



Rep. Terri Bryant

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09900HB4715ham003

LRB099 17902 HEP 47557 a

1 AMENDMENT TO HOUSE BILL 4715

2 AMENDMENT NO. _____. Amend House Bill 4715, AS AMENDED, by
3 replacing everything after the enacting clause with the
4 following:

5 "Section 5. The Freedom of Information Act is amended by
6 changing Section 11 as follows:

7 (5 ILCS 140/11) (from Ch. 116, par. 211)

8 Sec. 11. (a) Any person denied access to inspect or copy
9 any public record by a public body may file suit for injunctive
10 or declaratory relief.

11 (b) Where the denial is from a public body of the State,
12 suit may be filed in the circuit court for the county where the
13 public body has its principal office or where the person denied
14 access resides.

15 (c) Where the denial is from a municipality or other public
16 body, except as provided in subsection (b) of this Section,

1 suit may be filed in the circuit court for the county where the
2 public body is located.

3 (d) The circuit court shall have the jurisdiction to enjoin
4 the public body from withholding public records and to order
5 the production of any public records improperly withheld from
6 the person seeking access. If the public body can show that
7 exceptional circumstances exist, and that the body is
8 exercising due diligence in responding to the request, the
9 court may retain jurisdiction and allow the agency additional
10 time to complete its review of the records.

11 (e) On motion of the plaintiff, prior to or after in camera
12 inspection, the court shall order the public body to provide an
13 index of the records to which access has been denied. The index
14 shall include the following:

15 (i) A description of the nature or contents of each
16 document withheld, or each deletion from a released
17 document, provided, however, that the public body shall not
18 be required to disclose the information which it asserts is
19 exempt; and

20 (ii) A statement of the exemption or exemptions claimed
21 for each such deletion or withheld document.

22 (f) In any action considered by the court, the court shall
23 consider the matter de novo, and shall conduct such in camera
24 examination of the requested records as it finds appropriate to
25 determine if such records or any part thereof may be withheld
26 under any provision of this Act. The burden shall be on the

1 public body to establish that its refusal to permit public
2 inspection or copying is in accordance with the provisions of
3 this Act. Any public body that asserts that a record is exempt
4 from disclosure has the burden of proving that it is exempt by
5 clear and convincing evidence.

6 (g) In the event of noncompliance with an order of the
7 court to disclose, the court may enforce its order against any
8 public official or employee so ordered or primarily responsible
9 for such noncompliance through the court's contempt powers.

10 (h) Except as to causes the court considers to be of
11 greater importance, proceedings arising under this Section
12 shall take precedence on the docket over all other causes and
13 be assigned for hearing and trial at the earliest practicable
14 date and expedited in every way.

15 (i) If a person seeking the right to inspect or receive a
16 copy of a public record prevails in a proceeding under this
17 Section, the court shall award such person reasonable
18 attorney's ~~attorneys'~~ fees and costs. In determining what
19 amount of attorney's fees is reasonable, the court shall
20 consider the degree to which the relief obtained relates to the
21 relief sought. The changes contained in this subsection apply
22 to an action filed on or after January 1, 2010 (the effective
23 date of Public Act 96-542) ~~this amendatory Act of the 96th~~
24 ~~General Assembly.~~

25 (j) If the court determines that a public body willfully
26 and intentionally failed to comply with this Act, or otherwise

1 acted in bad faith, the court shall also impose upon the public
2 body a civil penalty of not less than \$2,500 nor more than
3 \$10,000 ~~\$5,000~~ for each occurrence. In assessing the civil
4 penalty, the court shall consider in aggravation or mitigation
5 the budget of the public body and whether the public body has
6 previously been assessed penalties for violations of this Act.
7 If the public body fails to comply with the court's order after
8 30 days and the court's order is not on appeal or stayed, the
9 court may impose an additional penalty of up to \$1,000 for each
10 day the violation continues. The changes contained in this
11 subsection that are made by Public Act 96-542 apply to an
12 action filed on or after January 1, 2010 (the effective date of
13 Public Act 96-542) ~~this amendatory Act of the 96th General~~
14 ~~Assembly.~~

15 (Source: P.A. 96-542, eff. 1-1-10; 97-813, eff. 7-13-12;
16 revised 10-14-15.)".