



Sen. Daniel Biss

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LRB098 08219 JDS 40893 a

1 AMENDMENT TO SENATE BILL 1514

2 AMENDMENT NO. \_\_\_\_\_. Amend Senate Bill 1514 by replacing  
3 everything after the enacting clause with the following:

4 "Section 5. The Freedom of Information Act is amended by  
5 changing Section 11 as follows:

6 (5 ILCS 140/11) (from Ch. 116, par. 211)

7 Sec. 11. (a) Any person denied access to inspect or copy  
8 any public record by a public body may file suit for injunctive  
9 or declaratory relief.

10 (b) Where the denial is from a public body of the State,  
11 suit may be filed in the circuit court for the county where the  
12 public body has its principal office or where the person denied  
13 access resides.

14 (c) Where the denial is from a municipality or other public  
15 body, except as provided in subsection (b) of this Section,  
16 suit may be filed in the circuit court for the county where the

1 public body is located.

2 (d) The circuit court shall have the jurisdiction to enjoin  
3 the public body from withholding public records and to order  
4 the production of any public records improperly withheld from  
5 the person seeking access. If the public body can show that  
6 exceptional circumstances exist, and that the body is  
7 exercising due diligence in responding to the request, the  
8 court may retain jurisdiction and allow the agency additional  
9 time to complete its review of the records.

10 (e) On motion of the plaintiff, prior to or after in camera  
11 inspection, the court shall order the public body to provide an  
12 index of the records to which access has been denied. The index  
13 shall include the following:

14 (i) A description of the nature or contents of each  
15 document withheld, or each deletion from a released  
16 document, provided, however, that the public body shall not  
17 be required to disclose the information which it asserts is  
18 exempt; and

19 (ii) A statement of the exemption or exemptions claimed  
20 for each such deletion or withheld document.

21 (f) In any action considered by the court, the court shall  
22 consider the matter de novo, and shall conduct such in camera  
23 examination of the requested records as it finds appropriate to  
24 determine if such records or any part thereof may be withheld  
25 under any provision of this Act. The burden shall be on the  
26 public body to establish that its refusal to permit public

1 inspection or copying is in accordance with the provisions of  
2 this Act. Any public body that asserts that a record is exempt  
3 from disclosure has the burden of proving that it is exempt by  
4 clear and convincing evidence.

5 (g) In the event of noncompliance with an order of the  
6 court to disclose, the court may enforce its order against any  
7 public official or employee so ordered or primarily responsible  
8 for such noncompliance through the court's contempt powers.

9 (h) Except as to causes the court considers to be of  
10 greater importance, proceedings arising under this Section  
11 shall take precedence on the docket over all other causes and  
12 be assigned for hearing and trial at the earliest practicable  
13 date and expedited in every way.

14 (i) If a person seeking the right to inspect or receive a  
15 copy of a public record prevails in a proceeding under this  
16 Section, the court shall award such person reasonable  
17 attorneys' fees and costs. In determining what amount of  
18 attorney's fees is reasonable, the court shall consider the  
19 degree to which the relief obtained relates to the relief  
20 sought. The changes contained in this subsection apply to an  
21 action filed on or after the effective date of this amendatory  
22 Act of the 96th General Assembly.

23 For the purposes of this subsection, a requester prevails  
24 if he or she obtains relief through (i) a judicial order, (ii)  
25 an enforceable written agreement or consent decree, or (iii) a  
26 voluntary or unilateral change in position after suit has been

1 filed under Section 11 or 11.5 of this Act.

2 (j) If the court determines that a public body willfully  
3 and intentionally failed to comply with this Act, or otherwise  
4 acted in bad faith, the court shall also impose upon the public  
5 body a civil penalty of not less than \$2,500 nor more than  
6 \$5,000 for each occurrence. In assessing the civil penalty, the  
7 court shall consider in aggravation or mitigation the budget of  
8 the public body and whether the public body has previously been  
9 assessed penalties for violations of this Act. The changes  
10 contained in this subsection apply to an action filed on or  
11 after the effective date of this amendatory Act of the 96th  
12 General Assembly.

13 (Source: P.A. 96-542, eff. 1-1-10; 97-813, eff. 7-13-12.)

14 Section 99. Effective date. This Act takes effect upon  
15 becoming law."