



99TH GENERAL ASSEMBLY

State of Illinois

2015 and 2016

SB3122

Introduced 2/19/2016, by Sen. Wm. Sam McCann

SYNOPSIS AS INTRODUCED:

New Act
5 ILCS 140/7

from Ch. 116, par. 207

Creates the Police Officer Privacy Act. Prohibits a person, business, association, or government agency from publicly posting or displaying the personal information of a police officer 5 days after the receipt of an officer's written request to not post or display the personal information. Allows for injunctive or declaratory relief for violations. Prohibits a person, business, or association from soliciting, selling, or trading on the Internet a police officer's personal information with the intent to pose an imminent and serious threat to the health and safety of the police officer or the officer's immediate family. Amends the Freedom of Information Act. Excludes personal information of a police officer covered by the Police Officer Privacy Act from being included as a public record under the Freedom of Information Act, and from inspection or copying under the Act.

LRB099 19982 RJF 44381 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 1. Short title. This Act may be cited as the Police
5 Officer Privacy Act.

6 Section 5. Purpose. The purpose of this Act is to improve
7 the safety and security of Illinois police officers to ensure
8 they are able to uphold their duty to maintain public order and
9 make arrests for offenses without fear of personal reprisal
10 from individuals affected by the decisions they make in the
11 course of carrying out their public function. This Act is not
12 intended to restrain a police officer from independently making
13 public his or her own personal information. Additionally, no
14 government agency, person, business, or association has any
15 obligation under this Act to protect the privacy of a police
16 officer's personal information until the police officer makes a
17 written request that his or her personal information not be
18 publicly posted.

19 Section 10. Definitions. As used in this Act:

20 "Government agency" includes all agencies, authorities,
21 boards, commissions, departments, institutions, offices, and
22 any other bodies politic and corporate of the State created by

1 the constitution or statute, whether in the executive,
2 judicial, or legislative branch; all units and corporate
3 outgrowths created by executive order of the Governor or any
4 constitutional officer, by the Supreme Court, or by resolution
5 of the General Assembly; or agencies, authorities, boards,
6 commissions, departments, institutions, offices, and any other
7 bodies politic and corporate of a unit of local government, or
8 school district.

9 "Home address" includes a police officer's permanent
10 residence and any secondary residences affirmatively
11 identified by the police officer, but does not include a police
12 officer's work address.

13 "Immediate family" includes a police officer's spouse,
14 child, parent, or any blood relative of the police officer or
15 the police officer's spouse who lives in the same residence.

16 "Police officer" or "officer" means a person defined under
17 Section 2-13 of the Criminal Code of 2012.

18 "Personal information" means a home address, home
19 telephone number, mobile telephone number, pager number,
20 personal email address, social security number, federal tax
21 identification number, checking and savings account numbers,
22 credit card numbers, marital status, and identity of children
23 under the age of 18.

24 "Publicly available content" means any written, printed,
25 or electronic document or record that provides information or
26 that serves as a document or record maintained, controlled, or

1 in the possession of a government agency that may be obtained
2 by any person or entity, from the Internet, from the government
3 agency upon request either free of charge or for a fee, or in
4 response to a request under the Freedom of Information Act.

5 "Publicly post" or "publicly display" means to communicate
6 to another or otherwise make available to the general public.

7 "Written request" means written notice signed by a police
8 officer or a representative of the police officer's employer
9 requesting a government agency, person, business, or
10 association to refrain from posting or displaying publicly
11 available content that includes the police officer's personal
12 information.

13 Section 15. Publicly posting or displaying a police
14 officer's personal information.

15 (a) Government agencies shall not publicly post or display
16 publicly available content that includes a police officer's
17 personal information, provided that the government agency has
18 received a written request in accordance with Section 20 of
19 this Act that it refrain from disclosing the police officer's
20 personal information. After a government agency has received a
21 written request, that agency shall remove the police officer's
22 personal information from publicly available content within 5
23 business days. After the government agency has removed the
24 police officer's personal information from publicly available
25 content, the agency shall not publicly post or display the

1 information and the police officer's personal information
2 shall be exempt from the Freedom of Information Act unless the
3 government agency has received consent from the police officer
4 to make the personal information available to the public.

5 (b) All persons, businesses, and associations shall not
6 publicly post or display on the Internet available content that
7 includes a police officer's personal information, provided
8 that the police officer has made a written request in
9 accordance with Section 20 of this Act to the person, business,
10 or association that it refrain from disclosing the personal
11 information. After a person, business, or association has
12 received a written request from a police officer to protect the
13 privacy of the officer's personal information, that person,
14 business, or association shall have 5 business days to remove
15 the personal information from the Internet. That person,
16 business, or association shall also ensure that the police
17 officer's personal information is not made available on any
18 website or subsidiary website controlled by that person,
19 business, or association, nor transferred to any other person,
20 business, or association through any medium. Regardless of
21 whether a written request has been made, no person, business,
22 or association shall solicit, sell, or trade on the Internet a
23 police officer's personal information with the intent to pose
24 an imminent and serious threat to the health and safety of the
25 police officer or the police officer's immediate family.

26 (c) A police officer whose personal information is made

1 public as a result of a violation of this Act may bring an
2 action seeking injunctive or declaratory relief in any court of
3 competent jurisdiction.

4 Section 20. Procedure for completing a written request.

5 (a) No government agency, person, business, or association
6 shall be found to have violated any provision of this Act if
7 the police officer fails to submit a written request calling
8 for the protection of the officer's personal information.

9 (b) A written request shall be valid if the police officer
10 sends a written request directly to a government agency,
11 person, business, or association.

12 (c) A representative from the police officer's employer may
13 submit a written request on the police officer's behalf,
14 provided that the police officer gives written consent to the
15 representative and the representative agrees to furnish a copy
16 of that consent when a written request is made. The
17 representative shall submit the written request as provided in
18 subsection (b) of this Section.

19 (d) A police officer's written request shall specify what
20 personal information shall be maintained private. If a police
21 officer wishes to identify a secondary residence as a home
22 address, the designation shall be made in the written request.
23 A police officer shall disclose the identity of the officer's
24 immediate family and indicate that the personal information of
25 these family members shall also be excluded to the extent that

1 it could reasonably be expected to reveal the personal
2 information of the police officer.

3 (e) A police officer's written request is valid until he or
4 she provides the government agency, person, business, or
5 association with written permission to release the private
6 information. A police officer's written request expires upon
7 death of the officer.

8 Section 105. The Freedom of Information Act is amended by
9 changing Section 7 as follows:

10 (5 ILCS 140/7) (from Ch. 116, par. 207)

11 Sec. 7. Exemptions.

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

20 (a) Information specifically prohibited from
21 disclosure by federal or State law or rules and regulations
22 implementing federal or State law.

23 (b) Private information, unless disclosure is required
24 by another provision of this Act, a State or federal law or

1 a court order.

2 (b-5) Files, documents, and other data or databases
3 maintained by one or more law enforcement agencies and
4 specifically designed to provide information to one or more
5 law enforcement agencies regarding the physical or mental
6 status of one or more individual subjects.

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

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

24 (i) interfere with pending or actually and
25 reasonably contemplated law enforcement proceedings
26 conducted by any law enforcement or correctional

1 agency that is the recipient of the request;

2 (ii) interfere with active administrative
3 enforcement proceedings conducted by the public body
4 that is the recipient of the request;

5 (iii) create a substantial likelihood that a
6 person will be deprived of a fair trial or an impartial
7 hearing;

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

20 (v) disclose unique or specialized investigative
21 techniques other than those generally used and known or
22 disclose internal documents of correctional agencies
23 related to detection, observation or investigation of
24 incidents of crime or misconduct, and disclosure would
25 result in demonstrable harm to the agency or public
26 body that is the recipient of the request;

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

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

5 (d-5) A law enforcement record created for law
6 enforcement purposes and contained in a shared electronic
7 record management system if the law enforcement agency that
8 is the recipient of the request did not create the record,
9 did not participate in or have a role in any of the events
10 which are the subject of the record, and only has access to
11 the record through the shared electronic record management
12 system.

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

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

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

23 (e-7) Records requested by persons committed to the
24 Department of Corrections if those materials are available
25 through an administrative request to the Department of
26 Corrections.

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

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

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

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

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

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

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

1 purpose of the request is to access and disseminate
2 information regarding the health, safety, welfare, or
3 legal rights of the general public.

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

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

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

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

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

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

1 airport facilities, sport stadiums, convention centers,
2 and all government owned, operated, or occupied buildings,
3 but only to the extent that disclosure would compromise
4 security.

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

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

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

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

1 computerized systems, employee manuals, and any other
2 information that, if disclosed, would jeopardize the
3 security of the system or its data or the security of
4 materials exempt under this Section.

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

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

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

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

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

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

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

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

1 mobilization or deployment of personnel or equipment, to
2 the operation of communication systems or protocols, or to
3 tactical operations.

4 (w) (Blank).

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

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

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

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

25 (bb) Records and information provided to a mortality
26 review team and records maintained by a mortality review

1 team appointed under the Department of Juvenile Justice
2 Mortality Review Team Act.

3 (cc) Information regarding interments, entombments, or
4 inurnments of human remains that are submitted to the
5 Cemetery Oversight Database under the Cemetery Care Act or
6 the Cemetery Oversight Act, whichever is applicable.

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

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

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

23 (gg) Confidential information described in Section
24 1-100 of the Illinois Independent Tax Tribunal Act of 2012.

25 (hh) The report submitted to the State Board of
26 Education by the School Security and Standards Task Force

1 under item (8) of subsection (d) of Section 2-3.160 of the
2 School Code and any information contained in that report.

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

14 (jj) ~~(ii)~~ Confidential information described in
15 Section 5-535 of the Civil Administrative Code of Illinois.

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

19 (1.7) Any information exempt from disclosure under the
20 Police Officer Privacy Act shall be redacted from public
21 records prior to disclosure under this Act.

22 (2) A public record that is not in the possession of a
23 public body but is in the possession of a party with whom the
24 agency has contracted to perform a governmental function on
25 behalf of the public body, and that directly relates to the
26 governmental function and is not otherwise exempt under this

1 Act, shall be considered a public record of the public body,
2 for purposes of this Act.

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

7 (Source: P.A. 98-463, eff. 8-16-13; 98-578, eff. 8-27-13;
8 98-695, eff. 7-3-14; 99-298, eff. 8-6-15; 99-346, eff. 1-1-16;
9 revised 1-11-16.)