

# SB2344



## 101ST GENERAL ASSEMBLY

### State of Illinois

2019 and 2020

SB2344

Introduced 1/8/2020, by Sen. David Koehler

#### SYNOPSIS AS INTRODUCED:

5 ILCS 140/7

from Ch. 116, par. 207

Amends the Freedom of Information Act. Exempts specified records, the disclosure of which could result in identity theft or impersonation (instead of "identity theft or impression") or defrauding of a governmental entity or a person. Effective immediately.

LRB101 15195 HEP 64352 b

A BILL FOR

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, Department of Human Services  
14 Division of Mental Health, or a county jail if those  
15 materials are available in the library of the correctional  
16 institution or facility or jail where the inmate is  
17 confined.

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

24 (e-7) Records requested by persons committed to the  
25 Department of Corrections or Department of Human Services  
26 Division of Mental Health if those materials are available

1 through an administrative request to the Department of  
2 Corrections or Department of Human Services Division of  
3 Mental Health.

4 (e-8) Records requested by a person committed to the  
5 Department of Corrections, Department of Human Services  
6 Division of Mental Health, or a county jail, the disclosure  
7 of which would result in the risk of harm to any person or  
8 the risk of an escape from a jail or correctional  
9 institution or facility.

10 (e-9) Records requested by a person in a county jail or  
11 committed to the Department of Corrections or Department of  
12 Human Services Division of Mental Health, containing  
13 personal information pertaining to the person's victim or  
14 the victim's family, including, but not limited to, a  
15 victim's home address, home telephone number, work or  
16 school address, work telephone number, social security  
17 number, or any other identifying information, except as may  
18 be relevant to a requester's current or potential case or  
19 claim.

20 (e-10) Law enforcement records of other persons  
21 requested by a person committed to the Department of  
22 Corrections, Department of Human Services Division of  
23 Mental Health, or a county jail, including, but not limited  
24 to, arrest and booking records, mug shots, and crime scene  
25 photographs, except as these records may be relevant to the  
26 requester's current or potential case or claim.

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

10           (g) Trade secrets and commercial or financial  
11 information obtained from a person or business where the  
12 trade secrets or commercial or financial information are  
13 furnished under a claim that they are proprietary,  
14 privileged, or confidential, and that disclosure of the  
15 trade secrets or commercial or financial information would  
16 cause competitive harm to the person or business, and only  
17 insofar as the claim directly applies to the records  
18 requested.

19           The information included under this exemption includes  
20 all trade secrets and commercial or financial information  
21 obtained by a public body, including a public pension fund,  
22 from a private equity fund or a privately held company  
23 within the investment portfolio of a private equity fund as  
24 a result of either investing or evaluating a potential  
25 investment of public funds in a private equity fund. The  
26 exemption contained in this item does not apply to the

1 aggregate financial performance information of a private  
2 equity fund, nor to the identity of the fund's managers or  
3 general partners. The exemption contained in this item does  
4 not apply to the identity of a privately held company  
5 within the investment portfolio of a private equity fund,  
6 unless the disclosure of the identity of a privately held  
7 company may cause competitive harm.

8 Nothing contained in this paragraph (g) shall be  
9 construed to prevent a person or business from consenting  
10 to disclosure.

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

19 (i) Valuable formulae, computer geographic systems,  
20 designs, drawings and research data obtained or produced by  
21 any public body when disclosure could reasonably be  
22 expected to produce private gain or public loss. The  
23 exemption for "computer geographic systems" provided in  
24 this paragraph (i) does not extend to requests made by news  
25 media as defined in Section 2 of this Act when the  
26 requested information is not otherwise exempt and the only



1 purpose of the request is to access and disseminate  
2 information regarding the health, safety, welfare, or  
3 legal rights of the general public.

4 (j) The following information pertaining to  
5 educational matters:

6 (i) test questions, scoring keys and other  
7 examination data used to administer an academic  
8 examination;

9 (ii) information received by a primary or  
10 secondary school, college, or university under its  
11 procedures for the evaluation of faculty members by  
12 their academic peers;

13 (iii) information concerning a school or  
14 university's adjudication of student disciplinary  
15 cases, but only to the extent that disclosure would  
16 unavoidably reveal the identity of the student; and

17 (iv) course materials or research materials used  
18 by faculty members.

19 (k) Architects' plans, engineers' technical  
20 submissions, and other construction related technical  
21 documents for projects not constructed or developed in  
22 whole or in part with public funds and the same for  
23 projects constructed or developed with public funds,  
24 including, but not limited to, power generating and  
25 distribution stations and other transmission and  
26 distribution facilities, water treatment facilities,

1 airport facilities, sport stadiums, convention centers,  
2 and all government owned, operated, or occupied buildings,  
3 but only to the extent that disclosure would compromise  
4 security.

5 (l) Minutes of meetings of public bodies closed to the  
6 public as provided in the Open Meetings Act until the  
7 public body makes the minutes available to the public under  
8 Section 2.06 of the Open Meetings Act.

9 (m) Communications between a public body and an  
10 attorney or auditor representing the public body that would  
11 not be subject to discovery in litigation, and materials  
12 prepared or compiled by or for a public body in  
13 anticipation of a criminal, civil, or administrative  
14 proceeding upon the request of an attorney advising the  
15 public body, and materials prepared or compiled with  
16 respect to internal audits of public bodies.

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

21 (o) Administrative or technical information associated  
22 with automated data processing operations, including, but  
23 not limited to, software, operating protocols, computer  
24 program abstracts, file layouts, source listings, object  
25 modules, load modules, user guides, documentation  
26 pertaining to all logical and physical design of

1 computerized systems, employee manuals, and any other  
2 information that, if disclosed, would jeopardize the  
3 security of the system or its data or the security of  
4 materials exempt under this Section.

5 (p) Records relating to collective negotiating matters  
6 between public bodies and their employees or  
7 representatives, except that any final contract or  
8 agreement shall be subject to inspection and copying.

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

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

23 (s) Any and all proprietary information and records  
24 related to the operation of an intergovernmental risk  
25 management association or self-insurance pool or jointly  
26 self-administered health and accident cooperative or pool.

1 Insurance or self insurance (including any  
2 intergovernmental risk management association or self  
3 insurance pool) claims, loss or risk management  
4 information, records, data, advice or communications.

5 (t) Information contained in or related to  
6 examination, operating, or condition reports prepared by,  
7 on behalf of, or for the use of a public body responsible  
8 for the regulation or supervision of financial  
9 institutions, insurance companies, or pharmacy benefit  
10 managers, unless disclosure is otherwise required by State  
11 law.

12 (u) Information that would disclose or might lead to  
13 the disclosure of secret or confidential information,  
14 codes, algorithms, programs, or private keys intended to be  
15 used to create electronic or digital signatures under the  
16 Electronic Commerce Security Act.

17 (v) Vulnerability assessments, security measures, and  
18 response policies or plans that are designed to identify,  
19 prevent, or respond to potential attacks upon a community's  
20 population or systems, facilities, or installations, the  
21 destruction or contamination of which would constitute a  
22 clear and present danger to the health or safety of the  
23 community, but only to the extent that disclosure could  
24 reasonably be expected to jeopardize the effectiveness of  
25 the measures or the safety of the personnel who implement  
26 them or the public. Information exempt under this item may

1 include such things as details pertaining to the  
2 mobilization or deployment of personnel or equipment, to  
3 the operation of communication systems or protocols, or to  
4 tactical operations.

5 (w) (Blank).

6 (x) Maps and other records regarding the location or  
7 security of generation, transmission, distribution,  
8 storage, gathering, treatment, or switching facilities  
9 owned by a utility, by a power generator, or by the  
10 Illinois Power Agency.

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

18 (z) Information about students exempted from  
19 disclosure under Sections 10-20.38 or 34-18.29 of the  
20 School Code, and information about undergraduate students  
21 enrolled at an institution of higher education exempted  
22 from disclosure under Section 25 of the Illinois Credit  
23 Card Marketing Act of 2009.

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

26 (bb) Records and information provided to a mortality

1 review team and records maintained by a mortality review  
2 team appointed under the Department of Juvenile Justice  
3 Mortality Review Team Act.

4 (cc) Information regarding interments, entombments, or  
5 inurnments of human remains that are submitted to the  
6 Cemetery Oversight Database under the Cemetery Care Act or  
7 the Cemetery Oversight Act, whichever is applicable.

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

12 (ee) The names, addresses, or other personal  
13 information of persons who are minors and are also  
14 participants and registrants in programs of park  
15 districts, forest preserve districts, conservation  
16 districts, recreation agencies, and special recreation  
17 associations.

18 (ff) The names, addresses, or other personal  
19 information of participants and registrants in programs of  
20 park districts, forest preserve districts, conservation  
21 districts, recreation agencies, and special recreation  
22 associations where such programs are targeted primarily to  
23 minors.

24 (gg) Confidential information described in Section  
25 1-100 of the Illinois Independent Tax Tribunal Act of 2012.

26 (hh) The report submitted to the State Board of

1 Education by the School Security and Standards Task Force  
2 under item (8) of subsection (d) of Section 2-3.160 of the  
3 School Code and any information contained in that report.

4 (ii) Records requested by persons committed to or  
5 detained by the Department of Human Services under the  
6 Sexually Violent Persons Commitment Act or committed to the  
7 Department of Corrections under the Sexually Dangerous  
8 Persons Act if those materials: (i) are available in the  
9 library of the facility where the individual is confined;  
10 (ii) include records from staff members' personnel files,  
11 staff rosters, or other staffing assignment information;  
12 or (iii) are available through an administrative request to  
13 the Department of Human Services or the Department of  
14 Corrections.

15 (jj) Confidential information described in Section  
16 5-535 of the Civil Administrative Code of Illinois.

17 (kk) The public body's credit card numbers, debit card  
18 numbers, bank account numbers, Federal Employer  
19 Identification Number, security code numbers, passwords,  
20 and similar account information, the disclosure of which  
21 could result in identity theft or impersonation ~~impression~~  
22 or defrauding of a governmental entity or a person.

23 (ll) ~~(kk)~~ Records concerning the work of the threat  
24 assessment team of a school district.

25 (1.5) Any information exempt from disclosure under the  
26 Judicial Privacy Act shall be redacted from public records

1 prior to disclosure under this Act.

2 (2) A public record that is not in the possession of a  
3 public body but is in the possession of a party with whom the  
4 agency has contracted to perform a governmental function on  
5 behalf of the public body, and that directly relates to the  
6 governmental function and is not otherwise exempt under this  
7 Act, shall be considered a public record of the public body,  
8 for purposes of this Act.

9 (3) This Section does not authorize withholding of  
10 information or limit the availability of records to the public,  
11 except as stated in this Section or otherwise provided in this  
12 Act.

13 (Source: P.A. 100-26, eff. 8-4-17; 100-201, eff. 8-18-17;  
14 100-732, eff. 8-3-18; 101-434, eff. 1-1-20; 101-452, eff.  
15 1-1-20; 101-455, eff. 8-23-19; revised 9-27-19.)

16 Section 99. Effective date. This Act takes effect upon  
17 becoming law.