



## 99TH GENERAL ASSEMBLY

### State of Illinois

2015 and 2016

SB1784

Introduced 2/20/2015, by Sen. Kwame Raoul

#### SYNOPSIS AS INTRODUCED:

5 ILCS 140/7

from Ch. 116, par. 207

Amends the Freedom of Information Act. Provides that law enforcement records relating to a juvenile victim or defendant remain permanently exempt from inspection and copying. Provides that all other records shall be made available for inspection and copying after a period of 5 years from the date the record is created, unless the record is otherwise exempt from inspection and copying under another provision of the Act. Exempts from disclosure information or materials that the disclosure of which would violate a Supreme Court Rule. Effective immediately.

LRB099 05804 HEP 25848 b

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 7 as follows:

6 (5 ILCS 140/7) (from Ch. 116, par. 207)

7 Sec. 7. Exemptions.

8 (1) When a request is made to inspect or copy a public  
9 record that contains information that is exempt from disclosure  
10 under this Section, but also contains information that is not  
11 exempt from disclosure, the public body may elect to redact the  
12 information that is exempt. The public body shall make the  
13 remaining information available for inspection and copying.  
14 Subject to this requirement, the following shall be exempt from  
15 inspection and copying:

16 (a) Information specifically prohibited from  
17 disclosure by federal or State law or rules and regulations  
18 implementing federal or State law.

19 (b) Private information, unless disclosure is required  
20 by another provision of this Act, a State or federal law or  
21 a court order.

22 (b-5) Files, documents, and other data or databases  
23 maintained by one or more law enforcement agencies and

1 specifically designed to provide information to one or more  
2 law enforcement agencies regarding the physical or mental  
3 status of one or more individual subjects.

4 (c) Personal information contained within public  
5 records, the disclosure of which would constitute a clearly  
6 unwarranted invasion of personal privacy, unless the  
7 disclosure is consented to in writing by the individual  
8 subjects of the information. "Unwarranted invasion of  
9 personal privacy" means the disclosure of information that  
10 is highly personal or objectionable to a reasonable person  
11 and in which the subject's right to privacy outweighs any  
12 legitimate public interest in obtaining the information.  
13 The disclosure of information that bears on the public  
14 duties of public employees and officials shall not be  
15 considered an invasion of personal privacy.

16 (d) Records in the possession of any public body  
17 created in the course of administrative enforcement  
18 proceedings, and any law enforcement or correctional  
19 agency for law enforcement purposes, but only to the extent  
20 that disclosure would:

21 (i) interfere with pending or actually and  
22 reasonably contemplated law enforcement proceedings  
23 conducted by any law enforcement or correctional  
24 agency that is the recipient of the request;

25 (ii) interfere with active administrative  
26 enforcement proceedings conducted by the public body

1           that is the recipient of the request;

2           (iii) create a substantial likelihood that a  
3 person will be deprived of a fair trial or an impartial  
4 hearing;

5           (iv) unavoidably disclose the identity of a  
6 confidential source, confidential information  
7 furnished only by the confidential source, or persons  
8 who file complaints with or provide information to  
9 administrative, investigative, law enforcement, or  
10 penal agencies; except that the identities of  
11 witnesses to traffic accidents, traffic accident  
12 reports, and rescue reports shall be provided by  
13 agencies of local government, except when disclosure  
14 would interfere with an active criminal investigation  
15 conducted by the agency that is the recipient of the  
16 request;

17           (v) disclose unique or specialized investigative  
18 techniques other than those generally used and known or  
19 disclose internal documents of correctional agencies  
20 related to detection, observation or investigation of  
21 incidents of crime or misconduct, and disclosure would  
22 result in demonstrable harm to the agency or public  
23 body that is the recipient of the request;

24           (vi) endanger the life or physical safety of law  
25 enforcement personnel or any other person; or

26           (vii) obstruct an ongoing criminal investigation

1 by the agency that is the recipient of the request.

2 Records relating to a juvenile victim or juvenile  
3 defendant that are exempt from inspection and copying under  
4 subparagraph (i) of this paragraph (d) remain permanently  
5 exempt. All other records that are exempt from inspection  
6 and copying under subparagraph (i) of this paragraph (d)  
7 shall be made available for inspection and copying after a  
8 period of 5 years from the date the record is created,  
9 unless the record is otherwise exempt from inspection and  
10 copying under another provision of this Act.

11 (d-5) A law enforcement record created for law  
12 enforcement purposes and contained in a shared electronic  
13 record management system if the law enforcement agency that  
14 is the recipient of the request did not create the record,  
15 did not participate in or have a role in any of the events  
16 which are the subject of the record, and only has access to  
17 the record through the shared electronic record management  
18 system.

19 (e) Records that relate to or affect the security of  
20 correctional institutions and detention facilities.

21 (e-5) Records requested by persons committed to the  
22 Department of Corrections if those materials are available  
23 in the library of the correctional facility where the  
24 inmate is confined.

25 (e-6) Records requested by persons committed to the  
26 Department of Corrections if those materials include

1 records from staff members' personnel files, staff  
2 rosters, or other staffing assignment information.

3 (e-7) Records requested by persons committed to the  
4 Department of Corrections if those materials are available  
5 through an administrative request to the Department of  
6 Corrections.

7 (f) Preliminary drafts, notes, recommendations,  
8 memoranda and other records in which opinions are  
9 expressed, or policies or actions are formulated, except  
10 that a specific record or relevant portion of a record  
11 shall not be exempt when the record is publicly cited and  
12 identified by the head of the public body. The exemption  
13 provided in this paragraph (f) extends to all those records  
14 of officers and agencies of the General Assembly that  
15 pertain to the preparation of legislative documents.

16 (g) Trade secrets and commercial or financial  
17 information obtained from a person or business where the  
18 trade secrets or commercial or financial information are  
19 furnished under a claim that they are proprietary,  
20 privileged or confidential, and that disclosure of the  
21 trade secrets or commercial or financial information would  
22 cause competitive harm to the person or business, and only  
23 insofar as the claim directly applies to the records  
24 requested.

25 The information included under this exemption includes  
26 all trade secrets and commercial or financial information

1           obtained by a public body, including a public pension fund,  
2           from a private equity fund or a privately held company  
3           within the investment portfolio of a private equity fund as  
4           a result of either investing or evaluating a potential  
5           investment of public funds in a private equity fund. The  
6           exemption contained in this item does not apply to the  
7           aggregate financial performance information of a private  
8           equity fund, nor to the identity of the fund's managers or  
9           general partners. The exemption contained in this item does  
10          not apply to the identity of a privately held company  
11          within the investment portfolio of a private equity fund,  
12          unless the disclosure of the identity of a privately held  
13          company may cause competitive harm.

14                 Nothing contained in this paragraph (g) shall be  
15                 construed to prevent a person or business from consenting  
16                 to disclosure.

17                 (h) Proposals and bids for any contract, grant, or  
18                 agreement, including information which if it were  
19                 disclosed would frustrate procurement or give an advantage  
20                 to any person proposing to enter into a contractor  
21                 agreement with the body, until an award or final selection  
22                 is made. Information prepared by or for the body in  
23                 preparation of a bid solicitation shall be exempt until an  
24                 award or final selection is made.

25                 (i) Valuable formulae, computer geographic systems,  
26                 designs, drawings and research data obtained or produced by

1 any public body when disclosure could reasonably be  
2 expected to produce private gain or public loss. The  
3 exemption for "computer geographic systems" provided in  
4 this paragraph (i) does not extend to requests made by news  
5 media as defined in Section 2 of this Act when the  
6 requested information is not otherwise exempt and the only  
7 purpose of the request is to access and disseminate  
8 information regarding the health, safety, welfare, or  
9 legal rights of the general public.

10 (j) The following information pertaining to  
11 educational matters:

12 (i) test questions, scoring keys and other  
13 examination data used to administer an academic  
14 examination;

15 (ii) information received by a primary or  
16 secondary school, college, or university under its  
17 procedures for the evaluation of faculty members by  
18 their academic peers;

19 (iii) information concerning a school or  
20 university's adjudication of student disciplinary  
21 cases, but only to the extent that disclosure would  
22 unavoidably reveal the identity of the student; and

23 (iv) course materials or research materials used  
24 by faculty members.

25 (k) Architects' plans, engineers' technical  
26 submissions, and other construction related technical



1 documents for projects not constructed or developed in  
2 whole or in part with public funds and the same for  
3 projects constructed or developed with public funds,  
4 including but not limited to power generating and  
5 distribution stations and other transmission and  
6 distribution facilities, water treatment facilities,  
7 airport facilities, sport stadiums, convention centers,  
8 and all government owned, operated, or occupied buildings,  
9 but only to the extent that disclosure would compromise  
10 security.

11 (l) Minutes of meetings of public bodies closed to the  
12 public as provided in the Open Meetings Act until the  
13 public body makes the minutes available to the public under  
14 Section 2.06 of the Open Meetings Act.

15 (m) Communications between a public body and an  
16 attorney or auditor representing the public body that would  
17 not be subject to discovery in litigation, and materials  
18 prepared or compiled by or for a public body in  
19 anticipation of a criminal, civil or administrative  
20 proceeding upon the request of an attorney advising the  
21 public body, and materials prepared or compiled with  
22 respect to internal audits of public bodies.

23 (n) Records relating to a public body's adjudication of  
24 employee grievances or disciplinary cases; however, this  
25 exemption shall not extend to the final outcome of cases in  
26 which discipline is imposed.

1           (o) Administrative or technical information associated  
2           with automated data processing operations, including but  
3           not limited to software, operating protocols, computer  
4           program abstracts, file layouts, source listings, object  
5           modules, load modules, user guides, documentation  
6           pertaining to all logical and physical design of  
7           computerized systems, employee manuals, and any other  
8           information that, if disclosed, would jeopardize the  
9           security of the system or its data or the security of  
10          materials exempt under this Section.

11          (p) Records relating to collective negotiating matters  
12          between public bodies and their employees or  
13          representatives, except that any final contract or  
14          agreement shall be subject to inspection and copying.

15          (q) Test questions, scoring keys, and other  
16          examination data used to determine the qualifications of an  
17          applicant for a license or employment.

18          (r) The records, documents, and information relating  
19          to real estate purchase negotiations until those  
20          negotiations have been completed or otherwise terminated.  
21          With regard to a parcel involved in a pending or actually  
22          and reasonably contemplated eminent domain proceeding  
23          under the Eminent Domain Act, records, documents and  
24          information relating to that parcel shall be exempt except  
25          as may be allowed under discovery rules adopted by the  
26          Illinois Supreme Court. The records, documents and

1 information relating to a real estate sale shall be exempt  
2 until a sale is consummated.

3 (s) Any and all proprietary information and records  
4 related to the operation of an intergovernmental risk  
5 management association or self-insurance pool or jointly  
6 self-administered health and accident cooperative or pool.  
7 Insurance or self insurance (including any  
8 intergovernmental risk management association or self  
9 insurance pool) claims, loss or risk management  
10 information, records, data, advice or communications.

11 (t) Information contained in or related to  
12 examination, operating, or condition reports prepared by,  
13 on behalf of, or for the use of a public body responsible  
14 for the regulation or supervision of financial  
15 institutions or insurance companies, unless disclosure is  
16 otherwise required by State law.

17 (u) Information that would disclose or might lead to  
18 the disclosure of secret or confidential information,  
19 codes, algorithms, programs, or private keys intended to be  
20 used to create electronic or digital signatures under the  
21 Electronic Commerce Security Act.

22 (v) Vulnerability assessments, security measures, and  
23 response policies or plans that are designed to identify,  
24 prevent, or respond to potential attacks upon a community's  
25 population or systems, facilities, or installations, the  
26 destruction or contamination of which would constitute a

1 clear and present danger to the health or safety of the  
2 community, but only to the extent that disclosure could  
3 reasonably be expected to jeopardize the effectiveness of  
4 the measures or the safety of the personnel who implement  
5 them or the public. Information exempt under this item may  
6 include such things as details pertaining to the  
7 mobilization or deployment of personnel or equipment, to  
8 the operation of communication systems or protocols, or to  
9 tactical operations.

10 (w) (Blank).

11 (x) Maps and other records regarding the location or  
12 security of generation, transmission, distribution,  
13 storage, gathering, treatment, or switching facilities  
14 owned by a utility, by a power generator, or by the  
15 Illinois Power Agency.

16 (y) Information contained in or related to proposals,  
17 bids, or negotiations related to electric power  
18 procurement under Section 1-75 of the Illinois Power Agency  
19 Act and Section 16-111.5 of the Public Utilities Act that  
20 is determined to be confidential and proprietary by the  
21 Illinois Power Agency or by the Illinois Commerce  
22 Commission.

23 (z) Information about students exempted from  
24 disclosure under Sections 10-20.38 or 34-18.29 of the  
25 School Code, and information about undergraduate students  
26 enrolled at an institution of higher education exempted

1 from disclosure under Section 25 of the Illinois Credit  
2 Card Marketing Act of 2009.

3 (aa) Information the disclosure of which is exempted  
4 under the Viatical Settlements Act of 2009.

5 (bb) Records and information provided to a mortality  
6 review team and records maintained by a mortality review  
7 team appointed under the Department of Juvenile Justice  
8 Mortality Review Team Act.

9 (cc) Information regarding interments, entombments, or  
10 inurnments of human remains that are submitted to the  
11 Cemetery Oversight Database under the Cemetery Care Act or  
12 the Cemetery Oversight Act, whichever is applicable.

13 (dd) Correspondence and records (i) that may not be  
14 disclosed under Section 11-9 of the Public Aid Code or (ii)  
15 that pertain to appeals under Section 11-8 of the Public  
16 Aid Code.

17 (ee) The names, addresses, or other personal  
18 information of persons who are minors and are also  
19 participants and registrants in programs of park  
20 districts, forest preserve districts, conservation  
21 districts, recreation agencies, and special recreation  
22 associations.

23 (ff) The names, addresses, or other personal  
24 information of participants and registrants in programs of  
25 park districts, forest preserve districts, conservation  
26 districts, recreation agencies, and special recreation

1 associations where such programs are targeted primarily to  
2 minors.

3 (gg) Confidential information described in Section  
4 1-100 of the Illinois Independent Tax Tribunal Act of 2012.

5 (hh) The report submitted to the State Board of  
6 Education by the School Security and Standards Task Force  
7 under item (8) of subsection (d) of Section 2-3.160 of the  
8 School Code and any information contained in that report.

9 (ii) Information or materials that the disclosure of  
10 which would violate a Supreme Court Rule.

11 (1.5) Any information exempt from disclosure under the  
12 Judicial Privacy Act shall be redacted from public records  
13 prior to disclosure under this Act.

14 (2) A public record that is not in the possession of a  
15 public body but is in the possession of a party with whom the  
16 agency has contracted to perform a governmental function on  
17 behalf of the public body, and that directly relates to the  
18 governmental function and is not otherwise exempt under this  
19 Act, shall be considered a public record of the public body,  
20 for purposes of this Act.

21 (3) This Section does not authorize withholding of  
22 information or limit the availability of records to the public,  
23 except as stated in this Section or otherwise provided in this  
24 Act.

25 (Source: P.A. 97-333, eff. 8-12-11; 97-385, eff. 8-15-11;  
26 97-452, eff. 8-19-11; 97-783, eff. 7-13-12; 97-813, eff.

1 7-13-12; 97-847, eff. 9-22-12; 97-1065, eff. 8-24-12; 97-1129,  
2 eff. 8-28-12; 98-463, eff. 8-16-13; 98-578, eff. 8-27-13;  
3 98-695, eff. 7-3-14.)

4 Section 99. Effective date. This Act takes effect upon  
5 becoming law.