



103RD GENERAL ASSEMBLY

State of Illinois

2023 and 2024

HB3272

Introduced 2/17/2023, by Rep. Travis Weaver

SYNOPSIS AS INTRODUCED:

5 ILCS 140/2	from Ch. 116, par. 202
50 ILCS 205/3	from Ch. 116, par. 43.103
50 ILCS 205/7	from Ch. 116, par. 43.107

Amends the Freedom of Information Act. Provides that public records include born-digital electronic material and digitized electronic material and defines both of those terms. Provides that "public inspection" or "inspection" means, as it relates to public records that are born-digital electronic material or digitized electronic material, inspection of public records on a public body's website or on a designated computer available at the official place of business of the public body. Amends the Local Records Act making similar changes to the definition of "public record". Further amends the Local Records Act providing that approval of the Commission is not needed for, and the Commission may not prohibit, destruction of an original record after it is converted into a digitized electronic format if the standards and procedures of the Commission relating to digitization are followed. Makes conforming changes.

LRB103 30157 AWJ 56581 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 2 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
17 include a child death review team or the Illinois Child Death
18 Review Teams Executive Council established under the Child
19 Death Review Team Act, or a regional youth advisory board or
20 the Statewide Youth Advisory Board established under the
21 Department of Children and Family Services Statewide Youth
22 Advisory Board Act.

23 (b) "Person" means any individual, corporation,

1 partnership, firm, organization or association, acting
2 individually or as a group.

3 (c) "Public records" means all records, reports, forms,
4 writings, letters, memoranda, books, papers, maps,
5 photographs, microfilms, cards, tapes, recordings, electronic
6 data processing records, electronic communications,
7 born-digital electronic material, digitized electronic
8 material, recorded information and all other documentary
9 materials pertaining to the transaction of public business,
10 regardless of physical form or characteristics, having been
11 prepared by or for, or having been or being used by, received
12 by, in the possession of, or under the control of any public
13 body. "Public records" includes born-digital electronic
14 material or digitized electronic material even if the material
15 is stored or maintained on a server, including a third-party
16 server, not on the property of a public body.

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

26 (c-10) "Commercial purpose" means the use of any part of a

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

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

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

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

1 picture news for public showing.

2 (g) "Recurrent requester", as used in Section 3.2 of this
3 Act, means a person that, in the 12 months immediately
4 preceding the request, has submitted to the same public body
5 (i) a minimum of 50 requests for records, (ii) a minimum of 15
6 requests for records within a 30-day period, or (iii) a
7 minimum of 7 requests for records within a 7-day period. For
8 purposes of this definition, requests made by news media and
9 non-profit, scientific, or academic organizations shall not be
10 considered in calculating the number of requests made in the
11 time periods in this definition when the principal purpose of
12 the requests is (i) to access and disseminate information
13 concerning news and current or passing events, (ii) for
14 articles of opinion or features of interest to the public, or
15 (iii) for the purpose of academic, scientific, or public
16 research or education.

17 For the purposes of this subsection (g), "request" means a
18 written document (or oral request, if the public body chooses
19 to honor oral requests) that is submitted to a public body via
20 personal delivery, mail, telefax, electronic mail, or other
21 means available to the public body and that identifies the
22 particular public record the requester seeks. One request may
23 identify multiple records to be inspected or copied.

24 (h) "Voluminous request" means a request that: (i)
25 includes more than 5 individual requests for more than 5
26 different categories of records or a combination of individual

1 requests that total requests for more than 5 different
2 categories of records in a period of 20 business days; or (ii)
3 requires the compilation of more than 500 letter or
4 legal-sized pages of public records unless a single requested
5 record exceeds 500 pages. "Single requested record" may
6 include, but is not limited to, one report, form, e-mail,
7 letter, memorandum, book, map, microfilm, tape, or recording.

8 "Voluminous request" does not include a request made by
9 news media and non-profit, scientific, or academic
10 organizations if the principal purpose of the request is: (1)
11 to access and disseminate information concerning news and
12 current or passing events; (2) for articles of opinion or
13 features of interest to the public; or (3) for the purpose of
14 academic, scientific, or public research or education.

15 For the purposes of this subsection (h), "request" means a
16 written document, or oral request, if the public body chooses
17 to honor oral requests, that is submitted to a public body via
18 personal delivery, mail, telefax, electronic mail, or other
19 means available to the public body and that identifies the
20 particular public record or records the requester seeks. One
21 request may identify multiple individual records to be
22 inspected or copied.

23 (i) "Severance agreement" means a mutual agreement between
24 any public body and its employee for the employee's
25 resignation in exchange for payment by the public body.

26 (j) "Born-digital electronic material" and "digitized

1 electronic material" have the meanings ascribed to those terms
2 in Section 3 of the Local Records Act.

3 (k) "Public inspection" or "inspection" means, as it
4 relates to public records that are born-digital electronic
5 material or digitized electronic material, inspection of
6 public records on a public body's website or on a designated
7 computer available at the official place of business of the
8 public body.

9 (Source: P.A. 98-806, eff. 1-1-15; 98-1129, eff. 12-3-14;
10 99-78, eff. 7-20-15; 99-478, eff. 6-1-16.)

11 Section 10. The Local Records Act is amended by changing
12 Sections 3 and 7 as follows:

13 (50 ILCS 205/3) (from Ch. 116, par. 43.103)

14 Sec. 3. Except where the context indicates otherwise, the
15 terms used in this Act are defined as follows:

16 "Agency" means any court, and all parts, boards,
17 departments, bureaus and commissions of any county, municipal
18 corporation or political subdivision.

19 "Archivist" means the Secretary of State.

20 "Born-digital electronic material" means electronic
21 material created in digital form rather than converted from
22 print or analog form to digital form.

23 "Commission" means a Local Records Commission.

24 "Court" means a court, other than the Supreme Court.

1 "Digitized electronic material" means electronic material
2 converted from print or analog form to digital form.

3 "Officer" means any elected or appointed official of a
4 court, county, municipal corporation or political subdivision.

5 "Public record" means any book, paper, map, photograph,
6 born-digital electronic material, digitized electronic
7 material, electronic material with a combination of digitized
8 and born-digital material, or other official documentary
9 material, regardless of physical form or characteristics,
10 made, produced, executed or received by any agency or officer
11 pursuant to law or in connection with the transaction of
12 public business and preserved or appropriate for preservation
13 by such agency or officer, or any successor thereof, as
14 evidence of the organization, function, policies, decisions,
15 procedures, or other activities thereof, or because of the
16 informational data contained therein. Library and museum
17 material made or acquired and preserved solely for reference
18 or exhibition purposes, extra copies of documents preserved
19 only for convenience of reference, and stocks of publications
20 and of processed documents are not included within the
21 definition of public record. Paper copies of registration
22 records, as defined in Section 1 of the Library Records
23 Confidentiality Act (75 ILCS 70/1), shall not be considered
24 public records once the information contained in the paper
25 registration records is transferred into a secure electronic
26 format and checked for accuracy. "Public record" includes

1 born-digital electronic material or digitized electronic
2 material even if the material is stored or maintained on a
3 server, including a third-party server, not on the property of
4 an agency.

5 (Source: P.A. 99-147, eff. 1-1-16.)

6 (50 ILCS 205/7) (from Ch. 116, par. 43.107)

7 Sec. 7. Disposition rules. Except as otherwise provided by
8 law and this Section, no public record shall be disposed of by
9 any officer or agency unless the written approval of the
10 appropriate Local Records Commission is first obtained.

11 The Commission shall issue regulations which shall be
12 binding on all such officers. Such regulations shall establish
13 procedures for compiling and submitting to the Commission
14 lists and schedules of public records proposed for disposal;
15 procedures for the physical destruction or other disposition
16 of such public records; procedures for the management and
17 preservation of electronically generated and maintained
18 records; and standards for the reproduction of such public
19 records by photography, microphotographic processes, or
20 digitized electronic format. Such standards and procedures
21 shall relate to the quality of the film to be used, preparation
22 of the public records for filming or electronic conversion,
23 proper identification matter on such records so that an
24 individual document or series of documents can be located on
25 the film or digitized electronic form with reasonable

1 facility, and that the copies contain all significant record
2 detail, to the end that the copies will be adequate. Any public
3 record may be reproduced in a microfilm or digitized
4 electronic format. The agency may dispose of the original of
5 any reproduced record providing: (i) the reproduction process
6 forms a durable medium that accurately and legibly reproduces
7 the original record in all details, that does not permit
8 additions, deletions, or changes to the original document
9 images, and, if electronic, that are retained in a trustworthy
10 manner so that the records, and the information contained in
11 the records, are accessible and usable for subsequent
12 reference at all times while the information must be retained,
13 (ii) the reproduction is retained for the prescribed retention
14 period, and (iii) the Commission is notified when the original
15 record is disposed of and also when the reproduced record is
16 disposed of. Authorization of the Commission is not needed
17 for, and the Commission may not prohibit, destruction of an
18 original record after it is converted into a digitized
19 electronic format if the standards and procedures of the
20 Commission relating to digitization are followed.

21 Such regulations shall also provide that the State
22 archivist may retain any records which the Commission has
23 authorized to be destroyed, where they have a historical
24 value, and that the State archivist may deposit them in the
25 State Archives, State Historical Library, or a university
26 library, or with a historical society, museum, or library.

1 (Source: P.A. 99-147, eff. 1-1-16.)