

AN ACT concerning public health.

**Be it enacted by the People of the State of Illinois,
represented in the General Assembly:**

Section 5. The Freedom of Information Act is amended by changing Section 7 as follows:

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

Sec. 7. Exemptions.

(1) The following shall be exempt from inspection and copying:

(a) Information specifically prohibited from disclosure by federal or State law or rules and regulations adopted under federal or State law.

(b) Information that, if disclosed, would constitute a clearly unwarranted invasion of personal privacy, unless the disclosure is consented to in writing by the individual subjects of the information. The disclosure of information that bears on the public duties of public employees and officials shall not be considered an invasion of personal privacy. Information exempted under this subsection (b) shall include but is not limited to:

(i) files and personal information maintained with respect to clients, patients, residents, students or other individuals receiving social, medical,

educational, vocational, financial, supervisory or custodial care or services directly or indirectly from federal agencies or public bodies;

(ii) personnel files and personal information maintained with respect to employees, appointees or elected officials of any public body or applicants for those positions;

(iii) files and personal information maintained with respect to any applicant, registrant or licensee by any public body cooperating with or engaged in professional or occupational registration, licensure or discipline;

(iv) information required of any taxpayer in connection with the assessment or collection of any tax unless disclosure is otherwise required by State statute;

(v) information revealing the identity of persons who file complaints with or provide information to administrative, investigative, law enforcement or penal agencies; provided, however, that identification of witnesses to traffic accidents, traffic accident reports, and rescue reports may be provided by agencies of local government, except in a case for which a criminal investigation is ongoing, without constituting a clearly unwarranted per se invasion of personal privacy under this subsection; and

(vi) the names, addresses, or other personal information of participants and registrants in park district, forest preserve district, and conservation district programs.

(c) Records compiled by any public body for administrative enforcement proceedings and any law enforcement or correctional agency for law enforcement purposes or for internal matters of a public body, but only to the extent that disclosure would:

(i) interfere with pending or actually and reasonably contemplated law enforcement proceedings conducted by any law enforcement or correctional agency;

(ii) interfere with pending administrative enforcement proceedings conducted by any public body;

(iii) deprive a person of a fair trial or an impartial hearing;

(iv) unavoidably disclose the identity of a confidential source or confidential information furnished only by the confidential source;

(v) disclose unique or specialized investigative techniques other than those generally used and known or disclose internal documents of correctional agencies related to detection, observation or investigation of incidents of crime or misconduct;

(vi) constitute an invasion of personal privacy

under subsection (b) of this Section;

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

(viii) obstruct an ongoing criminal investigation.

(d) Criminal history record information maintained by State or local criminal justice agencies, except the following which shall be open for public inspection and copying:

(i) chronologically maintained arrest information, such as traditional arrest logs or blotters;

(ii) the name of a person in the custody of a law enforcement agency and the charges for which that person is being held;

(iii) court records that are public;

(iv) records that are otherwise available under State or local law; or

(v) records in which the requesting party is the individual identified, except as provided under part (vii) of paragraph (c) of subsection (1) of this Section.

"Criminal history record information" means data identifiable to an individual and consisting of descriptions or notations of arrests, detentions, indictments, informations, pre-trial proceedings, trials, or other formal events in the criminal justice system or descriptions or notations of criminal charges (including

criminal violations of local municipal ordinances) and the nature of any disposition arising therefrom, including sentencing, court or correctional supervision, rehabilitation and release. The term does not apply to statistical records and reports in which individuals are not identified and from which their identities are not ascertainable, or to information that is for criminal investigative or intelligence purposes.

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

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

(g) Trade secrets and commercial or financial information obtained from a person or business where the trade secrets or information are proprietary, privileged or confidential, or where disclosure of the trade secrets or information may cause competitive harm, including:

(i) All information determined to be confidential under Section 4002 of the Technology Advancement and

Development Act.

(ii) All trade secrets and commercial or financial information obtained by a public body, including a public pension fund, from a private equity fund or a privately held company within the investment portfolio of a private equity fund as a result of either investing or evaluating a potential investment of public funds in a private equity fund. The exemption contained in this item does not apply to the aggregate financial performance information of a private equity fund, nor to the identity of the fund's managers or general partners. The exemption contained in this item does not apply to the identity of a privately held company within the investment portfolio of a private equity fund, unless the disclosure of the identity of a privately held company may cause competitive harm.

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

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

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

(j) Test questions, scoring keys and other examination data used to administer an academic examination or determined the qualifications of an applicant for a license or employment.

(k) Architects' plans, engineers' technical submissions, and other construction related technical documents for projects not constructed or developed in whole or in part with public funds and the same for projects constructed or developed with public funds, but only to the extent that disclosure would compromise security, including but not limited to water treatment facilities, airport facilities, sport stadiums, convention centers, and all government owned, operated, or occupied buildings.

(l) Library circulation and order records identifying

library users with specific materials.

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

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

(o) Information received by a primary or secondary school, college or university under its procedures for the evaluation of faculty members by their academic peers.

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

(q) Documents or materials relating to collective negotiating matters between public bodies and their employees or representatives, except that any final contract or agreement shall be subject to inspection and copying.

(r) Drafts, notes, recommendations and memoranda pertaining to the financing and marketing transactions of the public body. The records of ownership, registration, transfer, and exchange of municipal debt obligations, and of persons to whom payment with respect to these obligations is made.

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

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

(u) Information concerning a university's adjudication

of student or employee grievance or disciplinary cases, to the extent that disclosure would reveal the identity of the student or employee and information concerning any public body's adjudication of student or employee grievances or disciplinary cases, except for the final outcome of the cases.

(v) Course materials or research materials used by faculty members.

(w) Information related solely to the internal personnel rules and practices of a public body.

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

(y) Information the disclosure of which is restricted under Section 5-108 of the Public Utilities Act.

(z) Manuals or instruction to staff that relate to establishment or collection of liability for any State tax or that relate to investigations by a public body to determine violation of any criminal law.

(aa) Applications, related documents, and medical records received by the Experimental Organ Transplantation Procedures Board and any and all documents or other records prepared by the Experimental Organ Transplantation

Procedures Board or its staff relating to applications it has received.

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

(cc) Information and records held by the Department of Public Health and its authorized representatives relating to known or suspected cases of sexually transmissible disease or any information the disclosure of which is restricted under the Illinois Sexually Transmissible Disease Control Act.

(dd) Information the disclosure of which is exempted under Section 30 of the Radon Industry Licensing Act.

(ee) Firm performance evaluations under Section 55 of the Architectural, Engineering, and Land Surveying Qualifications Based Selection Act.

(ff) Security portions of system safety program plans, investigation reports, surveys, schedules, lists, data, or information compiled, collected, or prepared by or for the Regional Transportation Authority under Section 2.11 of the Regional Transportation Authority Act or the St. Clair County Transit District under the Bi-State Transit Safety Act.

(gg) Information the disclosure of which is restricted and exempted under Section 50 of the Illinois Prepaid

Tuition Act.

(hh) Information the disclosure of which is exempted under the State Officials and Employees Ethics Act.

(ii) Beginning July 1, 1999, information that would disclose or might lead to the disclosure of secret or confidential information, codes, algorithms, programs, or private keys intended to be used to create electronic or digital signatures under the Electronic Commerce Security Act.

(jj) Information contained in a local emergency energy plan submitted to a municipality in accordance with a local emergency energy plan ordinance that is adopted under Section 11-21.5-5 of the Illinois Municipal Code.

(kk) Information and data concerning the distribution of surcharge moneys collected and remitted by wireless carriers under the Wireless Emergency Telephone Safety Act.

(ll) Vulnerability assessments, security measures, and response policies or plans that are designed to identify, prevent, or respond to potential attacks upon a community's population or systems, facilities, or installations, the destruction or contamination of which would constitute a clear and present danger to the health or safety of the community, but only to the extent that disclosure could reasonably be expected to jeopardize the effectiveness of the measures or the safety of the personnel who implement

them or the public. Information exempt under this item may include such things as details pertaining to the mobilization or deployment of personnel or equipment, to the operation of communication systems or protocols, or to tactical operations.

(mm) Maps and other records regarding the location or security of generation, transmission, distribution, storage, gathering, treatment, or switching facilities owned by a utility or by the Illinois Power Agency.

(nn) Law enforcement officer identification information or driver identification information compiled by a law enforcement agency or the Department of Transportation under Section 11-212 of the Illinois Vehicle Code.

(oo) Records and information provided to a residential health care facility resident sexual assault and death review team or the Executive Council under the Abuse Prevention Review Team Act.

(pp) Information provided to the predatory lending database created pursuant to Article 3 of the Residential Real Property Disclosure Act, except to the extent authorized under that Article.

(qq) Defense budgets and petitions for certification of compensation and expenses for court appointed trial counsel as provided under Sections 10 and 15 of the Capital Crimes Litigation Act. This subsection (qq) shall apply

until the conclusion of the trial of the case, even if the prosecution chooses not to pursue the death penalty prior to trial or sentencing.

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

(ss) Information that is prohibited from being disclosed under Section 4 of the Illinois Health and Hazardous Substances Registry Act.

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

(Source: P.A. 94-280, eff. 1-1-06; 94-508, eff. 1-1-06; 94-664, eff. 1-1-06; 94-931, eff. 6-26-06; 94-953, eff. 6-27-06; 94-1055, eff. 1-1-07; 95-331, eff. 8-21-07; 95-481, eff. 8-28-07.)

Section 10. The Illinois Health and Hazardous Substances Registry Act is amended by adding Section 9.1 and by changing Sections 3, 4, 9, and 12 as follows:

(410 ILCS 525/3) (from Ch. 111 1/2, par. 6703)

Sec. 3. For the purposes of this Act, unless the context requires otherwise:

(a) "Department" means the Illinois Department of Public Health.

(b) "Director" means the Director of the Illinois Department of Public Health.

(c) "Council" means the Health and Hazardous Substances Coordinating Council created by this Act.

(d) "Registry" means the Illinois Health and Hazardous Substances Registry established by the Department of Public Health under Section 6 of this Act.

(e) "Cancer" means all malignant neoplasms, regardless of the tissue of origin, including malignant lymphoma and leukemia.

(f) "Cancer incidence" means a medical diagnosis of cancer, consisting of a record of cases of cancer and specified cases of tumorous or precancerous diseases which occur in Illinois, and such other information concerning these cases as the Department deems necessary or appropriate in order to conduct thorough and complete epidemiological surveys of cancer and cancer-related diseases in Illinois.

(g) "Occupational disease" includes but is not limited to all occupational diseases covered by the Workers' Occupational Diseases Act.

(h) "Hazardous substances" means a hazardous substance as

defined in the Environmental Protection Act.

(i) "Hazardous substances incident" includes but is not limited to a spill, fire, or accident involving hazardous substances, illegal disposal, transportation, or use of hazardous substances, and complaints or permit violations involving hazardous substances.

(j) "Company profile" includes but is not limited to the name of any company operating in the State of Illinois which generates, uses, disposes of or transports hazardous substances, identification of the types of permits issued in such company's name relating to transactions involving hazardous substances, inventory of hazardous substances handled by such company, and the manner in which such hazardous substances are used, disposed of, or transported by the company.

(k) "Hazardous nuclear material" means (1) any source or special nuclear material intended for use or used as an energy source in a production or utilization facility as defined in Sec. 11.v. or 11.cc. of the federal Atomic Energy Act of 1954 as amended; (2) any fuel which has been discharged from such a facility following irradiation, the constituent elements of which have not been separated by reprocessing; or (3) any by-product material resulting from operation of such a facility.

(l) ~~(1)~~ "Adverse pregnancy outcome" includes but is not limited to birth defects, fetal loss, infant mortality, low

birth weight, selected life-threatening conditions, and other developmental disabilities as defined by the Department.

(m) "News medium" means any newspaper or other periodical issued at regular intervals, whether in print or electronic format, and having a general circulation; a news service, whether in print or electronic format; a radio station, a television station; a television network; a community antenna television service; and any person or corporation engaged in the making of news reels or other motion picture news for public showing.

(n) "Researcher" means an individual who is affiliated with or supported by universities, academic centers, research institutions, hospitals, and governmental entities who conduct scientific research or investigation on human diseases.

(Source: P.A. 85-831.)

(410 ILCS 525/4) (from Ch. 111 1/2, par. 6704)

Sec. 4. (a) There is created the Health and Hazardous Substances Coordinating Council, to be comprised of the following persons ex officio or their designees: Dean of the School of Public Health of the University of Illinois, Director of Natural Resources, Director of Public Health, Director of Labor, Director of Agriculture, Director of the Environmental Protection Agency and the Director of Nuclear Safety.

The University of Illinois School of Public Health shall advise the Department in the design, function and utilization

of the Registry.

(b) To facilitate the collection of cancer incidence information, the Department, in consultation with the Advisory Board of Cancer Control, shall have the authority to require hospitals, laboratories or other facilities to report incidences of cancer and other specified tumorous and precancerous diseases to the Department, and to require the submission of such other information pertaining to or in connection with such reported cases as the Department deems necessary or appropriate for the purposes of this Act. The Department may promulgate rules or regulations specifying the hospitals, laboratories or other facilities which are required to submit information pursuant to this Section, the types of information required to be submitted, methods of submitting such information and any other detail deemed by the Department to be necessary or appropriate for administration of this Act. Nothing in this Act shall be construed to compel any individual to submit to a medical examination or supervision.

(c) The Director shall by rule or regulation establish standards or guidelines for ensuring the protection of information made confidential or privileged under law.

(d) The identity, or any group of facts that tends to lead to the identity, of any person whose condition or treatment is submitted to the Illinois Health and Hazardous Substances Registry is confidential and shall not be open to public inspection or dissemination and is exempt from disclosure under

Section 7 of the Freedom of Information Act. The following data elements, alone or in combination, are confidential, shall not be open to public inspection or dissemination, and are exempt from disclosure under Section 7 of the Freedom of Information Act: name, social security number, street address, email address, telephone number, fax number, medical record number, certificate/license number, reporting source (unless permitted by the reporting facility), age (unless aggregated for 5 or more years, ZIP code (unless aggregated for 5 or more years), and diagnosis date (unless aggregated for one or more years for the entire State or for 3 or more years for a single county).

~~Facts that tend to lead to the identity of a person include the following: name, social security number, address, and any other data element that, by itself or in combination with one or more other data elements, tends to identify any person.~~ The identity of any person or persons claimed to be derived from cancer registry data is not admissible in evidence, and no court shall require information to be produced in discovery if it determines that the information tends to lead to the identity of any person. Information for specific research purposes may be released in accordance with procedures established by the Department. Except as provided by rule, and as part of an epidemiologic investigation, an officer or employee of the Department may interview a patient named in a report made under this Act, or relatives of any such patient, only with the express written consent of the patient.

(e) Hospitals, laboratories, other facilities or physicians shall not be held liable for the release of information or confidential data to the Department in accordance with this Act. The Department shall protect any information made confidential or privileged under law.

(Source: P.A. 89-445, eff. 2-7-96; 90-607, eff. 6-30-98.)

(410 ILCS 525/9) (from Ch. 111 1/2, par. 6709)

Sec. 9. The Department shall utilize the Registry to conduct research on the relationships between hazardous substances, hazardous nuclear materials, and public health issues. In consultation with the Council, the Director shall establish guidelines for determining the specific questions and areas to be researched. The guidelines shall specifically include the question of the potential public health significance of an increase in cancer incidence. Upon the approval of the Council, the information contained in the Registry shall be available to other State agencies wishing to conduct research on these issues. Upon review and approval of an appropriate Institutional Review Board (IRB) or its equivalent on protection of human subjects in research, the Department shall release data to researchers for purposes of medical and scientific research consistent with the fundamental purposes of the Registry.

(Source: P.A. 85-1218.)

(410 ILCS 525/9.1 new)

Sec. 9.1. Release of data to news media. Upon review and approval of an appropriate Institutional Review Board (IRB) or its equivalent on protection of human subjects in research, the Department shall release data not otherwise available for release under the Freedom of Information Act to news media for purposes of public interest research consistent with the fundamental purposes of the Registry.

(410 ILCS 525/12) (from Ch. 111 1/2, par. 6712)

Sec. 12. All information contained in the Registry, as well as all reports issued by the Department, including the annual report, shall be made available to the public upon request; provided, however, nothing in this Act permits public disclosure of any information made confidential or privileged pursuant to this Act or any other statute. Identification or contact of individuals from public reports or data released under the Freedom of Information Act is prohibited. The Director may, by rule, establish fees to be charged to persons or organizations other than State agencies for requested summaries or analyses of data which are not otherwise included in an annual report. The fees shall not be more than the cost to the Department of supplying the requested information. The Department shall make available on its web site non-confidential public use databases for easy and direct access and download by the public.

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(Source: P.A. 90-607, eff. 6-30-98.)

Section 99. Effective date. This Act takes effect July 1, 2008.