



96TH GENERAL ASSEMBLY

State of Illinois

2009 and 2010

HB5007

Introduced 1/21/2010, by Rep. Arthur L. Turner

SYNOPSIS AS INTRODUCED:

New Act

5 ILCS 120/2

from Ch. 102, par. 42

5 ILCS 140/7

from Ch. 116, par. 207

Creates the Department of Juvenile Justice Mortality Review Team Act and amends the Open Meetings Act and the Freedom of Information Act. Provides that upon the occurrence of the death of any youth in the Department of Juvenile Justice's custody, the Director of Juvenile Justice shall appoint members and a chairperson to a mortality review team. Provides for membership of the teams. Provides for a team's review of every death of a youth that occurs within a facility of the Department or as the result of an act or incident occurring within a facility of the Department, including as the result of suspected illness, injury, self-harm, or unknown cause. Provides for a team's recommendations to the Director of Juvenile Justice and for the Director's reply; also requires the Director to submit a report to the Executive Inspector General appointed by the Governor under the State Officials and Employees Ethics Act. Provides that team meetings are not subject to the Open Meetings Act and that records and information provided to or maintained by a team are not subject to inspection and copying under the Freedom of Information Act. Provides for indemnification of team members. Effective immediately.

LRB096 15733 DRJ 30972 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning State government.

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

4 Section 1. Short title. This Act may be cited as the
5 Department of Juvenile Justice Mortality Review Team Act.

6 Section 5. State policy. The following statements are the
7 policy of this State:

8 (1) Understanding that youth have different needs than
9 adults, it is the mission of the Illinois Department of
10 Juvenile Justice to preserve public safety by reducing
11 recidivism. Youth committed to the Department will receive
12 individualized services provided by qualified staff that
13 give them the skills to become productive citizens.

14 (2) When a youth dies while committed to the custody of
15 the Department of Juvenile Justice, the response by the
16 State and the community to the death must include an
17 accurate and complete determination of the cause of death
18 and the development and implementation of measures where
19 necessary and appropriate to prevent future deaths from
20 similar causes.

21 (3) Professionals from diverse disciplines and
22 agencies who have responsibilities for youth and expertise
23 that can promote youth safety and well-being, particularly

1 while in State custody, should share their expertise and
2 knowledge so that the goals of determining the causes of
3 youth deaths and preventing future youth deaths can be
4 achieved.

5 (4) A greater understanding of the incidence and causes
6 of deaths of youths in State custody is necessary to aid
7 the prevention of such deaths in the future.

8 (5) Multidisciplinary and multiagency reviews of youth
9 deaths can assist the Department of Juvenile Justice in (i)
10 developing a greater understanding of the incidence and
11 causes of youth deaths and the methods for preventing those
12 deaths, (ii) identifying any deficiencies in services and
13 systems within the Department of Juvenile Justice that may
14 place youth at greater risk for death while in the custody
15 of the Department, and (iii) identifying and implementing
16 improvements to the Department's systems for delivery of
17 such services.

18 (6) Access to information regarding deceased youth and
19 their families by multidisciplinary and multiagency
20 mortality review teams is necessary for those teams to
21 achieve their purposes and duties.

22 Section 10. Definitions. In this Act, unless the context
23 requires otherwise:

24 "Department" means the Department of Juvenile Justice.

25 "Director" means the Director of Juvenile Justice.

1 "Mortality review team" or "team" means a Department of
2 Juvenile Justice mortality review team appointed pursuant to
3 this Act.

4 "Youth" means any person committed by court order to the
5 custody of the Department of Juvenile Justice.

6 Section 15. Mortality review teams; establishment.

7 (a) Upon the occurrence of the death of any youth in the
8 Department's custody, the Director shall appoint members and a
9 chairperson to a mortality review team. The Director shall make
10 the appointments within 30 days after the youth's death.

11 (b) Each mortality review team shall consist of at least
12 one member from each of the following categories:

13 (1) Pediatrician or other physician.

14 (2) Representative of the Department.

15 (3) State's Attorney or State's Attorney
16 representative.

17 (4) Representative of a local law enforcement agency.

18 (5) Psychologist or psychiatrist.

19 (6) Representative of a local health department.

20 (7) Designee of the Board of Education of the
21 Department of Juvenile Justice School District created
22 under Section 13-40 of the School Code.

23 (8) Coroner or forensic pathologist.

24 (9) Representative of a juvenile justice advocacy
25 organization.

1 (10) Representative of a local hospital, trauma
2 center, or provider of emergency medical services.

3 (11) Representative of the Department of State Police.

4 A mortality review team may make recommendations to the
5 Director concerning additional appointments.

6 (c) Each mortality review team member must have
7 demonstrated experience or an interest in welfare of youth in
8 State custody.

9 (d) The mortality review teams shall be funded in the
10 Department's annual budget to provide for the travel expenses
11 of team members and professional services engaged by the team.

12 (e) If a death of a youth in the Department's custody
13 occurs while a prior youth death is under review by a team
14 pursuant to this Act, the Director shall request that the team
15 review the subsequent death.

16 (f) Upon the conclusion of all reporting required under
17 Sections 20, 25, and 30 with respect to a death reviewed by a
18 team, all appointments to the team shall expire.

19 Section 20. Reviews of youth deaths.

20 (a) A mortality review team shall review every death of a
21 youth that occurs within a facility of the Department or as the
22 result of an act or incident occurring within a facility of the
23 Department, including deaths resulting from suspected illness,
24 injury, or self-harm or from an unknown cause.

25 (b) If the coroner of the county in which a youth died

1 determines that the youth's death was the direct or proximate
2 result of alleged or suspected criminal activity, the mortality
3 review team's investigation shall be in addition to any
4 criminal investigation of the death but shall be limited to a
5 review of systems and practices of the Department. In the
6 course of conducting its review, the team shall obtain
7 assurance from law enforcement officials that acts taken in
8 furtherance of the review will not impair any criminal
9 investigation or prosecution.

10 (c) A mortality review team's purpose in conducting a
11 review of a youth death is to do the following:

12 (1) Assist in determining the cause and manner of the
13 youth's death, if requested.

14 (2) Evaluate any means by which the death might have
15 been prevented, including evaluation of the Department's
16 systems for the following:

17 (A) Training.

18 (B) Assessment and referral for services.

19 (C) Communication.

20 (D) Housing.

21 (E) Supervision of youth.

22 (F) Intervention in critical incidents.

23 (G) Reporting.

24 (H) Follow-up and mortality review following
25 critical incidents or youth deaths.

26 (3) Promote continuing education and training for

1 Department staff.

2 (4) Make specific recommendations to the Director
3 concerning the prevention of deaths of youth in the
4 Department's custody.

5 (d) A mortality review team shall review a youth death as
6 soon as practicable and not later than within 90 days after a
7 law enforcement agency's completion of its investigation if the
8 death is the result of alleged or suspected criminal activity.
9 If there has been no investigation by a law enforcement agency,
10 the mortality review team shall review a youth's death within
11 90 days after obtaining the information necessary to complete
12 the review from the coroner, pathologist, medical examiner, or
13 law enforcement agency, depending on the nature of the case.
14 The team shall meet as needed in person or via teleconference
15 or video conference following appointment of the team members.
16 When necessary and upon request of the team, the Director may
17 extend the deadline for a review up to an additional 90 days.

18 Section 25. Director's reply and additional report.

19 (a) As soon as practicable, but not later than 90 days
20 after receipt of the recommendations made by a team pursuant to
21 subdivision (c) (4) of Section 20, the Director shall review and
22 reply to each such recommendation. With respect to each
23 recommendation made by a team, the Director shall submit his or
24 her reply to the chairperson of that team. The Director's reply
25 to each recommendation must include a statement as to whether

1 the Director intends to implement the recommendation. The
2 Director shall implement a team's recommendations as feasible
3 and appropriate and shall respond in writing to explain the
4 implementation or non-implementation of each recommendation.

5 (b) Within 90 days after the Director submits a reply with
6 respect to a recommendation as required by subsection (a), the
7 Director must submit an additional report to the chairperson of
8 the team that sets forth in detail the way, if any, in which
9 the Director will implement the recommendation and the schedule
10 for implementing the recommendation.

11 Section 30. Report to Executive Inspector General. Within
12 180 days after the Director submits a reply under subsection
13 (a) of Section 25 concerning the implementation of a team's
14 recommendation, the Director shall submit a further report to
15 the chairperson of the team that made the recommendation and to
16 the Executive Inspector General appointed by the Governor under
17 Section 20-10 of the State Officials and Employees Ethics Act.
18 The Director's report shall set forth any specific changes in
19 the Department's policies and procedures that have been made in
20 response to the team's recommendation.

21 Section 35. Team access to information.

22 (a) The Department shall provide to a mortality review
23 team, on the request of the team's chairperson, all records and
24 information in the Department's possession that are relevant to

1 the team's review of a youth death.

2 (b) The mortality review team shall have access to all
3 records and information that are relevant to its review of a
4 youth death and in the possession of a State or local
5 governmental agency, including, without limitation, birth
6 certificates, all relevant medical and mental health records,
7 records of law enforcement agency investigations, records of
8 coroner or medical examiner investigations, records of a
9 probation and court services department regarding the youth,
10 and records of a social services agency that provided services
11 to the youth or the youth's family.

12 (c) Each appointed member of a mortality review team shall
13 sign an acknowledgement upon appointment and before
14 participating in meetings or review of records acknowledging
15 the confidentiality of information obtained in the course of
16 the team's review and containing the member's agreement not to
17 reproduce or distribute confidential information obtained in
18 the course of the review.

19 Section 40. Public access to information.

20 (a) Meetings of a mortality review team shall be closed to
21 the public. Meetings of the mortality review teams are not
22 subject to the Open Meetings Act, as provided in that Act.

23 (b) Records and information provided to a mortality review
24 team and records maintained by a team are confidential and not
25 subject to inspection and copying under the Freedom of

1 Information Act, as provided in that Act.

2 (c) Members of a mortality review team are not subject to
3 examination, in any civil or criminal proceeding, concerning
4 information presented to members of the team or opinions formed
5 by members of the team based on that information. A team member
6 may, however, be examined concerning information provided to
7 the team that is otherwise available to the public.

8 (d) Records and information produced by a mortality review
9 team are not subject to discovery or subpoena and are not
10 admissible as evidence in any civil or criminal proceeding.
11 Those records and information are, however, subject to
12 discovery or a subpoena, and are admissible as evidence, to the
13 extent they are otherwise available to the public.

14 Section 45. Indemnification of team members. The State
15 shall indemnify and hold harmless members of a mortality review
16 team for all their acts, omissions, decisions, or other conduct
17 arising out of the scope of their service on the team, except
18 for acts, omissions, decisions, or other conduct involving
19 willful or wanton misconduct. The method of providing
20 indemnification shall be as provided in the State Employee
21 Indemnification Act.

22 Section 90. The Open Meetings Act is amended by changing
23 Section 2 as follows:

1 (5 ILCS 120/2) (from Ch. 102, par. 42)

2 Sec. 2. Open meetings.

3 (a) Openness required. All meetings of public bodies shall
4 be open to the public unless excepted in subsection (c) and
5 closed in accordance with Section 2a.

6 (b) Construction of exceptions. The exceptions contained
7 in subsection (c) are in derogation of the requirement that
8 public bodies meet in the open, and therefore, the exceptions
9 are to be strictly construed, extending only to subjects
10 clearly within their scope. The exceptions authorize but do not
11 require the holding of a closed meeting to discuss a subject
12 included within an enumerated exception.

13 (c) Exceptions. A public body may hold closed meetings to
14 consider the following subjects:

15 (1) The appointment, employment, compensation,
16 discipline, performance, or dismissal of specific
17 employees of the public body or legal counsel for the
18 public body, including hearing testimony on a complaint
19 lodged against an employee of the public body or against
20 legal counsel for the public body to determine its
21 validity.

22 (2) Collective negotiating matters between the public
23 body and its employees or their representatives, or
24 deliberations concerning salary schedules for one or more
25 classes of employees.

26 (3) The selection of a person to fill a public office,

1 as defined in this Act, including a vacancy in a public
2 office, when the public body is given power to appoint
3 under law or ordinance, or the discipline, performance or
4 removal of the occupant of a public office, when the public
5 body is given power to remove the occupant under law or
6 ordinance.

7 (4) Evidence or testimony presented in open hearing, or
8 in closed hearing where specifically authorized by law, to
9 a quasi-adjudicative body, as defined in this Act, provided
10 that the body prepares and makes available for public
11 inspection a written decision setting forth its
12 determinative reasoning.

13 (5) The purchase or lease of real property for the use
14 of the public body, including meetings held for the purpose
15 of discussing whether a particular parcel should be
16 acquired.

17 (6) The setting of a price for sale or lease of
18 property owned by the public body.

19 (7) The sale or purchase of securities, investments, or
20 investment contracts.

21 (8) Security procedures and the use of personnel and
22 equipment to respond to an actual, a threatened, or a
23 reasonably potential danger to the safety of employees,
24 students, staff, the public, or public property.

25 (9) Student disciplinary cases.

26 (10) The placement of individual students in special

1 education programs and other matters relating to
2 individual students.

3 (11) Litigation, when an action against, affecting or
4 on behalf of the particular public body has been filed and
5 is pending before a court or administrative tribunal, or
6 when the public body finds that an action is probable or
7 imminent, in which case the basis for the finding shall be
8 recorded and entered into the minutes of the closed
9 meeting.

10 (12) The establishment of reserves or settlement of
11 claims as provided in the Local Governmental and
12 Governmental Employees Tort Immunity Act, if otherwise the
13 disposition of a claim or potential claim might be
14 prejudiced, or the review or discussion of claims, loss or
15 risk management information, records, data, advice or
16 communications from or with respect to any insurer of the
17 public body or any intergovernmental risk management
18 association or self insurance pool of which the public body
19 is a member.

20 (13) Conciliation of complaints of discrimination in
21 the sale or rental of housing, when closed meetings are
22 authorized by the law or ordinance prescribing fair housing
23 practices and creating a commission or administrative
24 agency for their enforcement.

25 (14) Informant sources, the hiring or assignment of
26 undercover personnel or equipment, or ongoing, prior or

1 future criminal investigations, when discussed by a public
2 body with criminal investigatory responsibilities.

3 (15) Professional ethics or performance when
4 considered by an advisory body appointed to advise a
5 licensing or regulatory agency on matters germane to the
6 advisory body's field of competence.

7 (16) Self evaluation, practices and procedures or
8 professional ethics, when meeting with a representative of
9 a statewide association of which the public body is a
10 member.

11 (17) The recruitment, credentialing, discipline or
12 formal peer review of physicians or other health care
13 professionals for a hospital, or other institution
14 providing medical care, that is operated by the public
15 body.

16 (18) Deliberations for decisions of the Prisoner
17 Review Board.

18 (19) Review or discussion of applications received
19 under the Experimental Organ Transplantation Procedures
20 Act.

21 (20) The classification and discussion of matters
22 classified as confidential or continued confidential by
23 the State Government Suggestion Award Board.

24 (21) Discussion of minutes of meetings lawfully closed
25 under this Act, whether for purposes of approval by the
26 body of the minutes or semi-annual review of the minutes as

1 mandated by Section 2.06.

2 (22) Deliberations for decisions of the State
3 Emergency Medical Services Disciplinary Review Board.

4 (23) The operation by a municipality of a municipal
5 utility or the operation of a municipal power agency or
6 municipal natural gas agency when the discussion involves
7 (i) contracts relating to the purchase, sale, or delivery
8 of electricity or natural gas or (ii) the results or
9 conclusions of load forecast studies.

10 (24) Meetings of a residential health care facility
11 resident sexual assault and death review team or the
12 Executive Council under the Abuse Prevention Review Team
13 Act.

14 (25) Meetings of a mortality review team appointed
15 under the Department of Juvenile Justice Mortality Review
16 Team Act.

17 (d) Definitions. For purposes of this Section:

18 "Employee" means a person employed by a public body whose
19 relationship with the public body constitutes an
20 employer-employee relationship under the usual common law
21 rules, and who is not an independent contractor.

22 "Public office" means a position created by or under the
23 Constitution or laws of this State, the occupant of which is
24 charged with the exercise of some portion of the sovereign
25 power of this State. The term "public office" shall include
26 members of the public body, but it shall not include

1 organizational positions filled by members thereof, whether
2 established by law or by a public body itself, that exist to
3 assist the body in the conduct of its business.

4 "Quasi-adjudicative body" means an administrative body
5 charged by law or ordinance with the responsibility to conduct
6 hearings, receive evidence or testimony and make
7 determinations based thereon, but does not include local
8 electoral boards when such bodies are considering petition
9 challenges.

10 (e) Final action. No final action may be taken at a closed
11 meeting. Final action shall be preceded by a public recital of
12 the nature of the matter being considered and other information
13 that will inform the public of the business being conducted.

14 (Source: P.A. 94-931, eff. 6-26-06; 95-185, eff. 1-1-08.)

15 Section 92. The Freedom of Information Act is amended by
16 changing Section 7 as follows:

17 (5 ILCS 140/7) (from Ch. 116, par. 207)

18 (Text of Section before amendment by P.A. 96-736)

19 Sec. 7. Exemptions.

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

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

4 (a) Information specifically prohibited from
5 disclosure by federal or State law or rules and regulations
6 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 or
9 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 more
13 law enforcement agencies regarding the physical or mental
14 status of one or more individual subjects.

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

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

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

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

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

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

1 request;

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

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

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

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

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

24 (g) Trade secrets and commercial or financial
25 information obtained from a person or business where the
26 trade secrets or commercial or financial information are

1 furnished under a claim that they are proprietary,
2 privileged or confidential, and that disclosure of the
3 trade secrets or commercial or financial information would
4 cause competitive harm to the person or business, and only
5 insofar as the claim directly applies to the records
6 requested.

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

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

25 (h) Proposals and bids for any contract, grant, or
26 agreement, including information which if it were

1 disclosed would frustrate procurement or give an advantage
2 to any person proposing to enter into a contractor
3 agreement with the body, until an award or final selection
4 is made. Information prepared by or for the body in
5 preparation of a bid solicitation shall be exempt until an
6 award or final selection is made.

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

18 (j) The following information pertaining to
19 educational matters:

20 (i) test questions, scoring keys and other
21 examination data used to administer an academic
22 examination;

23 (ii) information received by a primary or
24 secondary school, college, or university under its
25 procedures for the evaluation of faculty members by
26 their academic peers;

1 (iii) information concerning a school or
2 university's adjudication of student disciplinary
3 cases, but only to the extent that disclosure would
4 unavoidably reveal the identity of the student; and

5 (iv) course materials or research materials used
6 by faculty members.

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

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

23 (m) Communications between a public body and an
24 attorney or auditor representing the public body that would
25 not be subject to discovery in litigation, and materials
26 prepared or compiled by or for a public body in

1 anticipation of a criminal, civil or administrative
2 proceeding upon the request of an attorney advising the
3 public body, and materials prepared or compiled with
4 respect to internal audits of public bodies.

5 (n) Records relating to a public body's adjudication of
6 employee grievances or disciplinary cases; however, this
7 exemption shall not extend to the final outcome of cases in
8 which discipline is imposed.

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

19 (p) Records relating to collective negotiating matters
20 between public bodies and their employees or
21 representatives, except that any final contract or
22 agreement shall be subject to inspection and copying.

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

26 (r) The records, documents, and information relating

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

11 (s) Any and all proprietary information and records
12 related to the operation of an intergovernmental risk
13 management association or self-insurance pool or jointly
14 self-administered health and accident cooperative or pool.
15 Insurance or self insurance (including any
16 intergovernmental risk management association or self
17 insurance pool) claims, loss or risk management
18 information, records, data, advice or communications.

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

25 (u) Information that would disclose or might lead to
26 the disclosure of secret or confidential information,

1 codes, algorithms, programs, or private keys intended to be
2 used to create electronic or digital signatures under the
3 Electronic Commerce Security Act.

4 (v) Vulnerability assessments, security measures, and
5 response policies or plans that are designed to identify,
6 prevent, or respond to potential attacks upon a community's
7 population or systems, facilities, or installations, the
8 destruction or contamination of which would constitute a
9 clear and present danger to the health or safety of the
10 community, but only to the extent that disclosure could
11 reasonably be expected to jeopardize the effectiveness of
12 the measures or the safety of the personnel who implement
13 them or the public. Information exempt under this item may
14 include such things as details pertaining to the
15 mobilization or deployment of personnel or equipment, to
16 the operation of communication systems or protocols, or to
17 tactical operations.

18 (w) (Blank).

19 (x) Maps and other records regarding the location or
20 security of generation, transmission, distribution,
21 storage, gathering, treatment, or switching facilities
22 owned by a utility, by a power generator, or by the
23 Illinois Power Agency.

24 (y) Information contained in or related to proposals,
25 bids, or negotiations related to electric power
26 procurement under Section 1-75 of the Illinois Power Agency

1 Act and Section 16-111.5 of the Public Utilities Act that
2 is determined to be confidential and proprietary by the
3 Illinois Power Agency or by the Illinois Commerce
4 Commission.

5 (z) ~~(tt)~~ Information about students exempted from
6 disclosure under Sections 10-20.38 or 34-18.29 of the
7 School Code, and information about undergraduate students
8 enrolled at an institution of higher education exempted
9 from disclosure under Section 25 of the Illinois Credit
10 Card Marketing Act of 2009.

11 (bb) Records and information provided to a mortality
12 review team and records maintained by a mortality review
13 team appointed under the Department of Juvenile Justice
14 Mortality Review Team 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 public,
24 except as stated in this Section or otherwise provided in this
25 Act.

26 (Source: P.A. 95-331, eff. 8-21-07; 95-481, eff. 8-28-07;

1 95-941, eff. 8-29-08; 95-988, eff. 6-1-09; 96-261, eff. 1-1-10;
2 96-328, eff. 8-11-09; 96-542, eff. 1-1-10; 96-558, eff. 1-1-10;
3 revised 9-25-09.)

4 (Text of Section after amendment by P.A. 96-736)

5 Sec. 7. Exemptions.

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

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

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

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

25 (c) Personal information contained within public

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

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

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

21 (ii) interfere with active administrative
22 enforcement proceedings conducted by the public body
23 that is the recipient of the request;

24 (iii) create a substantial likelihood that a
25 person will be deprived of a fair trial or an impartial
26 hearing;

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

13 (v) disclose unique or specialized investigative
14 techniques other than those generally used and known or
15 disclose internal documents of correctional agencies
16 related to detection, observation or investigation of
17 incidents of crime or misconduct, and disclosure would
18 result in demonstrable harm to the agency or public
19 body that is the recipient of the request;

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

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

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

26 (f) Preliminary drafts, notes, recommendations,

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

9 (g) Trade secrets and commercial or financial
10 information obtained from a person or business where the
11 trade secrets or commercial or financial information are
12 furnished under a claim that they are proprietary,
13 privileged or confidential, and that disclosure of the
14 trade secrets or commercial or financial information would
15 cause competitive harm to the person or business, and only
16 insofar as the claim directly applies to the records
17 requested.

18 The information included under this exemption includes
19 all ~~(i) All~~ trade secrets and commercial or financial
20 information obtained by a public body, including a public
21 pension fund, from a private equity fund or a privately
22 held company within the investment portfolio of a private
23 equity fund as a result of either investing or evaluating a
24 potential investment of public funds in a private equity
25 fund. The exemption contained in this item does not apply
26 to the aggregate financial performance information of a

1 private equity fund, nor to the identity of the fund's
2 managers or general partners. The exemption contained in
3 this item does not apply to the identity of a privately
4 held company within the investment portfolio of a private
5 equity fund, unless the disclosure of the identity of a
6 privately held company may cause competitive harm.

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

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

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

1 information regarding the health, safety, welfare, or
2 legal rights of the general public.

3 (j) The following information pertaining to
4 educational matters:

5 (i) test questions, scoring keys and other
6 examination data used to administer an academic
7 examination;

8 (ii) information received by a primary or
9 secondary school, college, or university under its
10 procedures for the evaluation of faculty members by
11 their academic peers;

12 (iii) information concerning a school or
13 university's adjudication of student disciplinary
14 cases, but only to the extent that disclosure would
15 unavoidably reveal the identity of the student; and

16 (iv) course materials or research materials used
17 by faculty members.

18 (k) Architects' plans, engineers' technical
19 submissions, and other construction related technical
20 documents for projects not constructed or developed in
21 whole or in part with public funds and the same for
22 projects constructed or developed with public funds,
23 including but not limited to power generating and
24 distribution stations and other transmission and
25 distribution facilities, water treatment facilities,
26 airport facilities, sport stadiums, convention centers,

1 and all government owned, operated, or occupied buildings,
2 but only to the extent that disclosure would compromise
3 security.

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

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

16 (n) Records relating to a public body's adjudication of
17 employee grievances or disciplinary cases; however, this
18 exemption shall not extend to the final outcome of cases in
19 which discipline is imposed.

20 (o) Administrative or technical information associated
21 with automated data processing operations, including but
22 not limited to software, operating protocols, computer
23 program abstracts, file layouts, source listings, object
24 modules, load modules, user guides, documentation
25 pertaining to all logical and physical design of
26 computerized systems, employee manuals, and any other

1 information that, if disclosed, would jeopardize the
2 security of the system or its data or the security of
3 materials exempt under this Section.

4 (p) Records relating to collective negotiating matters
5 between public bodies and their employees or
6 representatives, except that any final contract or
7 agreement shall be subject to inspection and copying.

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

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

22 (s) Any and all proprietary information and records
23 related to the operation of an intergovernmental risk
24 management association or self-insurance pool or jointly
25 self-administered health and accident cooperative or pool.
26 Insurance or self insurance (including any

1 intergovernmental risk management association or self
2 insurance pool) claims, loss or risk management
3 information, records, data, advice or communications.

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

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

15 (v) Vulnerability assessments, security measures, and
16 response policies or plans that are designed to identify,
17 prevent, or respond to potential attacks upon a community's
18 population or systems, facilities, or installations, the
19 destruction or contamination of which would constitute a
20 clear and present danger to the health or safety of the
21 community, but only to the extent that disclosure could
22 reasonably be expected to jeopardize the effectiveness of
23 the measures or the safety of the personnel who implement
24 them or the public. Information exempt under this item may
25 include such things as details pertaining to the
26 mobilization or deployment of personnel or equipment, to

1 the operation of communication systems or protocols, or to
2 tactical operations.

3 (w) (Blank).

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

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

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

22 (aa) ~~(tt)~~ Information the disclosure of which is
23 exempted under the Viatical Settlements Act of 2009.

24 (bb) Records and information provided to a mortality
25 review team and records maintained by a mortality review
26 team appointed under the Department of Juvenile Justice

1 Mortality Review Team 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 public,
11 except as stated in this Section or otherwise provided in this
12 Act.

13 (Source: P.A. 95-331, eff. 8-21-07; 95-481, eff. 8-28-07;
14 95-941, eff. 8-29-08; 95-988, eff. 6-1-09; 96-261, eff. 1-1-10;
15 96-328, eff. 8-11-09; 96-542, eff. 1-1-10; 96-558, eff. 1-1-10;
16 96-736, eff. 7-1-10; revised 9-25-09.)

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