

AN ACT concerning State government.

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

Section 5. The Illinois Administrative Procedure Act is amended by adding Section 5-45.35 as follows:

(5 ILCS 100/5-45.35 new)

Sec. 5-45.35. Emergency rulemaking; Department of Natural Resources. To provide for the expeditious and timely implementation of Section 13 of the Human Remains Protection Act, emergency rules implementing Section 13 of the Human Remains Protection Act may be adopted in accordance with Section 5-45 by the Department of Natural Resources. The adoption of emergency rules authorized by Section 5-45 and this Section is deemed to be necessary for the public interest, safety, and welfare.

This Section is repealed one year after the effective date of this amendatory Act of the 103rd General Assembly.

Section 10. The Freedom of Information Act is amended by changing Section 7 as follows:

(5 ILCS 140/7)

(Text of Section before amendment by P.A. 102-982)

Sec. 7. Exemptions.

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

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

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

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

(c) Personal information contained within public records, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, unless the disclosure is consented to in writing by the individual subjects of the information. "Unwarranted invasion of personal privacy" means the disclosure of

information that is highly personal or objectionable to a reasonable person and in which the subject's right to privacy outweighs any legitimate public interest in obtaining 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.

(d) Records in the possession of any public body created in the course of administrative enforcement proceedings, and any law enforcement or correctional agency for law enforcement purposes, 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 that is the recipient of the request;

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

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

(iv) unavoidably disclose the identity of a confidential source, confidential information furnished only by the confidential source, or persons who file complaints with or provide information to

administrative, investigative, law enforcement, or penal agencies; except that the identities of witnesses to traffic accidents, traffic accident reports, and rescue reports shall be provided by agencies of local government, except when disclosure would interfere with an active criminal investigation conducted by the agency that is the recipient of the request;

(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, and disclosure would result in demonstrable harm to the agency or public body that is the recipient of the request;

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

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

(d-5) A law enforcement record created for law enforcement purposes and contained in a shared electronic record management system if the law enforcement agency that is the recipient of the request did not create the record, did not participate in or have a role in any of the events which are the subject of the record, and only has

access to the record through the shared electronic record management system.

(d-6) Records contained in the Officer Professional Conduct Database under Section 9.2 of the Illinois Police Training Act, except to the extent authorized under that Section. This includes the documents supplied to the Illinois Law Enforcement Training Standards Board from the Illinois State Police and Illinois State Police Merit Board.

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

(e-5) Records requested by persons committed to the Department of Corrections, Department of Human Services Division of Mental Health, or a county jail if those materials are available in the library of the correctional institution or facility or jail where the inmate is confined.

(e-6) Records requested by persons committed to the Department of Corrections, Department of Human Services Division of Mental Health, or a county jail if those materials include records from staff members' personnel files, staff rosters, or other staffing assignment information.

(e-7) Records requested by persons committed to the Department of Corrections or Department of Human Services Division of Mental Health if those materials are available

through an administrative request to the Department of Corrections or Department of Human Services Division of Mental Health.

(e-8) Records requested by a person committed to the Department of Corrections, Department of Human Services Division of Mental Health, or a county jail, the disclosure of which would result in the risk of harm to any person or the risk of an escape from a jail or correctional institution or facility.

(e-9) Records requested by a person in a county jail or committed to the Department of Corrections or Department of Human Services Division of Mental Health, containing personal information pertaining to the person's victim or the victim's family, including, but not limited to, a victim's home address, home telephone number, work or school address, work telephone number, social security number, or any other identifying information, except as may be relevant to a requester's current or potential case or claim.

(e-10) Law enforcement records of other persons requested by a person committed to the Department of Corrections, Department of Human Services Division of Mental Health, or a county jail, including, but not limited to, arrest and booking records, mug shots, and crime scene photographs, except as these records may be relevant to the requester's current or potential case or

claim.

(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 commercial or financial information are furnished under a claim that they are proprietary, privileged, or confidential, and that disclosure of the trade secrets or commercial or financial information would cause competitive harm to the person or business, and only insofar as the claim directly applies to the records requested.

The information included under this exemption includes all trade secrets and commercial or financial information obtained by a public body, including a public pension fund, from a private equity fund or a privately held company within the investment portfolio of a private equity fund as a result of either investing or evaluating a potential investment of public funds in a private equity

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

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) The following information pertaining to educational matters:

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

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

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

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

(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, including, but not limited to, power generating and distribution stations and other transmission and

distribution facilities, water treatment facilities, airport facilities, sport stadiums, convention centers, and all government owned, operated, or occupied buildings, but only to the extent that disclosure would compromise security.

(l) 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.

(m) 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.

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

(o) 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.

(p) Records 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.

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

(r) 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 the Eminent Domain Act, 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.

(s) 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. Insurance or self-insurance ~~self-insurance~~ (including any intergovernmental risk management association or self-insurance ~~self-insurance~~ pool) claims, loss or risk management information, records, data, advice, or communications.

(t) 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, insurance companies, or pharmacy benefit managers, unless disclosure is otherwise required by State law.

(u) 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 signatures under the Uniform Electronic Transactions Act.

(v) 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, but only to the extent that disclosure could reasonably be expected to expose the vulnerability or jeopardize the effectiveness of the measures, policies, or plans, 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, to cybersecurity vulnerabilities, or to tactical operations.

(w) (Blank).

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

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

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

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

(bb) Records and information provided to a mortality review team and records maintained by a mortality review team appointed under the Department of Juvenile Justice Mortality Review Team Act.

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

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

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

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

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

2012.

(hh) The report submitted to the State Board of Education by the School Security and Standards Task Force under item (8) of subsection (d) of Section 2-3.160 of the School Code and any information contained in that report.

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

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

(kk) The public body's credit card numbers, debit card numbers, bank account numbers, Federal Employer Identification Number, security code numbers, passwords, and similar account information, the disclosure of which could result in identity theft or impersonation or defrauding of a governmental entity or a person.

(ll) Records concerning the work of the threat assessment team of a school district, including, but not

limited to, any threat assessment procedure under the School Safety Drill Act and any information contained in the procedure.

(mm) Information prohibited from being disclosed under subsections (a) and (b) of Section 15 of the Student Confidential Reporting Act.

(nn) ~~(mm)~~ Proprietary information submitted to the Environmental Protection Agency under the Drug Take-Back Act.

(oo) ~~(mm)~~ Records described in subsection (f) of Section 3-5-1 of the Unified Code of Corrections.

(pp) Any and all information regarding burials, interments, or entombments of human remains as required to be reported to the Department of Natural Resources pursuant either to the Archaeological and Paleontological Resources Protection Act or the Human Remains Protection Act.

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

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

for purposes of this Act.

(3) 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.

(Source: P.A. 101-434, eff. 1-1-20; 101-452, eff. 1-1-20; 101-455, eff. 8-23-19; 101-652, eff. 1-1-22; 102-38, eff. 6-25-21; 102-558, eff. 8-20-21; 102-694, eff. 1-7-22; 102-752, eff. 5-6-22; 102-753, eff. 1-1-23; 102-776, eff. 1-1-23; 102-791, eff. 5-13-22; 102-1055, eff. 6-10-22; revised 12-13-22.)

(Text of Section after amendment by P.A. 102-982)

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

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

(b) Private information, unless disclosure is required

by another provision of this Act, a State or federal law, or a court order.

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

(c) Personal information contained within public records, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, unless the disclosure is consented to in writing by the individual subjects of the information. "Unwarranted invasion of personal privacy" means the disclosure of information that is highly personal or objectionable to a reasonable person and in which the subject's right to privacy outweighs any legitimate public interest in obtaining 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.

(d) Records in the possession of any public body created in the course of administrative enforcement proceedings, and any law enforcement or correctional agency for law enforcement purposes, 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 that is the recipient of the request;

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

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

(iv) unavoidably disclose the identity of a confidential source, confidential information furnished only by the confidential source, or persons who file complaints with or provide information to administrative, investigative, law enforcement, or penal agencies; except that the identities of witnesses to traffic crashes, traffic crash reports, and rescue reports shall be provided by agencies of local government, except when disclosure would interfere with an active criminal investigation conducted by the agency that is the recipient of the request;

(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, and

disclosure would result in demonstrable harm to the agency or public body that is the recipient of the request;

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

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

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

(d-6) Records contained in the Officer Professional Conduct Database under Section 9.2 of the Illinois Police Training Act, except to the extent authorized under that Section. This includes the documents supplied to the Illinois Law Enforcement Training Standards Board from the Illinois State Police and Illinois State Police Merit Board.

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Division of Mental Health, or a county jail if those materials are available in the library of the correctional institution or facility or jail where the inmate is confined.

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(e-7) Records requested by persons committed to the Department of Corrections or Department of Human Services Division of Mental Health if those materials are available through an administrative request to the Department of Corrections or Department of Human Services Division of Mental Health.

(e-8) Records requested by a person committed to the Department of Corrections, Department of Human Services Division of Mental Health, or a county jail, the disclosure of which would result in the risk of harm to any person or the risk of an escape from a jail or correctional institution or facility.

(e-9) Records requested by a person in a county jail or committed to the Department of Corrections or Department of Human Services Division of Mental Health, containing personal information pertaining to the person's

victim or the victim's family, including, but not limited to, a victim's home address, home telephone number, work or school address, work telephone number, social security number, or any other identifying information, except as may be relevant to a requester's current or potential case or claim.

(e-10) Law enforcement records of other persons requested by a person committed to the Department of Corrections, Department of Human Services Division of Mental Health, or a county jail, including, but not limited to, arrest and booking records, mug shots, and crime scene photographs, except as these records may be relevant to the requester's current or potential case or claim.

(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 commercial or financial information are

furnished under a claim that they are proprietary, privileged, or confidential, and that disclosure of the trade secrets or commercial or financial information would cause competitive harm to the person or business, and only insofar as the claim directly applies to the records requested.

The information included under this exemption includes all trade secrets and commercial or financial information obtained by a public body, including a public pension fund, from a private equity fund or a privately held company within the investment portfolio of a private equity fund as a result of either investing or evaluating a potential investment of public funds in a private equity fund. The exemption contained in this item does not apply to the aggregate financial performance information of a private equity fund, nor to the identity of the fund's managers or general partners. The exemption contained in this item does not apply to the identity of a privately held company within the investment portfolio of a private equity fund, unless the disclosure of the identity of a privately held company may cause competitive harm.

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) The following information pertaining to educational matters:

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

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

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

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

(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, including, but not limited to, power generating and distribution stations and other transmission and distribution facilities, water treatment facilities, airport facilities, sport stadiums, convention centers, and all government owned, operated, or occupied buildings, but only to the extent that disclosure would compromise security.

(l) 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.

(m) 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.

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

(o) 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.

(p) Records 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.

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

(r) 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 the Eminent Domain Act, 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.

(s) 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. Insurance or self-insurance ~~self-insurance~~ (including any intergovernmental risk management association or self-insurance ~~self-insurance~~ pool) claims, loss or risk management information, records, data, advice, or communications.

(t) 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, insurance companies, or pharmacy benefit managers, unless disclosure is otherwise required by State law.

(u) 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 signatures under the Uniform Electronic Transactions Act.

(v) 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, but only to the extent that disclosure could reasonably be expected to expose the vulnerability or jeopardize the effectiveness of the measures, policies, or plans, 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, to cybersecurity vulnerabilities, or to tactical operations.

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

(y) Information contained in or related to proposals, bids, or negotiations related to electric power

procurement under Section 1-75 of the Illinois Power Agency Act and Section 16-111.5 of the Public Utilities Act that is determined to be confidential and proprietary by the Illinois Power Agency or by the Illinois Commerce Commission.

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

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

(bb) Records and information provided to a mortality review team and records maintained by a mortality review team appointed under the Department of Juvenile Justice Mortality Review Team Act.

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

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

(ee) The names, addresses, or other personal

information of persons who are minors and are also participants and registrants in programs of park districts, forest preserve districts, conservation districts, recreation agencies, and special recreation associations.

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

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

(hh) The report submitted to the State Board of Education by the School Security and Standards Task Force under item (8) of subsection (d) of Section 2-3.160 of the School Code and any information contained in that report.

(ii) Records requested by persons committed to or detained by the Department of Human Services under the Sexually Violent Persons Commitment Act or committed to the Department of Corrections under the Sexually Dangerous Persons Act if those materials: (i) are available in the library of the facility where the individual is confined; (ii) include records from staff members' personnel files, staff rosters, or other staffing assignment information;

or (iii) are available through an administrative request to the Department of Human Services or the Department of Corrections.

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

(kk) The public body's credit card numbers, debit card numbers, bank account numbers, Federal Employer Identification Number, security code numbers, passwords, and similar account information, the disclosure of which could result in identity theft or impersonation or defrauding of a governmental entity or a person.

(ll) Records concerning the work of the threat assessment team of a school district, including, but not limited to, any threat assessment procedure under the School Safety Drill Act and any information contained in the procedure.

(mm) Information prohibited from being disclosed under subsections (a) and (b) of Section 15 of the Student Confidential Reporting Act.

(nn) ~~(mm)~~ Proprietary information submitted to the Environmental Protection Agency under the Drug Take-Back Act.

(oo) ~~(mm)~~ Records described in subsection (f) of Section 3-5-1 of the Unified Code of Corrections.

(pp) Any and all information regarding burials, interments, or entombments of human remains as required to

be reported to the Department of Natural Resources pursuant either to the Archaeological and Paleontological Resources Protection Act or the Human Remains Protection Act.

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

(2) A public record that is not in the possession of a public body but is in the possession of a party with whom the agency has contracted to perform a governmental function on behalf of the public body, and that directly relates to the governmental function and is not otherwise exempt under this Act, shall be considered a public record of the public body, for purposes of this Act.

(3) 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.

(Source: P.A. 101-434, eff. 1-1-20; 101-452, eff. 1-1-20; 101-455, eff. 8-23-19; 101-652, eff. 1-1-22; 102-38, eff. 6-25-21; 102-558, eff. 8-20-21; 102-694, eff. 1-7-22; 102-752, eff. 5-6-22; 102-753, eff. 1-1-23; 102-776, eff. 1-1-23; 102-791, eff. 5-13-22; 102-982, eff. 7-1-23; 102-1055, eff. 6-10-22; revised 12-13-22.)

Section 15. The Seizure and Forfeiture Reporting Act is

amended by changing Section 5 as follows:

(5 ILCS 810/5)

Sec. 5. Applicability. This Act is applicable to property seized or forfeited under the following provisions of law:

(1) Section 3.23 of the Illinois Food, Drug and Cosmetic Act;

(2) Section 44.1 of the Environmental Protection Act;

(3) Section 105-55 of the Herptiles-Herps Act;

(4) Section 1-215 of the Fish and Aquatic Life Code;

(5) Section 1.25 of the Wildlife Code;

(6) Section 17-10.6 of the Criminal Code of 2012 (financial institution fraud);

(7) Section 28-5 of the Criminal Code of 2012 (gambling);

(8) Article 29B of the Criminal Code of 2012 (money laundering);

(9) Article 33G of the Criminal Code of 2012 (Illinois Street Gang and Racketeer Influenced And Corrupt Organizations Law);

(10) Article 36 of the Criminal Code of 2012 (seizure and forfeiture of vessels, vehicles, and aircraft);

(11) Section 47-15 of the Criminal Code of 2012 (dumping garbage upon real property);

(12) Article 124B of the Code of Criminal Procedure of 1963 (forfeiture);

- (13) the Drug Asset Forfeiture Procedure Act;
- (14) the Narcotics Profit Forfeiture Act;
- (15) the Illinois Streetgang Terrorism Omnibus Prevention Act; ~~and~~
- (16) the Illinois Securities Law of 1953; ~~-~~
- (17) the Archaeological and Paleontological Resources Protection Act; and
- (18) the Human Remains Protection Act.

(Source: P.A. 102-558, eff. 8-20-21.)

Section 20. The Archaeological and Paleontological Resources Protection Act is amended by changing Sections .02, 3, 5, 7, 8, 10, and 11 and by adding Section 12 as follows:

(20 ILCS 3435/.02) (from Ch. 127, par. 133c.02)

Sec. .02. Definitions. For purposes of this Act:

~~(a)~~ "Archaeological resource" means any significant material remains or localities of past human life or activities on public land, including but not limited to artifacts, historic and prehistoric human ~~skeletal~~ remains, mounds, earthworks, shipwrecks, forts, village sites or mines.

~~(b)~~ "Department" means the Department of Natural Resources.

"Disturb" includes defacing, mutilating, injuring, exposing, removing, destroying, desecrating or molesting in any way.

"Human remains" include the bones and decomposed fleshy parts of a deceased human body.

~~(e)~~ "Paleontological resource" means any significant fossil or material remains on public lands including traces or impressions of animals or plants that occur as part of the geological record that are known and are included in the files maintained by the Department ~~Illinois State Museum~~ under Section 10.

~~(d)~~ "Person" means any natural individual, firm, trust, estate, partnership, association, joint stock company, joint venture, corporation or a receiver, trustee, guardian or other representative appointed by order of any court, the federal and State governments, including State universities created by statute or any city, town, county or other political subdivision of this State.

~~(e)~~ "Public land" means any land owned, but does not include land leased as lessee, by the State of Illinois or its agencies, a State university created by statute, a municipality or a unit of local government.

(Source: P.A. 86-459; 86-707.)

(20 ILCS 3435/3) (from Ch. 127, par. 133c3)

Sec. 3. Permits.

(a) It is unlawful for any person, either by himself or through an agent, to knowingly explore, excavate, possess, or collect any of the archaeological or paleontological resources

protected by this Act, unless such person obtains a permit issued by the Department of Natural Resources.

(b) It is unlawful for any person, either by himself or through an agent, to knowingly disturb any archaeological or paleontological resource protected under this Act.

(c) It is unlawful for any person, either by himself or through an agent, to offer any object for sale or exchange with the knowledge that it has been previously collected or excavated in violation of this Act.

(Source: P.A. 100-695, eff. 8-3-18.)

(20 ILCS 3435/5) (from Ch. 127, par. 133c5)

Sec. 5. Penalties. Any violation of Section 3 not involving the disturbance of human ~~skeletal~~ remains is a Class A misdemeanor and the violator shall also be subject to ~~imprisonment~~ and a fine not in excess of \$5,000; any subsequent violation is a Class 4 felony. Any violation of Section 3 involving disturbance of human ~~skeletal~~ remains is a Class 4 felony. Each disturbance of an archaeological site or a paleontological site shall constitute a single offense. Persons convicted of a violation of Section 3 shall also be ordered to pay restitution. Such restitution is ~~liable for civil damages~~ to be assessed by the circuit court ~~and managing agency and the Department of Natural Resources.~~ Restitution Civil damages may include, but is not limited to:

(a) (blank); ~~forfeiture of any and all equipment used~~

~~in acquiring the protected material;~~

(b) any and all costs incurred in cleaning, restoring, analyzing, accessioning and curating the recovered materials;

(c) any and all costs associated with restoring the land to its original contour;

(d) any and all costs associated with recovery of data and analyzing, publishing, accessioning and curating materials when the prohibited activity is so extensive as to preclude the restoration of the archaeological or paleontological site;

(e) any and all costs associated with the determination and collection of restitution ~~the civil damages~~.

When restitution is ordered in a case that is prosecuted ~~by civil damages are recovered through~~ the Attorney General, all restitution ~~the proceeds~~ shall be deposited into the Historic Sites Fund; when restitution is ordered in a case that is prosecuted by ~~civil damages are recovered through~~ the State's Attorney, the proceeds shall be deposited into the county fund designated by the county board.

(Source: P.A. 100-695, eff. 8-3-18.)

(20 ILCS 3435/7) (from Ch. 127, par. 133c7)

Sec. 7. Property of the State; Department management. All materials and associated records remain the property of the

State and are managed by the Department ~~Illinois State Museum~~. The ~~Illinois State Museum, in consultation with the~~ Department ~~of Natural Resources,~~ is authorized to establish long-term curation agreements with Tribal Nations, universities, museums and other organizations.

(Source: P.A. 100-695, eff. 8-3-18.)

(20 ILCS 3435/8) (from Ch. 127, par. 133c8)

Sec. 8. Department exempt from permit requirements.

(a) The Department ~~Illinois State Museum~~ shall be exempt from the permit requirements established by this Act for lands under its direct management but shall register that exploration ~~with the Department of Natural Resources;~~ such registration shall include the information required under subsection (c) of Section 6.

(b) Any agency or department of the State of Illinois which has on its staff a professional archaeologist or paleontologist who meets the minimum qualifications established in Section 9 and which has in effect a memorandum of agreement with the Department ~~of Natural Resources~~ for the protection, preservation and management of archaeological and paleontological resources shall be exempt from the permit requirements established by this Act.

(c) Activities reviewed by the Department ~~of Natural Resources~~ pursuant to Section 106 of the National Historic Preservation Act (16 U.S.C. 470f) shall be exempt from these

permitting requirements.

(d) Where a local government's activities are funded in whole or in part by a State agency and the funded activities are supervised or controlled by the State agency, the local government shall be exempt from the permit requirements established by this Act to the same extent that the State agency is exempt. The State agency shall be responsible for undertaking or causing to be undertaken any steps necessary to comply with this Act for those local government actions so exempted.

(Source: P.A. 100-695, eff. 8-3-18.)

(20 ILCS 3435/10) (from Ch. 127, par. 133c10)

Sec. 10. Files containing information on known archaeological and paleontological sites. The ~~Illinois State Museum, in cooperation with the~~ Department of ~~Natural Resources,~~ shall develop and maintain files containing information on known archaeological and paleontological sites in the State, whether on State controlled or privately owned property. The Department ~~of Natural Resources~~ shall ensure the safety of those sites by promulgating regulations limiting access to those files as necessary.

(Source: P.A. 100-695, eff. 8-3-18.)

(20 ILCS 3435/11) (from Ch. 127, par. 133c11)

Sec. 11. Violation of administrative rules. The Department

of Natural Resources, in consultation with other State agencies and Departments that own or control land, shall promulgate such regulations as may be necessary to carry out the purposes of this Act.

It is unlawful to violate any administrative rule promulgated pursuant to this Act. A violation of administrative rules promulgated pursuant to this Act is a Class B misdemeanor.

(Source: P.A. 100-695, eff. 8-3-18.)

(20 ILCS 3435/12 new)

Sec. 12. Seizure.

(a) Every device, equipment, tool, vehicle or conveyance, when used or operated illegally, or attempted to be used or operated illegally by any person in taking, transporting, holding, disturbing, exploring, excavating, collecting or conveying any archaeological or paleontological resources, contrary to the provisions of this Act, including administrative rules, is a public nuisance and subject to seizure and confiscation by any authorized employee of the Department; upon the seizure of such item the Department shall take and hold the same until disposed of as hereinafter provided.

(b) Upon the seizure of any property as herein provided, the authorized employee of the Department making such seizure shall forthwith cause a complaint to be filed before the

circuit court and a summons to be issued requiring the person who illegally used or operated or attempted to use or operate such property and the owner and person in possession of such property to appear in court and show cause why the property seized should not be forfeited to the State. Upon the return of the summons duly served or other notice as herein provided, the court shall proceed to determine the question of the illegality of the use of the seized property and upon judgment being entered to the effect that such property was illegally used, an order may be entered providing for the forfeiture of such seized property to the Department and shall thereupon become the property of the Department; but the owner of such property may have a jury determine the illegality of its use, and shall have the right of an appeal, as in other cases. Such confiscation or forfeiture shall not preclude or mitigate against prosecution and assessment of penalties otherwise provided in this Act.

(c) Upon seizure of any property under circumstances supporting a reasonable belief that such property was abandoned, lost or stolen or otherwise illegally possessed or used contrary to the provisions of this Act, except property seized during a search or arrest, and ultimately returned, destroyed, or otherwise disposed of pursuant to order of a court in accordance with this Act, the Department shall make reasonable inquiry and efforts to identify and notify the owner or other person entitled to possession thereof, and

shall return the property after such person provides reasonable and satisfactory proof of his ownership or right to possession and reimburses the Department for all reasonable expenses of such custody. If the identity or location of the owner or other person entitled to possession of the property has not been ascertained within 6 months after the Department obtains such possession, the Department shall effectuate the sale of the property for cash to the highest bidder at a public auction. The owner or other person entitled to possession of such property may claim and recover possession of the property at any time before its sale at public auction, upon providing reasonable and satisfactory proof of ownership or right of possession and reimbursing the Department for all reasonable expenses of custody thereof.

(d) Any property forfeited to the State by court order pursuant to this Section may be disposed of by public auction, except that any property which is the subject of such a court order shall not be disposed of pending appeal of the order. The proceeds of the sales at auction shall be deposited in the Historic Sites Fund.

(e) The Department shall pay all costs of notices required by this Section.

Property seized or forfeited under this Section is subject to reporting under the Seizure and Forfeiture Reporting Act.

(f) This Section does not apply to archaeological or paleontological resources that were recovered by the

Department or other law enforcement agency during an investigation of a violation of this Act.

Section 25. The Human Skeletal Remains Protection Act is amended by changing Sections 0.01, 1, 2, 3, 4, 6, 8, 9, 10, 12, 13, 14, 15, and 16 and by adding Sections 3.5, 16.1, 16.2, and 16.3 as follows:

(20 ILCS 3440/0.01) (from Ch. 127, par. 2660)

Sec. 0.01. Short title. This Act may be cited as the Human ~~Skeletal~~ Remains Protection Act.

(Source: P.A. 86-1324.)

(20 ILCS 3440/1) (from Ch. 127, par. 2661)

Sec. 1. Definitions. For the purposes of this Act:

"Department" means the Department of Natural Resources.

"Disturb" or "disturbance" includes excavating, removing, exposing, probing, defacing, mutilating, destroying, molesting, or desecrating in any way human remains, unregistered graves, grave artifacts, and grave markers.

"Encounter" means to come upon human remains, grave artifacts, grave markers, or unregistered graves at a location where such viewing was not expected or anticipated.

"Grave artifacts" means any item of human manufacture or use that is associated with the human remains in an unregistered grave.

"Grave markers" means any tomb, monument, stone, ornament, mound, or other item of human manufacture that is associated with an unregistered grave.

~~(a)~~ "Human ~~skeletal~~ remains" include the bones and decomposed fleshy parts of a deceased human body.

"Person" means any natural individual, firm, trust, estate, partnership, association, joint stock company, joint venture, limited-liability company, corporation or a receiver, trustee, guardian or other representatives appointed by order of any court, the Federal and State governments, including State Universities created by statute or any city, town, county or other political subdivision of this State.

"Tribal consultation" means a form of communication centered in trust, respect and shared responsibility that upholds Tribal sovereignty. It is a free and open process where the exchange of information and opinions are shared among the participating parties.

"Undertaking" means any project, activity, or construction that can result in changes to, disturbance of, moving, or destruction of human remains, grave artifacts, grave markers or unregistered graves.

~~(b)~~ "Unregistered grave graves" means are any grave graves or location locations where a human body has been buried or deposited; is over 100 years old; and is not in a cemetery registered with or licensed by the State Comptroller under the Cemetery Care Act or under the authority of the Illinois

Department of Financial and Professional Regulation pursuant to the Cemetery Oversight Act, whichever is applicable.

~~(c) "Grave artifacts" are any item of human manufacture or use that is associated with the human skeletal remains in an unregistered grave.~~

~~(d) "Grave markers" are any tomb, monument, stone, ornament, mound, or other item of human manufacture that is associated with an unregistered grave.~~

~~(e) "Person" means any natural individual, firm, trust, estate, partnership, association, joint stock company, joint venture, corporation or a receiver, trustee, guardian or other representatives appointed by order of any court, the Federal and State governments, including State Universities created by statute or any city, town, county or other political subdivision of this State.~~

~~(f) "Disturb" includes excavating, removing, exposing, defacing, mutilating, destroying, molesting, or desecrating in any way human skeletal remains, unregistered graves, and grave markers.~~

(Source: P.A. 96-863, eff. 3-1-10; 97-679, eff. 2-6-12.)

(20 ILCS 3440/2) (from Ch. 127, par. 2662)

Sec. 2. Legislative finding and intentions. The General Assembly finds that existing laws do not provide equal or adequate protection for all human graves. There is a ~~real and~~ ~~growing~~ threat to the safety and sanctity of unregistered and

unmarked graves. Numerous incidents in Illinois have resulted in the desecration of human remains and vandalism to graves and grave markers. Similar incidents have occurred in neighboring states and as a result those states have increased their criminal penalties for such conduct. Strong and meaningful relationships between the State of Illinois and tribal nations geographically and culturally affiliated to the land now known as the State of Illinois must be cultivated. ~~There is a strong likelihood that persons engaged for personal or financial gain in the mining of prehistoric and historic Indian, pioneer, and Civil War veteran's graves will move their operations to Illinois to avoid the increased penalties being imposed in neighboring states.~~ There is an immediate need for legislation to protect the graves of Native Americans and any other peoples geographically and culturally affiliated to the land now known as the State of Illinois ~~these earlier Illinoisans~~ from such desecration. The General Assembly intends to assure with this Act that all human burials be accorded equal treatment and respect for human dignity ~~without reference to ethnic origins, cultural backgrounds or religious affiliations.~~

The General Assembly finds that the intentional looting of, desecration of, or profiting from human remains and mortuary objects are deplorable actions that must be prohibited. When human remains and unregistered graves are unintentionally encountered, they must be treated with respect

~~and in accordance with law. This Act is not intended~~ ~~The~~
~~General Assembly also finds that those persons engaged in the~~
~~scientific study or collecting of artifacts which have not~~
~~been acquired in violation of law are engaged in legitimate~~
~~and worthy scientific, educational and recreational~~
~~activities. This Act is not intended to interfere with the~~
~~continued legitimate collecting activities or studies of such~~
~~persons; nor is it intended~~ to interfere with the normal
enjoyment of private property owners, farmers, or those
engaged in the development, mining or improvement of real
property.

(Source: P.A. 95-331, eff. 8-21-07.)

(20 ILCS 3440/3) (from Ch. 127, par. 2663)

Sec. 3. Notification to coroner and Department. Any person
who encounters ~~discovers~~ human ~~skeletal~~ remains subject to
this Act shall promptly notify the coroner and shall notify
the Department within 48 hours of the encounter. Any person
who knowingly fails to report such an encounter as required by
this section ~~a discovery within 48 hours~~ is guilty of a Class C
misdemeanor, unless such person has reasonable cause to
believe that the coroner and the Department had already been
so notified. If the human ~~skeletal~~ remains appear to be from an
unregistered grave, the coroner shall promptly notify the
Department ~~of Natural Resources prior to their removal.~~
Nothing in this Act shall be construed to apply to human

~~skeletal~~ remains subject to "An Act to revise the law in relation to coroners".

(Source: P.A. 100-695, eff. 8-3-18.)

(20 ILCS 3440/3.5 new)

Sec. 3.5. Encounter procedure. When an undertaking encounters human remains, unregistered graves, grave markers, or grave artifacts, all activities shall cease within a 100-foot radius of the encounter. The encountering party shall notify the coroner and the Department as required in Section 3. If the coroner determines that the human remains are not over 100 years old, no further action is required under this Act. If the coroner does determine that the human remains are over 100 years old, the Department shall review the undertaking and may issue a permit pursuant to Section 13. During its review, if it is determined by the Department that the human remains, unregistered grave, grave marker, or grave artifact are Native American in origin, the Department shall conduct tribal consultation with the tribal nations that identify as having or having had a historical, cultural, or geographic affiliation on the land where the undertaking will occur.

(20 ILCS 3440/4) (from Ch. 127, par. 2664)

Sec. 4. Disturbing human remains.

(a) It is unlawful for any person, either by himself or

~~through an agent,~~ to knowingly or recklessly disturb or to knowingly or recklessly allow the disturbance of human ~~skeletal~~ remains, unregistered graves, grave markers, or ~~and~~ grave artifacts that originated from any land that is now part of the State of Illinois and ~~in unregistered graves~~ protected by this Act unless such disturbance is authorized by person ~~obtains~~ a permit issued by the Department ~~of Natural Resources~~. A violation of this Section is a Class 4 felony.

(b) This Section does not apply to:

(1) persons employed by or agents of a county medical examiner's office or coroner's office acting within the scope of their employment;

(2) the acts of a licensed funeral director or embalmer while performing acts authorized by the Funeral Directors and Embalmers Licensing Code;

(3) cemeteries and cemetery personnel while performing acts pursuant to a bona fide request from the involved cemetery consumer or his or her heirs, or pursuant to an interment or disinterment permit or a court order, or as authorized under Section 14.5 of the Cemetery Protection Act, or any other actions legally authorized for cemetery employees;

(4) the acts of emergency medical personnel or physicians performed in good faith and according to the usual and customary standards of medical practice in an attempt to resuscitate a life;

(5) physicians licensed to practice medicine in all of its branches or holding a visiting professor, physician, or resident permit under the Medical Practice Act of 1987, performing acts in accordance with usual and customary standards of medical practice, or a currently enrolled student in an accredited medical school in furtherance of his or her education at the accredited medical school;

(6) removing or carrying away human remains by the employees, independent contractors, or other persons designated by the federally designated organ procurement agency engaged in the organ and tissue procurement process; or

(7) Department employees in the course of their official duties pursuant to this Act.

(Source: P.A. 100-695, eff. 8-3-18.)

(20 ILCS 3440/6) (from Ch. 127, par. 2666)

Sec. 6. Violations.

(a) It is unlawful for any person, ~~either by himself or through an agent,~~ to knowingly or recklessly:

(1) charge admission or a fee to observe;

(2) sell;

(3) purchase; or

(4) transport for sale or to a location that will charge admission or a fee to observe any human remains, grave artifacts, or grave markers that are Native American

in origin or that originated from any land that is now part of the State of Illinois.

A person who violates this Section commits a Class A misdemeanor for a first violation and a Class 4 felony for a second or subsequent violation ~~offer any human skeletal remains, grave artifacts or grave markers for sale or exchange with the knowledge that they have been collected or excavated in violation of this Act.~~

(b) This Section does not apply to:

(1) the acts of a licensed funeral director or embalmer while performing acts authorized by the Funeral Directors and Embalmers Licensing Code; or

(2) cemeteries and cemetery personnel while performing acts pursuant to a bona fide request from the involved cemetery consumer or his or her heirs, or pursuant to an interment or disinterment permit or a court order, or as authorized under Section 14.5 of the Cemetery Protection Act, or any other actions legally authorized for cemetery employees.

(Source: P.A. 86-151.)

(20 ILCS 3440/8) (from Ch. 127, par. 2668)

Sec. 8. Duties of the State's Attorney and Attorney General. The State's Attorney of the county in which a violation ~~of Sections 4, 5, 6, or 7~~ of this Act or administrative rules is alleged to have occurred, or the

Attorney General, may be requested by the Department Director ~~of Natural Resources~~ to initiate criminal prosecutions and ~~or~~ ~~to~~ seek restitution, civil damages, injunctive relief and any other appropriate relief. The Department ~~of Natural Resources~~ shall co-operate with the State's Attorney or the Attorney General. Persons wishing to report ~~aware of~~ any violations of this Act shall contact the Department ~~of Natural Resources~~.

(Source: P.A. 100-695, eff. 8-3-18.)

(20 ILCS 3440/9) (from Ch. 127, par. 2669)

Sec. 9. Rewards for information leading to arrest of violators of the Act. The Department ~~of Natural Resources~~ is authorized to offer a reward of up to \$5,000 ~~\$2000~~ for information leading to the arrest and conviction of persons who violate ~~Sections 4, 5, 6, and 7 of~~ this Act.

(Source: P.A. 100-695, eff. 8-3-18.)

(20 ILCS 3440/10) (from Ch. 127, par. 2670)

Sec. 10. Penalties. Any violation of Sections 4, 6 or 7 of this Act, unless otherwise specified, is a Class A misdemeanor for a first violation and a Class 4 felony for a second or subsequent violation. Any violation of administrative rules adopted under this Act is a Class B misdemeanor ~~and the violator shall be subject to imprisonment for not more than 1 year and a fine not in excess of \$10,000; any subsequent violation is a Class 4 felony.~~ Each disturbance of human

remains, an unregistered graves, grave markers, or grave artifacts ~~grave~~ constitutes a separate offense.

(Source: P.A. 86-151.)

(20 ILCS 3440/12) (from Ch. 127, par. 2672)

Sec. 12. Restitution. Persons convicted of a violation of Section 3, 3.5, 4, or 6 ~~Section 4 or 5~~ of this Act shall also be liable for restitution ~~civil damages~~ to be assessed by the circuit court ~~Historic Preservation Agency~~. Restitution ~~Civil damages~~ may include, but is not limited to:

(a) (blank); forfeiture of any and all equipment used in disturbing the protected unregistered graves or grave markers;

(b) any and all costs incurred in cleaning, restoring, repairing, analyzing, accessioning and curating the recovered materials, including, but not limited to, fees for experts the Department needed to complete any restoration or identification required under this Act;

(c) any and all costs associated with restoring the land to its original contour or the grave marker to its original condition;

(d) any and all costs associated with recovery of data, and analyzing, publishing, accessioning and curating materials when the prohibited activity is so extensive as to preclude the restoration of the unregistered burials or grave markers;

(e) any and all costs associated with the reinterment of the human ~~skeletal~~ remains;

(f) any and all costs associated with the determination and collection of restitution; and ~~the civil damages.~~

(g) for Native American remains and materials, any and all costs of traveling for tribal nation representatives for reinterment or repatriation activities and for non-Native American remains and materials, any and all costs of traveling for experts the Department needed to complete any restoration or identification required under this Act.

When restitution is ordered in a case prosecuted by ~~civil damages are recovered through~~ the Attorney General, the restitution proceeds shall be deposited into the Repatriation and Reinterment Historic Sites Fund; when restitution is ordered in a case prosecuted by ~~civil damages are recovered through~~ the State's Attorney, the proceeds shall be deposited into the county funds designated by the county board that may only be used for repatriation or reinterment.

(Source: P.A. 86-151.)

(20 ILCS 3440/13) (from Ch. 127, par. 2673)

Sec. 13. Notification.

(a) If an undertaking will occur on property that the property owner has been notified in writing by the Department that the land is likely to contain human remains, unregistered graves, grave markers, or grave artifacts, a permit shall be obtained by the landowner from the Department.

(b) If human remains, unregistered graves, grave markers,

or grave artifacts that were unknown and were encountered by any person, a permit shall be obtained from the Department before any work on the undertaking may continue.

(c) The Department of Natural Resources shall adopt administrative rules ~~develop regulations, in consultation with the Illinois State Museum,~~ whereby permits shall ~~may~~ be issued for the avoidance, disturbance, or removal of human remains, unregistered graves, grave markers, or grave artifacts, or a combination of those activities ~~removal of human skeletal remains and grave artifacts from unregistered graves or the removal of grave markers.~~ The Department may adopt emergency rules in accordance with Sections 5-45 and 5-45.35 of the Illinois Administrative Procedure Act. The adoption of emergency rules authorized by Sections 5-45 and 5-45.35 of the Illinois Administrative Procedure Act and this paragraph is deemed to be necessary for the public interest, safety, and welfare.

(d) ~~(b)~~ Each permit shall specify all terms and conditions under which the avoidance, removal, or disturbance of human ~~skeletal~~ remains, grave artifacts, ~~or~~ grave markers, or unregistered graves shall be carried out. All costs accrued in the removal of the aforementioned materials shall be borne by the permit applicant. Within 60 days of the ~~Upon~~ completion of the undertaking project, the permit holder shall submit a report, on a form provided by the Department, of the results to the Department ~~of Natural Resources.~~

(Source: P.A. 100-695, eff. 8-3-18.)

(20 ILCS 3440/14) (from Ch. 127, par. 2674)

Sec. 14. Native American human remains. All Native American human remains, unregistered graves, grave markers, and grave artifacts are the property of the Native American nations geographically and culturally affiliated with Illinois. The Department shall maintain and care for Native American property until tribal consultation has been completed and the tribes have made the final decision for repatriation or other arrangements have been established. The Department shall:

- (1) maintain records;
- (2) conduct tribal consultation;
- (3) provide reports to tribal nations; and
- (4) facilitate repatriation and reinterment efforts.

Such repatriation and reinterment efforts shall be with tribal approval.

All non-Native American human ~~skeletal~~ remains, grave markers, and grave artifacts in unregistered graves are held in trust for the people of Illinois by the State and are under the jurisdiction of the Department until and unless they are repatriated to descendants or other arrangements have been established. Unless and until they are repatriated, all ~~of~~ ~~Natural Resources.~~ All materials collected under this Act shall be maintained, with dignity and respect, for the people

of the State under the care of the Department ~~Illinois State~~
~~Museum~~.

(Source: P.A. 100-695, eff. 8-3-18.)

(20 ILCS 3440/15) (from Ch. 127, par. 2675)

Sec. 15. Rules. The Department of Natural Resources shall
adopt ~~promulgate~~ such administrative rules ~~regulations~~ as may
be necessary to carry out the purposes of this Act in
accordance with the Illinois Administrative Procedure Act.

(Source: P.A. 100-695, eff. 8-3-18.)

(20 ILCS 3440/16) (from Ch. 127, par. 2676)

Sec. 16. Exemptions. Activities reviewed by the Department
~~of Natural Resources~~ pursuant to Section 106 of the National
Historic Preservation Act (16 U.S.C. 470f) and activities
permitted pursuant to the Federal Surface Mining Control and
Reclamation Act of 1977 (P.L. 95-87), or the rules and
regulations promulgated thereunder or any law, rule or
regulation adopted by the State of Illinois thereunder shall
be exempt from these permitting requirements.

(Source: P.A. 100-695, eff. 8-3-18.)

(20 ILCS 3440/16.1 new)

Sec. 16.1. Burial sites on Department owned lands. The
Department may create burial sites on Department owned lands
for the reburial of repatriated Native American human remains,

unregistered graves, grave markers, or grave artifacts after tribal consultation with the federally recognized tribes with geographical and cultural affiliation with Illinois. The burial sites shall not be used by the public and shall be protected by the State of Illinois.

(20 ILCS 3440/16.2 new)

Sec. 16.2. Repatriation and Reinterment Fund. The Repatriation and Reinterment Fund is created in the State treasury. All restitution collected from the prosecution of any violation of this Act shall be deposited in the fund and each deposit shall only be used to cover the restitution that was so ordered in an individual case pursuant to Section 12. The General Assembly may allocate appropriations to this fund to cover the cost of, including but not limited to, reinterment, repatriation, repair, or restoration of human remains, unregistered graves, grave markers, or grave artifacts that are in the custody of the Department.

(20 ILCS 3440/16.3 new)

Sec. 16.3. Forfeiture.

(a) Every device, equipment, tool, vehicle or conveyance, when used or operated illegally, or attempted to be used or operated illegally by any person in taking, transporting, holding, disturbing, exploring, excavating, collecting or conveying any human remains, grave artifacts, or grave

markers, contrary to the provisions of this Act, including administrative rules, is a public nuisance and subject to seizure and confiscation by any authorized employee of the Department; upon the seizure of such item the Department shall take and hold the same until disposed of as hereinafter provided.

(b) Upon the seizure of any property as herein provided, the authorized employee of the Department making such seizure shall forthwith cause a complaint to be filed before the circuit court and a summons to be issued requiring the person who illegally used or operated or attempted to use or operate such property and the owner and person in possession of such property to appear in court and show cause why the property seized should not be forfeited to the State. Upon the return of the summons duly served or other notice as herein provided, the court shall proceed to determine the question of the illegality of the use of the seized property and upon judgment being entered to the effect that such property was illegally used, an order may be entered providing for the forfeiture of such seized property to the Department and shall thereupon become the property of the Department; but the owner of such property may have a jury determine the illegality of its use, and shall have the right of an appeal, as in other cases. Such confiscation or forfeiture shall not preclude or mitigate against prosecution and assessment of penalties otherwise provided in this Act.

(c) Upon seizure of any property under circumstances supporting a reasonable belief that such property was abandoned, lost or stolen or otherwise illegally possessed or used contrary to the provisions of this Act, except property seized during a search or arrest, and ultimately returned, destroyed, or otherwise disposed of pursuant to order of a court in accordance with this Act, the Department shall make reasonable inquiry and efforts to identify and notify the owner or other person entitled to possession thereof, and shall return the property after such person provides reasonable and satisfactory proof of his ownership or right to possession and reimburses the Department for all reasonable expenses of such custody. If the identity or location of the owner or other person entitled to possession of the property has not been ascertained within 6 months after the Department obtains such possession, the Department shall effectuate the sale of the property for cash to the highest bidder at a public auction. The owner or other person entitled to possession of such property may claim and recover possession of the property at any time before its sale at public auction, upon providing reasonable and satisfactory proof of ownership or right of possession and reimbursing the Department for all reasonable expenses of custody thereof.

(d) Any property forfeited to the State by court order pursuant to this Section may be disposed of by public auction, except that any property which is the subject of such a court

order shall not be disposed of pending appeal of the order. The proceeds of the sales at auction shall be deposited in the Repatriation and Reinterment Fund.

(e) The Department shall pay all costs of notices required by this Section.

(f) Property seized or forfeited under this Section is subject to reporting under the Seizure and Forfeiture Reporting Act.

(g) This Section does not apply to human remains, grave artifacts, or grave markers that were recovered by the Department or other law enforcement agency during an investigation of a violation of this Act.

(20 ILCS 3440/5 rep.)

(20 ILCS 3440/7 rep.)

(20 ILCS 3440/11 rep.)

Section 30. The Human Skeletal Remains Protection Act is amended by repealing Sections 5, 7, and 11.

Section 35. The State Finance Act is amended by adding Section 5.990 as follows:

(30 ILCS 105/5.990 new)

Sec. 5.990. The Repatriation and Reinterment Fund.

Section 95. No acceleration or delay. Where this Act makes

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changes in a statute that is represented in this Act by text that is not yet or no longer in effect (for example, a Section represented by multiple versions), the use of that text does not accelerate or delay the taking effect of (i) the changes made by this Act or (ii) provisions derived from any other Public Act.

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