



Sen. Cristina H. Pacione-Zayas

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10300HB3413sam001

LRB103 30307 RLC 60718 a

1 AMENDMENT TO HOUSE BILL 3413

2 AMENDMENT NO. _____. Amend House Bill 3413 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Illinois Administrative Procedure Act is
5 amended by adding Section 5-45.35 as follows:

6 (5 ILCS 100/5-45.35 new)

7 Sec. 5-45.35. Emergency rulemaking; Department of Natural
8 Resources. To provide for the expeditious and timely
9 implementation of Section 13 of the Human Remains Protection
10 Act, emergency rules implementing Section 13 of the Human
11 Remains Protection Act may be adopted in accordance with
12 Section 5-45 by the Department of Natural Resources. The
13 adoption of emergency rules authorized by Section 5-45 and
14 this Section is deemed to be necessary for the public
15 interest, safety, and welfare.

16 This Section is repealed one year after the effective date

1 of this amendatory Act of the 103rd General Assembly.

2 Section 10. The Freedom of Information Act is amended by
3 changing Section 7 as follows:

4 (5 ILCS 140/7)

5 (Text of Section before amendment by P.A. 102-982)

6 Sec. 7. Exemptions.

7 (1) When a request is made to inspect or copy a public
8 record that contains information that is exempt from
9 disclosure under this Section, but also contains information
10 that is not exempt from disclosure, the public body may elect
11 to redact the information that is exempt. The public body
12 shall make the remaining information available for inspection
13 and copying. Subject to this requirement, the following shall
14 be exempt from inspection and copying:

15 (a) Information specifically prohibited from
16 disclosure by federal or State law or rules and
17 regulations implementing federal or State law.

18 (b) Private information, unless disclosure is required
19 by another provision of this Act, a State or federal law,
20 or a court order.

21 (b-5) Files, documents, and other data or databases
22 maintained by one or more law enforcement agencies and
23 specifically designed to provide information to one or
24 more law enforcement agencies regarding the physical or

1 mental status of one or more individual subjects.

2 (c) Personal information contained within public
3 records, the disclosure of which would constitute a
4 clearly unwarranted invasion of personal privacy, unless
5 the disclosure is consented to in writing by the
6 individual subjects of the information. "Unwarranted
7 invasion of personal privacy" means the disclosure of
8 information that is highly personal or objectionable to a
9 reasonable person and in which the subject's right to
10 privacy outweighs any legitimate public interest in
11 obtaining the information. The disclosure of information
12 that bears on the public duties of public employees and
13 officials shall not be considered an invasion of personal
14 privacy.

15 (d) Records in the possession of any public body
16 created in the course of administrative enforcement
17 proceedings, and any law enforcement or correctional
18 agency for law enforcement purposes, but only to the
19 extent that disclosure would:

20 (i) interfere with pending or actually and
21 reasonably contemplated law enforcement proceedings
22 conducted by any law enforcement or correctional
23 agency that is the recipient of the request;

24 (ii) interfere with active administrative
25 enforcement proceedings conducted by the public body
26 that is the recipient of the request;

1 (iii) create a substantial likelihood that a
2 person will be deprived of a fair trial or an impartial
3 hearing;

4 (iv) unavoidably disclose the identity of a
5 confidential source, confidential information
6 furnished only by the confidential source, or persons
7 who file complaints with or provide information to
8 administrative, investigative, law enforcement, or
9 penal agencies; except that the identities of
10 witnesses to traffic accidents, traffic accident
11 reports, and rescue reports shall be provided by
12 agencies of local government, except when disclosure
13 would interfere with an active criminal investigation
14 conducted by the agency that is the recipient of the
15 request;

16 (v) disclose unique or specialized investigative
17 techniques other than those generally used and known
18 or disclose internal documents of correctional
19 agencies related to detection, observation, or
20 investigation of incidents of crime or misconduct, and
21 disclosure would result in demonstrable harm to the
22 agency or public body that is the recipient of the
23 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
5 that is the recipient of the request did not create the
6 record, did not participate in or have a role in any of the
7 events which are the subject of the record, and only has
8 access to the record through the shared electronic record
9 management system.

10 (d-6) Records contained in the Officer Professional
11 Conduct Database under Section 9.2 of the Illinois Police
12 Training Act, except to the extent authorized under that
13 Section. This includes the documents supplied to the
14 Illinois Law Enforcement Training Standards Board from the
15 Illinois State Police and Illinois State Police Merit
16 Board.

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

19 (e-5) Records requested by persons committed to the
20 Department of Corrections, Department of Human Services
21 Division of Mental Health, or a county jail if those
22 materials are available in the library of the correctional
23 institution or facility or jail where the inmate is
24 confined.

25 (e-6) Records requested by persons committed to the
26 Department of Corrections, Department of Human Services

1 Division of Mental Health, or a county jail if those
2 materials include records from staff members' personnel
3 files, staff rosters, or other staffing assignment
4 information.

5 (e-7) Records requested by persons committed to the
6 Department of Corrections or Department of Human Services
7 Division of Mental Health if those materials are available
8 through an administrative request to the Department of
9 Corrections or Department of Human Services Division of
10 Mental Health.

11 (e-8) Records requested by a person committed to the
12 Department of Corrections, Department of Human Services
13 Division of Mental Health, or a county jail, the
14 disclosure of which would result in the risk of harm to any
15 person or the risk of an escape from a jail or correctional
16 institution or facility.

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

1 (e-10) Law enforcement records of other persons
2 requested by a person committed to the Department of
3 Corrections, Department of Human Services Division of
4 Mental Health, or a county jail, including, but not
5 limited to, arrest and booking records, mug shots, and
6 crime scene photographs, except as these records may be
7 relevant to the requester's current or potential case or
8 claim.

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

18 (g) Trade secrets and commercial or financial
19 information obtained from a person or business where the
20 trade secrets or commercial or financial information are
21 furnished under a claim that they are proprietary,
22 privileged, or confidential, and that disclosure of the
23 trade secrets or commercial or financial information would
24 cause competitive harm to the person or business, and only
25 insofar as the claim directly applies to the records
26 requested.

1 The information included under this exemption includes
2 all trade secrets and commercial or financial information
3 obtained by a public body, including a public pension
4 fund, from a private equity fund or a privately held
5 company within the investment portfolio of a private
6 equity fund as a result of either investing or evaluating
7 a potential investment of public funds in a private equity
8 fund. The exemption contained in this item does not apply
9 to the aggregate financial performance information of a
10 private equity fund, nor to the identity of the fund's
11 managers or general partners. The exemption contained in
12 this item does not apply to the identity of a privately
13 held company within the investment portfolio of a private
14 equity fund, unless the disclosure of the identity of a
15 privately held company may cause competitive harm.

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

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

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

12 (j) The following information pertaining to
13 educational matters:

14 (i) test questions, scoring keys, and other
15 examination data used to administer an academic
16 examination;

17 (ii) information received by a primary or
18 secondary school, college, or university under its
19 procedures for the evaluation of faculty members by
20 their academic peers;

21 (iii) information concerning a school or
22 university's adjudication of student disciplinary
23 cases, but only to the extent that disclosure would
24 unavoidably reveal the identity of the student; and

25 (iv) course materials or research materials used
26 by faculty members.

1 (k) Architects' plans, engineers' technical
2 submissions, and other construction related technical
3 documents for projects not constructed or developed in
4 whole or in part with public funds and the same for
5 projects constructed or developed with public funds,
6 including, but not limited to, power generating and
7 distribution stations and other transmission and
8 distribution facilities, water treatment facilities,
9 airport facilities, sport stadiums, convention centers,
10 and all government owned, operated, or occupied buildings,
11 but only to the extent that disclosure would compromise
12 security.

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

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

25 (n) Records relating to a public body's adjudication
26 of employee grievances or disciplinary cases; however,

1 this exemption shall not extend to the final outcome of
2 cases in which discipline is imposed.

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

13 (p) Records relating to collective negotiating matters
14 between public bodies and their employees or
15 representatives, except that any final contract or
16 agreement shall be subject to inspection and copying.

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

20 (r) The records, documents, and information relating
21 to real estate purchase negotiations until those
22 negotiations have been completed or otherwise terminated.
23 With regard to a parcel involved in a pending or actually
24 and reasonably contemplated eminent domain proceeding
25 under the Eminent Domain Act, records, documents, and
26 information relating to that parcel shall be exempt except

1 as may be allowed under discovery rules adopted by the
2 Illinois Supreme Court. The records, documents, and
3 information relating to a real estate sale shall be exempt
4 until a sale is consummated.

5 (s) Any and all proprietary information and records
6 related to the operation of an intergovernmental risk
7 management association or self-insurance pool or jointly
8 self-administered health and accident cooperative or pool.
9 Insurance or self-insurance ~~self-insurance~~ (including any
10 intergovernmental risk management association or
11 self-insurance ~~self-insurance~~ pool) claims, loss or risk
12 management information, records, data, advice, or
13 communications.

14 (t) Information contained in or related to
15 examination, operating, or condition reports prepared by,
16 on behalf of, or for the use of a public body responsible
17 for the regulation or supervision of financial
18 institutions, insurance companies, or pharmacy benefit
19 managers, unless disclosure is otherwise required by State
20 law.

21 (u) Information that would disclose or might lead to
22 the disclosure of secret or confidential information,
23 codes, algorithms, programs, or private keys intended to
24 be used to create electronic signatures under the Uniform
25 Electronic Transactions Act.

26 (v) Vulnerability assessments, security measures, and

1 response policies or plans that are designed to identify,
2 prevent, or respond to potential attacks upon a
3 community's population or systems, facilities, or
4 installations, but only to the extent that disclosure
5 could reasonably be expected to expose the vulnerability
6 or jeopardize the effectiveness of the measures, policies,
7 or plans, or the safety of the personnel who implement
8 them or the public. Information exempt under this item may
9 include such things as details pertaining to the
10 mobilization or deployment of personnel or equipment, to
11 the operation of communication systems or protocols, to
12 cybersecurity vulnerabilities, or to tactical operations.

13 (w) (Blank).

14 (x) Maps and other records regarding the location or
15 security of generation, transmission, distribution,
16 storage, gathering, treatment, or switching facilities
17 owned by a utility, by a power generator, or by the
18 Illinois Power Agency.

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

26 (z) Information about students exempted from

1 disclosure under Section ~~Sections~~ 10-20.38 or 34-18.29 of
2 the School Code, and information about undergraduate
3 students enrolled at an institution of higher education
4 exempted from disclosure under Section 25 of the Illinois
5 Credit Card Marketing Act of 2009.

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

8 (bb) Records and information provided to a mortality
9 review team and records maintained by a mortality review
10 team appointed under the Department of Juvenile Justice
11 Mortality Review Team Act.

12 (cc) Information regarding interments, entombments, or
13 inurnments of human remains that are submitted to the
14 Cemetery Oversight Database under the Cemetery Care Act or
15 the Cemetery Oversight Act, whichever is applicable.

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

20 (ee) The names, addresses, or other personal
21 information of persons who are minors and are also
22 participants and registrants in programs of park
23 districts, forest preserve districts, conservation
24 districts, recreation agencies, and special recreation
25 associations.

26 (ff) The names, addresses, or other personal

1 information of participants and registrants in programs of
2 park districts, forest preserve districts, conservation
3 districts, recreation agencies, and special recreation
4 associations where such programs are targeted primarily to
5 minors.

6 (gg) Confidential information described in Section
7 1-100 of the Illinois Independent Tax Tribunal Act of
8 2012.

9 (hh) The report submitted to the State Board of
10 Education by the School Security and Standards Task Force
11 under item (8) of subsection (d) of Section 2-3.160 of the
12 School Code and any information contained in that report.

13 (ii) Records requested by persons committed to or
14 detained by the Department of Human Services under the
15 Sexually Violent Persons Commitment Act or committed to
16 the Department of Corrections under the Sexually Dangerous
17 Persons Act if those materials: (i) are available in the
18 library of the facility where the individual is confined;
19 (ii) include records from staff members' personnel files,
20 staff rosters, or other staffing assignment information;
21 or (iii) are available through an administrative request
22 to the Department of Human Services or the Department of
23 Corrections.

24 (jj) Confidential information described in Section
25 5-535 of the Civil Administrative Code of Illinois.

26 (kk) The public body's credit card numbers, debit card

1 numbers, bank account numbers, Federal Employer
2 Identification Number, security code numbers, passwords,
3 and similar account information, the disclosure of which
4 could result in identity theft or impersonation or defrauding
5 of a governmental entity or a person.

6 (ll) Records concerning the work of the threat
7 assessment team of a school district, including, but not
8 limited to, any threat assessment procedure under the
9 School Safety Drill Act and any information contained in
10 the procedure.

11 (mm) Information prohibited from being disclosed under
12 subsections (a) and (b) of Section 15 of the Student
13 Confidential Reporting Act.

14 (nn) ~~(mm)~~ Proprietary information submitted to the
15 Environmental Protection Agency under the Drug Take-Back
16 Act.

17 (oo) ~~(mm)~~ Records described in subsection (f) of
18 Section 3-5-1 of the Unified Code of Corrections.

19 (pp) Any and all information regarding burials,
20 interments, or entombments of human remains as required to
21 be reported to the Department of Natural Resources
22 pursuant either to the Archaeological and Paleontological
23 Resources Protection Act or the Human Remains Protection
24 Act.

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
11 public, except as stated in this Section or otherwise provided
12 in this Act.

13 (Source: P.A. 101-434, eff. 1-1-20; 101-452, eff. 1-1-20;
14 101-455, eff. 8-23-19; 101-652, eff. 1-1-22; 102-38, eff.
15 6-25-21; 102-558, eff. 8-20-21; 102-694, eff. 1-7-22; 102-752,
16 eff. 5-6-22; 102-753, eff. 1-1-23; 102-776, eff. 1-1-23;
17 102-791, eff. 5-13-22; 102-1055, eff. 6-10-22; revised
18 12-13-22.)

19 (Text of Section after amendment by P.A. 102-982)

20 Sec. 7. Exemptions.

21 (1) When a request is made to inspect or copy a public
22 record that contains information that is exempt from
23 disclosure under this Section, but also contains information
24 that is not exempt from disclosure, the public body may elect
25 to redact the information that is exempt. The public body

1 shall make the remaining information available for inspection
2 and copying. Subject to this requirement, the following shall
3 be exempt from inspection and copying:

4 (a) Information specifically prohibited from
5 disclosure by federal or State law or rules and
6 regulations implementing federal or State law.

7 (b) Private information, unless disclosure is required
8 by another provision of this Act, a State or federal law,
9 or a court order.

10 (b-5) Files, documents, and other data or databases
11 maintained by one or more law enforcement agencies and
12 specifically designed to provide information to one or
13 more law enforcement agencies regarding the physical or
14 mental status of one or more individual subjects.

15 (c) Personal information contained within public
16 records, the disclosure of which would constitute a
17 clearly unwarranted invasion of personal privacy, unless
18 the disclosure is consented to in writing by the
19 individual subjects of the information. "Unwarranted
20 invasion of personal privacy" means the disclosure of
21 information that is highly personal or objectionable to a
22 reasonable person and in which the subject's right to
23 privacy outweighs any legitimate public interest in
24 obtaining the information. The disclosure of information
25 that bears on the public duties of public employees and
26 officials shall not be considered an invasion of personal

1 privacy.

2 (d) Records in the possession of any public body
3 created in the course of administrative enforcement
4 proceedings, and any law enforcement or correctional
5 agency for law enforcement purposes, but only to the
6 extent that disclosure would:

7 (i) interfere with pending or actually and
8 reasonably contemplated law enforcement proceedings
9 conducted by any law enforcement or correctional
10 agency that is the recipient of the request;

11 (ii) interfere with active administrative
12 enforcement proceedings conducted by the public body
13 that is the recipient of the request;

14 (iii) create a substantial likelihood that a
15 person will be deprived of a fair trial or an impartial
16 hearing;

17 (iv) unavoidably disclose the identity of a
18 confidential source, confidential information
19 furnished only by the confidential source, or persons
20 who file complaints with or provide information to
21 administrative, investigative, law enforcement, or
22 penal agencies; except that the identities of
23 witnesses to traffic crashes, traffic crash reports,
24 and rescue reports shall be provided by agencies of
25 local government, except when disclosure would
26 interfere with an active criminal investigation

1 conducted by the agency that is the recipient of the
2 request;

3 (v) disclose unique or specialized investigative
4 techniques other than those generally used and known
5 or disclose internal documents of correctional
6 agencies related to detection, observation, or
7 investigation of incidents of crime or misconduct, and
8 disclosure would result in demonstrable harm to the
9 agency or public body that is the recipient of the
10 request;

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

13 (vii) obstruct an ongoing criminal investigation
14 by the agency that is the recipient of the request.

15 (d-5) A law enforcement record created for law
16 enforcement purposes and contained in a shared electronic
17 record management system if the law enforcement agency
18 that is the recipient of the request did not create the
19 record, did not participate in or have a role in any of the
20 events which are the subject of the record, and only has
21 access to the record through the shared electronic record
22 management system.

23 (d-6) Records contained in the Officer Professional
24 Conduct Database under Section 9.2 of the Illinois Police
25 Training Act, except to the extent authorized under that
26 Section. This includes the documents supplied to the

1 Illinois Law Enforcement Training Standards Board from the
2 Illinois State Police and Illinois State Police Merit
3 Board.

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5 correctional institutions and detention facilities.

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7 Department of Corrections, Department of Human Services
8 Division of Mental Health, or a county jail if those
9 materials are available in the library of the correctional
10 institution or facility or jail where the inmate is
11 confined.

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17 information.

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19 Department of Corrections or Department of Human Services
20 Division of Mental Health if those materials are available
21 through an administrative request to the Department of
22 Corrections or Department of Human Services Division of
23 Mental Health.

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2 person or the risk of an escape from a jail or correctional
3 institution or facility.

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10 or school address, work telephone number, social security
11 number, or any other identifying information, except as
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17 Mental Health, or a county jail, including, but not
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8 furnished under a claim that they are proprietary,
9 privileged, or confidential, and that disclosure of the
10 trade secrets or commercial or financial information would
11 cause competitive harm to the person or business, and only
12 insofar as the claim directly applies to the records
13 requested.

14 The information included under this exemption includes
15 all trade secrets and commercial or financial information
16 obtained by a public body, including a public pension
17 fund, from a private equity fund or a privately held
18 company within the investment portfolio of a private
19 equity fund as a result of either investing or evaluating
20 a potential investment of public funds in a private equity
21 fund. The exemption contained in this item does not apply
22 to the aggregate financial performance information of a
23 private equity fund, nor to the identity of the fund's
24 managers or general partners. The exemption contained in
25 this item does not apply to the identity of a privately
26 held company within the investment portfolio of a private

1 equity fund, unless the disclosure of the identity of a
2 privately held company may cause competitive harm.

3 Nothing contained in this paragraph (g) shall be
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19 program abstracts, file layouts, source listings, object
20 modules, load modules, user guides, documentation
21 pertaining to all logical and physical design of
22 computerized systems, employee manuals, and any other
23 information that, if disclosed, would jeopardize the
24 security of the system or its data or the security of
25 materials exempt under this Section.

26 (p) Records relating to collective negotiating matters

1 between public bodies and their employees or
2 representatives, except that any final contract or
3 agreement shall be subject to inspection and copying.

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

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

18 (s) Any and all proprietary information and records
19 related to the operation of an intergovernmental risk
20 management association or self-insurance pool or jointly
21 self-administered health and accident cooperative or pool.
22 Insurance or self-insurance ~~self-insurance~~ (including any
23 intergovernmental risk management association or
24 self-insurance ~~self-insurance~~ pool) claims, loss or risk
25 management information, records, data, advice, or
26 communications.

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

8 (u) Information that would disclose or might lead to
9 the disclosure of secret or confidential information,
10 codes, algorithms, programs, or private keys intended to
11 be used to create electronic signatures under the Uniform
12 Electronic Transactions Act.

13 (v) Vulnerability assessments, security measures, and
14 response policies or plans that are designed to identify,
15 prevent, or respond to potential attacks upon a
16 community's population or systems, facilities, or
17 installations, but only to the extent that disclosure
18 could reasonably be expected to expose the vulnerability
19 or jeopardize the effectiveness of the measures, policies,
20 or plans, or the safety of the personnel who implement
21 them or the public. Information exempt under this item may
22 include such things as details pertaining to the
23 mobilization or deployment of personnel or equipment, to
24 the operation of communication systems or protocols, to
25 cybersecurity vulnerabilities, or to tactical operations.

26 (w) (Blank).

1 (x) Maps and other records regarding the location or
2 security of generation, transmission, distribution,
3 storage, gathering, treatment, or switching facilities
4 owned by a utility, by a power generator, or by the
5 Illinois Power Agency.

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

13 (z) Information about students exempted from
14 disclosure under Section ~~Sections~~ 10-20.38 or 34-18.29 of
15 the School Code, and information about undergraduate
16 students enrolled at an institution of higher education
17 exempted from disclosure under Section 25 of the Illinois
18 Credit Card Marketing Act of 2009.

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

21 (bb) Records and information provided to a mortality
22 review team and records maintained by a mortality review
23 team appointed under the Department of Juvenile Justice
24 Mortality Review Team Act.

25 (cc) Information regarding interments, entombments, or
26 inurnments of human remains that are submitted to the

1 Cemetery Oversight Database under the Cemetery Care Act or
2 the Cemetery Oversight Act, whichever is applicable.

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

7 (ee) The names, addresses, or other personal
8 information of persons who are minors and are also
9 participants and registrants in programs of park
10 districts, forest preserve districts, conservation
11 districts, recreation agencies, and special recreation
12 associations.

13 (ff) The names, addresses, or other personal
14 information of participants and registrants in programs of
15 park districts, forest preserve districts, conservation
16 districts, recreation agencies, and special recreation
17 associations where such programs are targeted primarily to
18 minors.

19 (gg) Confidential information described in Section
20 1-100 of the Illinois Independent Tax Tribunal Act of
21 2012.

22 (hh) The report submitted to the State Board of
23 Education by the School Security and Standards Task Force
24 under item (8) of subsection (d) of Section 2-3.160 of the
25 School Code and any information contained in that report.

26 (ii) Records requested by persons committed to or

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

11 (jj) Confidential information described in Section
12 5-535 of the Civil Administrative Code of Illinois.

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

19 (ll) Records concerning the work of the threat
20 assessment team of a school district, including, but not
21 limited to, any threat assessment procedure under the
22 School Safety Drill Act and any information contained in
23 the procedure.

24 (mm) Information prohibited from being disclosed under
25 subsections (a) and (b) of Section 15 of the Student
26 Confidential Reporting Act.

1 (nn) ~~(mm)~~ Proprietary information submitted to the
2 Environmental Protection Agency under the Drug Take-Back
3 Act.

4 (oo) ~~(mm)~~ Records described in subsection (f) of
5 Section 3-5-1 of the Unified Code of Corrections.

6 (pp) Any and all information regarding burials,
7 interments, or entombments of human remains as required to
8 be reported to the Department of Natural Resources
9 pursuant either to the Archaeological and Paleontological
10 Resources Protection Act or the Human Remains Protection
11 Act.

12 (1.5) Any information exempt from disclosure under the
13 Judicial Privacy Act shall be redacted from public records
14 prior to disclosure under this Act.

15 (2) A public record that is not in the possession of a
16 public body but is in the possession of a party with whom the
17 agency has contracted to perform a governmental function on
18 behalf of the public body, and that directly relates to the
19 governmental function and is not otherwise exempt under this
20 Act, shall be considered a public record of the public body,
21 for purposes of this Act.

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

26 (Source: P.A. 101-434, eff. 1-1-20; 101-452, eff. 1-1-20;

1 101-455, eff. 8-23-19; 101-652, eff. 1-1-22; 102-38, eff.
2 6-25-21; 102-558, eff. 8-20-21; 102-694, eff. 1-7-22; 102-752,
3 eff. 5-6-22; 102-753, eff. 1-1-23; 102-776, eff. 1-1-23;
4 102-791, eff. 5-13-22; 102-982, eff. 7-1-23; 102-1055, eff.
5 6-10-22; revised 12-13-22.)

6 Section 15. The Seizure and Forfeiture Reporting Act is
7 amended by changing Section 5 as follows:

8 (5 ILCS 810/5)

9 Sec. 5. Applicability. This Act is applicable to property
10 seized or forfeited under the following provisions of law:

11 (1) Section 3.23 of the Illinois Food, Drug and
12 Cosmetic Act;

13 (2) Section 44.1 of the Environmental Protection Act;

14 (3) Section 105-55 of the Herptiles-Herps Act;

15 (4) Section 1-215 of the Fish and Aquatic Life Code;

16 (5) Section 1.25 of the Wildlife Code;

17 (6) Section 17-10.6 of the Criminal Code of 2012
18 (financial institution fraud);

19 (7) Section 28-5 of the Criminal Code of 2012
20 (gambling);

21 (8) Article 29B of the Criminal Code of 2012 (money
22 laundering);

23 (9) Article 33G of the Criminal Code of 2012 (Illinois
24 Street Gang and Racketeer Influenced And Corrupt

1 Organizations Law);

2 (10) Article 36 of the Criminal Code of 2012 (seizure
3 and forfeiture of vessels, vehicles, and aircraft);

4 (11) Section 47-15 of the Criminal Code of 2012
5 (dumping garbage upon real property);

6 (12) Article 124B of the Code of Criminal Procedure of
7 1963 (forfeiture);

8 (13) the Drug Asset Forfeiture Procedure Act;

9 (14) the Narcotics Profit Forfeiture Act;

10 (15) the Illinois Streetgang Terrorism Omnibus
11 Prevention Act; ~~and~~

12 (16) the Illinois Securities Law of 1953;~~;~~

13 (17) the Archaeological and Paleontological Resources
14 Protection Act; and

15 (18) the Human Remains Protection Act.

16 (Source: P.A. 102-558, eff. 8-20-21.)

17 Section 20. The Archaeological and Paleontological
18 Resources Protection Act is amended by changing Sections .02,
19 3, 5, 7, 8, 10, and 11 and by adding Section 12 as follows:

20 (20 ILCS 3435/.02) (from Ch. 127, par. 133c.02)

21 Sec. .02. Definitions. For purposes of this Act:

22 ~~(a)~~ "Archaeological resource" means any significant
23 material remains or localities of past human life or
24 activities on public land, including but not limited to

1 artifacts, historic and prehistoric human ~~skeletal~~ remains,
2 mounds, earthworks, shipwrecks, forts, village sites or mines.

3 ~~(b)~~ "Department" means the Department of Natural
4 Resources.

5 "Disturb" includes defacing, mutilating, injuring,
6 exposing, removing, destroying, desecrating or molesting in
7 any way.

8 "Human remains" include the bones and decomposed fleshy
9 parts of a deceased human body.

10 ~~(c)~~ "Paleontological resource" means any significant
11 fossil or material remains on public lands including traces or
12 impressions of animals or plants that occur as part of the
13 geological record that are known and are included in the files
14 maintained by the Department ~~Illinois State Museum~~ under
15 Section 10.

16 ~~(d)~~ "Person" means any natural individual, firm, trust,
17 estate, partnership, association, joint stock company, joint
18 venture, corporation or a receiver, trustee, guardian or other
19 representative appointed by order of any court, the federal
20 and State governments, including State universities created by
21 statute or any city, town, county or other political
22 subdivision of this State.

23 ~~(e)~~ "Public land" means any land owned, but does not
24 include land leased as lessee, by the State of Illinois or its
25 agencies, a State university created by statute, a
26 municipality or a unit of local government.

1 (Source: P.A. 86-459; 86-707.)

2 (20 ILCS 3435/3) (from Ch. 127, par. 133c3)

3 Sec. 3. Permits.

4 (a) It is unlawful for any person, either by himself or
5 through an agent, to knowingly explore, excavate, possess, or
6 collect any of the archaeological or paleontological resources
7 protected by this Act, unless such person obtains a permit
8 issued by the Department of Natural Resources.

9 (b) It is unlawful for any person, either by himself or
10 through an agent, to knowingly disturb any archaeological or
11 paleontological resource protected under this Act.

12 (c) It is unlawful for any person, either by himself or
13 through an agent, to offer any object for sale or exchange with
14 the knowledge that it has been previously collected or
15 excavated in violation of this Act.

16 (Source: P.A. 100-695, eff. 8-3-18.)

17 (20 ILCS 3435/5) (from Ch. 127, par. 133c5)

18 Sec. 5. Penalties. Any violation of Section 3 not
19 involving the disturbance of human ~~skeletal~~ remains is a Class
20 A misdemeanor and the violator shall also be subject to
21 ~~imprisonment~~ and a fine not in excess of \$5,000; any
22 subsequent violation is a Class 4 felony. Any violation of
23 Section 3 involving disturbance of human ~~skeletal~~ remains is a
24 Class 4 felony. Each disturbance of an archaeological site or

1 a paleontological site shall constitute a single offense.
2 Persons convicted of a violation of Section 3 shall also be
3 ordered to pay restitution. Such restitution is liable for
4 civil damages to be assessed by the circuit court ~~land~~
5 ~~managing agency and the Department of Natural Resources.~~
6 Restitution Civil damages may include, but is not limited to:

7 (a) (blank); ~~forfeiture of any and all equipment used~~
8 ~~in acquiring the protected material;~~

9 (b) any and all costs incurred in cleaning, restoring,
10 analyzing, accessioning and curating the recovered
11 materials;

12 (c) any and all costs associated with restoring the
13 land to its original contour;

14 (d) any and all costs associated with recovery of data
15 and analyzing, publishing, accessioning and curating
16 materials when the prohibited activity is so extensive as
17 to preclude the restoration of the archaeological or
18 paleontological site;

19 (e) any and all costs associated with the
20 determination and collection of restitution ~~the civil~~
21 ~~damages.~~

22 When restitution is ordered in a case that is prosecuted
23 by civil damages are recovered through the Attorney General,
24 all restitution the proceeds shall be deposited into the
25 Historic Sites Fund; when restitution is ordered in a case
26 that is prosecuted by civil damages are recovered through the

1 State's Attorney, the proceeds shall be deposited into the
2 county fund designated by the county board.

3 (Source: P.A. 100-695, eff. 8-3-18.)

4 (20 ILCS 3435/7) (from Ch. 127, par. 133c7)

5 Sec. 7. Property of the State; Department management. All
6 materials and associated records remain the property of the
7 State and are managed by the Department Illinois State Museum.
8 ~~The Illinois State Museum, in consultation with the Department~~
9 ~~of Natural Resources,~~ is authorized to establish long-term
10 curation agreements with Tribal Nations, universities, museums
11 and other organizations.

12 (Source: P.A. 100-695, eff. 8-3-18.)

13 (20 ILCS 3435/8) (from Ch. 127, par. 133c8)

14 Sec. 8. Department exempt from permit requirements.

15 (a) The Department Illinois State Museum shall be exempt
16 from the permit requirements established by this Act for lands
17 under its direct management but shall register that
18 exploration ~~with the Department of Natural Resources;~~ such
19 registration shall include the information required under
20 subsection (c) of Section 6.

21 (b) Any agency or department of the State of Illinois
22 which has on its staff a professional archaeologist or
23 paleontologist who meets the minimum qualifications
24 established in Section 9 and which has in effect a memorandum

1 of agreement with the Department ~~of Natural Resources~~ for the
2 protection, preservation and management of archaeological and
3 paleontological resources shall be exempt from the permit
4 requirements established by this Act.

5 (c) Activities reviewed by the Department ~~of Natural~~
6 ~~Resources~~ pursuant to Section 106 of the National Historic
7 Preservation Act (16 U.S.C. 470f) shall be exempt from these
8 permitting requirements.

9 (d) Where a local government's activities are funded in
10 whole or in part by a State agency and the funded activities
11 are supervised or controlled by the State agency, the local
12 government shall be exempt from the permit requirements
13 established by this Act to the same extent that the State
14 agency is exempt. The State agency shall be responsible for
15 undertaking or causing to be undertaken any steps necessary to
16 comply with this Act for those local government actions so
17 exempted.

18 (Source: P.A. 100-695, eff. 8-3-18.)

19 (20 ILCS 3435/10) (from Ch. 127, par. 133c10)

20 Sec. 10. Files containing information on known
21 archaeological and paleontological sites. The ~~Illinois State~~
22 ~~Museum, in cooperation with the~~ Department ~~of Natural~~
23 ~~Resources,~~ shall develop and maintain files containing
24 information on known archaeological and paleontological sites
25 in the State, whether on State controlled or privately owned

1 property. The Department ~~of Natural Resources~~ shall ensure the
2 safety of those sites by promulgating regulations limiting
3 access to those files as necessary.

4 (Source: P.A. 100-695, eff. 8-3-18.)

5 (20 ILCS 3435/11) (from Ch. 127, par. 133c11)

6 Sec. 11. Violation of administrative rules. The Department
7 of Natural Resources, in consultation with other State
8 agencies and Departments that own or control land, shall
9 promulgate such regulations as may be necessary to carry out
10 the purposes of this Act.

11 It is unlawful to violate any administrative rule
12 promulgated pursuant to this Act. A violation of
13 administrative rules promulgated pursuant to this Act is a
14 Class B misdemeanor.

15 (Source: P.A. 100-695, eff. 8-3-18.)

16 (20 ILCS 3435/12 new)

17 Sec. 12. Seizure.

18 (a) Every device, equipment, tool, vehicle or conveyance,
19 when used or operated illegally, or attempted to be used or
20 operated illegally by any person in taking, transporting,
21 holding, disturbing, exploring, excavating, collecting or
22 conveying any archaeological or paleontological resources,
23 contrary to the provisions of this Act, including
24 administrative rules, is a public nuisance and subject to

1 seizure and confiscation by any authorized employee of the
2 Department; upon the seizure of such item the Department shall
3 take and hold the same until disposed of as hereinafter
4 provided.

5 (b) Upon the seizure of any property as herein provided,
6 the authorized employee of the Department making such seizure
7 shall forthwith cause a complaint to be filed before the
8 circuit court and a summons to be issued requiring the person
9 who illegally used or operated or attempted to use or operate
10 such property and the owner and person in possession of such
11 property to appear in court and show cause why the property
12 seized should not be forfeited to the State. Upon the return of
13 the summons duly served or other notice as herein provided,
14 the court shall proceed to determine the question of the
15 illegality of the use of the seized property and upon judgment
16 being entered to the effect that such property was illegally
17 used, an order may be entered providing for the forfeiture of
18 such seized property to the Department and shall thereupon
19 become the property of the Department; but the owner of such
20 property may have a jury determine the illegality of its use,
21 and shall have the right of an appeal, as in other cases. Such
22 confiscation or forfeiture shall not preclude or mitigate
23 against prosecution and assessment of penalties otherwise
24 provided in this Act.

25 (c) Upon seizure of any property under circumstances
26 supporting a reasonable belief that such property was

1 abandoned, lost or stolen or otherwise illegally possessed or
2 used contrary to the provisions of this Act, except property
3 seized during a search or arrest, and ultimately returned,
4 destroyed, or otherwise disposed of pursuant to order of a
5 court in accordance with this Act, the Department shall make
6 reasonable inquiry and efforts to identify and notify the
7 owner or other person entitled to possession thereof, and
8 shall return the property after such person provides
9 reasonable and satisfactory proof of his ownership or right to
10 possession and reimburses the Department for all reasonable
11 expenses of such custody. If the identity or location of the
12 owner or other person entitled to possession of the property
13 has not been ascertained within 6 months after the Department
14 obtains such possession, the Department shall effectuate the
15 sale of the property for cash to the highest bidder at a public
16 auction. The owner or other person entitled to possession of
17 such property may claim and recover possession of the property
18 at any time before its sale at public auction, upon providing
19 reasonable and satisfactory proof of ownership or right of
20 possession and reimbursing the Department for all reasonable
21 expenses of custody thereof.

22 (d) Any property forfeited to the State by court order
23 pursuant to this Section may be disposed of by public auction,
24 except that any property which is the subject of such a court
25 order shall not be disposed of pending appeal of the order. The
26 proceeds of the sales at auction shall be deposited in the

1 Historic Sites Fund.

2 (e) The Department shall pay all costs of notices required
3 by this Section.

4 Property seized or forfeited under this Section is subject
5 to reporting under the Seizure and Forfeiture Reporting Act.

6 (f) This Section does not apply to archaeological or
7 paleontological resources that were recovered by the
8 Department or other law enforcement agency during an
9 investigation of a violation of this Act.

10 Section 25. The Human Skeletal Remains Protection Act is
11 amended by changing Sections 0.01, 1, 2, 3, 4, 6, 8, 9, 10, 12,
12 13, 14, 15, and 16 and by adding Sections 3.5, 16.1, 16.2, and
13 16.3 as follows:

14 (20 ILCS 3440/0.01) (from Ch. 127, par. 2660)

15 Sec. 0.01. Short title. This Act may be cited as the Human
16 ~~Skeletal~~ Remains Protection Act.

17 (Source: P.A. 86-1324.)

18 (20 ILCS 3440/1) (from Ch. 127, par. 2661)

19 Sec. 1. Definitions. For the purposes of this Act:

20 "Department" means the Department of Natural Resources.

21 "Disturb" or "disturbance" includes excavating, removing,
22 exposing, probing, defacing, mutilating, destroying,
23 molesting, or desecrating in any way human remains,

1 unregistered graves, grave artifacts, and grave markers.

2 "Encounter" means to come upon human remains, grave
3 artifacts, grave markers, or unregistered graves at a location
4 where such viewing was not expected or anticipated.

5 "Grave artifacts" means any item of human manufacture or
6 use that is associated with the human remains in an
7 unregistered grave.

8 "Grave markers" means any tomb, monument, stone, ornament,
9 mound, or other item of human manufacture that is associated
10 with an unregistered grave.

11 ~~(a)~~ "Human ~~skeletal~~ remains" include the bones and
12 decomposed fleshy parts of a deceased human body.

13 "Person" means any natural individual, firm, trust,
14 estate, partnership, association, joint stock company, joint
15 venture, limited-liability company, corporation or a receiver,
16 trustee, guardian or other representatives appointed by order
17 of any court, the Federal and State governments, including
18 State Universities created by statute or any city, town,
19 county or other political subdivision of this State.

20 "Tribal consultation" means a form of communication
21 centered in trust, respect and shared responsibility that
22 upholds Tribal sovereignty. It is a free and open process
23 where the exchange of information and opinions are shared
24 among the participating parties.

25 "Undertaking" means any project, activity, or construction
26 that can result in changes to, disturbance of, moving, or

1 destruction of human remains, grave artifacts, grave markers
2 or unregistered graves.

3 ~~(b) "Unregistered grave ~~graves~~" means are any grave ~~graves~~~~
4 ~~or location ~~locations~~ where a human body has been buried or~~
5 ~~deposited; is over 100 years old; and is not in a cemetery~~
6 ~~registered with or licensed by the State Comptroller under the~~
7 ~~Cemetery Care Act or under the authority of the Illinois~~
8 ~~Department of Financial and Professional Regulation pursuant~~
9 ~~to the Cemetery Oversight Act, whichever is applicable.~~

10 ~~(c) "Grave artifacts" are any item of human manufacture or~~
11 ~~use that is associated with the human skeletal remains in an~~
12 ~~unregistered grave.~~

13 ~~(d) "Grave markers" are any tomb, monument, stone,~~
14 ~~ornament, mound, or other item of human manufacture that is~~
15 ~~associated with an unregistered grave.~~

16 ~~(e) "Person" means any natural individual, firm, trust,~~
17 ~~estate, partnership, association, joint stock company, joint~~
18 ~~venture, corporation or a receiver, trustee, guardian or other~~
19 ~~representatives appointed by order of any court, the Federal~~
20 ~~and State governments, including State Universities created by~~
21 ~~statute or any city, town, county or other political~~
22 ~~subdivision of this State.~~

23 ~~(f) "Disturb" includes excavating, removing, exposing,~~
24 ~~defacing, mutilating, destroying, molesting, or desecrating in~~
25 ~~any way human skeletal remains, unregistered graves, and grave~~
26 ~~markers.~~

1 (Source: P.A. 96-863, eff. 3-1-10; 97-679, eff. 2-6-12.)

2 (20 ILCS 3440/2) (from Ch. 127, par. 2662)

3 Sec. 2. Legislative finding and intentions. The General
4 Assembly finds that existing laws do not provide equal or
5 adequate protection for all human graves. There is a ~~real and~~
6 ~~growing~~ threat to the safety and sanctity of unregistered and
7 unmarked graves. Numerous incidents in Illinois have resulted
8 in the desecration of human remains and vandalism to graves
9 and grave markers. Similar incidents have occurred in
10 neighboring states and as a result those states have increased
11 their criminal penalties for such conduct. Strong and
12 meaningful relationships between the State of Illinois and
13 tribal nations geographically and culturally affiliated to the
14 land now known as the State of Illinois must be cultivated.
15 ~~There is a strong likelihood that persons engaged for personal~~
16 ~~or financial gain in the mining of prehistoric and historic~~
17 ~~Indian, pioneer, and Civil War veteran's graves will move~~
18 ~~their operations to Illinois to avoid the increased penalties~~
19 ~~being imposed in neighboring states.~~ There is an immediate
20 need for legislation to protect the graves of Native Americans
21 and any other peoples geographically and culturally affiliated
22 to the land now known as the State of Illinois ~~these earlier~~
23 ~~Illinoisans~~ from such desecration. The General Assembly
24 intends to assure with this Act that all human burials be
25 accorded equal treatment and respect for human dignity ~~without~~

1 ~~reference to ethnic origins, cultural backgrounds or religious~~
2 ~~affiliations.~~

3 The General Assembly finds that the intentional looting
4 of, desecration of, or profiting from human remains and
5 mortuary objects are deplorable actions that must be
6 prohibited. When human remains and unregistered graves are
7 unintentionally encountered, they must be treated with respect
8 and in accordance with law. This Act is not intended ~~The~~
9 ~~General Assembly also finds that those persons engaged in the~~
10 ~~scientific study or collecting of artifacts which have not~~
11 ~~been acquired in violation of law are engaged in legitimate~~
12 ~~and worthy scientific, educational and recreational~~
13 ~~activities. This Act is not intended to interfere with the~~
14 ~~continued legitimate collecting activities or studies of such~~
15 ~~persons; nor is it intended to interfere with the normal~~
16 ~~enjoyment of private property owners, farmers, or those~~
17 ~~engaged in the development, mining or improvement of real~~
18 ~~property.~~

19 (Source: P.A. 95-331, eff. 8-21-07.)

20 (20 ILCS 3440/3) (from Ch. 127, par. 2663)

21 Sec. 3. Notification to coroner and Department. Any person
22 who encounters ~~discovers~~ human ~~skeletal~~ remains subject to
23 this Act shall promptly notify the coroner and shall notify
24 the Department within 48 hours of the encounter. Any person
25 who knowingly fails to report such an encounter as required by

1 this section ~~a discovery within 48 hours~~ is guilty of a Class C
2 misdemeanor, unless such person has reasonable cause to
3 believe that the coroner and the Department had already been
4 so notified. If the human ~~skeletal~~ remains appear to be from an
5 unregistered grave, the coroner shall promptly notify the
6 Department ~~of Natural Resources prior to their removal.~~
7 Nothing in this Act shall be construed to apply to human
8 ~~skeletal~~ remains subject to "An Act to revise the law in
9 relation to coroners".

10 (Source: P.A. 100-695, eff. 8-3-18.)

11 (20 ILCS 3440/3.5 new)

12 Sec. 3.5. Encounter procedure. When an undertaking
13 encounters human remains, unregistered graves, grave markers,
14 or grave artifacts, all activities shall cease within a
15 100-foot radius of the encounter. The encountering party shall
16 notify the coroner and the Department as required in Section
17 3. If the coroner determines that the human remains are not
18 over 100 years old, no further action is required under this
19 Act. If the coroner does determine that the human remains are
20 over 100 years old, the Department shall review the
21 undertaking and may issue a permit pursuant to Section 13.
22 During its review, if it is determined by the Department that
23 the human remains, unregistered grave, grave marker, or grave
24 artifact are Native American in origin, the Department shall
25 conduct tribal consultation with the tribal nations that

1 identify as having or having had a historical, cultural, or
2 geographic affiliation on the land where the undertaking will
3 occur.

4 (20 ILCS 3440/4) (from Ch. 127, par. 2664)

5 Sec. 4. Disturbing human remains.

6 (a) It is unlawful for any person, ~~either by himself or~~
7 ~~through an agent,~~ to knowingly or recklessly disturb or to
8 knowingly or recklessly allow the disturbance of human
9 skeletal remains, unregistered graves, grave markers, or and
10 grave artifacts that originated from any land that is now part
11 of the State of Illinois and ~~in unregistered graves~~ protected
12 by this Act unless such disturbance is authorized by person
13 ~~obtains~~ a permit issued by the Department of ~~Natural~~
14 Resources. A violation of this Section is a Class 4 felony.

15 (b) This Section does not apply to:

16 (1) persons employed by or agents of a county medical
17 examiner's office or coroner's office acting within the
18 scope of their employment;

19 (2) the acts of a licensed funeral director or
20 embalmer while performing acts authorized by the Funeral
21 Directors and Embalmers Licensing Code;

22 (3) cemeteries and cemetery personnel while performing
23 acts pursuant to a bona fide request from the involved
24 cemetery consumer or his or her heirs, or pursuant to an
25 interment or disinterment permit or a court order, or as

1 authorized under Section 14.5 of the Cemetery Protection
2 Act, or any other actions legally authorized for cemetery
3 employees;

4 (4) the acts of emergency medical personnel or
5 physicians performed in good faith and according to the
6 usual and customary standards of medical practice in an
7 attempt to resuscitate a life;

8 (5) physicians licensed to practice medicine in all of
9 its branches or holding a visiting professor, physician,
10 or resident permit under the Medical Practice Act of 1987,
11 performing acts in accordance with usual and customary
12 standards of medical practice, or a currently enrolled
13 student in an accredited medical school in furtherance of
14 his or her education at the accredited medical school;

15 (6) removing or carrying away human remains by the
16 employees, independent contractors, or other persons
17 designated by the federally designated organ procurement
18 agency engaged in the organ and tissue procurement
19 process; or

20 (7) Department employees in the course of their
21 official duties pursuant to this Act.

22 (Source: P.A. 100-695, eff. 8-3-18.)

23 (20 ILCS 3440/6) (from Ch. 127, par. 2666)

24 Sec. 6. Violations.

25 (a) It is unlawful for any person, ~~either by himself or~~

1 ~~through an agent,~~ to knowingly or recklessly:

2 (1) charge admission or a fee to observe;

3 (2) sell;

4 (3) purchase; or

5 (4) transport for sale or to a location that will
6 charge admission or a fee to observe any human remains,
7 grave artifacts, or grave markers that are Native American
8 in origin or that originated from any land that is now part
9 of the State of Illinois.

10 A person who violates this Section commits a Class A
11 misdemeanor for a first violation and a Class 4 felony for a
12 second or subsequent violation ~~offer any human skeletal~~
13 ~~remains, grave artifacts or grave markers for sale or exchange~~
14 ~~with the knowledge that they have been collected or excavated~~
15 ~~in violation of this Act.~~

16 (b) This Section does not apply to:

17 (1) the acts of a licensed funeral director or
18 embalmer while performing acts authorized by the Funeral
19 Directors and Embalmers Licensing Code; or

20 (2) cemeteries and cemetery personnel while performing
21 acts pursuant to a bona fide request from the involved
22 cemetery consumer or his or her heirs, or pursuant to an
23 interment or disinterment permit or a court order, or as
24 authorized under Section 14.5 of the Cemetery Protection
25 Act, or any other actions legally authorized for cemetery
26 employees.

1 (Source: P.A. 86-151.)

2 (20 ILCS 3440/8) (from Ch. 127, par. 2668)

3 Sec. 8. Duties of the State's Attorney and Attorney
4 General. The State's Attorney of the county in which a
5 violation ~~of Sections 4, 5, 6, or 7~~ of this Act or
6 administrative rules is alleged to have occurred, or the
7 Attorney General, may be requested by the Department ~~Director~~
8 ~~of Natural Resources~~ to initiate criminal prosecutions and ~~or~~
9 ~~to~~ seek restitution, civil damages, injunctive relief and any
10 other appropriate relief. The Department ~~of Natural Resources~~
11 shall co-operate with the State's Attorney or the Attorney
12 General. Persons wishing to report ~~aware of~~ any violations of
13 this Act shall contact the Department ~~of Natural Resources~~.

14 (Source: P.A. 100-695, eff. 8-3-18.)

15 (20 ILCS 3440/9) (from Ch. 127, par. 2669)

16 Sec. 9. Rewards for information leading to arrest of
17 violators of the Act. The Department ~~of Natural Resources~~ is
18 authorized to offer a reward of up to \$5,000 ~~\$2000~~ for
19 information leading to the arrest and conviction of persons
20 who violate ~~Sections 4, 5, 6, and 7~~ of this Act.

21 (Source: P.A. 100-695, eff. 8-3-18.)

22 (20 ILCS 3440/10) (from Ch. 127, par. 2670)

23 Sec. 10. Penalties. Any violation of Sections 4, 6 or 7 of

1 this Act, unless otherwise specified, is a Class A misdemeanor
2 for a first violation and a Class 4 felony for a second or
3 subsequent violation. Any violation of administrative rules
4 adopted under this Act is a Class B misdemeanor and the
5 ~~violation shall be subject to imprisonment for not more than 1~~
6 ~~year and a fine not in excess of \$10,000; any subsequent~~
7 ~~violation is a Class 4 felony.~~ Each disturbance of human
8 remains, an unregistered graves, grave markers, or grave
9 artifacts ~~grave~~ constitutes a separate offense.

10 (Source: P.A. 86-151.)

11 (20 ILCS 3440/12) (from Ch. 127, par. 2672)

12 Sec. 12. Restitution. Persons convicted of a violation of
13 Section 3, 3.5, 4, or 6 ~~Section 4 or 5~~ of this Act shall also
14 be liable for restitution ~~civil damages~~ to be assessed by the
15 circuit court ~~Historic Preservation Agency~~. Restitution ~~Civil~~
16 ~~damages~~ may include, but is not limited to:

17 (a) (blank); ~~forfeiture of any and all equipment used in~~
18 ~~disturbing the protected unregistered graves or grave markers;~~

19 (b) any and all costs incurred in cleaning, restoring,
20 repairing, analyzing, accessioning and curating the recovered
21 materials, including, but not limited to, fees for experts the
22 Department needed to complete any restoration or
23 identification required under this Act;

24 (c) any and all costs associated with restoring the land
25 to its original contour or the grave marker to its original

1 condition;

2 (d) any and all costs associated with recovery of data,
3 and analyzing, publishing, accessioning and curating materials
4 when the prohibited activity is so extensive as to preclude
5 the restoration of the unregistered burials or grave markers;

6 (e) any and all costs associated with the reinterment of
7 the human ~~skeletal~~ remains;

8 (f) any and all costs associated with the determination
9 and collection of restitution; and ~~the civil damages~~.

10 (g) for Native American remains and materials, any and all
11 costs of traveling for tribal nation representatives for
12 reinterment or repatriation activities and for non-Native
13 American remains and materials, any and all costs of traveling
14 for experts the Department needed to complete any restoration
15 or identification required under this Act.

16 When restitution is ordered in a case prosecuted by ~~civil~~
17 ~~damages are recovered through~~ the Attorney General, the
18 restitution proceeds shall be deposited into the Repatriation
19 and Reinterment Historic Sites Fund; when restitution is
20 ordered in a case prosecuted by ~~civil damages are recovered~~
21 ~~through~~ the State's Attorney, the proceeds shall be deposited
22 into the county funds designated by the county board that may
23 only be used for repatriation or reinterment.

24 (Source: P.A. 86-151.)

25 (20 ILCS 3440/13) (from Ch. 127, par. 2673)

1 Sec. 13. Notification.

2 (a) If an undertaking will occur on property that the
3 property owner has been notified in writing by the Department
4 that the land is likely to contain human remains, unregistered
5 graves, grave markers, or grave artifacts, a permit shall be
6 obtained by the landowner from the Department.

7 (b) If human remains, unregistered graves, grave markers,
8 or grave artifacts that were unknown and were encountered by
9 any person, a permit shall be obtained from the Department
10 before any work on the undertaking may continue.

11 (c) The Department of Natural Resources shall adopt
12 administrative rules ~~develop regulations, in consultation with~~
13 ~~the Illinois State Museum, whereby permits shall may be issued~~
14 for the avoidance, disturbance, or removal of human remains,
15 unregistered graves, grave markers, or grave artifacts, or a
16 combination of those activities ~~removal of human skeletal~~
17 ~~remains and grave artifacts from unregistered graves or the~~
18 ~~removal of grave markers.~~ The Department may adopt emergency
19 rules in accordance with Sections 5-45 and 5-45.35 of the
20 Illinois Administrative Procedure Act. The adoption of
21 emergency rules authorized by Sections 5-45 and 5-45.35 of the
22 Illinois Administrative Procedure Act and this paragraph is
23 deemed to be necessary for the public interest, safety, and
24 welfare.

25 (d) ~~(b)~~ Each permit shall specify all terms and conditions
26 under which the avoidance, removal, or disturbance of human

1 ~~skeletal~~ remains, grave artifacts, ~~or~~ grave markers, or
2 unregistered graves shall be carried out. All costs accrued in
3 the removal of the aforementioned materials shall be borne by
4 the permit applicant. Within 60 days of the ~~Upon~~ completion of
5 the undertaking project, the permit holder shall submit a
6 report, on a form provided by the Department, of the results to
7 the Department ~~of Natural Resources~~.

8 (Source: P.A. 100-695, eff. 8-3-18.)

9 (20 ILCS 3440/14) (from Ch. 127, par. 2674)

10 Sec. 14. Native American human remains. All Native
11 American human remains, unregistered graves, grave markers,
12 and grave artifacts are the property of the Native American
13 nations geographically and culturally affiliated with
14 Illinois. The Department shall maintain and care for Native
15 American property until tribal consultation has been completed
16 and the tribes have made the final decision for repatriation
17 or other arrangements have been established. The Department
18 shall:

19 (1) maintain records;

20 (2) conduct tribal consultation;

21 (3) provide reports to tribal nations; and

22 (4) facilitate repatriation and reinterment efforts.

23 Such repatriation and reinterment efforts shall be with
24 tribal approval.

25 All non-Native American human ~~skeletal~~ remains, grave markers,

1 and grave artifacts in unregistered graves are held in trust
2 for the people of Illinois by the State and are under the
3 jurisdiction of the Department until and unless they are
4 repatriated to descendants or other arrangements have been
5 established. Unless and until they are repatriated, all of
6 ~~Natural Resources. All~~ materials collected under this Act
7 shall be maintained, with dignity and respect, for the people
8 of the State under the care of the Department ~~Illinois State~~
9 ~~Museum.~~

10 (Source: P.A. 100-695, eff. 8-3-18.)

11 (20 ILCS 3440/15) (from Ch. 127, par. 2675)

12 Sec. 15. Rules. The Department of Natural Resources shall
13 adopt ~~promulgate~~ such administrative rules ~~regulations~~ as may
14 be necessary to carry out the purposes of this Act in
15 accordance with the Illinois Administrative Procedure Act.

16 (Source: P.A. 100-695, eff. 8-3-18.)

17 (20 ILCS 3440/16) (from Ch. 127, par. 2676)

18 Sec. 16. Exemptions. Activities reviewed by the Department
19 ~~of Natural Resources~~ pursuant to Section 106 of the National
20 Historic Preservation Act (16 U.S.C. 470f) and activities
21 permitted pursuant to the Federal Surface Mining Control and
22 Reclamation Act of 1977 (P.L. 95-87), or the rules and
23 regulations promulgated thereunder or any law, rule or
24 regulation adopted by the State of Illinois thereunder shall

1 be exempt from these permitting requirements.

2 (Source: P.A. 100-695, eff. 8-3-18.)

3 (20 ILCS 3440/16.1 new)

4 Sec. 16.1. Burial site on Department owned lands. The
5 Department may create a burial site on Department owned lands
6 for the reburial of repatriated Native American human remains,
7 unregistered graves, grave markers, or grave artifacts after
8 tribal consultation with the federally recognized tribes with
9 geographical and cultural affiliation with Illinois. The
10 burial site shall not be used by the public and shall be
11 protected by the State of Illinois.

12 (20 ILCS 3440/16.2 new)

13 Sec. 16.2. Repatriation and Reinterment Fund. The
14 Repatriation and Reinterment Fund is created in the State
15 treasury. All restitution collected from the prosecution of
16 any violation of this Act shall be deposited in the fund and
17 each deposit shall only be used to cover the restitution that
18 was so ordered in an individual case pursuant to Section 12.
19 The General Assembly may allocate appropriations to this fund
20 to cover the cost of, including but not limited to,
21 reinterment, repatriation, repair, or restoration of human
22 remains, unregistered graves, grave markers, or grave
23 artifacts that are in the custody of the Department.

1 (20 ILCS 3440/16.3 new)

2 Sec. 16.3. Forfeiture.

3 (a) Every device, equipment, tool, vehicle or conveyance,
4 when used or operated illegally, or attempted to be used or
5 operated illegally by any person in taking, transporting,
6 holding, disturbing, exploring, excavating, collecting or
7 conveying any human remains, grave artifacts, or grave
8 markers, contrary to the provisions of this Act, including
9 administrative rules, is a public nuisance and subject to
10 seizure and confiscation by any authorized employee of the
11 Department; upon the seizure of such item the Department shall
12 take and hold the same until disposed of as hereinafter
13 provided.

14 (b) Upon the seizure of any property as herein provided,
15 the authorized employee of the Department making such seizure
16 shall forthwith cause a complaint to be filed before the
17 circuit court and a summons to be issued requiring the person
18 who illegally used or operated or attempted to use or operate
19 such property and the owner and person in possession of such
20 property to appear in court and show cause why the property
21 seized should not be forfeited to the State. Upon the return of
22 the summons duly served or other notice as herein provided,
23 the court shall proceed to determine the question of the
24 illegality of the use of the seized property and upon judgment
25 being entered to the effect that such property was illegally
26 used, an order may be entered providing for the forfeiture of

1 such seized property to the Department and shall thereupon
2 become the property of the Department; but the owner of such
3 property may have a jury determine the illegality of its use,
4 and shall have the right of an appeal, as in other cases. Such
5 confiscation or forfeiture shall not preclude or mitigate
6 against prosecution and assessment of penalties otherwise
7 provided in this Act.

8 (c) Upon seizure of any property under circumstances
9 supporting a reasonable belief that such property was
10 abandoned, lost or stolen or otherwise illegally possessed or
11 used contrary to the provisions of this Act, except property
12 seized during a search or arrest, and ultimately returned,
13 destroyed, or otherwise disposed of pursuant to order of a
14 court in accordance with this Act, the Department shall make
15 reasonable inquiry and efforts to identify and notify the
16 owner or other person entitled to possession thereof, and
17 shall return the property after such person provides
18 reasonable and satisfactory proof of his ownership or right to
19 possession and reimburses the Department for all reasonable
20 expenses of such custody. If the identity or location of the
21 owner or other person entitled to possession of the property
22 has not been ascertained within 6 months after the Department
23 obtains such possession, the Department shall effectuate the
24 sale of the property for cash to the highest bidder at a public
25 auction. The owner or other person entitled to possession of
26 such property may claim and recover possession of the property

1 at any time before its sale at public auction, upon providing
2 reasonable and satisfactory proof of ownership or right of
3 possession and reimbursing the Department for all reasonable
4 expenses of custody thereof.

5 (d) Any property forfeited to the State by court order
6 pursuant to this Section may be disposed of by public auction,
7 except that any property which is the subject of such a court
8 order shall not be disposed of pending appeal of the order. The
9 proceeds of the sales at auction shall be deposited in the
10 Repatriation and Reinterment Fund.

11 (e) The Department shall pay all costs of notices required
12 by this Section.

13 (f) Property seized or forfeited under this Section is
14 subject to reporting under the Seizure and Forfeiture
15 Reporting Act.

16 (g) This Section does not apply to human remains, grave
17 artifacts, or grave markers that were recovered by the
18 Department or other law enforcement agency during an
19 investigation of a violation of this Act.

20 (20 ILCS 3440/5 rep.)

21 (20 ILCS 3440/7 rep.)

22 (20 ILCS 3440/11 rep.)

23 Section 30. The Human Skeletal Remains Protection Act is
24 amended by repealing Sections 5, 7, and 11.

1 Section 35. The State Finance Act is amended by adding
2 Section 5.990 as follows:

3 (30 ILCS 105/5.990 new)

4 Sec. 5.990. The Repatriation and Reinterment Fund.

5 Section 95. No acceleration or delay. Where this Act makes
6 changes in a statute that is represented in this Act by text
7 that is not yet or no longer in effect (for example, a Section
8 represented by multiple versions), the use of that text does
9 not accelerate or delay the taking effect of (i) the changes
10 made by this Act or (ii) provisions derived from any other
11 Public Act.

12 Section 99. Effective date. This Act takes effect upon
13 becoming law."