

1 AN ACT concerning State records.

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

4 Section 5. The State Records Act is amended by changing  
5 Sections 2, 3, 3.5, 4, 7, 9, 11, 12, 13, 15, 16, 17, 18, 22c,  
6 and 24 and adding Section 1.5 as follows:

7 (5 ILCS 160/1.5 new)

8 Sec. 1.5. Purpose. Pursuant to the fundamental  
9 philosophy of the American constitutional form of government,  
10 it is declared to be the public policy of the State of  
11 Illinois (i) that government records are a form of property  
12 whose ownership lies with the citizens and with the State of  
13 Illinois; (ii) that those records are to be created,  
14 maintained, and administered in support of the rights of  
15 those citizens and the operation of the State; (iii) that  
16 those records are, with very few exemptions, to be available  
17 for the use, benefit, and information of the citizens; and  
18 (iv) that those records may not be disposed of without  
19 compliance to the regulations in this Act.

20 (5 ILCS 160/2) (from Ch. 116, par. 43.5)

21 Sec. 2. For the purposes of this Act:

22 "Secretary" means Secretary of State.

23 "Record" or "records" means all books, papers, digitized  
24 electronic material, maps, photographs, databases, or other  
25 official documentary materials, regardless of physical form  
26 or characteristics, made, produced, executed or received by  
27 any agency in the State in pursuance of state law or in  
28 connection with the transaction of public business and  
29 preserved or appropriate for preservation by that agency or  
30 its successor as evidence of the organization, function,

1 policies, decisions, procedures, operations, or other  
2 activities of the State or of the State Government, or  
3 because of the informational data contained therein. Library  
4 and museum material made or acquired and preserved solely for  
5 reference or exhibition purposes, extra copies of documents  
6 preserved only for convenience of reference, and stocks of  
7 publications and of blank forms ~~processed-documents~~ are not  
8 included within the definition of records as used in this  
9 Act. ~~Reports-of-impaired-physicians-under--Section--16.04--of~~  
10 ~~the--Medical--Practice--Act--or--Section--23--of--the-Medical~~  
11 ~~Practice-Act-of-1987-are-not-included-within--the--definition~~  
12 ~~of-records-as-used-in-this-Act.~~

13 "Agency" means all parts, boards, and commissions of the  
14 executive branch of the State government including but not  
15 limited to State colleges and universities and their  
16 governing boards and all departments established by the  
17 "Civil Administrative Code of Illinois," as heretofore or  
18 hereafter amended.

19 "Public Officer" or "public officers" means all officers  
20 of the executive branch of the State government, all officers  
21 created by the "Civil Administrative Code of Illinois," as  
22 heretofore or hereafter amended, and all other officers and  
23 heads, presidents, or chairmen of boards, commissions, and  
24 agencies of the State government.

25 "Commission" means the State Records Commission.

26 "Archivist" means the Secretary of State.

27 (Source: P.A. 85-1209.)

28 (5 ILCS 160/3) (from Ch. 116, par. 43.6)

29 Sec. 3. Records as property of State. All records  
30 created or received by or under the authority of or coming  
31 into the custody, control, or possession of public officials  
32 of this State in the course of their public duties are the  
33 property of the State. These records may not be mutilated,

1 destroyed, transferred, removed, or otherwise damaged or  
2 disposed of, in whole or in part, except as provided by law.  
3 Any person shall have the right of access to any public  
4 records, unless access to the records is otherwise limited or  
5 prohibited by law. Reports and records of the obligation,  
6 receipt and use of public funds of the State are public  
7 records available for inspection by the public, except as  
8 access to such records is otherwise limited or prohibited by  
9 law or pursuant to law. These records shall be kept at the  
10 official place of business of the State or at a designated  
11 place of business of the State. These records shall be  
12 available for public inspection during regular office hours  
13 except when in immediate use by persons exercising official  
14 duties which require the use of those records. ~~The person in~~  
15 ~~charge of such records may require a notice in writing to be~~  
16 ~~submitted 24 hours prior to inspection and may require that~~  
17 ~~such notice specify which records are to be inspected.~~  
18 Nothing in this section shall require the State to invade or  
19 assist in the invasion of any person's right to privacy.  
20 Nothing in this Section shall be construed to limit any right  
21 given by statute or rule of law with respect to the  
22 inspection of other types of records.

23 Warrants and vouchers in the keeping of the State  
24 Comptroller may be destroyed by him as authorized in "An Act  
25 in relation to the reproduction and destruction of records  
26 kept by the Comptroller", approved August 1, 1949, as now or  
27 hereafter amended after obtaining the approval of the State  
28 Records Commission.

29 (Source: P.A. 83-663.)

30 (5 ILCS 160/3.5)

31 Sec. 3.5. Confidentiality of foster placement records.  
32 All records concerning foster placement and foster parent  
33 identifying information shall ~~not be considered records under~~

1 this--Act--These-records shall be released only in accordance  
 2 with Section 35.3 of the Children and Family Services Act.  
 3 (Source: P.A. 90-15, eff. 6-13-97.)

4 (5 ILCS 160/4) (from Ch. 116, par. 43.7)

5 Sec. 4. Any person shall have the right of access to any  
 6 public records of the expenditure or receipt of public funds  
 7 as defined in Section 3 for the purpose of obtaining copies  
 8 of the same or of making photographs of the same while in the  
 9 possession, custody and control of the lawful custodian  
 10 thereof, or his authorized deputy. The-photographing-shall-be  
 11 done-under-the-supervision-of-the-lawful--custodian--of--said  
 12 records,--who--has--the-right-to-adopt-and-enforce-reasonable  
 13 rules-governing-such-work--The-work-of--photographing--shall,  
 14 when--possible,--be--done--in--the--room--where--the-records,  
 15 documents--or--instruments--are--kept--However,--if--in--the  
 16 judgment-of-the-lawful-custodian-of-the-records,--documents-or  
 17 instruments,--it--would--be--impossible--or--impracticable--to  
 18 perform--the-work-in-the-room-in-which-the-records,--documents  
 19 or-instruments-are-kept,--the-work-shall-be-done-in-some-other  
 20 room-or-place-as-nearly-adjacent--as--possible--to--the--room  
 21 where--kept--Where-the-providing-of-a-separate-room-or-place  
 22 is-necessary,--the-expense-of-providing-for-the-same-shall--be  
 23 borne--by--the--person--or-persons-desiring-to-photograph-the  
 24 records,--documents-or-instruments--The--lawful--custodian--of  
 25 the-records,--documents-or-instruments-may-charge-the-same-fee  
 26 for--the--services--rendered--by--him--or--his--assistant--in  
 27 supervising--the--photographing--as--may--be--charged--for  
 28 furnishing-a-certified-copy-or-copies--of--the--said--record,  
 29 document--or--instrument--In--the--event--that--the--lawful  
 30 custodian-of-said-records-shall--deem--it--advisable--in--his  
 31 judgment--to--furnish--photographs--of--such--public-records,  
 32 instruments-or-documents-in-lieu-of-allowing-the-same--to--be  
 33 photographed,--then--in-such-event-he-may-furnish-photographs

1 of such records and charge a fee of 35¢ per page when the  
2 page to be photographed does not exceed legal size and \$1.00  
3 per page when the page to be photographed exceeds legal size  
4 and where the fees and charges therefor are not otherwise  
5 fixed by law.

6 (Source: Laws 1957, p. 1687.)

7 (5 ILCS 160/7) (from Ch. 116, par. 43.10)

8 Sec. 7. The Secretary:

9 (1) whenever it appears to him to be in the public  
10 interest, may accept for deposit in the State Archives the  
11 records of any agency or of the Legislative or Judicial  
12 branches of the State government that are determined by him  
13 to have sufficient historical or other value to warrant the  
14 permanent preservation of such records by the State of  
15 Illinois;

16 (2) may accept for deposit in the State Archives  
17 official papers, photographs, microfilm, electronic and  
18 digital records, drawings, maps, writings, and records of  
19 every description of counties, municipal corporations,  
20 political subdivisions and courts of this State, and records  
21 of the federal government pertaining to Illinois, when such  
22 materials are deemed by the Secretary to have sufficient  
23 historical or other value to warrant their continued  
24 preservation by the State of Illinois.

25 (3) whenever he deems it in the public interest, may  
26 accept for deposit in the State Archives motion picture  
27 films, still pictures, and sound recordings that are  
28 appropriate for preservation by the State government as  
29 evidence of its organization, functions and policies.

30 (4) shall be responsible for the custody, use, servicing  
31 and withdrawal of records transferred for deposit in the  
32 State Archives. The Secretary shall observe any rights,  
33 limitations, or restrictions imposed by law relating to the

1 use of records, including the provisions of the Mental Health  
2 and Developmental Disabilities Confidentiality Act which  
3 limit access to certain records or which permit access to  
4 certain records only after the removal of all personally  
5 identifiable data. Access to restricted records shall be at  
6 the direction of the depositing State agency or, in the case  
7 of records deposited by the legislative or judicial branches  
8 of State government at the direction of the branch which  
9 deposited them, but no limitation on access to such records  
10 shall extend more than 75 years after the creation of the  
11 records, except as provided in the Mental Health and  
12 Developmental Disabilities Confidentiality Act. The  
13 Secretary shall not impose restrictions on the use of records  
14 that are defined by law as public records or as records open  
15 to public inspection;

16 (5) shall make provision for the preservation,  
17 arrangement, repair, and rehabilitation, duplication and  
18 reproduction, description, and exhibition of records  
19 deposited in the State Archives as may be needed or  
20 appropriate;

21 (6) shall make or reproduce and furnish upon demand  
22 authenticated or unauthenticated copies of any of the  
23 documents, photographic material or other records deposited  
24 in the State Archives, the public examination of which is not  
25 prohibited by statutory limitations or restrictions or  
26 protected by copyright. The Secretary shall charge a fee  
27 therefor in accordance with the schedule of fees in Section  
28 10 of "An Act concerning fees and salaries, and to classify  
29 the several counties of this state with reference thereto,"  
30 approved March 29, 1872, as amended, except that there shall  
31 be no charge for making or authentication of such copies or  
32 reproductions furnished to any department or agency of the  
33 State for official use. When any such copy or reproduction is  
34 authenticated by the Great Seal of the State of Illinois and

1 is certified by the Secretary, or in his name by his  
2 authorized representative, such copy or reproduction shall be  
3 admitted in evidence as if it were the original.

4 (7) any official of the State of Illinois may turn over  
5 to the Secretary of State, with his consent, for permanent  
6 preservation in the State Archives, any official books,  
7 records, documents, original papers, or files, not in current  
8 use in his office, taking a receipt therefor.

9 (8) (Blank). shall--require--of--all--persons,---firms,  
10 corporations--or--other--legal--entities-who-desire-access-to  
11 information-not-defined-as-public-records-or-as-records--open  
12 to--public-inspection,---but-open-to-the-public,---as-provided-in  
13 this-Act,---an-affidavit-dated-and-signed-by-the-person--making  
14 the--request--or--his--representative,---notarized-by-a-notary  
15 public,---and-containing-substantially-the-following:

16 "Application-and-Agreement-for-Release-of-Information

17 "The-Secretary-of-State,---State--of--Illinois,---agrees--to  
18 release--the--following--described-information-subject-to-the  
19 following-agreement:

20 "It-is-hereby-agreed-by-----,known-as  
21 the-User,---that--the--information,---lists,---names--and--other  
22 material--provided--by--the--Office-of-the-Secretary-of-State  
23 shall--not--be--made--available--to--other--persons,---firms,  
24 corporations--or--other-legal-entities.---The-User-agrees-that  
25 it-shall--preserve--the--confidentiality--of--any--person--or  
26 persons-named-in-these-records.

27 "The--information--contained--shall-not-be-exchanged-with  
28 any-other-person,---firm-or-corporation-for--other--information  
29 or--lists--unless-the-identity-of-any-person-or-persons-named  
30 in-these--records--has--been--removed.---Such--an--act--shall  
31 constitute--a--material--breach--of--this--agreement--and-all  
32 information-previously-received-by-the-User-shall-be-returned  
33 to-the-Office-of-the-Secretary-of-State,---State-of-Illinois.

34 "The--user--understands--that--any--violation---of---this

1 agreement---is---a---Class---A---misdemeanor,--punishable--by  
2 imprisonment-in-a-penal-institution-other-than-a-penitentiary  
3 for-not-more-than-one-year-or-a-fine-not-exceeding-\$1,000,-or  
4 both.

5 "Description-of-information:-----  
6 -----  
7 -----

8 Date-----Date  
9 -----

10 Signature-----Signature  
11 -----Secretary-of-State,--State-of-Illinois  
12 User-or-his-representative--by-----  
13 -----Director

14 User's-name,-if-not-above---Archives-and-Records-Division  
15 -----

16 User's-Address"

17 A-violation-of-the-provisions-of-an-agreement-under--this  
18 paragraph-(8)-is-a-Class-A-misdemeanor.

19 (9) may cooperate with the Illinois State Genealogical  
20 Society, or its successor organization, for the mutual  
21 benefit of the Society and the Illinois State Archives, with  
22 the State Archives furnishing necessary space for the society  
23 to carry on its functions and keep its records, to receive  
24 publications of the Illinois State Genealogical Society, to  
25 use members of the Illinois State Genealogical Society as  
26 volunteers in various archival projects and to store the  
27 Illinois State Genealogical Society's film collections.

28 (Source: P.A. 85-1238.)

29 (5 ILCS 160/9) (from Ch. 116, par. 43.12)

30 Sec. 9. The head of each agency shall establish, and  
31 maintain an active, continuing program for the economical and  
32 efficient management of the records of the agency.

33 Such program:

1 (1) shall provide for effective controls over the  
 2 creation, maintenance, and use of records in the conduct of  
 3 current business and shall ensure that agency electronic  
 4 records, as specified in Section 5-135 of the Electronic  
 5 Commerce Security Act, are retained in a trustworthy manner  
 6 so that the records, and the information contained in the  
 7 records, are accessible and usable for reference for the  
 8 duration of the retention period; all computer tape or disk  
 9 maintenance and preservation procedures must be fully applied  
 10 and, if equipment or programs providing access to the records  
 11 are updated or replaced, the existing data must remain  
 12 accessible in the successor format for the duration of the  
 13 approved retention period;

14 (2) shall provide for cooperation with the Secretary in  
 15 appointing a records officer and in applying standards,  
 16 procedures, and techniques to improve the management of  
 17 records, promote the maintenance and security of records  
 18 deemed appropriate for preservation, and facilitate the  
 19 segregation and disposal of records of temporary value; and

20 (3) shall provide for compliance with the provisions of  
 21 this Act and the rules and regulations issued thereunder.

22 ~~This--Section--shall--not--apply--to--State--colleges--and~~  
 23 ~~universities--and--their--governing--boards--~~

24 (Source: P.A. 83-663.)

25 (5 ILCS 160/11) (from Ch. 116, par. 43.14)

26 Sec. 11. Violation. All records made or received by or  
 27 under the authority of or coming into the custody, control or  
 28 possession of public officials of this State in the course of  
 29 their public duties are the property of the State and shall  
 30 not be mutilated, destroyed, transferred, removed or  
 31 otherwise damaged or disposed of, in whole or in part except  
 32 as provided by law. Any person who knowingly and without  
 33 lawful authority alters, destroys, defaces, removes, or

1 conceals any public record commits a Class 4 felony.

2 (Source: Laws 1957, p. 1687.)

3 (5 ILCS 160/12) (from Ch. 116, par. 43.15)

4 Sec. 12. The Secretary shall make continuing surveys of  
5 State records management and disposal practices and obtain  
6 reports thereon from agencies and their staff.

7 (Source: Laws 1957, p. 1687.)

8 (5 ILCS 160/13) (from Ch. 116, par. 43.16)

9 Sec. 13. The Secretary, with due regard to the program  
10 activities of the agencies concerned, shall make provision  
11 for the economical and efficient management of records of  
12 State agencies by analyzing, developing, promoting,  
13 coordinating, and promulgating standards, procedures, and  
14 techniques designed to improve the management of records, to  
15 insure the maintenance and security of records deemed  
16 appropriate for preservation, and to facilitate the  
17 segregation and disposal of records of temporary value. The  
18 Secretary shall aid also in promoting the efficient and  
19 economical utilization of space, equipment, and supplies  
20 needed for the purpose of creating, maintaining, storing, and  
21 servicing records.

22 ~~This--Section--shall--not--apply--to--State--colleges--and~~  
23 ~~universities--and--their--governing--boards.~~

24 (Source: P.A. 83-663.)

25 (5 ILCS 160/15) (from Ch. 116, par. 43.18)

26 Sec. 15. The Secretary shall establish, maintain, and  
27 operate records centers for the storage, care, and servicing  
28 of records of State agencies pending their deposit in the  
29 State Archives or the disposition of such records in any  
30 other manner authorized by law. The Secretary may establish,  
31 maintain, and operate centralized microfilming and digital

1 reproduction services for agencies.

2 (Source: Laws 1957, p. 1687.)

3 (5 ILCS 160/16) (from Ch. 116, par. 43.19)

4 Sec. 16. There is created the State Records Commission.

5 The Commission shall consist of the following members: The

6 Secretary of State, or his representative, who shall act as

7 chairman; the State Historian, who shall serve as secretary;

8 the State Treasurer, or his authorized representative; the

9 Director of Central Management Services, or his authorized

10 representative; the Attorney General, or his authorized

11 representative; and the State Comptroller, or his authorized

12 representative. The Commission shall meet whenever called by

13 the chairman, who shall have no vote on matters considered by

14 the Commission. It shall be the duty of the Commission to

15 determine what records no longer have any administrative,

16 fiscal, legal, research, or historical value and should be

17 destroyed or disposed of otherwise.

18 (Source: P.A. 82-789.)

19 (5 ILCS 160/17) (from Ch. 116, par. 43.20)

20 Sec. 17. Regardless of other authorization to the

21 contrary, no record shall be disposed of by any agency of the

22 State, unless approval of the State Records Commission is

23 first obtained. The Commission shall issue regulations, not

24 inconsistent with this Act, which shall be binding on all

25 agencies. Such regulations shall establish procedures for

26 compiling and submitting to the Commission lists and

27 schedules of records proposed for disposal; procedures for

28 the physical destruction or other disposition of records

29 proposed for disposal; and standards for the reproduction of

30 records by digital, photographic, photography or

31 microphotographic processes with the view to the disposal of

32 the original records. Such standards shall relate to the

1 electronic digital process and format, quality of film used,  
 2 preparation of the records for reproduction filming, proper  
 3 identification matter on the records so that an individual  
 4 document or series of documents can be located on the film or  
 5 electronic medium with reasonable facility, and that the  
 6 copies contain all significant record detail, to the end that  
 7 the photographic, ~~or~~ microphotographic, or digital copies  
 8 will be adequate.

9 Such regulations shall also provide that the State  
 10 archivist may retain any records which the Commission has  
 11 authorized to be destroyed, where they have a historical  
 12 value, and that the State archivist may deposit them in the  
 13 State Archives Library or State Historical Library Museum or  
 14 with a historical society, museum or library.

15 (Source: P.A. 76-1667.)

16 (5 ILCS 160/18) (from Ch. 116, par. 43.21)

17 Sec. 18. The head of each agency shall submit to the  
 18 Commission, in accordance with the regulations of the  
 19 Commission, lists or schedules of records in his or her  
 20 custody and his or her proposal for that-are-not-needed-in  
 21 ~~the-transaction-of-current-business--and--that--do--not--have~~  
 22 ~~sufficient--administrative,--legal-or-fiscal-value-to-warrant~~  
 23 ~~their-further-preservation.-The--head--of--each--agency--also~~  
 24 ~~shall--submit-lists-or-schedules-proposing~~ the length of time  
 25 each record series warrants retention for administrative,  
 26 legal or fiscal purposes after it has been created or  
 27 received by the agency.

28 (Source: Laws 1957, p. 1687.)

29 (5 ILCS 160/22c) (from Ch. 116, par. 43.25c)

30 Sec. 22c. The State Archives Advisory Board shall also  
 31 serve as the Illinois State Historical Records Advisory  
 32 Board. This Board shall:

- 1       (1) serve as the State advisory body required by federal
- 2       agencies to approve historical record grant applications;
- 3       (2) promote the identification, preservation, access to,
- 4       and use of historical records in Illinois; and
- 5       (3) meet at least once each year.

6       The Director of the State Archives shall serve as the  
7       coordinator of this Board and assist the Board in its  
8       functions. The Secretary may appoint additional assistants,  
9       who must be technically qualified and experienced in records  
10       management and historic records preservation, as necessary to  
11       carry out the functions of this Board. The--Secretary,--no  
12       later--than-April-17-1992,--shall-provide-the-General-Assembly  
13       with--his--recommendations--for--the---archiving---of---local  
14       government-documents-on-optical-disk-media.

15       (Source: P.A. 87-825.)

16       (5 ILCS 160/24) (from Ch. 116, par. 43.27)

17       Sec. 24. Auditor General. The Auditor General shall  
18       audit agencies for compliance with this Act when conducting  
19       compliance audits and shall report his or her findings to the  
20       agency and the Secretary.

21       Any officer or employee who violates the provisions of  
22       Section 3 of this Act is guilty of a Class B misdemeanor.

23       (Source: P.A. 77-2221.)

24       Section 99. Effective date. This Act takes effect upon  
25       becoming law.

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