



## 101ST GENERAL ASSEMBLY

### State of Illinois

2019 and 2020

HB0909

by Rep. Emanuel Chris Welch

#### SYNOPSIS AS INTRODUCED:

5 ILCS 140/7.5  
55 ILCS 80/2.5  
55 ILCS 80/4.5 new

Amends the Children's Advocacy Center Act. Provides that consent is not required for a forensic interview to be electronically recorded and that failure to record does not render a forensic interview inadmissible. Provides that a forensic interview, an electronic recording, or a transcription of an interview or electronic recording is confidential and exempt from public inspection and copying and may only be viewed by a court, attorneys, investigators, or experts for the purpose of judicial and administrative hearings and shall not be disseminated except pursuant to a court's protective order. Provides that nothing in the Act shall be construed to limit or prohibit electronically recorded forensic interviewing in accordance with provisions concerning surveillance and investigations in the Criminal Code of 2012 and Code of Criminal Procedure of 1963. Adds a definition and modifies a definition. Amends the Freedom of Information Act making conforming changes. Effective January 1, 2020.

LRB101 06234 AWJ 51260 b

1 AN ACT concerning local 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 7.5 as follows:

6 (5 ILCS 140/7.5)

7 Sec. 7.5. Statutory exemptions. To the extent provided for  
8 by the statutes referenced below, the following shall be exempt  
9 from inspection and copying:

10 (a) All information determined to be confidential  
11 under Section 4002 of the Technology Advancement and  
12 Development Act.

13 (b) Library circulation and order records identifying  
14 library users with specific materials under the Library  
15 Records Confidentiality Act.

16 (c) Applications, related documents, and medical  
17 records received by the Experimental Organ Transplantation  
18 Procedures Board and any and all documents or other records  
19 prepared by the Experimental Organ Transplantation  
20 Procedures Board or its staff relating to applications it  
21 has received.

22 (d) Information and records held by the Department of  
23 Public Health and its authorized representatives relating

1 to known or suspected cases of sexually transmissible  
2 disease or any information the disclosure of which is  
3 restricted under the Illinois Sexually Transmissible  
4 Disease Control Act.

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

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

10 (g) Information the disclosure of which is restricted  
11 and exempted under Section 50 of the Illinois Prepaid  
12 Tuition Act.

13 (h) Information the disclosure of which is exempted  
14 under the State Officials and Employees Ethics Act, and  
15 records of any lawfully created State or local inspector  
16 general's office that would be exempt if created or  
17 obtained by an Executive Inspector General's office under  
18 that Act.

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

23 (j) Information and data concerning the distribution  
24 of surcharge moneys collected and remitted by carriers  
25 under the Emergency Telephone System Act.

26 (k) Law enforcement officer identification information

1 or driver identification information compiled by a law  
2 enforcement agency or the Department of Transportation  
3 under Section 11-212 of the Illinois Vehicle Code.

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

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

12 (n) Defense budgets and petitions for certification of  
13 compensation and expenses for court appointed trial  
14 counsel as provided under Sections 10 and 15 of the Capital  
15 Crimes Litigation Act. This subsection (n) shall apply  
16 until the conclusion of the trial of the case, even if the  
17 prosecution chooses not to pursue the death penalty prior  
18 to trial or sentencing.

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

22 (p) Security portions of system safety program plans,  
23 investigation reports, surveys, schedules, lists, data, or  
24 information compiled, collected, or prepared by or for the  
25 Regional Transportation Authority under Section 2.11 of  
26 the Regional Transportation Authority Act or the St. Clair

1 County Transit District under the Bi-State Transit Safety  
2 Act.

3 (q) Information prohibited from being disclosed by the  
4 Personnel Record ~~Records~~ Review Act.

5 (r) Information prohibited from being disclosed by the  
6 Illinois School Student Records Act.

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

9 (t) All identified or deidentified health information  
10 in the form of health data or medical records contained in,  
11 stored in, submitted to, transferred by, or released from  
12 the Illinois Health Information Exchange, and identified  
13 or deidentified health information in the form of health  
14 data and medical records of the Illinois Health Information  
15 Exchange in the possession of the Illinois Health  
16 Information Exchange Authority due to its administration  
17 of the Illinois Health Information Exchange. The terms  
18 "identified" and "deidentified" shall be given the same  
19 meaning as in the Health Insurance Portability and  
20 Accountability Act of 1996, Public Law 104-191, or any  
21 subsequent amendments thereto, and any regulations  
22 promulgated thereunder.

23 (u) Records and information provided to an independent  
24 team of experts under the Developmental Disability and  
25 Mental Health Safety Act (also known as Brian's Law).

26 (v) Names and information of people who have applied

1 for or received Firearm Owner's Identification Cards under  
2 the Firearm Owners Identification Card Act or applied for  
3 or received a concealed carry license under the Firearm  
4 Concealed Carry Act, unless otherwise authorized by the  
5 Firearm Concealed Carry Act; and databases under the  
6 Firearm Concealed Carry Act, records of the Concealed Carry  
7 Licensing Review Board under the Firearm Concealed Carry  
8 Act, and law enforcement agency objections under the  
9 Firearm Concealed Carry Act.

10 (w) Personally identifiable information which is  
11 exempted from disclosure under subsection (g) of Section  
12 19.1 of the Toll Highway Act.

13 (x) Information which is exempted from disclosure  
14 under Section 5-1014.3 of the Counties Code or Section  
15 8-11-21 of the Illinois Municipal Code.

16 (y) Confidential information under the Adult  
17 Protective Services Act and its predecessor enabling  
18 statute, the Elder Abuse and Neglect Act, including  
19 information about the identity and administrative finding  
20 against any caregiver of a verified and substantiated  
21 decision of abuse, neglect, or financial exploitation of an  
22 eligible adult maintained in the Registry established  
23 under Section 7.5 of the Adult Protective Services Act.

24 (z) Records and information provided to a fatality  
25 review team or the Illinois Fatality Review Team Advisory  
26 Council under Section 15 of the Adult Protective Services

1 Act.

2 (aa) Information which is exempted from disclosure  
3 under Section 2.37 of the Wildlife Code.

4 (bb) Information which is or was prohibited from  
5 disclosure by the Juvenile Court Act of 1987.

6 (cc) Recordings made under the Law Enforcement  
7 Officer-Worn Body Camera Act, except to the extent  
8 authorized under that Act.

9 (dd) Information that is prohibited from being  
10 disclosed under Section 45 of the Condominium and Common  
11 Interest Community Ombudsperson Act.

12 (ee) Information that is exempted from disclosure  
13 under Section 30.1 of the Pharmacy Practice Act.

14 (ff) Information that is exempted from disclosure  
15 under the Revised Uniform Unclaimed Property Act.

16 (gg) Information that is prohibited from being  
17 disclosed under Section 7-603.5 of the Illinois Vehicle  
18 Code.

19 (hh) Records that are exempt from disclosure under  
20 Section 1A-16.7 of the Election Code.

21 (ii) Information which is exempted from disclosure  
22 under Section 2505-800 of the Department of Revenue Law of  
23 the Civil Administrative Code of Illinois.

24 (jj) Information and reports that are required to be  
25 submitted to the Department of Labor by registering day and  
26 temporary labor service agencies but are exempt from

1 disclosure under subsection (a-1) of Section 45 of the Day  
2 and Temporary Labor Services Act.

3 (kk) Information prohibited from disclosure under the  
4 Seizure and Forfeiture Reporting Act.

5 (ll) Information the disclosure of which is restricted  
6 and exempted under Section 5-30.8 of the Illinois Public  
7 Aid Code.

8 (mm) ~~(ll)~~ Records that are exempt from disclosure under  
9 Section 4.2 of the Crime Victims Compensation Act.

10 (nn) ~~(ll)~~ Information that is exempt from disclosure  
11 under Section 70 of the Higher Education Student Assistance  
12 Act.

13 (oo) Recordings made under the Children's Advocacy  
14 Center Act, except to the extent authorized under that Act.

15 (Source: P.A. 99-78, eff. 7-20-15; 99-298, eff. 8-6-15; 99-352,  
16 eff. 1-1-16; 99-642, eff. 7-28-16; 99-776, eff. 8-12-16;  
17 99-863, eff. 8-19-16; 100-20, eff. 7-1-17; 100-22, eff. 1-1-18;  
18 100-201, eff. 8-18-17; 100-373, eff. 1-1-18; 100-464, eff.  
19 8-28-17; 100-465, eff. 8-31-17; 100-512, eff. 7-1-18; 100-517,  
20 eff. 6-1-18; 100-646, eff. 7-27-18; 100-690, eff. 1-1-19;  
21 100-863, eff. 8-14-18; 100-887, eff. 8-14-18; revised  
22 10-12-18.)

23 Section 10. The Children's Advocacy Center Act is amended  
24 by changing Section 2.5 and by adding Section 4.5 as follows:



1 (55 ILCS 80/2.5)

2 Sec. 2.5. Definitions. As used in this Section:

3 "Accreditation" means the process in which certification  
4 of competency, authority, or credibility is presented by  
5 standards set by the National Children's Alliance to ensure  
6 effective, efficient and consistent delivery of services by a  
7 CAC.

8 "Child maltreatment" includes any act or occurrence, as  
9 defined in Section 5 of the Criminal Code of 2012, under the  
10 Children and Family Services Act or the Juvenile Court Act of  
11 1987 involving either a child victim or child witness.

12 "Children's Advocacy Center" or "CAC" is a child-focused,  
13 trauma-informed, facility-based program in which  
14 representatives from law enforcement, child protection,  
15 prosecution, mental health, forensic interviewing, medical,  
16 and victim advocacy disciplines collaborate to interview  
17 children, meet with a child's parent or parents, caregivers,  
18 and family members, and make team decisions about the  
19 investigation, prosecution, safety, treatment, and support  
20 services for child maltreatment cases.

21 "Children's Advocacy Centers of Illinois" or "CACI" is a  
22 state chapter of the National Children's Alliance ("NCA") and  
23 organizing entity for Children's Advocacy Centers in the State  
24 of Illinois. It defines membership and engages member CACs in  
25 the NCA accreditation process and collecting and sharing of  
26 data, and provides training, leadership, and technical

1 assistance to existing and emerging CACs in the State.

2 "Electronic recording" includes a motion picture,  
3 audiotape, videotape, or digital recording.

4 "Forensic interview" means an interview between a trained  
5 forensic interviewer, as defined by NCA standards, and a child  
6 in which the interviewer obtains information from children in  
7 an unbiased and fact finding manner that is developmentally  
8 appropriate and culturally sensitive to support accurate and  
9 fair decision making by the multidisciplinary team in the  
10 criminal justice and child protection systems. Whenever  
11 practical, all parties involved in investigating reports of  
12 child maltreatment shall observe the interview, which shall be  
13 electronically ~~digitally~~ recorded.

14 "Multidisciplinary team" or "MDT" means a group of  
15 professionals working collaboratively under a written  
16 protocol, who represent various disciplines from the point of a  
17 report of child maltreatment to assure the most effective  
18 coordinated response possible for every child. Employees from  
19 each participating entity shall be included on the MDT. A CAC's  
20 MDT must include professionals involved in the coordination,  
21 investigation, and prosecution of child abuse cases, including  
22 the CAC's staff, participating law enforcement agencies, the  
23 county state's attorney, and the Illinois Department of  
24 Children and Family Services, and must include professionals  
25 involved in the delivery of services to victims of child  
26 maltreatment and non-offending parent or parents, caregiver,

1 and their families.

2 "National Children's Alliance" or "NCA" means the  
3 professional membership organization dedicated to helping  
4 local communities respond to allegations of child abuse in an  
5 effective and efficient manner. NCA provides training,  
6 support, technical assistance and leadership on a national  
7 level to state and local CACs and communities responding to  
8 reports of child maltreatment. NCA is the national organization  
9 that provides the standards for CAC accreditation.

10 "Protocol" means a written methodology defining the  
11 responsibilities of each of the MDT members in the  
12 investigation and prosecution of child maltreatment within a  
13 defined jurisdiction. Written protocols are signed documents  
14 and are reviewed and/or updated annually, at a minimum, by a  
15 CAC's Advisory Board.

16 (Source: P.A. 98-809, eff. 1-1-15; revised 9-28-18.)

17 (55 ILCS 80/4.5 new)

18 Sec. 4.5. Forensic interviews; electronic recordings.

19 (a) Consent is not required for a forensic interview to be  
20 electronically recorded. Failure to record does not render a  
21 forensic interview inadmissible.

22 (b) A forensic interview, an electronic recording, or a  
23 transcription of a forensic interview or electronic recording  
24 is confidential and exempt from public inspection and copying  
25 under Section 7.5 of the Freedom of Information Act and may

1 only be viewed by a court, attorneys, investigators, or experts  
2 for the purpose of judicial and administrative hearings and  
3 shall not be disseminated except pursuant to a court's  
4 protective order.

5 (c) Nothing in this Act shall be construed to limit or  
6 prohibit electronically recorded forensic interviewing in  
7 accordance with Article 14 of the Criminal Code of 2012 or  
8 Article 108A or Article 108B of the Code of Criminal Procedure  
9 of 1963.

10 Section 99. Effective date. This Act takes effect January  
11 1, 2020.