



98TH GENERAL ASSEMBLY

State of Illinois

2013 and 2014

HB2394

by Rep. Keith P. Sommer

SYNOPSIS AS INTRODUCED:

5 ILCS 140/7

from Ch. 116, par. 207

Amends the Freedom of Information Act. Provides that, when contained in an employment record of a law enforcement agency, including, but not limited to an application for employment, the name, address, and contact information of a law enforcement officer and his or her immediate family members shall be deemed personal information the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, and that information shall be exempt from disclosure under the Act. Defines "immediate family members", "law enforcement agency", and "law enforcement officer". Effective immediately.

LRB098 06040 JDS 36079 b

1 AN ACT concerning government.

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

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

6 (5 ILCS 140/7) (from Ch. 116, par. 207)

7 Sec. 7. Exemptions.

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

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

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

22 (b-5) Files, documents, and other data or databases
23 maintained by one or more law enforcement agencies and

1 specifically designed to provide information to one or more
2 law enforcement agencies regarding the physical or mental
3 status of one or more individual subjects.

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

16 When contained in an employment record of a law
17 enforcement agency, including, but not limited to, an
18 application for employment, the name, address, and contact
19 information of a law enforcement officer and his or her
20 immediate family members shall be deemed personal
21 information the disclosure of which would constitute a
22 clearly unwarranted invasion of personal privacy, and that
23 information shall be exempt from disclosure under this Act.
24 For the purposes of this subsection (c), "immediate family
25 members" means a law enforcement officer's spouse,
26 children, and parents; "law enforcement agency" means an

1 agency of the State or unit of local government that is
2 vested by law or ordinance with the duty to maintain public
3 order and to enforce criminal laws; and "law enforcement
4 officer" means any person employed by the State, a county,
5 or a municipality as a policeman, peace officer, auxiliary
6 policeman, correctional officer or in some like position
7 involving the enforcement of the law and protection of the
8 public interest at the risk of that person's life.

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

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

18 (ii) interfere with active administrative
19 enforcement proceedings conducted by the public body
20 that is the recipient of the request;

21 (iii) create a substantial likelihood that a
22 person will be deprived of a fair trial or an impartial
23 hearing;

24 (iv) unavoidably disclose the identity of a
25 confidential source, confidential information
26 furnished only by the confidential source, or persons

1 who file complaints with or provide information to
2 administrative, investigative, law enforcement, or
3 penal agencies; except that the identities of
4 witnesses to traffic accidents, traffic accident
5 reports, and rescue reports shall be provided by
6 agencies of local government, except when disclosure
7 would interfere with an active criminal investigation
8 conducted by the agency that is the recipient of the
9 request;

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

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

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

21 (d-5) A law enforcement record created for law
22 enforcement purposes and contained in a shared electronic
23 record management system if the law enforcement agency that
24 is the recipient of the request did not create the record,
25 did not participate in or have a role in any of the events
26 which are the subject of the record, and only has access to

1 the record through the shared electronic record management
2 system.

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

5 (e-5) Records requested by persons committed to the
6 Department of Corrections if those materials are available
7 in the library of the correctional facility where the
8 inmate is confined.

9 (e-6) Records requested by persons committed to the
10 Department of Corrections if those materials include
11 records from staff members' personnel files, staff
12 rosters, or other staffing assignment information.

13 (e-7) Records requested by persons committed to the
14 Department of Corrections if those materials are available
15 through an administrative request to the Department of
16 Corrections.

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

26 (g) Trade secrets and commercial or financial

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

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

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

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

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

20 (j) The following information pertaining to
21 educational matters:

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

25 (ii) information received by a primary or
26 secondary school, college, or university under its

1 procedures for the evaluation of faculty members by
2 their academic peers;

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

7 (iv) course materials or research materials used
8 by faculty members.

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

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

25 (m) Communications between a public body and an
26 attorney or auditor representing the public body that would

1 not be subject to discovery in litigation, and materials
2 prepared or compiled by or for a public body in
3 anticipation of a criminal, civil or administrative
4 proceeding upon the request of an attorney advising the
5 public body, and materials prepared or compiled with
6 respect to internal audits of public bodies.

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

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

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

25 (q) Test questions, scoring keys, and other
26 examination data used to determine the qualifications of an

1 applicant for a license or employment.

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

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

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

1 (u) Information that would disclose or might lead to
2 the disclosure of secret or confidential information,
3 codes, algorithms, programs, or private keys intended to be
4 used to create electronic or digital signatures under the
5 Electronic Commerce Security Act.

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

20 (w) (Blank).

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

26 (y) Information contained in or related to proposals,

1 bids, or negotiations related to electric power
2 procurement under Section 1-75 of the Illinois Power Agency
3 Act and Section 16-111.5 of the Public Utilities Act that
4 is determined to be confidential and proprietary by the
5 Illinois Power Agency or by the Illinois Commerce
6 Commission.

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

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

15 (bb) Records and information provided to a mortality
16 review team and records maintained by a mortality review
17 team appointed under the Department of Juvenile Justice
18 Mortality Review Team Act.

19 (cc) Information regarding interments, entombments, or
20 inurnments of human remains that are submitted to the
21 Cemetery Oversight Database under the Cemetery Care Act or
22 the Cemetery Oversight Act, whichever is applicable.

23 (dd) Correspondence and records (i) that may not be
24 disclosed under Section 11-9 of the Public Aid Code or (ii)
25 that pertain to appeals under Section 11-8 of the Public
26 Aid Code.

1 (ee) The names, addresses, or other personal
2 information of persons who are minors and are also
3 participants and registrants in programs of park
4 districts, forest preserve districts, conservation
5 districts, recreation agencies, and special recreation
6 associations.

7 (ff) The names, addresses, or other personal
8 information of participants and registrants in programs of
9 park districts, forest preserve districts, conservation
10 districts, recreation agencies, and special recreation
11 associations where such programs are targeted primarily to
12 minors.

13 (gg) Confidential information described in Section
14 1-100 of the Illinois Independent Tax Tribunal Act of 2012.

15 (1.5) Any information exempt from disclosure under the
16 Judicial Privacy Act shall be redacted from public records
17 prior to disclosure under this Act.

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

25 (3) This Section does not authorize withholding of
26 information or limit the availability of records to the public,

1 except as stated in this Section or otherwise provided in this
2 Act.

3 (Source: P.A. 96-261, eff. 1-1-10; 96-328, eff. 8-11-09;
4 96-542, eff. 1-1-10; 96-558, eff. 1-1-10; 96-736, eff. 7-1-10;
5 96-863, eff. 3-1-10; 96-1378, eff. 7-29-10; 97-333, eff.
6 8-12-11; 97-385, eff. 8-15-11; 97-452, eff. 8-19-11; 97-783,
7 eff. 7-13-12; 97-813, eff. 7-13-12; 97-847, eff. 9-22-12;
8 97-1065, eff. 8-24-12; 97-1129, eff. 8-28-12; revised
9 9-20-12.)

10 Section 99. Effective date. This Act takes effect upon
11 becoming law.