



Rep. Linda Chapa LaVia

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1 AMENDMENT TO HOUSE BILL 340

2 AMENDMENT NO. \_\_\_\_\_. Amend House Bill 340 by replacing  
3 everything after the enacting clause with the following:

4 "Section 5. The Freedom of Information Act is amended by  
5 changing Sections 2, 3, 3.1, and 6 as follows:

6 (5 ILCS 140/2) (from Ch. 116, par. 202)

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

8 (a) "Public body" means all legislative, executive,  
9 administrative, or advisory bodies of the State, state  
10 universities and colleges, counties, townships, cities,  
11 villages, incorporated towns, school districts and all other  
12 municipal corporations, boards, bureaus, committees, or  
13 commissions of this State, any subsidiary bodies of any of the  
14 foregoing including but not limited to committees and  
15 subcommittees thereof, and a School Finance Authority created  
16 under Article 1E of the School Code. "Public body" does not

1 include a child death review team or the Illinois Child Death  
2 Review Teams Executive Council established under the Child  
3 Death Review Team Act.

4 (b) "Person" means any individual, corporation,  
5 partnership, firm, organization or association, acting  
6 individually or as a group.

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

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

25 (c-10) "Commercial purpose" means the purpose or intent to  
26 use ~~of~~ any part of a public record or records, or information

1 derived from public records, in any form for sale, resale, or  
2 solicitation or advertisement for sales or services or to  
3 otherwise further a commercial, trade, or profit interest or  
4 enterprise, as those terms are commonly understood. For  
5 purposes of this definition, requests made by news media and  
6 non-profit, scientific, or academic organizations shall not be  
7 considered to be made for a "commercial purpose" when the  
8 principal purpose of the request is (i) to access and  
9 disseminate information concerning news and current or passing  
10 events, (ii) for articles of opinion or features of interest to  
11 the public, or (iii) for the purpose of academic, scientific,  
12 or public research or education.

13 (d) "Copying" means the reproduction of any public record  
14 by means of any photographic, electronic, mechanical or other  
15 process, device or means now known or hereafter developed and  
16 available to the public body.

17 (e) "Head of the public body" means the president, mayor,  
18 chairman, presiding officer, director, superintendent,  
19 manager, supervisor or individual otherwise holding primary  
20 executive and administrative authority for the public body, or  
21 such person's duly authorized designee.

22 (f) "News media" means a newspaper or other periodical  
23 issued at regular intervals whether in print or electronic  
24 format, a news service whether in print or electronic format, a  
25 radio station, a television station, a television network, a  
26 community antenna television service, or a person or

1 corporation engaged in making news reels or other motion  
2 picture news for public showing.

3 (Source: P.A. 96-261, eff. 1-1-10; 96-542, eff. 1-1-10;  
4 96-1000, eff. 7-2-10.)

5 (5 ILCS 140/3) (from Ch. 116, par. 203)

6 Sec. 3. (a) Each public body shall make available to any  
7 person for inspection or copying all public records, except as  
8 otherwise provided in Section 7 of this Act. Notwithstanding  
9 any other law, a public body may not grant to any person or  
10 entity, whether by contract, license, or otherwise, the  
11 exclusive right to access and disseminate any public record as  
12 defined in this Act.

13 (b) Subject to Section 3.1 and to the fee provisions of  
14 Section 6 of this Act, each public body shall promptly provide,  
15 to any person who submits a request, a copy of any public  
16 record required to be disclosed by subsection (a) of this  
17 Section and shall certify such copy if so requested.

18 (c) Requests for inspection or copies shall be made in  
19 writing and directed to the public body. Written requests may  
20 be submitted to a public body via personal delivery, mail,  
21 telefax, or other means available to the public body. A public  
22 body may honor oral requests for inspection or copying. A  
23 public body may not require that a request be submitted on a  
24 standard form or require the requester to specify the purpose  
25 for a request, except to determine whether the records are

1 requested for a commercial purpose or whether to grant a  
2 request for a fee waiver. All requests for inspection and  
3 copying received by a public body shall immediately be  
4 forwarded to its Freedom of Information officer or designee.

5 (d) Each public body shall, promptly, either comply with or  
6 deny a request for public records within 5 business days after  
7 its receipt of the request, unless the time for response is  
8 properly extended under subsection (e) of this Section. Denial  
9 shall be in writing as provided in Section 9 of this Act.  
10 Failure to comply with a written request, extend the time for  
11 response, or deny a request within 5 business days after its  
12 receipt shall be considered a denial of the request. A public  
13 body that fails to respond to a request within the requisite  
14 periods in this Section but thereafter provides the requester  
15 with copies of the requested public records may not impose a  
16 fee for such copies. A public body that fails to respond to a  
17 request received may not treat the request as unduly burdensome  
18 under subsection (g).

19 (e) The time for response under this Section may be  
20 extended by the public body for not more than 5 business days  
21 from the original due date for any of the following reasons:

22 (i) the requested records are stored in whole or in  
23 part at other locations than the office having charge of  
24 the requested records;

25 (ii) the request requires the collection of a  
26 substantial number of specified records;

1           (iii) the request is couched in categorical terms and  
2 requires an extensive search for the records responsive to  
3 it;

4           (iv) the requested records have not been located in the  
5 course of routine search and additional efforts are being  
6 made to locate them;

7           (v) the requested records require examination and  
8 evaluation by personnel having the necessary competence  
9 and discretion to determine if they are exempt from  
10 disclosure under Section 7 of this Act or should be  
11 revealed only with appropriate deletions;

12           (vi) the request for records cannot be complied with by  
13 the public body within the time limits prescribed by  
14 paragraph (c) of this Section without unduly burdening or  
15 interfering with the operations of the public body;

16           (vii) there is a need for consultation, which shall be  
17 conducted with all practicable speed, with another public  
18 body or among two or more components of a public body  
19 having a substantial interest in the determination or in  
20 the subject matter of the request.

21           The person making a request and the public body may agree  
22 in writing to extend the time for compliance for a period to be  
23 determined by the parties. If the requester and the public body  
24 agree to extend the period for compliance, a failure by the  
25 public body to comply with any previous deadlines shall not be  
26 treated as a denial of the request for the records.

1           (f) When additional time is required for any of the above  
2 reasons, the public body shall, within 5 business days after  
3 receipt of the request, notify the person making the request of  
4 the reasons for the extension and the date by which the  
5 response will be forthcoming. Failure to respond within the  
6 time permitted for extension shall be considered a denial of  
7 the request. A public body that fails to respond to a request  
8 within the time permitted for extension but thereafter provides  
9 the requester with copies of the requested public records may  
10 not impose a fee for those copies. A public body that requests  
11 an extension and subsequently fails to respond to the request  
12 may not treat the request as unduly burdensome under subsection  
13 (g).

14           (g) Requests calling for all records falling within a  
15 category shall be complied with unless compliance with the  
16 request would be unduly burdensome for the complying public  
17 body and there is no way to narrow the request and the burden  
18 on the public body outweighs the public interest in the  
19 information. Before invoking this exemption, the public body  
20 shall extend to the person making the request an opportunity to  
21 confer with it in an attempt to reduce the request to  
22 manageable proportions. If any body responds to a categorical  
23 request by stating that compliance would unduly burden its  
24 operation and the conditions described above are met, it shall  
25 do so in writing, specifying the reasons why it would be unduly  
26 burdensome and the extent to which compliance will so burden

1 the operations of the public body. Such a response shall be  
2 treated as a denial of the request for information.

3 Repeated requests from the same person for the same records  
4 that are unchanged or identical to records previously provided  
5 or properly denied under this Act shall be deemed unduly  
6 burdensome under this provision.

7 (h) Each public body may promulgate rules and regulations  
8 in conformity with the provisions of this Section pertaining to  
9 the availability of records and procedures to be followed,  
10 including:

11 (i) the times and places where such records will be  
12 made available, and

13 (ii) the persons from whom such records may be  
14 obtained.

15 (i) (Blank). ~~The time periods for compliance or denial of a~~  
16 ~~request to inspect or copy records set out in this Section~~  
17 ~~shall not apply to requests for records made for a commercial~~  
18 ~~purpose. Such requests shall be subject to the provisions of~~  
19 ~~Section 3.1 of this Act.~~

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

21 (5 ILCS 140/3.1)

22 Sec. 3.1. Requests for commercial purposes.

23 (a) If a person requests to inspect or copy public records  
24 for a commercial purpose, then that person must provide a  
25 statement setting forth the commercial purpose for which the



1 public records will be used. The public body may request  
2 additional information concerning the nature of the request.

3 (b) Upon being furnished a statement under subsection (a),  
4 the public body may charge a fee that includes the cost of  
5 time, materials, equipment, and personnel in copying or  
6 producing the record. The public body may require the person to  
7 pay charges in full before copying the requested documents.

8 (c) The time limitations set forth under Section 3 do not  
9 apply to any request made for a commercial purpose. Within 21  
10 days after being furnished a statement under subsection (a),  
11 unless the records are exempt from disclosure, the public body  
12 must notify the requester of the estimated time required by the  
13 public body to provide the records requested and the estimated  
14 fees to be charged.

15 (d) If a person: (i) obtains a public record for a  
16 commercial purpose without indicating the commercial purpose;  
17 (ii) obtains a public record for a noncommercial purpose and  
18 uses or knowingly allows the use of the public record for a  
19 commercial purpose; or (iii) knowingly obtains a public record  
20 from anyone other than the public body and uses it for a  
21 commercial purpose, then that person, in addition to any other  
22 penalty, is liable to the public body for damages in the amount  
23 of 3 times the amount that would have been charged for the  
24 public record had the commercial purpose been stated, plus  
25 costs and reasonable attorney's fees or, if it can be shown  
26 that the public record would not have been provided had the

1 commercial purpose of actual use been stated at the time of  
2 obtaining the records, 3 times the actual damages.

3 ~~(a) A public body shall respond to a request for records to~~  
4 ~~be used for a commercial purpose within 21 working days after~~  
5 ~~receipt. The response shall (i) provide to the requester an~~  
6 ~~estimate of the time required by the public body to provide the~~  
7 ~~records requested and an estimate of the fees to be charged,~~  
8 ~~which the public body may require the person to pay in full~~  
9 ~~before copying the requested documents, (ii) deny the request~~  
10 ~~pursuant to one or more of the exemptions set out in this Act,~~  
11 ~~(iii) notify the requester that the request is unduly~~  
12 ~~burdensome and extend an opportunity to the requester to~~  
13 ~~attempt to reduce the request to manageable proportions, or~~  
14 ~~(iv) provide the records requested.~~

15 ~~(b) Unless the records are exempt from disclosure, a public~~  
16 ~~body shall comply with a request within a reasonable period~~  
17 ~~considering the size and complexity of the request, and giving~~  
18 ~~priority to records requested for non-commercial purposes.~~

19 ~~(c) It is a violation of this Act for a person to knowingly~~  
20 ~~obtain a public record for a commercial purpose without~~  
21 ~~disclosing that it is for a commercial purpose, if requested to~~  
22 ~~do so by the public body.~~

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

24 (5 ILCS 140/6) (from Ch. 116, par. 206)

25 Sec. 6. Format of disclosures and authority Authority to

1 charge fees.

2 (a) When a person requests a copy of a record maintained in  
3 an electronic format, the public body shall furnish it in an  
4 ~~the~~ electronic format that is generally available to the public  
5 ~~specified by the requester, if feasible~~. If it is not feasible  
6 to furnish the public records in an ~~the specified~~ electronic  
7 format that is generally available to the public, then the  
8 public body shall furnish it ~~in the format in which it is~~  
9 ~~maintained by the public body, or in paper format at the option~~  
10 ~~of the requester~~. The public body may make its records  
11 available through any publicly accessible electronic means.  
12 The public body may respond to a request by notifying the  
13 requester that the record is available through publicly  
14 accessible electronic means. A public body may charge the  
15 requester for the actual cost of purchasing the recording  
16 medium, whether disc, diskette, tape, or other medium, and the  
17 public body may charge a fee under subsection (b) for any paper  
18 that was used in creating an electronic record. A public body  
19 may not charge the requester for the costs of any search for  
20 and review of the records or other personnel costs associated  
21 with reproducing the records. Except to the extent that the  
22 General Assembly expressly provides, statutory fees applicable  
23 to copies of public records when furnished in a paper format  
24 shall not be applicable to those records when furnished in an  
25 electronic format.

26 (b) Except when a fee is otherwise fixed by statute, each

1 public body may charge fees reasonably calculated to reimburse  
2 its actual cost for reproducing and certifying public records  
3 and for the use, by any person, of the equipment of the public  
4 body to copy records. ~~No fees shall be charged for the first 50~~  
5 ~~pages of black and white, letter or legal sized copies~~  
6 ~~requested by a requester.~~ The fee for black and white, letter  
7 or legal sized copies shall not exceed 15 cents per page. If a  
8 public body provides copies in color or in a size other than  
9 letter or legal, the public body may not charge more than its  
10 actual cost for reproducing the records. In calculating its  
11 actual cost for reproducing records or for the use of the  
12 equipment of the public body to reproduce records, a public  
13 body shall not include the costs of any search for and review  
14 of the records or other personnel costs associated with  
15 reproducing the records. Such fees shall be imposed according  
16 to a standard scale of fees, established and made public by the  
17 body imposing them. The cost for certifying a record shall not  
18 exceed \$1.

19 (c) Documents shall be furnished without charge or at a  
20 reduced charge, as determined by the public body, if the person  
21 requesting the documents states the specific purpose for the  
22 request and indicates that a waiver or reduction of the fee is  
23 in the public interest. Waiver or reduction of the fee is in  
24 the public interest if the principal purpose of the request is  
25 to access and disseminate information regarding the health,  
26 safety and welfare or the legal rights of the general public

1 and is not for the principal purpose of personal or commercial  
2 benefit. For purposes of this subsection, "commercial benefit"  
3 shall not apply to requests made by news media when the  
4 principal purpose of the request is to access and disseminate  
5 information regarding the health, safety, and welfare or the  
6 legal rights of the general public. In setting the amount of  
7 the waiver or reduction, the public body may take into  
8 consideration the amount of materials requested and the cost of  
9 copying them.

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

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

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

18 Section 99. Effective date. This Act takes effect upon  
19 becoming law."