access Counselor determines that the alleged violation is unfounded, he or she shall so advise the requester and the public body and no further action shall be undertaken. In all other cases, the Public Access Counselor shall forward a copy of the request for review to the public body within 7 business ~~working~~ days after receipt and shall specify the records or other documents that the public body shall furnish to facilitate the review. Within 7 business ~~working~~ days after receipt of the request for review, the public body shall provide copies of records requested and shall otherwise fully cooperate with the Public Access Counselor. If a public body

1 fails to furnish specified records pursuant to this Section, or
2 if otherwise necessary, the Attorney General may issue a
3 subpoena to any person or public body having knowledge of or
4 records pertaining to a request for review of a denial of
5 access to records under the Act. To the extent that records or
6 documents produced by a public body contain information that is
7 claimed to be exempt from disclosure under Section 7 of this
8 Act, the Public Access Counselor shall not further disclose
9 that information.

10 (d) Within 7 business ~~working~~ days after it receives a copy
11 of a request for review and request for production of records
12 from the Public Access Counselor, the public body may, but is
13 not required to, answer the allegations of the request for
14 review. The answer may take the form of a letter, brief, or
15 memorandum. The Public Access Counselor shall forward a copy of
16 the answer to the person submitting the request for review,
17 with any alleged confidential information to which the request
18 pertains redacted from the copy. The requester may, but is not
19 required to, respond in writing to the answer within 7 business
20 ~~working~~ days and shall provide a copy of the response to the
21 public body.

22 (e) In addition to the request for review, and the answer
23 and the response thereto, if any, a requester or a public body
24 may furnish affidavits or records concerning any matter germane
25 to the review.

26 (f) Unless the Public Access Counselor extends the time by

1 no more than 30 ~~21~~ business days by sending written notice to
2 the requester and the public body that includes a statement of
3 the reasons for the extension in the notice, or decides to
4 address the matter without the issuance of a binding opinion,
5 the Attorney General shall examine the issues and the records,
6 shall make findings of fact and conclusions of law, and shall
7 issue to the requester and the public body an opinion in
8 response to the request for review within 60 days after its
9 receipt. The opinion shall be binding upon both the requester
10 and the public body, subject to administrative review under
11 Section 11.5.

12 In responding to any request under this Section 9.5, the
13 Attorney General may exercise his or her discretion and choose
14 to resolve a request for review by mediation or by a means
15 other than the issuance of a binding opinion. The decision not
16 to issue a binding opinion shall not be reviewable.

17 Upon receipt of a binding opinion concluding that a
18 violation of this Act has occurred, the public body shall
19 either take necessary action immediately to comply with the
20 directive of the opinion or shall initiate administrative
21 review under Section 11.5. If the opinion concludes that no
22 violation of the Act has occurred, the requester may initiate
23 administrative review under Section 11.5.

24 A public body that discloses records in accordance with an
25 opinion of the Attorney General is immune from all liabilities
26 by reason thereof and shall not be liable for penalties under

1 this Act.

2 (g) If the requester files suit under Section 11 with
3 respect to the same denial that is the subject of a pending
4 request for review, the requester shall notify the Public
5 Access Counselor, and the Public Access Counselor shall take no
6 further action with respect to the request for review and shall
7 so notify the public body.

8 (h) The Attorney General may also issue advisory opinions
9 to public bodies regarding compliance with this Act. A review
10 may be initiated upon receipt of a written request from the
11 head of the public body or its attorney, which shall contain
12 sufficient accurate facts from which a determination can be
13 made. The Public Access Counselor may request additional
14 information from the public body in order to assist in the
15 review. A public body that relies in good faith on an advisory
16 opinion of the Attorney General in responding to a request is
17 not liable for penalties under this Act, so long as the facts
18 upon which the opinion is based have been fully and fairly
19 disclosed to the Public Access Counselor.

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

21 Section 99. Effective date. This Act takes effect upon
22 becoming law.