

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 State officials
 6 or their authorized representatives members: the Secretary of
 7 State, ~~or his representative~~, who shall act as chairman; the
 8 State Historian, who shall serve as secretary; the State
 9 Treasurer, ~~or his authorized representative~~; the Director of
 10 Central Management Services, ~~or his authorized~~
 11 ~~representative~~; the Attorney General, ~~or his authorized~~
 12 ~~representative~~; and the State Comptroller, ~~or his authorized~~
 13 ~~representative~~. The Commission shall meet whenever called by
 14 the chairman, who shall have no vote on matters considered by
 15 the Commission. It shall be the duty of the Commission to
 16 determine what records no longer have any administrative,
 17 fiscal, legal, research, or historical value and should be
 18 destroyed or disposed of otherwise.

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

20 (5 ILCS 160/17) (from Ch. 116, par. 43.20)

21 Sec. 17. Regardless of other authorization to the
 22 contrary, no record shall be disposed of by any agency of the
 23 State, unless approval of the State Records Commission is
 24 first obtained. The Commission shall issue regulations, not
 25 inconsistent with this Act, which shall be binding on all
 26 agencies. Such regulations shall establish procedures for
 27 compiling and submitting to the Commission lists and
 28 schedules of records proposed for disposal; procedures for
 29 the physical destruction or other disposition of records
 30 proposed for disposal; and standards for the reproduction of
 31 records by digital, photographic, photography or
 32 microphotographic processes with the view to the disposal of

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

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

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

17 (5 ILCS 160/18) (from Ch. 116, par. 43.21)

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

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

30 (5 ILCS 160/22c) (from Ch. 116, par. 43.25c)

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

1 Board. This Board shall:

2 (1) serve as the State advisory body required by federal
3 agencies to approve historical record grant applications;

4 (2) promote the identification, preservation, access to,
5 and use of historical records in Illinois; and

6 (3) meet at least once each year.

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

16 (Source: P.A. 87-825.)

17 (5 ILCS 160/24) (from Ch. 116, par. 43.27)

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

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

24 (Source: P.A. 77-2221.)

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

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