

**ILLINOIS FREEDOM OF INFORMATION ACT  
PROPOSED STATUTORY REVISIONS**

**5 ILCS 140/1**

Sec. 1. Pursuant to the fundamental philosophy of the American constitutional form of government, it is declared to be the public policy of the State of Illinois that all persons are entitled to full and complete information regarding the affairs of government and the official acts and policies of those who represent them as public officials and public employees consistent with the terms of this Act. Such access is necessary to enable the people to fulfill their duties of discussing public issues fully and freely, making informed political judgments and monitoring government to ensure that it is being conducted in the public interest.

This Act is not intended to be used to violate individual privacy, nor for the purpose of furthering a commercial enterprise, or to disrupt the duly-undertaken work of any public body independent of the fulfillment of any of the fore-mentioned rights of the people to access to information.

This Act is not intended to create an obligation on the part of any public body to maintain or prepare any public record which was not maintained or prepared by such public body at the time when this Act becomes effective, except as otherwise required by applicable local, State or federal law.

These restraints on information access should be seen as limited exceptions to the general rule that the people have a right to know the decisions, policies, procedures, rules, standards, and other aspects of government activity that affect the conduct of government and the lives of any or all of the people. The provisions of this Act shall be construed to this end.

This Act shall be the exclusive State statute on freedom of information, except to the extent that other State statutes might create additional restrictions on disclosure of information or other laws in Illinois might create additional obligations for disclosure of information to the public.

(Source: P.A. 83-1013.)

**5 ILCS 140/2**

Sec. 2. Definitions. As used in this Act:

(a) "Public body" means any legislative, executive, administrative, or advisory bodies of the State, state universities and colleges, counties, townships, cities, villages, incorporated towns, school districts and all other municipal corporations, boards, bureaus, committees, or commissions of this State, any subsidiary bodies of any of the foregoing including but not limited to committees and subcommittees which are supported in whole

or in part by tax revenue, or which expend tax revenue, and a School Finance Authority created under Article 1E of the School Code. “Public body” includes any other body which is created by state or local authority or which is primarily funded by or through state or local authority. “Public body” does not include a child death review team or the Illinois Child Death Review Teams Executive Council established under the Child Death Review Team Act.

(b) “Person” means any individual, corporation, partnership, firm, organization or association, acting individually or as a group.

(c) “Public records” means all records, reports, forms, writings, letters, memoranda, books, papers, maps, photographs, microfilms, cards, tapes, recordings, electronic data processing records, recorded information and all other documentary materials, regardless of physical form or characteristics, having been prepared, or having been or being used, received, possessed or under the control of any public body. “Public records” includes, but is expressly not limited to: (i) administrative manuals, procedural rules, and instructions to staff, unless exempted by Section 7(p) of this Act; (ii) final opinions and orders made in the adjudication of cases, except an educational institution’s adjudication of student or employee grievance or disciplinary cases; (iii) substantive rules; (iv) statements and interpretations of policy which have been adopted by a public body; (v) final planning policies, recommendations, and decisions; (vi) factual reports, inspection reports, and studies whether prepared by or for the public body; (vii) all information in any account, voucher, or contract dealing with the receipt or expenditure of public or other funds of public bodies; (viii) the names, salaries, titles, ~~and~~ dates of employment, and employment contracts of all employees and officers of public bodies; (ix) materials containing opinions concerning the rights of the state, the public, a subdivision of state or a local government, or of any private persons; (x) the name of every official and the final records of voting in all proceedings of public bodies; (xi) applications for any contract, permit, grant, or agreement except as exempted from disclosure by subsection (g) of Section 7 of this Act; (xii) each report, document, study, or publication prepared by independent consultants or other independent contractors for the public body; (xiii) all other information required by law to be made available for public inspection or copying; (xiv) contracts and all supporting information relating to any grant or contract made by or between a public body and another public body or private organization; (xv) any record produced or collected under a contract entered into by the public body with a person other than a public body to the same extent as if the record were maintained by the public body; and (xvi) waiver documents filed with the State Superintendent of Education or the president of the University of Illinois under Section 30-12.5 of the School Code, concerning nominees for General Assembly scholarships under Sections 30-9, 30-10, and 30-11 of the School Code; (xvi) complaints, results of complaints, and Department of Children and Family Services staff findings of licensing violations at day care facilities, provided that personal and identifying information is not released; and (xvii) records, reports, forms, writings, letters, memoranda, books, papers, and other documentary information, regardless of physical form or characteristics, having been prepared, or having been or being used, received, possessed, or under the control of the Illinois Sports Facilities Authority dealing with the receipt or expenditure of public funds or other funds

of the Authority in connection with the reconstruction, renovation, remodeling, extension, or improvement of all or substantially all of an existing "facility" as that term is defined in the Illinois Sports Facilities Authority Act.

(d) "Copying" means the reproduction of any public record by means of any photographic, electronic, mechanical or other process, device or means.

(e) "Head of the public body" means the president, mayor, chairman, presiding officer, director, superintendent, manager, supervisor or individual otherwise holding primary executive and administrative authority for the public body, or such person's duly authorized designee.

(f) "News media" means a newspaper or other periodical issued at regular intervals whether in print or electronic format, a news service whether in print or electronic format, a radio station, a television station, a television network, a community antenna television service, or a person or corporation engaged in making news reels or other motion picture news for public showing.

### **5 ILCS 140/3**

Sec. 3. (a) Each public body shall make available to any person for inspection or copying all public records, except as otherwise provided in Section 7 of this Act. Notwithstanding any other law, a public body may not grant to any person or entity, whether by contract, license, or otherwise, the exclusive right to access and disseminate any public record as defined in this Act.

(b) Subject to the fee provisions of Section 6 of this Act, each public body shall promptly provide, to any person who submits a written request that describes a public record sufficiently to enable the public body to find the public record, a copy of any public record required to be disclosed by subsection (a) of this Section and shall certify such copy if so requested. Unless a requestor specifically seeks a fee waiver or reduction subject to Section 6 of this Act, a public body may not make an inquiry as to the nature of the request, unless it is for the purpose of assisting an individual in identifying public records sought, as set forth in Section 6(b) of this Act.

(c) A person has a right to subscribe to future issuances of public records that are created, issued, or disseminated on a regular basis. A subscription shall be valid for up to 6 months, at the request of the subscriber, and shall be renewable.

(ed) Each public body shall, promptly, either comply with or deny a written request for public records within 7 working days after its receipt. Denial shall be by letter as provided in Section 9 of this Act. Failure to respond to a written request within 7 working days after its receipt shall be considered a denial of the request.

(~~de~~) The time limits prescribed in paragraph (c) of this Section may be extended in each case for not more than 7 additional working days for any of the following reasons:

(i) the requested records are stored in whole or in part at other locations than the office having charge of the requested records;

(ii) the request requires the collection of a substantial number of specified records;

(iii) the request is couched in categorical terms and requires an extensive search for the records responsive to it;

(iv) the requested records have not been located in the course of routine search and additional efforts are being made to locate them;

(v) the requested records require examination and evaluation by personnel having the necessary competence and discretion to determine if they are exempt from disclosure under Section 7 of this Act or should be revealed only with appropriate deletions;

(vi) the request for records cannot be complied with be conducted with all practicable speed, with another public body or among two or more components of a public body having a substantial interest in the determination or in the subject matter of the request.

(~~ef~~) When additional time is required for any of the above reasons, the public body shall notify by letter the person making the written request within the time limits specified by paragraph (c) of this Section of the reasons for the delay and the date by which the records will be made available or denial will be forthcoming. A public body shall not issue more than 1 notice of extension for a particular request. In no instance, may the delay in processing last longer than 7 working days. A failure to render a decision within 7 working days shall be considered a denial of the request.

(~~fg~~) Requests calling for all records falling within a category shall be complied with unless compliance with the request would be unduly burdensome for the complying public body and there is no way to narrow the request and the burden on the public body outweighs the public interest in the information. Before invoking this exemption, the public body shall extend to the person making the request an opportunity to confer with it in an attempt to reduce the request to manageable proportions. If any body responds to a categorical request by stating that compliance would unduly burden its operation and the conditions described above are met, it shall do so in writing, specifying the reasons why it would be unduly burdensome and the extent to which compliance will so burden the operations of the public body. Such a response shall be treated as a denial of the request for information. Repeated requests for the same public records by the same person shall be deemed unduly burdensome under this provision.

(~~gh~~) Each public body may promulgate rules and regulations in conformity with the provisions of this Section pertaining to the availability of records and procedures to be

followed, including:

(i) the times and places where such records will be made available, and

(ii) the persons from whom such records may be obtained.

(i) If a public body enters into a contract with a private person to perform any of its functions, the public body shall include in the contract terms that make it clear that all of the data created, collected, received, stored, used, maintained, or disseminated by the private person in performing those functions is subject to the requirements of this Section and that the private person must comply with those requirements as if it were a public body.

(j) A public body that is a city, village, township, county, or state department, or under the control of a city, village, township, county, or state department, shall designate an individual as the public body's Freedom of Information Act coordinator. The Freedom of Information Act coordinator shall be responsible for accepting and processing requests for the public body's public records under this act and shall be responsible for approving a denial. For all other public bodies, the chief administrative officer of the respective public body is designated the public body's Freedom of Information Act coordinator. A Freedom of Information Act coordinator may designate another individual to act on his or her behalf in accepting and processing requests for the public body's public records, and in approving a denial.

## **5 ILCS 140/4**

Sec. 4. Each public body shall prominently display at each of its administrative or regional offices, make available for inspection and copying, and send through the mail if requested, each of the following:

(a) A brief description of itself, which will include, but not be limited to, a short summary of its purpose, a block diagram giving its functional subdivisions, the total amount of its operating budget, the number and location of all of its separate offices, the approximate number of full and part-time employees, and the identification and membership of any board, commission, committee, or council which operates in an advisory capacity relative to the operation of the public body, or which exercises control over its policies or procedures, or to which the public body is required to report and be answerable for its operations; and

(b) A brief description of the methods whereby the public may request information and public records, a directory designating by titles and addresses those employees to whom requests for public records should be directed, and any fees allowable under Section 6 of this Act.

(c) A public body's failure to comply with paragraph (b) or (c) of this Section subjects a public body to the administrative appeal in Section 10 of this Act, and judicial relief in Section 11 of this Act.

(d)(1) Each public body shall make available for public inspection and copying copies of all records, regardless of form or format, which have been released to any person under this Act and which, because of the nature of their subject matter, the public body determines have become or are likely to become the subject of subsequent requests for substantially the same records.

(2) In making any record available to a person under this Section, a public body shall provide the record in any form or format requested by the person if the record is readily reproducible by the agency in that form or format. Each public body shall make reasonable efforts to maintain its records in forms or formats that are reproducible for purposes of this Section.

## **5 ILCS 140/5**

### Sec. 5.

(a) As to public records prepared or received after the effective date of this Act, each public body shall maintain and make available for inspection and copying a reasonably current list of all types or categories of records under its control. The list shall be reasonably detailed in order to aid persons in obtaining access to public records pursuant to this Act. Each public body shall furnish upon request a description of the manner in which public records stored by means of electronic data processing may be obtained in a form comprehensible to persons lacking knowledge of computer language or printout format.

(b) This Act requires a public body to create a new public record if the public body can create the record by reasonable use or manipulation of software, electronic records or Internet website records. For purposes of this Section, a public body's maintaining of records includes access to its electronic records or accounts maintained on Internet websites.

(c) If the public body maintains a website, each public body shall make available for public inspection and copying current indexes providing identifying information for the public as to any matter issued or adopted.

## **5 ILCS 140/6**

### Sec. 6. Authority to charge fees.

(a) Each public body shall calculate and disclose the actual cost of reproduction for reproducing documents, - but in any event may not exceed ~~may charge fees reasonably calculated to reimburse its actual cost~~ up to \$.20 per page for reproducing and certifying

public records and for the use, by any person, of the equipment of the public body to copy records. Such fees shall exclude the costs of any search for and review of the record; ~~and shall not exceed the actual cost of reproduction and certification, unless otherwise provided by State statute.~~ Such fees shall be imposed according to a standard scale of fees, established and made public by the body imposing them.

(b) Documents shall be furnished without charge ~~or at a reduced charge, as determined by the public body,~~ if the person requesting the documents states the specific purpose for the request and indicates that a waiver or reduction of the fee is in the public interest. Waiver or reduction of the fee is in the public interest if: the requestor is the news media; the requestor is a non-profit organization; or if the principal purpose of the request is to access and disseminate information regarding the health, safety and welfare or the legal rights of the general public and is not for the principal purpose of personal or commercial benefit. ~~For purposes of this subsection, “commercial benefit” shall not apply to requests made by news media when the principal purpose of the request is to access and disseminate information regarding the health, safety, and welfare or the legal rights of the general public.~~ In setting the amount of the waiver or reduction, the public body may take into consideration the amount of materials requested and the cost of copying them. No public records request may be refused because the person making the request is unwilling to be identified or to state the purpose of the request, unless the person seeks a waiver or reduction in fee. In such case, the requesting person must be offered the option of either providing identifying information or stating the purpose of the request, or forfeiting the waiver or reduction in fee.

(c) Documents shall be furnished without charge or at a reasonable reduced charge, as determined by the public body, if the person requesting the documents asks that the documents be provided in electronic form. For purposes of this subsection, “reasonable reduced charge” means the actual cost of any media used in providing the information, including but not limited to, computer disks and CDROMs, as well as the use, by any person, of the equipment of the public body to create such records, but excludes the costs of any search for and review of the documents. If the public records request is made in person, the public body must notify the requestor if any of the requested records are available through electronic mail.

(ee) The purposeful imposition of a fee not consistent with subsections (6)(a) and (b) of this Act shall be considered a denial of access to public records for the purposes of judicial review.

(df) The fee for an abstract of a driver’s record shall be as provided in Section 6-118 of “The Illinois Vehicle Code”, approved September 29, 1969, as amended.

## **5 ILCS 140/7**

### **Sec. 7. Exemptions.**

(1) The following shall be exempt from inspection and copying:

Citizen Advocacy Center  
Illinois Freedom of Information Act Model Statute

(a) Information specifically prohibited from disclosure by federal or State law or rules and regulations adopted under federal or State law.

(b) Information that, if disclosed, would constitute a clearly unwarranted invasion of personal privacy, unless the disclosure is consented to in writing by the individual subjects of the information. The disclosure of information that bears on the public duties of public employees and officials shall not be considered an invasion of personal privacy. No exemptions may be applied under this subsection (b) if it would be impossible to identify the names of any private citizens included in the records. Information exempted under this subsection (b) shall include but is not limited to:

(i) files and personal information maintained with respect to clients, patients, residents, students or other individuals receiving social, medical, educational, vocational, financial, supervisory or custodial care or services directly or indirectly from federal agencies or public bodies;

(ii) personnel files and personal information maintained with respect to employees, appointees or elected officials of any public body or applicants for those positions, however this subsection does not exempt employment contracts, timesheets of employees, appointees or elected officials from disclosure;

(iii) files and personal information maintained with respect to any applicant, registrant or licensee by any public body cooperating with or engaged in professional or occupational registration, licensure or discipline;

(iv) information required of any taxpayer in connection with the assessment or collection of any tax unless disclosure is otherwise required by State statute;

(v) information revealing the identity of persons who file complaints with or provide information to administrative, investigative, law enforcement or penal agencies; provided, however, that identification of witnesses to traffic accidents, traffic accident reports, and rescue reports may be provided by agencies of local government, except in a case for which a criminal investigation is ongoing, without constituting a clearly unwarranted per se invasion of personal privacy under this subsection; and

(vi) the names, addresses, or other personal information of participants and registrants in park district, forest preserve district, and conservation district programs.

(c) Records compiled by any public body for administrative enforcement proceedings and any law enforcement or correctional agency for law enforcement purposes or for internal matters of a public body, but only to the extent that disclosure would:

(i) interfere with pending or actually and reasonably contemplated law enforcement proceedings conducted by any law enforcement or correctional agency;

- (ii) interfere with pending administrative enforcement proceedings conducted by any public body;
- (iii) deprive a person of a fair trial or an impartial hearing;
- (iv) unavoidably disclose the identity of a confidential source or confidential information furnished only by the confidential source;
- (v) disclose unique or specialized investigative techniques other than those generally used and known or disclose internal documents of correctional agencies related to detection, observation or investigation of incidents of crime or misconduct;
- (vi) constitute an invasion of personal privacy under subsection (b) of this Section;
- (vii) endanger the life or physical safety of law enforcement personnel or any other person; or
- (viii) obstruct an ongoing criminal investigation.

(d) Criminal history record information maintained by State or local criminal justice agencies, except the following which shall be open for public inspection and copying:

- (i) chronologically maintained arrest information, such as traditional arrest logs or blotters;
- (ii) the name of a person in the custody of a law enforcement agency and the charges for which that person is being held;
- (iii) court records that are public;
- (iv) records that are otherwise available under State or local law; or
- (v) records in which the requesting party is the individual identified, except as provided under part (vii) of paragraph (c) of subsection (1) of this Section.

“Criminal history record information” means data identifiable to an individual and consisting of descriptions or notations of arrests, detentions, indictments, informations, pre-trial proceedings, trials, or other formal events in the criminal justice system or descriptions or notations of criminal charges (including criminal violations of local municipal ordinances) and the nature of any disposition arising therefrom, including sentencing, court or correctional supervision, rehabilitation and release. The term does not apply to statistical records and reports in which individuals are not identified and from which their identities are not ascertainable, or to information that is for criminal investigative or intelligence purposes.

- (e) Records that relate to or affect the security of correctional institutions and detention facilities.
- (f) Preliminary drafts, notes, recommendations, memoranda and other records in which opinions are expressed, or policies or actions are formulated, except that a specific record or relevant portion of a record shall not be exempt when the record is publicly cited and identified by the head of the public body. The exemption provided in this paragraph (f) extends to all those records of officers and agencies of the General Assembly that pertain to the preparation of legislative documents.
- (g) Trade secrets and commercial or financial information obtained from a person or business where the trade secrets or information are proprietary, privileged or confidential, or where disclosure of the trade secrets or information may cause competitive harm, including all information determined to be confidential under Section 4002 of the Technology Advancement and Development Act. Nothing contained in this paragraph (g) shall be construed to prevent a person or business from consenting to disclosure.
- (h) Proposals and bids for any contract, grant, or agreement, including information which if it were disclosed would frustrate procurement or give an advantage to any person proposing to enter into a contractor agreement with the body, until an award or final selection is made. Information prepared by or for the body in preparation of a bid solicitation shall be exempt until an award or final selection is made.
- (i) Valuable formulae, computer geographic systems, designs, drawings and research data obtained or produced by any public body when disclosure could reasonably be expected to produce private gain or public loss. The exemption for "computer geographic systems" provided in this paragraph (i) does not extend to requests made by news media as defined in Section 2 of this Act when the requested information is not otherwise exempt and the only purpose of the request is to access and disseminate information regarding the health, safety, welfare, or legal rights of the general public.
- (j) Test questions, scoring keys and other examination data used to administer an academic examination or determined the qualifications of an applicant for a license or employment.
- (k) Architects' plans, engineers' technical submissions, and other construction related technical documents for projects not constructed or developed in whole or in part with public funds and the same for projects constructed or developed with public funds, but only to the extent that disclosure would compromise security, including but not limited to water treatment facilities, airport facilities, sport stadiums, convention centers, and all government owned, operated, or occupied buildings.
- (l) Library circulation and order records identifying library users with specific materials.
- (m) Minutes of meetings of public bodies closed to the public as provided in the Open

Meetings Act until the public body makes the minutes available to the public under Section 2.06 of the Open Meetings Act.

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

(o) Information received by a primary or secondary school, college or university under its procedures for the evaluation of faculty members by their academic peers.

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

(q) Documents or materials relating to collective negotiating matters between public bodies and their employees or representatives, except that any final contract or agreement shall be subject to inspection and copying.

(r) Drafts, notes, recommendations and memoranda pertaining to the financing and marketing transactions of the public body. The records of ownership, registration, transfer, and exchange of municipal debt obligations, and of persons to whom payment with respect to these obligations is made.

(s) The records, documents and information relating to real estate purchase negotiations until those negotiations have been completed or otherwise terminated. With regard to a parcel involved in a pending or actually and reasonably contemplated eminent domain proceeding under Article VII of the Code of Civil Procedure, records, documents and information relating to that parcel shall be exempt except as may be allowed under discovery rules adopted by the Illinois Supreme Court. The records, documents and information relating to a real estate sale shall be exempt until a sale is consummated.

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

(u) Information concerning a university's adjudication of student or employee grievance or disciplinary cases, to the extent that disclosure would reveal the identity of the student or employee and information concerning any public body's adjudication of student or employee grievances or disciplinary cases, except for the final outcome of the cases.

(v) Course materials or research materials used by faculty members.

- (w) Information related solely to the internal personnel rules and practices of a public body.
- (x) Information contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of a public body responsible for the regulation or supervision of financial institutions or insurance companies, unless disclosure is otherwise required by State law.
- (y) Information the disclosure of which is restricted under Section 5-108 of the Public Utilities Act.
- (z) Manuals or instruction to staff that relate to establishment or collection of liability for any State tax or that relate to investigations by a public body to determine violation of any criminal law.
- (aa) Applications, related documents, and medical records received by the Experimental Organ Transplantation Procedures Board and any and all documents or other records prepared by the Experimental Organ Transplantation Procedures Board or its staff relating to applications it has received.
- (bb) Insurance or self insurance (including any intergovernmental risk management association or self insurance pool) claims, loss or risk management information, records, data, advice or communications.
- (cc) Information and records held by the Department of Public Health and its authorized representatives relating to known or suspected cases of sexually transmissible disease or any information the disclosure of which is restricted under the Illinois Sexually Transmissible Disease Control Act.
- (dd) Information the disclosure of which is exempted under Section 30 of the Radon Industry Licensing Act.
- (ee) Firm performance evaluations under Section 55 of the Architectural, Engineering, and Land Surveying Qualifications Based Selection Act.
- (ff) Security portions of system safety program plans, investigation reports, surveys, schedules, lists, data, or information compiled, collected, or prepared by or for the Regional Transportation Authority under Section 2.11 of the Regional Transportation Authority Act or the St. Clair County Transit District under the Bi-State Transit Safety Act.
- (gg) Information the disclosure of which is restricted and exempted under Section 50 of the Illinois Prepaid Tuition Act.
- (hh) Information the disclosure of which is exempted under the State Officials and

Employees Ethics Act.

(ii) Beginning July 1, 1999, information that would disclose or might lead to the disclosure of secret or confidential information, codes, algorithms, programs, or private keys intended to be used to create electronic or digital signatures under the Electronic Commerce Security Act.

(jj) Information contained in a local emergency energy plan submitted to a municipality in accordance with a local emergency energy plan ordinance that is adopted under Section 11-21.5-5 of the Illinois Municipal Code.

(kk) Information and data concerning the distribution of surcharge moneys collected and remitted by wireless carriers under the Wireless Emergency Telephone Safety Act.

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

(mm) Maps and other records regarding the location or security of a utility's generation, transmission, distribution, storage, gathering, treatment, or switching facilities.

(nn) Law enforcement officer identification information or driver identification information compiled by a law enforcement agency or the Department of Transportation under Section 11-212 of the Illinois Vehicle Code.

(oo) Records and information provided to a residential health care facility resident sexual assault and death review team or the Residential Health Care Facility Resident Sexual Assault and Death Review Teams Executive Council under the Residential Health Care Facility Resident Sexual Assault and Death Review Team Act.

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

## **5 ILCS 140/7.1**

Sec. 7.1. Nothing in this Act shall be construed to prohibit publication and dissemination by the Department of Healthcare and Family Services or the Department of Human Services of the names and addresses of entities which have had receipt of benefits or payments under the Illinois Public Aid Code suspended or terminated or future receipt

barred, pursuant to Section 11-26 of that Code.

#### **5 ILCS 140/8**

Sec. 8. If any public record that is exempt from disclosure under Section 7 of this Act contains any material which is not exempt, the public body shall delete the information which is exempt and make the remaining information available for inspection and copying. The public body shall fulfill the requirements of this Section regardless of whether the person requesting information under this Act specifically requests that this Section apply to his or her request.

#### **5 ILCS 140/9**

Sec. 9. (a) Each public body or head of a public body denying a request for public records shall notify by letter the person making the request of the decision to deny such, the reasons for the denial, and the names and titles or positions of each person responsible for the denial. Each notice of denial by a public body shall also inform such person of his right to appeal to the head of the public body. Each notice of denial of an appeal by the head of a public body shall inform such person of his or her right to judicial review under Section 11 of this Act and advise the person of the right to receive attorneys' fees and damages as provided in Section 11 of this Act if, after judicial review, the court determines that the public body has not complied with this Act and orders disclosure of all or a portion of a public record.

(b) When a request for public records is denied on the grounds that the records are exempt under Section 7 of this Act, the notice of denial shall specify the exemption claimed to authorize the denial. Copies of all notices of denial shall be retained by each public body in a single central office file that is open to the public and indexed according to the type of exemption asserted and, to the extent feasible, according to the types of records requested.

#### **5 ILCS 140/10**

Sec. 10. (a) Any person denied access to inspect or copy any public record may appeal the denial by sending a written notice of appeal to the head of the public body. Upon receipt of such notice the head of the public body shall promptly review the public record, determine whether under the provisions of this Act such record is open to inspection and copying, and notify the person making the appeal of such determination within 7 working days after the notice of appeal.

(b) If the head of the public body fails to notify the person making the appeal in subsection (a) of this Section of the determination within 7 working days after notice of appeal, the head of the public body is subject to fines up to \$500. The person making the appeal may file a suit to assess up \$500 against the head of the public body in the circuit court for the county where the public body has its principal office or where the person making the appeal resides. The court shall award reasonable attorneys' fees and costs to

the person making the appeal regardless of whether the person is represented by counsel or is pro se.

(cb) Any person making a request for public records shall be deemed to have exhausted his or her administrative remedies with respect to such request if the head of the public body affirms the denial or fails to act within the time limit provided in subsection (a) of this Section.

## **5 ILCS 140/11**

Sec. 11. (a) Any person denied access to inspect or copy any public record by the head of a public body may file suit for injunctive or declaratory relief. The appropriate State's Attorney or the State Attorney General's office may bring a civil or criminal action to enforce this Section. As soon as a lawsuit has been filed, the public body may not avoid the penalties set forth in subsections (j), (k) or (l) of this Section by providing the plaintiff, State's Attorney or State Attorney General's office with copies of the requested public records or by allowing the requested inspection of the public records.

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

(c) Where the denial is from the head of a municipality or other public body, except as provided in subsection (b) of this Section, suit may be filed in the circuit court for the county where the public body is located.

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

(e) On motion of the plaintiff, State's Attorney or State Attorney General's office, prior to or after in camera inspection, the court shall order the public body to provide an index of the records to which access has been denied. The index shall include the following:

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

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

(f) In any action considered by the court, the court shall consider the matter de novo, and shall conduct such in camera examination of the requested records as it finds appropriate

to determine if such records or any part thereof may be withheld under any provision of this Act. The burden shall be on the public body to establish that its refusal to permit public inspection or copying is in accordance with the provisions of this Act.

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

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

(i) If a person seeking the right to inspect or receive a copy of a public record substantially prevails in a proceeding under this Section, the court ~~may~~ shall award such person reasonable attorneys' fees and costs regardless of whether the person is represented by counsel or is pro se. ~~If, however, the court finds that the fundamental purpose of the request was to further the commercial interests of the requestor, the court may award reasonable attorneys' fees and costs if the court finds that the record or records in question were of clearly significant interest to the general public and that the public body lacked any reasonable basis in law for withholding the record. Attorneys' fees or costs awarded to a State's Attorney shall be provided to the county where the State's Attorney's office is based. Attorneys' fees or costs awarded to the Attorney General shall be provided to the state.~~

(j) If the court determines in an action commenced under this Section that the public body has arbitrarily and capriciously violated this Act by refusal or delay in disclosing or providing copies of a public record, the court shall award, in addition to any actual or compensatory damages, punitive damages in the amount of \$1,000.00 to the person seeking the right to inspect or receive a copy of a public record. The damages shall not be assessed against an individual, but shall be assessed against the next succeeding public body that is not an individual and that kept or maintained the public record as part of its public function.

(k) Any person who willfully violates the provisions of this section is guilty of a misdemeanor.

(l) Willful violation of this section by any public employee constitutes just cause for suspension without pay or dismissal of the public employee.

### 5 ILCS 140/12

Effective January 1, 2010, the legislative branch of the state government shall create an independent regulatory body in the office of the State Attorney General with the power and authority to enforce this Act.

### 5 ILCS 140/13

Sec. 13. (a) All public bodies that receive state funds must, by April 1 of each year, file with the Office of the Attorney General a report on the public body's handling of requests under the Act during the previous calendar year.

(b) The report must include at least the following: the number of requests received, a description the each type or category of records requested including the number of requests in each type or category of records, the number of requests fully satisfied by the public body, the number of requests fully denied by the public body and the reasons for the denials.

(c) The report shall be considered a "public record" within the meaning of this Act.

(d) In the event that a public body fails to comply with this Section the Attorney General shall be authorized to order the Comptroller to withhold five percent of the public body's state funds in the following fiscal year until the report is submitted.

#### **5 ILCS 140/14**

Sec. 14. (a) The Public Access Counselor of the Office of the Attorney General serves the following purposes: offering education and training programs to government officials, the public and the media; answering questions concerning this Act; working to resolve disputes under this Act; and working to ensure compliance with the Act.

(b) In furtherance of those purposes, the Public Access Counselor may, at the Counselor's discretion, issue opinions regarding a public body's compliance with the Act in regard to a specific request for records.

(c) If there is a proceeding under Section 11 of this Act and the Public Access Counselor has previously issued an opinion that the public records sought in the proceeding shall be disclosed but the public body refuses to comply within a reasonable time, upon motion of the plaintiff the court may consider the public body's refusal willful and act in accordance with Section 11(j) of this Act.