



## 100TH GENERAL ASSEMBLY

### State of Illinois

2017 and 2018

HB0619

by Rep. Lawrence Walsh, Jr.

#### SYNOPSIS AS INTRODUCED:

5 ILCS 140/7

from Ch. 116, par. 207

Amends the Freedom of Information Act. Exempts from inspection and copying the following: records requested by a person committed to the Department of Corrections or a county jail, the disclosure of which would result in the risk of harm to any person or the risk of an escape from a jail or correctional institution or facility; records requested by a person in a county jail or committed to the Department of Corrections containing personal information pertaining to the person's victim or the victim's family, including, but not limited to, a victim's home address, home telephone number, work or school address, work telephone number, social security number, or any other identifying information, except as may be relevant to a requester's current or potential case or claim; and law enforcement records of other persons requested by a person committed to the Department of Corrections or a county jail, including, but not limited to, arrest and booking records, mug shots, and crime scene photographs, except as these records may be relevant to the requester's current or potential case or claim. Effective immediately.

LRB100 06187 RJF 16221 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 (d-5) A law enforcement record created for law  
3 enforcement purposes and contained in a shared electronic  
4 record management system if the law enforcement agency that  
5 is the recipient of the request did not create the record,  
6 did not participate in or have a role in any of the events  
7 which are the subject of the record, and only has access to  
8 the record through the shared electronic record management  
9 system.

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

12 (e-5) Records requested by persons committed to the  
13 Department of Corrections or a county jail if those  
14 materials are available in the library of the correctional  
15 facility or jail where the inmate is confined.

16 (e-6) Records requested by persons committed to the  
17 Department of Corrections or a county jail if those  
18 materials include records from staff members' personnel  
19 files, staff rosters, or other staffing assignment  
20 information.

21 (e-7) Records requested by persons committed to the  
22 Department of Corrections if those materials are available  
23 through an administrative request to the Department of  
24 Corrections.

25 (e-8) Records requested by a person committed to the  
26 Department of Corrections or a county jail, the disclosure

1 of which would result in the risk of harm to any person or  
2 the risk of an escape from a jail or correctional  
3 institution or facility.

4 (e-9) Records requested by a person in a county jail or  
5 committed to the Department of Corrections containing  
6 personal information pertaining to the person's victim or  
7 the victim's family, including, but not limited to, a  
8 victim's home address, home telephone number, work or  
9 school address, work telephone number, social security  
10 account number, or any other identifying information,  
11 except as may be relevant to a requester's current or  
12 potential case or claim.

13 (e-10) Law enforcement records of other persons  
14 requested by a person committed to the Department of  
15 Corrections or a county jail, including, but not limited  
16 to, arrest and booking records, mug shots, and crime scene  
17 photographs, except as these records may be relevant to the  
18 requester's current or potential case or claim.

19 (f) Preliminary drafts, notes, recommendations,  
20 memoranda and other records in which opinions are  
21 expressed, or policies or actions are formulated, except  
22 that a specific record or relevant portion of a record  
23 shall not be exempt when the record is publicly cited and  
24 identified by the head of the public body. The exemption  
25 provided in this paragraph (f) extends to all those records  
26 of officers and agencies of the General Assembly that

1           pertain to the preparation of legislative documents.

2           (g) Trade secrets and commercial or financial  
3 information obtained from a person or business where the  
4 trade secrets or commercial or financial information are  
5 furnished under a claim that they are proprietary,  
6 privileged or confidential, and that disclosure of the  
7 trade secrets or commercial or financial information would  
8 cause competitive harm to the person or business, and only  
9 insofar as the claim directly applies to the records  
10 requested.

11           The information included under this exemption includes  
12 all trade secrets and commercial or financial information  
13 obtained by a public body, including a public pension fund,  
14 from a private equity fund or a privately held company  
15 within the investment portfolio of a private equity fund as  
16 a result of either investing or evaluating a potential  
17 investment of public funds in a private equity fund. The  
18 exemption contained in this item does not apply to the  
19 aggregate financial performance information of a private  
20 equity fund, nor to the identity of the fund's managers or  
21 general partners. The exemption contained in this item does  
22 not apply to the identity of a privately held company  
23 within the investment portfolio of a private equity fund,  
24 unless the disclosure of the identity of a privately held  
25 company may cause competitive harm.

26           Nothing contained in this paragraph (g) shall be

1 construed to prevent a person or business from consenting  
2 to disclosure.

3 (h) Proposals and bids for any contract, grant, or  
4 agreement, including information which if it were  
5 disclosed would frustrate procurement or give an advantage  
6 to any person proposing to enter into a contractor  
7 agreement with the body, until an award or final selection  
8 is made. Information prepared by or for the body in  
9 preparation of a bid solicitation shall be exempt until an  
10 award or final selection is made.

11 (i) Valuable formulae, computer geographic systems,  
12 designs, drawings and research data obtained or produced by  
13 any public body when disclosure could reasonably be  
14 expected to produce private gain or public loss. The  
15 exemption for "computer geographic systems" provided in  
16 this paragraph (i) does not extend to requests made by news  
17 media as defined in Section 2 of this Act when the  
18 requested information is not otherwise exempt and the only  
19 purpose of the request is to access and disseminate  
20 information regarding the health, safety, welfare, or  
21 legal rights of the general public.

22 (j) The following information pertaining to  
23 educational matters:

24 (i) test questions, scoring keys and other  
25 examination data used to administer an academic  
26 examination;



1           (ii) information received by a primary or  
2 secondary school, college, or university under its  
3 procedures for the evaluation of faculty members by  
4 their academic peers;

5           (iii) information concerning a school or  
6 university's adjudication of student disciplinary  
7 cases, but only to the extent that disclosure would  
8 unavoidably reveal the identity of the student; and

9           (iv) course materials or research materials used  
10 by faculty members.

11          (k) Architects' plans, engineers' technical  
12 submissions, and other construction related technical  
13 documents for projects not constructed or developed in  
14 whole or in part with public funds and the same for  
15 projects constructed or developed with public funds,  
16 including but not limited to power generating and  
17 distribution stations and other transmission and  
18 distribution facilities, water treatment facilities,  
19 airport facilities, sport stadiums, convention centers,  
20 and all government owned, operated, or occupied buildings,  
21 but only to the extent that disclosure would compromise  
22 security.

23          (l) Minutes of meetings of public bodies closed to the  
24 public as provided in the Open Meetings Act until the  
25 public body makes the minutes available to the public under  
26 Section 2.06 of the Open Meetings Act.

1           (m) Communications between a public body and an  
2 attorney or auditor representing the public body that would  
3 not be subject to discovery in litigation, and materials  
4 prepared or compiled by or for a public body in  
5 anticipation of a criminal, civil or administrative  
6 proceeding upon the request of an attorney advising the  
7 public body, and materials prepared or compiled with  
8 respect to internal audits of public bodies.

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

13           (o) Administrative or technical information associated  
14 with automated data processing operations, including but  
15 not limited to software, operating protocols, computer  
16 program abstracts, file layouts, source listings, object  
17 modules, load modules, user guides, documentation  
18 pertaining to all logical and physical design of  
19 computerized systems, employee manuals, and any other  
20 information that, if disclosed, would jeopardize the  
21 security of the system or its data or the security of  
22 materials exempt under this Section.

23           (p) Records relating to collective negotiating matters  
24 between public bodies and their employees or  
25 representatives, except that any final contract or  
26 agreement shall be subject to inspection and copying.

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

4           (r) The records, documents, and information relating  
5 to real estate purchase negotiations until those  
6 negotiations have been completed or otherwise terminated.  
7 With regard to a parcel involved in a pending or actually  
8 and reasonably contemplated eminent domain proceeding  
9 under the Eminent Domain Act, records, documents and  
10 information relating to that parcel shall be exempt except  
11 as may be allowed under discovery rules adopted by the  
12 Illinois Supreme Court. The records, documents and  
13 information relating to a real estate sale shall be exempt  
14 until a sale is consummated.

15           (s) Any and all proprietary information and records  
16 related to the operation of an intergovernmental risk  
17 management association or self-insurance pool or jointly  
18 self-administered health and accident cooperative or pool.  
19 Insurance or self insurance (including any  
20 intergovernmental risk management association or self  
21 insurance pool) claims, loss or risk management  
22 information, records, data, advice or communications.

23           (t) Information contained in or related to  
24 examination, operating, or condition reports prepared by,  
25 on behalf of, or for the use of a public body responsible  
26 for the regulation or supervision of financial

1 institutions or insurance companies, unless disclosure is  
2 otherwise required by State law.

3 (u) Information that would disclose or might lead to  
4 the disclosure of secret or confidential information,  
5 codes, algorithms, programs, or private keys intended to be  
6 used to create electronic or digital signatures under the  
7 Electronic Commerce Security Act.

8 (v) Vulnerability assessments, security measures, and  
9 response policies or plans that are designed to identify,  
10 prevent, or respond to potential attacks upon a community's  
11 population or systems, facilities, or installations, the  
12 destruction or contamination of which would constitute a  
13 clear and present danger to the health or safety of the  
14 community, but only to the extent that disclosure could  
15 reasonably be expected to jeopardize the effectiveness of  
16 the measures or the safety of the personnel who implement  
17 them or the public. Information exempt under this item may  
18 include such things as details pertaining to the  
19 mobilization or deployment of personnel or equipment, to  
20 the operation of communication systems or protocols, or to  
21 tactical operations.

22 (w) (Blank).

23 (x) Maps and other records regarding the location or  
24 security of generation, transmission, distribution,  
25 storage, gathering, treatment, or switching facilities  
26 owned by a utility, by a power generator, or by the

1 Illinois Power Agency.

2 (y) Information contained in or related to proposals,  
3 bids, or negotiations related to electric power  
4 procurement under Section 1-75 of the Illinois Power Agency  
5 Act and Section 16-111.5 of the Public Utilities Act that  
6 is determined to be confidential and proprietary by the  
7 Illinois Power Agency or by the Illinois Commerce  
8 Commission.

9 (z) Information about students exempted from  
10 disclosure under Sections 10-20.38 or 34-18.29 of the  
11 School Code, and information about undergraduate students  
12 enrolled at an institution of higher education exempted  
13 from disclosure under Section 25 of the Illinois Credit  
14 Card Marketing Act of 2009.

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

17 (bb) Records and information provided to a mortality  
18 review team and records maintained by a mortality review  
19 team appointed under the Department of Juvenile Justice  
20 Mortality Review Team Act.

21 (cc) Information regarding interments, entombments, or  
22 inurnments of human remains that are submitted to the  
23 Cemetery Oversight Database under the Cemetery Care Act or  
24 the Cemetery Oversight Act, whichever is applicable.

25 (dd) Correspondence and records (i) that may not be  
26 disclosed under Section 11-9 of the Illinois Public Aid

1 Code or (ii) that pertain to appeals under Section 11-8 of  
2 the Illinois Public Aid Code.

3 (ee) The names, addresses, or other personal  
4 information of persons who are minors and are also  
5 participants and registrants in programs of park  
6 districts, forest preserve districts, conservation  
7 districts, recreation agencies, and special recreation  
8 associations.

9 (ff) The names, addresses, or other personal  
10 information of participants and registrants in programs of  
11 park districts, forest preserve districts, conservation  
12 districts, recreation agencies, and special recreation  
13 associations where such programs are targeted primarily to  
14 minors.

15 (gg) Confidential information described in Section  
16 1-100 of the Illinois Independent Tax Tribunal Act of 2012.

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

21 (ii) Records requested by persons committed to or  
22 detained by the Department of Human Services under the  
23 Sexually Violent Persons Commitment Act or committed to the  
24 Department of Corrections under the Sexually Dangerous  
25 Persons Act if those materials: (i) are available in the  
26 library of the facility where the individual is confined;

1 (ii) include records from staff members' personnel files,  
2 staff rosters, or other staffing assignment information;  
3 or (iii) are available through an administrative request to  
4 the Department of Human Services or the Department of  
5 Corrections.

6 (jj) Confidential information described in Section  
7 5-535 of the Civil Administrative Code of Illinois.

8 (1.5) Any information exempt from disclosure under the  
9 Judicial Privacy Act shall be redacted from public records  
10 prior to disclosure under this Act.

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

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

22 (Source: P.A. 98-463, eff. 8-16-13; 98-578, eff. 8-27-13;  
23 98-695, eff. 7-3-14; 99-298, eff. 8-6-15; 99-346, eff. 1-1-16;  
24 99-642, eff. 7-28-16; revised 10-25-16.)

25 Section 99. Effective date. This Act takes effect upon  
26 becoming law.