

IC 5-14

ARTICLE 14. PUBLIC RECORDS AND PUBLIC MEETINGS

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IC 5-14-1

Chapter 1. Repealed

Repealed by P.L.19-1983, SEC.12.

IC 5-14-1.5 Chapter 1.5. Public Meetings (Open Door Law)

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IC 5-14-1.5-1 Purpose

Sec. 1. In enacting this chapter, the general assembly finds and declares that this state and its political subdivisions exist only to aid in the conduct of the business of the people of this state. It is the intent of this chapter that the official action of public agencies be conducted and taken openly, unless otherwise expressly provided by statute, in order that the people may be fully informed. The purposes of this chapter are remedial, and its provisions are to be liberally construed with the view of carrying out its policy.

As added by Acts 1977, P.L.57, SEC.1. Amended by P.L.67-1987, SEC.1.

IC 5-14-1.5-2 Definitions

Sec. 2. For the purposes of this chapter:

(a) "Public agency", except as provided in section 2.1 of this chapter, means the following:

- (1) Any board, commission, department, agency, authority, or other entity, by whatever name designated, exercising a portion of the executive, administrative, or legislative power of the state.
- (2) Any county, township, school corporation, city, town, political subdivision, or other entity, by whatever name designated, exercising in a limited geographical area the executive, administrative, or legislative power of the state or a delegated local governmental power.
- (3) Any entity which is subject to either:
 - (A) budget review by either the department of local government finance or the governing body of a county, city, town, township, or school corporation; or
 - (B) audit by the state board of accounts that is required by statute, rule, or regulation.
- (4) Any building corporation of a political subdivision of the state of Indiana that issues bonds for the purpose of constructing public facilities.
- (5) Any advisory commission, committee, or body created by statute, ordinance, or executive order to advise the governing body of a public agency, except medical staffs or the committees of any such staff.
- (6) The Indiana gaming commission established by IC 4-33, including any department, division, or office of the commission.
- (7) The Indiana horse racing commission established by IC 4-31, including any department, division, or office of the commission.

(b) "Governing body" means two (2) or more individuals who are any of the following:

- (1) A public agency that:

- (A) is a board, a commission, an authority, a council, a committee, a body, or other entity; and
- (B) takes official action on public business.
- (2) The board, commission, council, or other body of a public agency which takes official action upon public business.
- (3) Any committee appointed directly by the governing body or its presiding officer to which authority to take official action upon public business has been delegated. An agent or agents appointed by the governing body to conduct collective bargaining on behalf of the governing body does not constitute a governing body for purposes of this chapter.
- (c) "Meeting" means a gathering of a majority of the governing body of a public agency for the purpose of taking official action upon public business. It does not include any of the following:
 - (1) Any social or chance gathering not intended to avoid this chapter.
 - (2) Any on-site inspection of any:
 - (A) project;
 - (B) program; or
 - (C) facilities of applicants for incentives or assistance from the governing body.
 - (3) Traveling to and attending meetings of organizations devoted to betterment of government.
 - (4) A caucus.
 - (5) A gathering to discuss an industrial or a commercial prospect that does not include a conclusion as to recommendations, policy, decisions, or final action on the terms of a request or an offer of public financial resources.
 - (6) An orientation of members of the governing body on their role and responsibilities as public officials, but not for any other official action.
 - (7) A gathering for the sole purpose of administering an oath of office to an individual.
 - (8) Collective bargaining discussions that the governing body of a school corporation engages in directly with bargaining adversaries. This subdivision applies only to a governing body that has not appointed an agent or agents to conduct collective bargaining on behalf of the governing body as described in subsection (b)(3).
- (d) "Official action" means to:
 - (1) receive information;
 - (2) deliberate;
 - (3) make recommendations;
 - (4) establish policy;
 - (5) make decisions; or
 - (6) take final action.
- (e) "Public business" means any function upon which the public agency is empowered or authorized to take official action.
- (f) "Executive session" means a meeting from which the public is excluded, except the governing body may admit those persons necessary to carry out its purpose. The governing body may also admit an individual who has been elected to the governing body but has not been sworn in as a member of the governing body.
- (g) "Final action" means a vote by the governing body on any motion, proposal, resolution, rule, regulation, ordinance, or order.
- (h) "Caucus" means a gathering of members of a political party or coalition which is held for purposes of planning political strategy and holding discussions designed to prepare the members for taking official action.
- (i) "Deliberate" means a discussion which may reasonably be expected to result in official action (defined under subsection (d)(3), (d)(4), (d)(5), or (d)(6)).
- (j) "News media" means all newspapers qualified to receive legal advertisements under IC 5-3-1, all news services (as defined in IC 34-6-2-87), and all licensed commercial or

public radio or television stations.

(k) "Person" means an individual, a corporation, a limited liability company, a partnership, an unincorporated association, or a governmental entity.

(l) "State educational institution" has the meaning set forth in IC 21-7-13-32.

As added by Acts 1977, P.L.57, SEC.1. Amended by Acts 1979, P.L.39, SEC.1; P.L.33-1984, SEC.1; P.L.67-1987, SEC.2; P.L.8-1993, SEC.56; P.L.277-1993(ss), SEC.127; P.L.1-1994, SEC.20; P.L.50-1995, SEC.14; P.L.1-1998, SEC.71; P.L.90-2002, SEC.16; P.L.35-2003, SEC.1; P.L.179-2007, SEC.1; P.L.103-2013, SEC.1; P.L.197-2017, SEC.1.

IC 5-14-1.5-2.1 "Public agency"; certain providers exempted

Sec. 2.1. "Public agency", for purposes of this chapter, does not mean a provider of goods, services, or other benefits that meets the following requirements:

(1) The provider receives public funds through an agreement with the state, a county, or a municipality that meets the following requirements:

(A) The agreement provides for the payment of fees to the entity in exchange for services, goods, or other benefits.

(B) The amount of fees received by the entity under the agreement is not based upon or does not involve a consideration of the tax revenues or receipts of the state, county, or municipality.

(C) The amount of the fees are negotiated by the entity and the state, county, or municipality.

(D) The state, county, or municipality is billed for fees by the entity for the services, goods, or other benefits actually provided by the entity.

(2) The provider is not required by statute, rule, or regulation to be audited by the state board of accounts.

As added by P.L.179-2007, SEC.2.

IC 5-14-1.5-3 Open meetings; secret ballot votes; member participating by electronic means of communication

Sec. 3. (a) Except as provided in section 6.1 of this chapter, all meetings of the governing bodies of public agencies must be open at all times for the purpose of permitting members of the public to observe and record them.

(b) A secret ballot vote may not be taken at a meeting.

(c) A meeting conducted in compliance with section 3.5 or 3.6 of this chapter or any other statute that authorizes a governing body to conduct a meeting using an electronic means of communication does not violate this section.

As added by Acts 1977, P.L.57, SEC.1. Amended by P.L.38-1988, SEC.6; P.L.1-1991, SEC.35; P.L.179-2007, SEC.3; P.L.134-2012, SEC.10.

IC 5-14-1.5-3.1 Serial meetings

Sec. 3.1. (a) Except as provided in subsection (b), the governing body of a public agency violates this chapter if members of the governing body participate in a series of at least two (2) gatherings of members of the governing body and the series of gatherings meets all of the following criteria:

(1) One (1) of the gatherings is attended by at least three (3) members but less than a quorum of the members of the governing body and the other gatherings include at least two (2) members of the governing body.

(2) The sum of the number of different members of the governing body attending any of the gatherings at least equals a quorum of the governing body.

(3) All the gatherings concern the same subject matter and are held within a period of not more than seven (7) consecutive days.

(4) The gatherings are held to take official action on public business.

For purposes of this subsection, a member of a governing body attends a gathering if the

member is present at the gathering in person or if the member participates in the gathering by telephone or other electronic means, excluding electronic mail.

(b) This subsection applies only to the city-county council of a consolidated city or county having a consolidated city. The city-county council violates this chapter if its members participate in a series of at least two (2) gatherings of members of the city-county council and the series of gatherings meets all of the following criteria:

(1) One (1) of the gatherings is attended by at least five (5) members of the city-county council and the other gatherings include at least three (3) members of the city-county council.

(2) The sum of the number of different members of the city-county council attending any of the gatherings at least equals a quorum of the city-county council.

(3) All the gatherings concern the same subject matter and are held within a period of not more than seven (7) consecutive days.

(4) The gatherings are held to take official action on public business.

For purposes of this subsection, a member of the city-county council attends a gathering if the member is present at the gathering in person or if the member participates in the gathering by telephone or other electronic means, excluding electronic mail.

(c) A gathering under subsection (a) or (b) does not include:

(1) a social or chance gathering not intended by any member of the governing body to avoid the requirements of this chapter;

(2) an onsite inspection of any:

(A) project;

(B) program; or

(C) facilities of applicants for incentives or assistance from the governing body;

(3) traveling to and attending meetings of organizations devoted to the betterment of government;

(4) a caucus;

(5) a gathering to discuss an industrial or a commercial prospect that does not include a conclusion as to recommendations, policy, decisions, or final action on the terms of a request or an offer of public financial resources;

(6) an orientation of members of the governing body on their role and responsibilities as public officials, but not for any other official action;

(7) a gathering for the sole purpose of administering an oath of office to an individual;

or

(8) a gathering between less than a quorum of the members of the governing body intended solely for members to receive information and deliberate on whether a member or members may be inclined to support a member's proposal or a particular piece of legislation and at which no other official action will occur.

(d) A violation described in subsection (a) or (b) is subject to section 7 of this chapter.

As added by P.L.179-2007, SEC.4.

IC 5-14-1.5-3.5 Electronic meetings of political subdivisions; statutory authorization required

Sec. 3.5. (a) This section applies only to a governing body of a public agency of a political subdivision, other than a governing body of an airport authority or a department of aviation as set forth in section 3.6 of this chapter.

(b) A member of the governing body of a public agency who is not physically present at a meeting of the governing body but who communicates with members of the governing body during the meeting by telephone, computer, video conferencing, or any other electronic means of communication:

(1) may not participate in final action taken at the meeting unless the member's participation is expressly authorized by statute; and

(2) may not be considered to be present at the meeting unless considering the member

to be present at the meeting is expressly authorized by statute.

(c) The memoranda prepared under section 4 of this chapter for a meeting in which a member participates by using a means of communication described in subsection (b) must state the name of:

- (1) each member who was physically present at the place where the meeting was conducted;
- (2) each member who participated in the meeting by using a means of communication described in subsection (b); and
- (3) each member who was absent.

As added by P.L.134-2012, SEC.11. Amended by P.L.154-2016, SEC.1.

IC 5-14-1.5-3.6 Electronic communications by certain governing bodies

Sec. 3.6. (a) This section applies only to a governing body of the following:

- (1) A charter school (as defined in IC 20-24-1-4).
- (2) A public agency of the state, including a body corporate and politic established as an instrumentality of the state.
- (3) An airport authority or a department of aviation under IC 8-22.

(b) A member of a governing body who is not physically present at a meeting of the governing body may participate in a meeting of the governing body by electronic communication only if the member uses a means of communication that permits:

- (1) the member;
- (2) all other members participating in the meeting;
- (3) all members of the public physically present at the place where the meeting is conducted; and
- (4) if the meeting is conducted under a policy adopted under subsection (g)(7), all members of the public physically present at a public location at which a member participates by means of electronic communication;

to simultaneously communicate with each other during the meeting.

(c) The governing body must fulfill both of the following requirements for a member of the governing body to participate in a meeting by electronic communication:

- (1) This subdivision does not apply to committees appointed by a board of trustees of a state educational institution, by the commission for higher education, by the board of the Indiana economic development corporation, or by the board of directors of the Indiana secondary market for education loans, as established, incorporated, and designated under IC 21-16-5-1. The minimum number of members who must be physically present at the place where the meeting is conducted must be the greater of:
 - (A) two (2) of the members; or
 - (B) one-third (1/3) of the members.
- (2) All votes of the governing body during the electronic meeting must be taken by roll call vote.

Nothing in this section affects the public's right under this chapter to attend a meeting of the governing body at the place where the meeting is conducted and the minimum number of members is physically present as provided for in subdivision (1).

(d) Each member of the governing body is required to physically attend at least one (1) meeting of the governing body annually.

(e) Unless a policy adopted by a governing body under subsection (g) provides otherwise, a member who participates in a meeting by electronic communication:

- (1) is considered to be present at the meeting;
- (2) shall be counted for purposes of establishing a quorum; and
- (3) may vote at the meeting.

(f) A governing body may not conduct meetings using a means of electronic communication until the governing body:

- (1) meets all requirements of this chapter; and

(2) by a favorable vote of a majority of the members of the governing body, adopts a policy under subsection (g) governing participation in meetings of the governing body by electronic communication.

(g) A policy adopted by a governing body to govern participation in the governing body's meetings by electronic communication may do any of the following:

(1) Require a member to request authorization to participate in a meeting of the governing body by electronic communication within a certain number of days before the meeting to allow for arrangements to be made for the member's participation by electronic communication.

(2) Subject to subsection (e), limit the number of members who may participate in any one (1) meeting by electronic communication.

(3) Limit the total number of meetings that the governing body may conduct in a calendar year by electronic communication.

(4) Limit the number of meetings in a calendar year in which any one (1) member of the governing body may participate by electronic communication.

(5) Provide that a member who participates in a meeting by electronic communication may not cast the deciding vote on any official action. For purposes of this subdivision, a member casts the deciding vote on an official action if, regardless of the order in which the votes are cast:

(A) the member votes with the majority; and

(B) the official action is adopted or defeated by one (1) vote.

(6) Require a member participating in a meeting by electronic communication to confirm in writing the votes cast by the member during the meeting within a certain number of days after the date of the meeting.

(7) Provide that in addition to the location where a meeting is conducted, the public may also attend some or all meetings of the governing body, excluding executive sessions, at a public place or public places at which a member is physically present and participates by electronic communication. If the governing body's policy includes this provision, a meeting notice must provide the following information:

(A) The identity of each member who will be physically present at a public place and participate in the meeting by electronic communication.

(B) The address and telephone number of each public place where a member will be physically present and participate by electronic communication.

(C) Unless the meeting is an executive session, a statement that a location described in clause (B) will be open and accessible to the public.

(8) Require at least a quorum of members to be physically present at the location where the meeting is conducted.

(9) Provide that a member participating by electronic communication may vote on official action only if, subject to subsection (e), a specified number of members:

(A) are physically present at the location where the meeting is conducted; and

(B) concur in the official action.

(10) Establish any other procedures, limitations, or conditions that govern participation in meetings of the governing body by electronic communication and are not in conflict with this chapter.

(h) The policy adopted by the governing body must be posted on the Internet web site of the governing body, the charter school, the airport, or the public agency.

(i) Nothing in this section affects a public agency's or charter school's right to exclude the public from an executive session in which a member participates by electronic communication.

As added by P.L.134-2012, SEC.12. Amended by P.L.62-2013, SEC.1; P.L.132-2013, SEC.1; P.L.280-2013, SEC.4; P.L.30-2015, SEC.1; P.L.154-2016, SEC.2; P.L.237-2017, SEC.13.

IC 5-14-1.5-4 Posting agenda; memoranda of meetings; public inspection of minutes

Sec. 4. (a) A governing body of a public agency utilizing an agenda shall post a copy of the agenda at the entrance to the location of the meeting prior to the meeting. A rule, regulation, ordinance, or other final action adopted by reference to agenda number or item alone is void.

(b) As the meeting progresses, the following memoranda shall be kept:

- (1) The date, time, and place of the meeting.
- (2) The members of the governing body recorded as either present or absent.
- (3) The general substance of all matters proposed, discussed, or decided.
- (4) A record of all votes taken by individual members if there is a roll call.
- (5) Any additional information required under section 3.5 or 3.6 of this chapter or any other statute that authorizes a governing body to conduct a meeting using an electronic means of communication.

(c) The memoranda are to be available within a reasonable period of time after the meeting for the purpose of informing the public of the governing body's proceedings. The minutes, if any, are to be open for public inspection and copying.

As added by Acts 1977, P.L.57, SEC.1. Amended by P.L.38-1988, SEC.7; P.L.76-1995, SEC.1; P.L.2-2007, SEC.99; P.L.134-2012, SEC.13.

IC 5-14-1.5-5 Public notice of meetings

Sec. 5. (a) Public notice of the date, time, and place of any meetings, executive sessions, or of any rescheduled or reconvened meeting, shall be given at least forty-eight (48) hours (excluding Saturdays, Sundays, and legal holidays) before the meeting. This requirement does not apply to reconvened meetings (not including executive sessions) where announcement of the date, time, and place of the reconvened meeting is made at the original meeting and recorded in the memoranda and minutes thereof, and there is no change in the agenda.

(b) Public notice shall be given by the governing body of a public agency as follows:

- (1) The governing body of a public agency shall give public notice by posting a copy of the notice at the principal office of the public agency holding the meeting or, if no such office exists, at the building where the meeting is to be held.
- (2) The governing body of a public agency shall give public notice by delivering notice to all news media which deliver an annual written request for the notices not later than December 31 for the next succeeding calendar year to the governing body of the public agency. The governing body shall give notice by one (1) of the following methods, which shall be determined by the governing body:
 - (A) Depositing the notice in the United States mail with postage prepaid.
 - (B) Transmitting the notice by electronic mail, if the public agency has the capacity to transmit electronic mail.
 - (C) Transmitting the notice by facsimile (fax).

(3) This subdivision applies only to the governing body of a public agency of a political subdivision described in section 2(a)(2), 2(a)(4), or 2(a)(5) of this chapter that adopts a policy to provide notice under this subdivision. Notice under this subdivision is in addition to providing notice under subdivisions (1) and (2). If the governing body adopts a policy under this subdivision, the governing body of a public agency shall give public notice by delivering notice to any person (other than news media) who delivers to the governing body of the public agency an annual written request for the notices not later than December 31 for the next succeeding calendar year. The governing body shall give notice by one (1) of the following methods, which shall be determined by the governing body:

- (A) Transmitting the notice by electronic mail, if the public agency has the capacity to send electronic mail.

(B) Publishing the notice on the public agency's Internet web site at least forty-eight (48) hours in advance of the meeting, if the public agency has an Internet web site.

A court may not declare void any policy, decision, or final action under section 7 of this chapter based on a failure to give a person notice under subdivision (3) if the public agency made a good faith effort to comply with subdivision (3). If a governing body comes into existence after December 31, it shall comply with this subsection upon receipt of a written request for notice. In addition, a state agency (as defined in IC 4-13-1-1) shall provide electronic access to the notice through the computer gateway administered by the office of technology established by IC 4-13.1-2-1.

(c) Notice of regular meetings need be given only once each year, except that an additional notice shall be given where the date, time, or place of a regular meeting or meetings is changed. This subsection does not apply to executive sessions.

(d) If a meeting is called to deal with an emergency involving actual or threatened injury to person or property, or actual or threatened disruption of the governmental activity under the jurisdiction of the public agency by any event, then the time requirements of notice under this section shall not apply, but:

- (1) news media which have requested notice of meetings under subsection (b)(2) must be given the same notice as is given to the members of the governing body; and
- (2) the public must be notified by posting a copy of the notice according to subsection (b)(1).

(e) This section shall not apply where notice by publication is required by statute, ordinance, rule, or regulation.

(f) This section shall not apply to the following:

(1) The department of local government finance, the Indiana board of tax review, or any other governing body which meets in continuous session, except that this section applies to meetings of these governing bodies which are required by or held pursuant to statute, ordinance, rule, or regulation.

(2) The executive of a county or the legislative body of a town if the meetings are held solely to carry out the administrative functions related to the county executive or town legislative body's executive powers. "Administrative functions" means only routine activities that are reasonably related to the everyday internal management of the county or town, including conferring with, receiving information from, and making recommendations to staff members and other county or town officials or employees. "Administrative functions" does not include:

- (A) taking final action on public business;
- (B) the exercise of legislative powers; or
- (C) awarding of or entering into contracts, or any other action creating an obligation or otherwise binding the county or town.

(g) This section does not apply to the general assembly.

(h) Notice has not been given in accordance with this section if a governing body of a public agency convenes a meeting at a time so unreasonably departing from the time stated in its public notice that the public is misled or substantially deprived of the opportunity to attend, observe, and record the meeting.

As added by Acts 1977, P.L.57, SEC.1. Amended by Acts 1979, P.L.39, SEC.2; P.L.67-1987, SEC.3; P.L.8-1989, SEC.22; P.L.3-1989, SEC.29; P.L.46-1990, SEC.1; P.L.251-1999, SEC.4; P.L.90-2002, SEC.17; P.L.200-2003, SEC.1; P.L.177-2005, SEC.14; P.L.134-2012, SEC.14; P.L.171-2018, SEC.1; P.L.10-2019, SEC.32.

IC 5-14-1.5-6 Repealed

As added by Acts 1977, P.L.57, SEC.1. Amended by Acts 1979, P.L.39, SEC.3; P.L.33-1984, SEC.2; P.L.67-1987, SEC.4; P.L.20-1988, SEC.11; P.L.11-1990, SEC.110; P.L.46-1990, SEC.4. Repealed by P.L.1-1991, SEC.36 and P.L.10-1991, SEC.10.

IC 5-14-1.5-6.1 Executive sessions

Sec. 6.1. (a) As used in this section, "public official" means a person:

- (1) who is a member of a governing body of a public agency; or
- (2) whose tenure and compensation are fixed by law and who executes an oath.

(b) Executive sessions may be held only in the following instances:

- (1) Where authorized by federal or state statute.
- (2) For discussion of strategy with respect to any of the following:

(A) Collective bargaining.

(B) Initiation of litigation or litigation that is either pending or has been threatened specifically in writing. As used in this clause, "litigation" includes any judicial action or administrative law proceeding under federal or state law.

(C) The implementation of security systems.

(D) A real property transaction including:

- (i) a purchase;
- (ii) a lease as lessor;
- (iii) a lease as lessee;
- (iv) a transfer;
- (v) an exchange; or
- (vi) a sale;

by the governing body up to the time a contract or option is executed by the parties. This clause does not affect a political subdivision's duty to comply with any other statute that governs the conduct of the real property transaction, including IC 36-1-10 or IC 36-1-11.

(E) School consolidation.

However, all such strategy discussions must be necessary for competitive or bargaining reasons and may not include competitive or bargaining adversaries.

(3) For discussion of the assessment, design, and implementation of school safety and security measures, plans, and systems.

(4) Interviews and negotiations with industrial or commercial prospects or agents of industrial or commercial prospects by:

- (A) the Indiana economic development corporation;
- (B) the office of tourism development (before July 1, 2020) or the Indiana destination development corporation (after June 30, 2020);
- (C) the Indiana finance authority;
- (D) the ports of Indiana;
- (E) an economic development commission;
- (F) the Indiana state department of agriculture;
- (G) a local economic development organization that is a nonprofit corporation established under state law whose primary purpose is the promotion of industrial or business development in Indiana, the retention or expansion of Indiana businesses, or the development of entrepreneurial activities in Indiana; or
- (H) a governing body of a political subdivision.

However, this subdivision does not apply to any discussions regarding research that is prohibited under IC 16-34.5-1-2 or under any other law.

(5) To receive information about and interview prospective employees.

(6) With respect to any individual over whom the governing body has jurisdiction:

- (A) to receive information concerning the individual's alleged misconduct; and
- (B) to discuss, before a determination, the individual's status as an employee, a student, or an independent contractor who is:
 - (i) a physician; or
 - (ii) a school bus driver.

(7) For discussion of records classified as confidential by state or federal statute.

(8) To discuss before a placement decision an individual student's abilities, past

performance, behavior, and needs.

(9) To discuss a job performance evaluation of individual employees. This subdivision does not apply to a discussion of the salary, compensation, or benefits of employees during a budget process.

(10) When considering the appointment of a public official, to do the following:

(A) Develop a list of prospective appointees.

(B) Consider applications.

(C) Make one (1) initial exclusion of prospective appointees from further consideration.

Notwithstanding IC 5-14-3-4(b)(12), a governing body may release and shall make available for inspection and copying in accordance with IC 5-14-3-3 identifying information concerning prospective appointees not initially excluded from further consideration. An initial exclusion of prospective appointees from further consideration may not reduce the number of prospective appointees to fewer than three (3) unless there are fewer than three (3) prospective appointees. Interviews of prospective appointees must be conducted at a meeting that is open to the public.

(11) To train school board members with an outside consultant about the performance of the role of the members as public officials.

(12) To prepare or score examinations used in issuing licenses, certificates, permits, or registrations under IC 25.

(13) To discuss information and intelligence intended to prevent, mitigate, or respond to the threat of terrorism.

(14) To train members of a board of aviation commissioners appointed under IC 8-22-2 or members of an airport authority board appointed under IC 8-22-3 with an outside consultant about the performance of the role of the members as public officials. A board may hold not more than one (1) executive session per calendar year under this subdivision.

(15) For discussion by the governing body of a state educational institution of:

(A) the assessment of; or

(B) negotiation with another entity concerning;

the establishment of a collaborative relationship or venture to advance the research, engagement, or education mission of the state educational institution. However, this subdivision does not apply to any discussions regarding research that is prohibited under IC 16-34.5-1-2 or under any other law.

(c) A final action must be taken at a meeting open to the public.

(d) Public notice of executive sessions must state the subject matter by specific reference to the enumerated instance or instances for which executive sessions may be held under subsection (b). The requirements stated in section 4 of this chapter for memoranda and minutes being made available to the public is modified as to executive sessions in that the memoranda and minutes must identify the subject matter considered by specific reference to the enumerated instance or instances for which public notice was given. The governing body shall certify by a statement in the memoranda and minutes of the governing body that no subject matter was discussed in the executive session other than the subject matter specified in the public notice.

(e) A governing body may not conduct an executive session during a meeting, except as otherwise permitted by applicable statute. A meeting may not be recessed and reconvened with the intent of circumventing this subsection.

As added by P.L.1-1991, SEC.37 and P.L.10-1991, SEC.8. Amended by P.L.48-1991, SEC.1; P.L.37-2000, SEC.1; P.L.200-2003, SEC.2; P.L.4-2005, SEC.28; P.L.229-2005, SEC.2; P.L.235-2005, SEC.84; P.L.101-2006, SEC.3; P.L.179-2007, SEC.5; P.L.2-2008, SEC.20; P.L.98-2008, SEC.3; P.L.120-2008, SEC.1; P.L.139-2011, SEC.1; P.L.24-2012, SEC.1; P.L.103-2013, SEC.2; P.L.145-2016, SEC.2; P.L.197-2017, SEC.2; P.L.78-2019, SEC.2; P.L.164-2019, SEC.1.

IC 5-14-1.5-6.5 Collective bargaining meetings; applicable requirements

Sec. 6.5. (a) Whenever a governing body, or any person authorized to act for a governing body, meets with an employee organization, or any person authorized to act for an employee organization, for the purpose of collective bargaining or discussion, the following apply:

- (1) Any party may inform the public of the status of collective bargaining or discussion as it progresses by release of factual information and expression of opinion based upon factual information.
- (2) If a mediator is appointed, any report the mediator may file at the conclusion of mediation is a public record open to public inspection.
- (3) If a factfinder is appointed, any hearings the factfinder holds must be open at all times for the purpose of permitting members of the public to observe and record them. Any findings and recommendations the factfinder makes are public records open to public inspection as provided by any applicable statute relating to factfinding in connection with public collective bargaining.

(b) This section supplements and does not limit any other provision of this chapter.

As added by Acts 1979, P.L.39, SEC.4. Amended by P.L.67-1987, SEC.5; P.L.1-2005, SEC.80; P.L.48-2011, SEC.1.

IC 5-14-1.5-7 Violations; remedies; limitations; costs and fees

Sec. 7. (a) An action may be filed by any person in any court of competent jurisdiction to:

- (1) obtain a declaratory judgment;
- (2) enjoin continuing, threatened, or future violations of this chapter; or
- (3) declare void any policy, decision, or final action:
 - (A) taken at an executive session in violation of section 3(a) of this chapter;
 - (B) taken at any meeting of which notice is not given in accordance with section 5 of this chapter;
 - (C) that is based in whole or in part upon official action taken at any:
 - (i) executive session in violation of section 3(a) of this chapter;
 - (ii) meeting of which notice is not given in accordance with section 5 of this chapter; or
 - (iii) series of gatherings in violation of section 3.1 of this chapter; or
 - (D) taken at a meeting held in a location in violation of section 8 of this chapter.

The plaintiff need not allege or prove special damage different from that suffered by the public at large.

(b) Regardless of whether a formal complaint or an informal inquiry is pending before the public access counselor, any action to declare any policy, decision, or final action of a governing body void, or to enter an injunction which would invalidate any policy, decision, or final action of a governing body, based on violation of this chapter occurring before the action is commenced, shall be commenced:

- (1) prior to the delivery of any warrants, notes, bonds, or obligations if the relief sought would have the effect, if granted, of invalidating the notes, bonds, or obligations; or
- (2) with respect to any other subject matter, within thirty (30) days of either:
 - (A) the date of the act or failure to act complained of; or
 - (B) the date that the plaintiff knew or should have known that the act or failure to act complained of had occurred;

whichever is later. If the challenged policy, decision, or final action is recorded in the memoranda or minutes of a governing body, a plaintiff is considered to have known that the act or failure to act complained of had occurred not later than the date that the memoranda or minutes are first available for public inspection.

(c) If a court finds that a governing body of a public agency has violated this chapter, it may not find that the violation was cured by the governing body by only having taken final action at a meeting that complies with this chapter.

(d) In determining whether to declare any policy, decision, or final action void, a court shall consider the following factors among other relevant factors:

(1) The extent to which the violation:

(A) affected the substance of the policy, decision, or final action;

(B) denied or impaired access to any meetings that the public had a right to observe and record; and

(C) prevented or impaired public knowledge or understanding of the public's business.

(2) Whether voiding of the policy, decision, or final action is a necessary prerequisite to a substantial reconsideration of the subject matter.

(3) Whether the public interest will be served by voiding the policy, decision, or final action by determining which of the following factors outweighs the other:

(A) The remedial benefits gained by effectuating the public policy of the state declared in section 1 of this chapter.

(B) The prejudice likely to accrue to the public if the policy, decision, or final action is voided, including the extent to which persons have relied upon the validity of the challenged action and the effect declaring the challenged action void would have on them.

(4) Whether the defendant acted in compliance with an informal inquiry response or advisory opinion issued by the public access counselor concerning the violation.

(e) If a court declares a policy, decision, or final action of a governing body of a public agency void, the court may enjoin the governing body from subsequently acting upon the subject matter of the voided act until it has been given substantial reconsideration at a meeting or meetings that comply with this chapter.

(f) In any action filed under this section, a court shall award reasonable attorney's fees, court costs, and other reasonable expenses of litigation to the prevailing party if:

(1) the plaintiff prevails; or

(2) the defendant prevails and the court finds that the action is frivolous and vexatious.

The plaintiff is not eligible for the awarding of attorney's fees, court costs, and other reasonable expenses if the plaintiff filed the action without first seeking and receiving an informal inquiry response or advisory opinion from the public access counselor, unless the plaintiff can show the filing of the action was necessary to prevent a violation of this chapter.

(g) A court may assess a civil penalty under section 7.5 of this chapter only if the plaintiff obtained an advisory opinion from the public access counselor before filing an action under this section as set forth in section 7.5 of this chapter.

(h) A court shall expedite the hearing of an action filed under this section.

As added by Acts 1977, P.L.57, SEC.1. Amended by Acts 1979, P.L.39, SEC.5; P.L.67-1987, SEC.6; P.L.38-1992, SEC.1; P.L.70-1999, SEC.1 and P.L.191-1999, SEC.1; P.L.179-2007, SEC.6; P.L.134-2012, SEC.15.

IC 5-14-1.5-7.5 Civil penalties imposed on public agency, officer, or management level employee

Sec. 7.5. (a) This section applies only to an individual who is:

(1) an officer of a public agency; or

(2) employed in a management level position with a public agency.

(b) If an individual with the specific intent to violate the law fails to perform a duty imposed on the individual under this chapter by:

(1) failing to give proper notice of a regular meeting, special meeting, or executive session;

(2) taking final action outside a regular meeting or special meeting;

(3) participating in a secret ballot during a meeting;

(4) discussing in an executive session subjects not eligible for discussion in an executive session;

- (5) failing to prepare a memorandum of a meeting as required by section 4 of this chapter; or
- (6) participating in at least one (1) gathering of a series of gatherings under section 3.1 of this chapter;

the individual and the public agency are subject to a civil penalty under subsection (f).

(c) A civil penalty may only be imposed as part of an action filed under section 7 of this chapter. A court may not impose a civil penalty under this section unless the public access counselor has issued an advisory opinion:

- (1) to the complainant and the public agency;
- (2) that finds that the individual or public agency violated this chapter; and
- (3) before the action under section 7 of this chapter is filed.

Nothing in this section prevents both the complainant and the public agency from requesting an advisory opinion from the public access counselor.

(d) It is a defense to the imposition of a civil penalty under this section that the individual failed to perform a duty under subsection (b) in reliance on either of the following:

- (1) An opinion of the public agency's legal counsel.
- (2) An opinion of the attorney general.

(e) Except as provided in subsection (i), in an action filed under section 7 of this chapter, a court may impose a civil penalty against one (1) or more of the following:

- (1) The individual named as a defendant in the action.
- (2) The public agency named as a defendant in the action.

(f) The court may impose against each defendant listed in subsection (c) the following civil penalties:

- (1) Not more than one hundred dollars (\$100) for the first violation.
- (2) Not more than five hundred dollars (\$500) for each additional violation.

A civil penalty imposed under this section is in addition to any other civil or criminal penalty imposed. However, in any one (1) action brought under section 7 of this chapter, a court may impose only one (1) civil penalty against an individual, even if the court finds that the individual committed multiple violations. This subsection does not preclude a court from imposing another civil penalty against an individual in a separate action, but an individual may not be assessed more than one (1) civil penalty in any one (1) action brought under this section.

(g) A court shall distribute monthly to the auditor of state any penalties collected under this section for deposit in the education fund established by IC 5-14-4-14.

(h) An individual is personally liable for a civil penalty imposed on the individual under this section. A civil penalty imposed against a public agency under this section shall be paid from the public agency's budget.

(i) If an officer of a public agency directs an individual who is employed in a management level position to fail to give proper notice as described in subsection (b)(1), the management level employee is not subject to civil penalties under subsection (f).

As added by P.L.134-2012, SEC.16.

IC 5-14-1.5-8 Accessibility to individuals with disabilities

Sec. 8. (a) This section applies only to the following public agencies:

- (1) A public agency described in section 2(a)(1) of this chapter.
- (2) A public agency:
 - (A) described in section 2(a)(5) of this chapter; and
 - (B) created to advise the governing body of a public agency described in section 2(a)(1) of this chapter.

(b) As used in this section, "accessible" means the design, construction, or alteration of facilities in conformance with the Uniform Federal Accessibility Standards (41 C.F.R. 101-19.6, App. A (1991)) or with the Americans with Disabilities Act Accessibility Guidelines for Buildings and Facilities (56 Fed. Reg. 35605 (1991)).

(c) As used in this section, "individual with a disability" means an individual who has a temporary or permanent physical disability.

(d) A public agency may not hold a meeting at a location that is not accessible to an individual with a disability.

As added by P.L. 38-1992, SEC.2.

IC 5-14-2 Chapter 2. Public Access to Criminal Proceedings

5-14-2-1	Definitions
5-14-2-2	Open attendance
5-14-2-3	Exclusion of general public; opportunity to be heard
5-14-2-4	Hearing on exclusion motion or order
5-14-2-5	Notice of hearing
5-14-2-6	Hearing procedures
5-14-2-7	Inherent power of court
5-14-2-8	Original action to contest exclusion ruling of trial court

IC 5-14-2-1 Definitions

Sec. 1. As used in this chapter:

"Criminal action" means a prosecution initiated in the name of the state of Indiana against an accused alleging the commission of a felony or misdemeanor.

"Criminal proceedings" means court proceedings in a criminal action after the arrest of an accused and before any appeal is instituted; it does not include:

- (1) the deliberations of juries;
- (2) omnibus hearings except for those portions at which witnesses are sworn and testimony taken; or
- (3) any proceeding in which rights of attendance by the general public are otherwise specifically governed by statute or rules of procedure.

"General public" means any individual, or group of individuals, but does not include the parties to the criminal action.

"Open to attendance" means that individuals have the right freely to attend and observe criminal proceedings.

"Rules of procedure" means rules adopted by the supreme court of Indiana.

As added by Acts 1982, P.L.40, SEC.1.

IC 5-14-2-2 Open attendance

Sec. 2. Criminal proceedings are presumptively open to attendance by the general public.

As added by Acts 1982, P.L.40, SEC.1.

IC 5-14-2-3 Exclusion of general public; opportunity to be heard

Sec. 3. No court may order the exclusion of the general public from any criminal proceeding, or part of a criminal proceeding, unless it first affords the parties and the general public a meaningful opportunity to be heard on the issue of any proposed exclusion.

As added by Acts 1982, P.L.40, SEC.1.

IC 5-14-2-4 Hearing on exclusion motion or order

Sec. 4. Whenever any motion to exclude the general public from a criminal proceeding is filed with a court, or if a court proposes to issue such an exclusion order on its own, the court must set a hearing date on the motion or proposed order. The hearing date shall be set sufficiently in advance so that the parties and members of the general public can prepare their pleadings and evidence and file briefs on the motion or proposed order. The time for the hearing date shall not be extended, however, so that it imposes an unreasonable delay under the circumstances of the case.

As added by Acts 1982, P.L.40, SEC.1.

IC 5-14-2-5 Notice of hearing

Sec. 5. The court shall notify the parties of the hearing date and shall notify the general public by posting a copy of the hearing notice at a place within the confines of the court accessible to the general public.

As added by Acts 1982, P.L.40, SEC.1.

IC 5-14-2-6 Hearing procedures

Sec. 6. (a) At the hearing, any party or member of the general public may object to any proposed exclusion. Any member of the general public has the right to be represented by counsel.

(b) If no objection is presented to the court, the court may rule upon the motion to exclude or issue its proposed exclusion order, without further proceedings.

(c) If an objection is presented to the court, then the party who filed the motion to exclude, or the court, if it proposed to issue an exclusion order on its own, has the burden of proving by clear and convincing evidence that:

- (1) dissemination of information about the content of the criminal proceeding and about its record would create a serious and imminent danger to the defendant's rights;
- (2) any prejudicial effect created by any such dissemination cannot be avoided by any reasonable alternative means; and
- (3) there is a substantial probability that the exclusion will be effective in protecting against the perceived harm.

(d) If the court finds the burden of proof has not been met, it shall deny the motion to exclude or withdraw any proposed exclusion order.

(e) If the court finds the burden of proof has been met, it may grant the motion or issue the proposed order, but:

- (1) any exclusion must extend no further than the circumstances reasonably require; and
- (2) the exclusion must be temporary.

A complete record shall be kept and made available to the general public for public inspection at the earliest time consistent with trial fairness.

(f) All proceedings on a motion or a proposed court order to exclude the public must be recorded for subsequent review.

(g) The court must make, on the record, specific findings of fact and conclusions of law to support its ruling on any such motion or proposed order.

As added by Acts 1982, P.L.40, SEC.1.

IC 5-14-2-7 Inherent power of court

Sec. 7. This chapter does not affect the inherent power of a court to make limited exclusions of witnesses, to relieve overcrowding, to protect the order and decorum of the courtroom, or to exclude those individuals whose presence constitutes a direct threat to the safety of the spectators, parties, or witnesses.

As added by Acts 1982, P.L.40, SEC.1.

IC 5-14-2-8 Original action to contest exclusion ruling of trial court

Sec. 8. (a) Any party or member of the general public aggrieved by the ruling of the court on the issue of exclusion of the general public from a criminal proceeding has the right to bring an original action before the supreme court of Indiana under the Rules of Procedure for Original Actions Including Writs of Mandate and Prohibition contesting the ruling.

(b) The general public has standing to bring an original action.

(c) Either the filing of a motion or a proposed court order to exclude the general public, or the presenting to the court of an objection to a motion to exclude, constitutes a showing that the duty to act has been presented or brought to the attention of the trial court.

(d) A trial court is without authority to act upon any exclusion motion or issue an exclusion order on its own unless:

- (1) it complies with sections 3, 4, and 5 of this chapter; and
- (2) its findings of fact and conclusions of law are supported by the record of the proceedings.

As added by Acts 1982, P.L.40, SEC.1.

IC 5-14-3**Chapter 3. Access to Public Records**

5-14-3-1	Public policy; construction; burden of proof for nondisclosure
5-14-3-2	Definitions
5-14-3-2.1	"Public agency"; certain providers exempted
5-14-3-2.2	Private university police department records
5-14-3-3	Right to inspect and copy public agency records or recordings; electronic data storage; use of information for commercial purposes; contracts
5-14-3-3.5	"State agency"
5-14-3-3.6	Public agencies; enhanced access to public records; office of technology
5-14-3-4	Records and recordings exempted from disclosure; time limitations; destruction of records
5-14-3-4	Records and recordings exempted from disclosure; time limitations; destruction of records
5-14-3-4.1	Repealed
5-14-3-4.3	Job title or job descriptions of law enforcement officers
5-14-3-4.4	Investigatory records, records relating to criminal intelligence information, records relating to public safety; agency actions; court actions
5-14-3-4.5	Repealed
5-14-3-4.7	Negotiation records; final offers; certification of final offer disclosure
5-14-3-4.8	Records exempt from disclosure requirements; tourism development negotiations; final offers public
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5-14-3-5	Information relating to arrest or summons; jailed persons; records of law enforcement agencies and private university police departments
5-14-3-5.1	Inspection of law enforcement recordings; obscuring of undercover law enforcement officer; obscuring of confidential informants
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5-14-3-8	Fees; copies
5-14-3-8.3	Enhanced access fund; establishment by ordinance; purpose
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5-14-3-9	Denial of disclosure; action to compel disclosure; intervenors; burden of proof; attorney's fees and costs
5-14-3-9.5	Civil penalties imposed on public agency, officer, or management level employee
5-14-3-10	Classified confidential information; unauthorized disclosure or failure to protect; offense; discipline

IC 5-14-3-1**Public policy; construction; burden of proof for nondisclosure**

Sec. 1. A fundamental philosophy of the American constitutional form of representative government is that government is the servant of the people and not their master. Accordingly, it is the public policy of the state that all persons are entitled to full and complete information regarding the affairs of government and the official acts of those who represent them as public officials and employees. Providing persons with the information is an essential function of a representative government and an integral part of the routine duties of public officials and employees, whose duty it is to provide the information. This chapter shall be liberally construed to implement this policy and place the burden of proof for the nondisclosure of a public record on the public agency that would deny access to the record and not on the person seeking to inspect and copy the record.

As added by P.L.19-1983, SEC.6. Amended by P.L.77-1995, SEC.1.

IC 5-14-3-2**Definitions**

Sec. 2. (a) The definitions set forth in this section apply throughout this chapter.

(b) "Copy" includes transcribing by handwriting, photocopying, xerography, duplicating machine, duplicating electronically stored data onto a disk, tape, drum, or any other medium of electronic data storage, and reproducing by any other means.

(c) "Criminal intelligence information" means data that has been evaluated to determine that the data is relevant to:

- (1) the identification of; and
- (2) the criminal activity engaged in by;

an individual who or organization that is reasonably suspected of involvement in criminal activity.

(d) "Direct cost" means one hundred five percent (105%) of the sum of the cost of:

- (1) the initial development of a program, if any;
- (2) the labor required to retrieve electronically stored data; and
- (3) any medium used for electronic output;

for providing a duplicate of electronically stored data onto a disk, tape, drum, or other medium of electronic data retrieval under section 8(g) of this chapter, or for reprogramming a computer system under section 6(c) of this chapter.

(e) "Electronic map" means copyrighted data provided by a public agency from an electronic geographic information system.

(f) "Enhanced access" means the inspection of a public record by a person other than a governmental entity and that:

- (1) is by means of an electronic device other than an electronic device provided by a public agency in the office of the public agency; or
- (2) requires the compilation or creation of a list or report that does not result in the permanent electronic storage of the information.

(g) "Facsimile machine" means a machine that electronically transmits exact images through connection with a telephone network.

(h) "Inspect" includes the right to do the following:

- (1) Manually transcribe and make notes, abstracts, or memoranda.
- (2) In the case of tape recordings or other aural public records, to listen and manually transcribe or duplicate, or make notes, abstracts, or other memoranda from them.
- (3) In the case of public records available:
 - (A) by enhanced access under section 3.5 of this chapter; or
 - (B) to a governmental entity under section 3(c)(2) of this chapter; to examine and copy the public records by use of an electronic device.
- (4) In the case of electronically stored data, to manually transcribe and make notes, abstracts, or memoranda or to duplicate the data onto a disk, tape, drum, or any other medium of electronic storage.

(i) "Investigatory record" means information compiled in the course of the investigation of a crime.

(j) "Law enforcement activity" means:

- (1) a traffic stop;
- (2) a pedestrian stop;
- (3) an arrest;
- (4) a search;
- (5) an investigation;
- (6) a pursuit;
- (7) crowd control;
- (8) traffic control; or
- (9) any other instance in which a law enforcement officer is enforcing the law.

The term does not include an administrative activity, including the completion of paperwork related to a law enforcement activity, or a custodial interrogation conducted in a place of detention as described in Indiana Evidence Rule 617, regardless of the ultimate admissibility

of a statement made during the custodial interrogation.

(k) "Law enforcement recording" means an audio, visual, or audiovisual recording of a law enforcement activity captured by a camera or other device that is:

- (1) provided to or used by a law enforcement officer in the scope of the officer's duties; and
- (2) designed to be worn by a law enforcement officer or attached to the vehicle or transportation of a law enforcement officer.

(l) "Offender" means a person confined in a penal institution as the result of the conviction for a crime.

(m) "Patient" has the meaning set out in IC 16-18-2-272(d).

(n) "Person" means an individual, a corporation, a limited liability company, a partnership, an unincorporated association, or a governmental entity.

(o) "Private university police department" means the police officers appointed by the governing board of a private university under IC 21-17-5.

(p) "Provider" has the meaning set out in IC 16-18-2-295(b) and includes employees of the state department of health or local boards of health who create patient records at the request of another provider or who are social workers and create records concerning the family background of children who may need assistance.

(q) "Public agency", except as provided in section 2.1 of this chapter, means the following:

(1) Any board, commission, department, division, bureau, committee, agency, office, instrumentality, or authority, by whatever name designated, exercising any part of the executive, administrative, judicial, or legislative power of the state.

(2) Any:

(A) county, township, school corporation, city, or town, or any board, commission, department, division, bureau, committee, office, instrumentality, or authority of any county, township, school corporation, city, or town;

(B) political subdivision (as defined by IC 36-1-2-13); or

(C) other entity, or any office thereof, by whatever name designated, exercising in a limited geographical area the executive, administrative, judicial, or legislative power of the state or a delegated local governmental power.

(3) Any entity or office that is subject to:

(A) budget review by either the department of local government finance or the governing body of a county, city, town, township, or school corporation; or

(B) an audit by the state board of accounts that is required by statute, rule, or regulation.

(4) Any building corporation of a political subdivision that issues bonds for the purpose of constructing public facilities.

(5) Any advisory commission, committee, or body created by statute, ordinance, or executive order to advise the governing body of a public agency, except medical staffs or the committees of any such staff.

(6) Any law enforcement agency, which means an agency or a department of any level of government that engages in the investigation, apprehension, arrest, or prosecution of alleged criminal offenders, such as the state police department, the police or sheriff's department of a political subdivision, prosecuting attorneys, members of the excise police division of the alcohol and tobacco commission, conservation officers of the department of natural resources, gaming agents of the Indiana gaming commission, gaming control officers of the Indiana gaming commission, and the security division of the state lottery commission.

(7) Any license branch operated under IC 9-14.1.

(8) The state lottery commission established by IC 4-30-3-1, including any department, division, or office of the commission.

(9) The Indiana gaming commission established under IC 4-33, including any

department, division, or office of the commission.

(10) The Indiana horse racing commission established by IC 4-31, including any department, division, or office of the commission.

(11) A private university police department. The term does not include the governing board of a private university or any other department, division, board, entity, or office of a private university.

(r) "Public record" means any writing, paper, report, study, map, photograph, book, card, tape recording, or other material that is created, received, retained, maintained, or filed by or with a public agency and which is generated on paper, paper substitutes, photographic media, chemically based media, magnetic or machine readable media, electronically stored data, or any other material, regardless of form or characteristics.

(s) "Standard-sized documents" includes all documents that can be mechanically reproduced (without mechanical reduction) on paper sized eight and one-half (8 1/2) inches by eleven (11) inches or eight and one-half (8 1/2) inches by fourteen (14) inches.

(t) "Trade secret" has the meaning set forth in IC 24-2-3-2.

(u) "Work product of an attorney" means information compiled by an attorney in reasonable anticipation of litigation. The term includes the attorney's:

- (1) notes and statements taken during interviews of prospective witnesses; and
- (2) legal research or records, correspondence, reports, or memoranda to the extent that each contains the attorney's opinions, theories, or conclusions.

This definition does not restrict the application of any exception under section 4 of this chapter.

As added by P.L.19-1983, SEC.6. Amended by P.L.34-1984, SEC.1; P.L.54-1985, SEC.1; P.L.50-1986, SEC.1; P.L.42-1986, SEC.2; P.L.341-1989(ss), SEC.6; P.L.2-1991, SEC.29; P.L.2-1992, SEC.53; P.L.2-1993, SEC.49; P.L.58-1993, SEC.1; P.L.8-1993, SEC.57; P.L.277-1993(ss), SEC.128; P.L.1-1994, SEC.21; P.L.77-1995, SEC.2; P.L.50-1995, SEC.15; P.L.1-1999, SEC.6; P.L.256-1999, SEC.1; P.L.204-2001, SEC.12; P.L.90-2002, SEC.18; P.L.261-2003, SEC.5; P.L.2-2005, SEC.16; P.L.170-2005, SEC.17; P.L.1-2006, SEC.101; P.L.1-2007, SEC.28; P.L.179-2007, SEC.7; P.L.227-2007, SEC.57; P.L.3-2008, SEC.28; P.L.51-2008, SEC.1; P.L.248-2013, SEC.2; P.L.58-2016, SEC.1; P.L.198-2016, SEC.12; P.L.85-2017, SEC.11; P.L.217-2016, SEC.1; P.L.85-2017, SEC.12.

IC 5-14-3-2.1 "Public agency"; certain providers exempted

Sec. 2.1. "Public agency", for purposes of this chapter, does not mean a provider of goods, services, or other benefits that meets the following requirements:

- (1) The provider receives public funds through an agreement with the state, a county, or a municipality that meets the following requirements:
 - (A) The agreement provides for the payment of fees to the entity in exchange for services, goods, or other benefits.
 - (B) The amount of fees received by the entity under the agreement is not based upon or does not involve a consideration of the tax revenues or receipts of the state, county, or municipality.
 - (C) The amount of the fees are negotiated by the entity and the state, county, or municipality.
 - (D) The state, county, or municipality is billed for fees by the entity for the services, goods, or other benefits actually provided by the entity.
- (2) The provider is not required by statute, rule, or regulation to be audited by the state board of accounts.

As added by P.L.179-2007, SEC.8.

IC 5-14-3-2.2 Private university police department records

Sec. 2.2. (a) The following records of a private university police department are public records and subject to this chapter:

(1) A record created or received after July 1, 2016, by a private university police department, to the extent the record:

- (A) is created solely for a law enforcement purpose; and
- (B) relates to arrests or incarcerations for criminal offenses.

(2) A record that is created in compliance with 20 U.S.C. 1092 and 34 CFR 668, to the extent that public access is required under federal law.

The name of a crime victim must be redacted, unless release of the name is authorized by the crime victim.

(b) If a request for a private university police department record is denied under section 3 of this chapter, a civil action may be filed under section 9 of this chapter and the court may assess a civil penalty under section 9.5 of this chapter.

As added by P.L.217-2016, SEC.2.

**IC 5-14-3-3 Right to inspect and copy public agency records or recordings;
electronic data storage; use of information for commercial
purposes; contracts**

Sec. 3. (a) Any person may inspect and copy the public records of any public agency during the regular business hours of the agency, except as provided in section 4 of this chapter. A request for inspection or copying must:

- (1) identify with reasonable particularity the record being requested; and
- (2) be, at the discretion of the agency, in writing on or in a form provided by the agency.

No request may be denied because the person making the request refuses to state the purpose of the request, unless such condition is required by other applicable statute. If a request is for inspection or copying of a law enforcement recording, the request must provide the information required under subsection (i).

(b) A public agency may not deny or interfere with the exercise of the right stated in subsection (a). Within a reasonable time after the request is received by the agency, the public agency shall either:

- (1) provide the requested copies to the person making the request; or
- (2) allow the person to make copies:
 - (A) on the agency's equipment; or
 - (B) on the person's own equipment.

(c) Notwithstanding subsections (a) and (b), a public agency may or may not do the following:

- (1) In accordance with a contract described in section 3.5 of this chapter, permit a person to inspect and copy through the use of enhanced access public records containing information owned by or entrusted to the public agency.
- (2) Permit a governmental entity to use an electronic device to inspect and copy public records containing information owned by or entrusted to the public agency.

(d) Except as provided in subsection (e) and subject to subsection (j), a public agency that maintains or contracts for the maintenance of public records in an electronic data storage system shall make reasonable efforts to provide to a person making a request a copy of all disclosable data contained in the records on paper, disk, tape, drum, or any other method of electronic retrieval if the medium requested is compatible with the agency's data storage system. This subsection does not apply to an electronic map.

(e) A state agency may adopt a rule under IC 4-22-2, and a political subdivision may enact an ordinance, prescribing the conditions under which a person who receives information on disk or tape under subsection (d) may or may not use the information for commercial purposes, including to sell, advertise, or solicit the purchase of merchandise, goods, or services, or sell, loan, give away, or otherwise deliver the information obtained by the request to any other person for these purposes. Use of information received under subsection (d) in connection with the preparation or publication of news, for nonprofit

activities, or for academic research is not prohibited. A person who uses information in a manner contrary to a rule or ordinance adopted under this subsection may be prohibited by the state agency or political subdivision from obtaining a copy or any further data under subsection (d).

(f) Notwithstanding the other provisions of this section, a public agency is not required to create or provide copies of lists of names and addresses (including electronic mail account addresses) unless the public agency is required to publish such lists and disseminate them to the public under a statute. However, if a public agency has created a list of names and addresses (excluding electronic mail account addresses), it must permit a person to inspect and make memoranda abstracts from the list unless access to the list is prohibited by law. The lists of names and addresses (including electronic mail account addresses) described in subdivisions (1) through (3) may not be disclosed by public agencies to any individual or entity for political purposes and may not be used by any individual or entity for political purposes. In addition, the lists of names and addresses (including electronic mail account addresses) described in subdivisions (1) through (3) may not be disclosed by public agencies to commercial entities for commercial purposes and may not be used by commercial entities for commercial purposes. The prohibition in this subsection against the disclosure of lists for political or commercial purposes applies to the following lists of names and addresses (including electronic mail account addresses):

- (1) A list of employees of a public agency.
- (2) A list of persons attending conferences or meetings at a state educational institution or of persons involved in programs or activities conducted or supervised by the state educational institution.
- (3) A list of students who are enrolled in a public school corporation if the governing body of the public school corporation adopts a policy:
 - (A) with respect to disclosure related to a commercial purpose, prohibiting the disclosure of the list to commercial entities for commercial purposes;
 - (B) with respect to disclosure related to a commercial purpose, specifying the classes or categories of commercial entities to which the list may not be disclosed or by which the list may not be used for commercial purposes; or
 - (C) with respect to disclosure related to a political purpose, prohibiting the disclosure of the list to individuals and entities for political purposes.

A policy adopted under subdivision (3)(A) or (3)(B) must be uniform and may not discriminate among similarly situated commercial entities. For purposes of this subsection, "political purposes" means influencing the election of a candidate for federal, state, legislative, local, or school board office or the outcome of a public question or attempting to solicit a contribution to influence the election of a candidate for federal, state, legislative, local, or school board office or the outcome of a public question.

(g) A public agency may not enter into or renew a contract or an obligation:

- (1) for the storage or copying of public records; or
- (2) that requires the public to obtain a license or pay copyright royalties for obtaining the right to inspect and copy the records unless otherwise provided by applicable statute;

if the contract, obligation, license, or copyright unreasonably impairs the right of the public to inspect and copy the agency's public records.

(h) If this section conflicts with IC 3-7, the provisions of IC 3-7 apply.

(i) A request to inspect or copy a law enforcement recording must be in writing. A request identifies a law enforcement recording with reasonable particularity as required by this section only if the request provides the following information regarding the law enforcement activity depicted in the recording:

- (1) The date and approximate time of the law enforcement activity.
- (2) The specific location where the law enforcement activity occurred.
- (3) The name of at least one (1) individual, other than a law enforcement officer, who

was directly involved in the law enforcement activity.

(j) This subsection applies to a public record that is in an electronic format. This subsection does not apply to a public record recorded in the office of the county recorder. A public agency shall provide an electronic copy or a paper copy of a public record, at the option of the person making the request for the public record. This subsection does not require a public agency to change the format of a public record.

As added by P.L.19-1983, SEC.6. Amended by P.L.54-1985, SEC.2; P.L.51-1986, SEC.1; P.L.58-1993, SEC.2; P.L.77-1995, SEC.3; P.L.173-2003, SEC.4 and P.L.261-2003, SEC.6; P.L.22-2006, SEC.1; P.L.1-2007, SEC.29; P.L.2-2007, SEC.100; P.L.134-2012, SEC.17; P.L.58-2016, SEC.2; P.L.171-2018, SEC.2.

IC 5-14-3-3.5 "State agency"

Sec. 3.5. (a) As used in this section, "state agency" has the meaning set forth in IC 4-13-1-1. The term does not include the office of the following elected state officials:

- (1) Secretary of state.
- (2) Auditor.
- (3) Treasurer.
- (4) Attorney general.
- (5) Superintendent of public instruction. This subdivision does not apply after January 10, 2021.

However, each state office described in subdivisions (1) through (5) and the judicial department of state government may use the computer gateway administered by the office of technology established by IC 4-13.1-2-1, subject to the requirements of this section.

(b) As an additional means of inspecting and copying public records, a state agency may provide enhanced access to public records maintained by the state agency.

(c) If the state agency has entered into a contract with a third party under which the state agency provides enhanced access to the person through the third party's computer gateway or otherwise, all of the following apply to the contract:

- (1) The contract between the state agency and the third party must provide for the protection of public records in accordance with subsection (d).
- (2) The contract between the state agency and the third party may provide for the payment of a reasonable fee to the state agency by either:
 - (A) the third party; or
 - (B) the person.

(d) A contract required by this section must provide that the person and the third party will not engage in the following:

- (1) Unauthorized enhanced access to public records.
- (2) Unauthorized alteration of public records.
- (3) Disclosure of confidential public records.

(e) A state agency shall provide enhanced access to public records only through the computer gateway administered by the office of technology.

As added by P.L.58-1993, SEC.3. Amended by P.L.77-1995, SEC.4; P.L.19-1997, SEC.2; P.L.14-2004, SEC.183; P.L.177-2005, SEC.15; P.L.219-2017, SEC.13; P.L.8-2019, SEC.13.

IC 5-14-3-3.6 Public agencies; enhanced access to public records; office of technology

Sec. 3.6. (a) As used in this section "public agency" does not include a state agency (as defined in section 3.5(a) of this chapter).

(b) As an additional means of inspecting and copying public records, a public agency may provide enhanced access to public records maintained by the public agency.

(c) A public agency may provide a person with enhanced access to public records if any of the following apply:

- (1) The public agency provides enhanced access to the person through its own

computer gateway and provides for the protection of public records under subsection (d).

(2) The public agency has entered into a contract with a third party under which the public agency provides enhanced access to the person through the third party's computer gateway or otherwise, and the contract between the public agency and the third party provides for the protection of public records in accordance with subsection (d).

(d) A contract entered into under this section and any other provision of enhanced access must provide that the third party and the person will not engage in the following:

- (1) Unauthorized enhanced access to public records.
- (2) Unauthorized alteration of public records.
- (3) Disclosure of confidential public records.

(e) A contract entered into under this section or any provision of enhanced access may require the payment of a reasonable fee to either the third party to a contract or to the public agency, or both, from the person.

(f) A public agency may provide enhanced access to public records through the computer gateway administered by the office of technology established by IC 4-13.1-2-1.

As added by P.L.19-1997, SEC.3. Amended by P.L.177-2005, SEC.16.

IC 5-14-3-4 Records and recordings exempted from disclosure; time limitations; destruction of records

Note: This version of section effective until 7-1-2019. See also following version of this section, effective 7-1-2019.

Sec. 4. (a) The following public records are excepted from section 3 of this chapter and may not be disclosed by a public agency, unless access to the records is specifically required by a state or federal statute or is ordered by a court under the rules of discovery:

- (1) Those declared confidential by state statute.
- (2) Those declared confidential by rule adopted by a public agency under specific authority to classify public records as confidential granted to the public agency by statute.
- (3) Those required to be kept confidential by federal law.
- (4) Records containing trade secrets.
- (5) Confidential financial information obtained, upon request, from a person. However, this does not include information that is filed with or received by a public agency pursuant to state statute.
- (6) Information concerning research, including actual research documents, conducted under the auspices of a state educational institution, including information:
 - (A) concerning any negotiations made with respect to the research; and
 - (B) received from another party involved in the research.
- (7) Grade transcripts and license examination scores obtained as part of a licensure process.
- (8) Those declared confidential by or under rules adopted by the supreme court of Indiana.
- (9) Patient medical records and charts created by a provider, unless the patient gives written consent under IC 16-39 or as provided under IC 16-41-8.
- (10) Application information declared confidential by the Indiana economic development corporation under IC 5-28-16.
- (11) A photograph, a video recording, or an audio recording of an autopsy, except as provided in IC 36-2-14-10.
- (12) A Social Security number contained in the records of a public agency.
- (13) The following information that is part of a foreclosure action subject to IC 32-30-10.5:
 - (A) Contact information for a debtor, as described in IC 32-30-10.5-8(d)(1)(B).

(B) Any document submitted to the court as part of the debtor's loss mitigation package under IC 32-30-10.5-10(a)(3).

(14) The following information obtained from a call made to a fraud hotline established under IC 36-1-8-8.5:

(A) The identity of any individual who makes a call to the fraud hotline.

(B) A report, transcript, audio recording, or other information concerning a call to the fraud hotline.

However, records described in this subdivision may be disclosed to a law enforcement agency, a private university police department, the attorney general, the inspector general, the state examiner, or a prosecuting attorney.

(b) Except as otherwise provided by subsection (a), the following public records shall be excepted from section 3 of this chapter at the discretion of a public agency:

(1) Investigatory records of law enforcement agencies or private university police departments. For purposes of this chapter, a law enforcement recording is not an investigatory record. Law enforcement agencies or private university police departments may share investigatory records with a person who advocates on behalf of a crime victim, including a victim advocate (as defined in IC 35-37-6-3.5) or a victim service provider (as defined in IC 35-37-6-5), for the purposes of providing services to a victim or describing services that may be available to a victim, without the law enforcement agency or private university police department losing its discretion to keep those records confidential from other records requesters. However, certain law enforcement records must be made available for inspection and copying as provided in section 5 of this chapter.

(2) The work product of an attorney representing, pursuant to state employment or an appointment by a public agency:

(A) a public agency;

(B) the state; or

(C) an individual.

(3) Test questions, scoring keys, and other examination data used in administering a licensing examination, examination for employment, or academic examination before the examination is given or if it is to be given again.

(4) Scores of tests if the person is identified by name and has not consented to the release of the person's scores.

(5) The following:

(A) Records relating to negotiations between:

(i) the Indiana economic development corporation;

(ii) the ports of Indiana;

(iii) the Indiana state department of agriculture;

(iv) the Indiana finance authority;

(v) an economic development commission;

(vi) a local economic development organization that is a nonprofit corporation established under state law whose primary purpose is the promotion of industrial or business development in Indiana, the retention or expansion of Indiana businesses, or the development of entrepreneurial activities in Indiana; or

(vii) a governing body of a political subdivision;

with industrial, research, or commercial prospects, if the records are created while negotiations are in progress. However, this clause does not apply to records regarding research that is prohibited under IC 16-34.5-1-2 or any other law.

(B) Notwithstanding clause (A), the terms of the final offer of public financial resources communicated by the Indiana economic development corporation, the ports of Indiana, the Indiana finance authority, an economic development commission, or a governing body of a political subdivision to an industrial, a research, or a commercial prospect shall be available for inspection and copying

under section 3 of this chapter after negotiations with that prospect have terminated.
(C) When disclosing a final offer under clause (B), the Indiana economic development corporation shall certify that the information being disclosed accurately and completely represents the terms of the final offer.

(D) Notwithstanding clause (A), an incentive agreement with an incentive recipient shall be available for inspection and copying under section 3 of this chapter after the date the incentive recipient and the Indiana economic development corporation execute the incentive agreement regardless of whether negotiations are in progress with the recipient after that date regarding a modification or extension of the incentive agreement.

(6) Records that are intra-agency or interagency advisory or deliberative material, including material developed by a private contractor under a contract with a public agency, that are expressions of opinion or are of a speculative nature, and that are communicated for the purpose of decision making.

(7) Diaries, journals, or other personal notes serving as the functional equivalent of a diary or journal.

(8) Personnel files of public employees and files of applicants for public employment, except for:

(A) the name, compensation, job title, business address, business telephone number, job description, education and training background, previous work experience, or dates of first and last employment of present or former officers or employees of the agency;

(B) information relating to the status of any formal charges against the employee; and

(C) the factual basis for a disciplinary action in which final action has been taken and that resulted in the employee being suspended, demoted, or discharged.

However, all personnel file information shall be made available to the affected employee or the employee's representative. This subdivision does not apply to disclosure of personnel information generally on all employees or for groups of employees without the request being particularized by employee name.

(9) Minutes or records of hospital medical staff meetings.

(10) Administrative or technical information that would jeopardize a record keeping, voting system, voter registration system, or security system.

(11) Computer programs, computer codes, computer filing systems, and other software that are owned by the public agency or entrusted to it and portions of electronic maps entrusted to a public agency by a utility.

(12) Records specifically prepared for discussion or developed during discussion in an executive session under IC 5-14-1.5-6.1. However, this subdivision does not apply to that information required to be available for inspection and copying under subdivision (8).

(13) The work product of the legislative services agency under personnel rules approved by the legislative council.

(14) The work product of individual members and the partisan staffs of the general assembly.

(15) The identity of a donor of a gift made to a public agency if:

(A) the donor requires nondisclosure of the donor's identity as a condition of making the gift; or

(B) after the gift is made, the donor or a member of the donor's family requests nondisclosure.

(16) Library or archival records:

(A) which can be used to identify any library patron; or

(B) deposited with or acquired by a library upon a condition that the records be disclosed only:

(i) to qualified researchers;

(ii) after the passing of a period of years that is specified in the documents under which the deposit or acquisition is made; or

(iii) after the death of persons specified at the time of the acquisition or deposit.

However, nothing in this subdivision shall limit or affect contracts entered into by the Indiana state library pursuant to IC 4-1-6-8.

(17) The identity of any person who contacts the bureau of motor vehicles concerning the ability of a driver to operate a motor vehicle safely and the medical records and evaluations made by the bureau of motor vehicles staff or members of the driver licensing medical advisory board regarding the ability of a driver to operate a motor vehicle safely. However, upon written request to the commissioner of the bureau of motor vehicles, the driver must be given copies of the driver's medical records and evaluations.

(18) School safety and security measures, plans, and systems, including emergency preparedness plans developed under 511 IAC 6.1-2-2.5.

(19) A record or a part of a record, the public disclosure of which would have a reasonable likelihood of threatening public safety by exposing a vulnerability to terrorist attack. A record described under this subdivision includes the following:

(A) A record assembled, prepared, or maintained to prevent, mitigate, or respond to an act of terrorism under IC 35-47-12-1 or an act of agricultural terrorism under IC 35-47-12-2.

(B) Vulnerability assessments.

(C) Risk planning documents.

(D) Needs assessments.

(E) Threat assessments.

(F) Intelligence assessments.

(G) Domestic preparedness strategies.

(H) The location of community drinking water wells and surface water intakes.

(I) The emergency contact information of emergency responders and volunteers.

(J) Infrastructure records that disclose the configuration of critical systems such as voting system and voter registration system critical infrastructure, communication, electrical, ventilation, water, and wastewater systems.

(K) Detailed drawings or specifications of structural elements, floor plans, and operating, utility, or security systems, whether in paper or electronic form, of any building or facility located on an airport (as defined in IC 8-21-1-1) that is owned, occupied, leased, or maintained by a public agency, or any part of a law enforcement recording that captures information about airport security procedures, areas, or systems. A record described in this clause may not be released for public inspection by any public agency without the prior approval of the public agency that owns, occupies, leases, or maintains the airport. Both of the following apply to the public agency that owns, occupies, leases, or maintains the airport:

(i) The public agency is responsible for determining whether the public disclosure of a record or a part of a record, including a law enforcement recording, has a reasonable likelihood of threatening public safety by exposing a security procedure, area, system, or vulnerability to terrorist attack.

(ii) The public agency must identify a record described under item (i) and clearly mark the record as "confidential and not subject to public disclosure under IC 5-14-3-4(b)(19)(J) without approval of (insert name of submitting public agency)". However, in the case of a law enforcement recording, the public agency must clearly mark the record as "confidential and not subject to public disclosure under IC 5-14-3-4(b)(19)(K) without approval of (insert name of the public agency that owns, occupies, leases, or maintains the airport)".

(L) The home address, home telephone number, and emergency contact information for any:

- (i) emergency management worker (as defined in IC 10-14-3-3);
- (ii) public safety officer (as defined in IC 35-47-4.5-3);
- (iii) emergency medical responder (as defined in IC 16-18-2-109.8); or
- (iv) advanced emergency medical technician (as defined in IC 16-18-2-6.5).

This subdivision does not apply to a record or portion of a record pertaining to a location or structure owned or protected by a public agency in the event that an act of terrorism under IC 35-47-12-1 or an act of agricultural terrorism under IC 35-47-12-2 has occurred at that location or structure, unless release of the record or portion of the record would have a reasonable likelihood of threatening public safety by exposing a vulnerability of other locations or structures to terrorist attack.

(20) The following personal information concerning a customer of a municipally owned utility (as defined in IC 8-1-2-1):

- (A) Telephone number.
- (B) Address.
- (C) Social Security number.

(21) The following personal information about a complainant contained in records of a law enforcement agency:

- (A) Telephone number.
- (B) The complainant's address. However, if the complainant's address is the location of the suspected crime, infraction, accident, or complaint reported, the address shall be made available for public inspection and copying.

(22) Notwithstanding subdivision (8)(A), the name, compensation, job title, business address, business telephone number, job description, education and training background, previous work experience, or dates of first employment of a law enforcement officer who is operating in an undercover capacity.

(23) Records requested by an offender that:

- (A) contain personal information relating to:
 - (i) a correctional officer (as defined in IC 5-10-10-1.5);
 - (ii) a law enforcement officer (as defined in IC 35-31.5-2-185);
 - (iii) a judge (as defined in IC 33-38-12-3);
 - (iv) the victim of a crime; or
 - (v) a family member of a correctional officer, law enforcement officer (as defined in IC 35-31.5-2-185), judge (as defined in IC 33-38-12-3), or victim of a crime;or
- (B) concern or could affect the security of a jail or correctional facility.

(24) Information concerning an individual less than eighteen (18) years of age who participates in a conference, meeting, program, or activity conducted or supervised by a state educational institution, including the following information regarding the individual or the individual's parent or guardian:

- (A) Name.
- (B) Address.
- (C) Telephone number.
- (D) Electronic mail account address.

(25) Criminal intelligence information.

(26) The following information contained in a report of unclaimed property under IC 32-34-1-26 or in a claim for unclaimed property under IC 32-34-1-36:

- (A) Date of birth.
- (B) Driver's license number.
- (C) Taxpayer identification number.
- (D) Employer identification number.
- (E) Account number.

(27) Except as provided in subdivision (19) and sections 5.1 and 5.2 of this chapter, a law enforcement recording. However, before disclosing the recording, the public

agency must comply with the obscuring requirements of sections 5.1 and 5.2 of this chapter, if applicable.

(28) Records relating to negotiations between a state educational institution and another entity concerning the establishment of a collaborative relationship or venture to advance the research, engagement, or educational mission of the state educational institution, if the records are created while negotiations are in progress. The terms of the final offer of public financial resources communicated by the state educational institution to an industrial, a research, or a commercial prospect shall be available for inspection and copying under section 3 of this chapter after negotiations with that prospect have terminated. However, this subdivision does not apply to records regarding research prohibited under IC 16-34.5-1-2 or any other law.

(c) Nothing contained in subsection (b) shall limit or affect the right of a person to inspect and copy a public record required or directed to be made by any statute or by any rule of a public agency.

(d) Notwithstanding any other law, a public record that is classified as confidential, other than a record concerning an adoption or patient medical records, shall be made available for inspection and copying seventy-five (75) years after the creation of that record.

(e) Only the content of a public record may form the basis for the adoption by any public agency of a rule or procedure creating an exception from disclosure under this section.

(f) Except as provided by law, a public agency may not adopt a rule or procedure that creates an exception from disclosure under this section based upon whether a public record is stored or accessed using paper, electronic media, magnetic media, optical media, or other information storage technology.

(g) Except as provided by law, a public agency may not adopt a rule or procedure nor impose any costs or liabilities that impede or restrict the reproduction or dissemination of any public record.

(h) Notwithstanding subsection (d) and section 7 of this chapter:

(1) public records subject to IC 5-15 may be destroyed only in accordance with record retention schedules under IC 5-15; or

(2) public records not subject to IC 5-15 may be destroyed in the ordinary course of business.

As added by P.L.19-1983, SEC.6. Amended by P.L.57-1983, SEC.1; P.L.34-1984, SEC.2; P.L.54-1985, SEC.3; P.L.50-1986, SEC.2; P.L.20-1988, SEC.12; P.L.11-1990, SEC.111; P.L.1-1991, SEC.38; P.L.10-1991, SEC.9; P.L.50-1991, SEC.1; P.L.49-1991, SEC.1; P.L.1-1992, SEC.11; P.L.2-1993, SEC.50; P.L.58-1993, SEC.4; P.L.190-1999, SEC.2; P.L.37-2000, SEC.2; P.L.271-2001, SEC.1; P.L.201-2001, SEC.1; P.L.1-2002, SEC.17; P.L.173-2003, SEC.5; P.L.261-2003, SEC.7; P.L.208-2003, SEC.1; P.L.200-2003, SEC.3; P.L.210-2005, SEC.1; P.L.1-2006, SEC.102; P.L.101-2006, SEC.4; P.L.2-2007, SEC.101; P.L.172-2007, SEC.1; P.L.179-2007, SEC.9; P.L.3-2008, SEC.29; P.L.51-2008, SEC.2; P.L.98-2008, SEC.4; P.L.120-2008, SEC.2; P.L.94-2010, SEC.1; P.L.170-2011, SEC.1; P.L.134-2012, SEC.18; P.L.184-2013, SEC.1; P.L.248-2013, SEC.3; P.L.175-2013, SEC.1; P.L.56-2014, SEC.1; P.L.168-2014, SEC.9; P.L.9-2015, SEC.1; P.L.181-2015, SEC.20; P.L.145-2016, SEC.3; P.L.58-2016, SEC.3; P.L.217-2016, SEC.3; P.L.197-2017, SEC.3; P.L.71-2019, SEC.31.

IC 5-14-3-4 Records and recordings exempted from disclosure; time limitations; destruction of records

Note: This version of section effective 7-1-2019. See also preceding version of this section, effective until 7-1-2019.

Sec. 4. (a) The following public records are excepted from section 3 of this chapter and may not be disclosed by a public agency, unless access to the records is specifically required by a state or federal statute or is ordered by a court under the rules of discovery:

(1) Those declared confidential by state statute.

(2) Those declared confidential by rule adopted by a public agency under specific authority to classify public records as confidential granted to the public agency by statute.

(3) Those required to be kept confidential by federal law.

(4) Records containing trade secrets.

(5) Confidential financial information obtained, upon request, from a person. However, this does not include information that is filed with or received by a public agency pursuant to state statute.

(6) Information concerning research, including actual research documents, conducted under the auspices of a state educational institution, including information:

(A) concerning any negotiations made with respect to the research; and

(B) received from another party involved in the research.

(7) Grade transcripts and license examination scores obtained as part of a licensure process.

(8) Those declared confidential by or under rules adopted by the supreme court of Indiana.

(9) Patient medical records and charts created by a provider, unless the patient gives written consent under IC 16-39 or as provided under IC 16-41-8.

(10) Application information declared confidential by the Indiana economic development corporation under IC 5-28-16.

(11) A photograph, a video recording, or an audio recording of an autopsy, except as provided in IC 36-2-14-10.

(12) A Social Security number contained in the records of a public agency.

(13) The following information that is part of a foreclosure action subject to IC 32-30-10.5:

(A) Contact information for a debtor, as described in IC 32-30-10.5-8(d)(1)(B).

(B) Any document submitted to the court as part of the debtor's loss mitigation package under IC 32-30-10.5-10(a)(3).

(14) The following information obtained from a call made to a fraud hotline established under IC 36-1-8-8.5:

(A) The identity of any individual who makes a call to the fraud hotline.

(B) A report, transcript, audio recording, or other information concerning a call to the fraud hotline.

However, records described in this subdivision may be disclosed to a law enforcement agency, a private university police department, the attorney general, the inspector general, the state examiner, or a prosecuting attorney.

(b) Except as otherwise provided by subsection (a), the following public records shall be excepted from section 3 of this chapter at the discretion of a public agency:

(1) Investigatory records of law enforcement agencies or private university police departments. For purposes of this chapter, a law enforcement recording is not an investigatory record. Law enforcement agencies or private university police departments may share investigatory records with a:

(A) person who advocates on behalf of a crime victim, including a victim advocate (as defined in IC 35-37-6-3.5) or a victim service provider (as defined in IC 35-37-6-5), for the purposes of providing services to a victim or describing services that may be available to a victim; and

(B) school corporation (as defined by IC 20-18-2-16(a)), charter school (as defined by IC 20-24-1-4), or nonpublic school (as defined by IC 20-18-2-12) for the purpose of enhancing the safety or security of a student or a school facility;

without the law enforcement agency or private university police department losing its discretion to keep those records confidential from other records requesters. However, certain law enforcement records must be made available for inspection and copying as provided in section 5 of this chapter.

(2) The work product of an attorney representing, pursuant to state employment or an appointment by a public agency:

- (A) a public agency;
- (B) the state; or
- (C) an individual.

(3) Test questions, scoring keys, and other examination data used in administering a licensing examination, examination for employment, or academic examination before the examination is given or if it is to be given again.

(4) Scores of tests if the person is identified by name and has not consented to the release of the person's scores.

(5) The following:

(A) Records relating to negotiations between:

- (i) the Indiana economic development corporation;
- (ii) the ports of Indiana;
- (iii) the Indiana state department of agriculture;
- (iv) the Indiana finance authority;
- (v) an economic development commission;
- (vi) a local economic development organization that is a nonprofit corporation established under state law whose primary purpose is the promotion of industrial or business development in Indiana, the retention or expansion of Indiana businesses, or the development of entrepreneurial activities in Indiana; or
- (vii) a governing body of a political subdivision;

with industrial, research, or commercial prospects, if the records are created while negotiations are in progress. However, this clause does not apply to records regarding research that is prohibited under IC 16-34.5-1-2 or any other law.

(B) Notwithstanding clause (A), the terms of the final offer of public financial resources communicated by the Indiana economic development corporation, the ports of Indiana, the Indiana finance authority, an economic development commission, or a governing body of a political subdivision to an industrial, a research, or a commercial prospect shall be available for inspection and copying under section 3 of this chapter after negotiations with that prospect have terminated.

(C) When disclosing a final offer under clause (B), the Indiana economic development corporation shall certify that the information being disclosed accurately and completely represents the terms of the final offer.

(D) Notwithstanding clause (A), an incentive agreement with an incentive recipient shall be available for inspection and copying under section 3 of this chapter after the date the incentive recipient and the Indiana economic development corporation execute the incentive agreement regardless of whether negotiations are in progress with the recipient after that date regarding a modification or extension of the incentive agreement.

(6) Records that are intra-agency or interagency advisory or deliberative material, including material developed by a private contractor under a contract with a public agency, that are expressions of opinion or are of a speculative nature, and that are communicated for the purpose of decision making.

(7) Diaries, journals, or other personal notes serving as the functional equivalent of a diary or journal.

(8) Personnel files of public employees and files of applicants for public employment, except for:

- (A) the name, compensation, job title, business address, business telephone number, job description, education and training background, previous work experience, or dates of first and last employment of present or former officers or employees of the agency;
- (B) information relating to the status of any formal charges against the employee; and

(C) the factual basis for a disciplinary action in which final action has been taken and that resulted in the employee being suspended, demoted, or discharged.

However, all personnel file information shall be made available to the affected employee or the employee's representative. This subdivision does not apply to disclosure of personnel information generally on all employees or for groups of employees without the request being particularized by employee name.

(9) Minutes or records of hospital medical staff meetings.

(10) Administrative or technical information that would jeopardize a record keeping system, voting system, voter registration system, or security system.

(11) Computer programs, computer codes, computer filing systems, and other software that are owned by the public agency or entrusted to it and portions of electronic maps entrusted to a public agency by a utility.

(12) Records specifically prepared for discussion or developed during discussion in an executive session under IC 5-14-1.5-6.1. However, this subdivision does not apply to that information required to be available for inspection and copying under subdivision (8).

(13) The work product of the legislative services agency under personnel rules approved by the legislative council.

(14) The work product of individual members and the partisan staffs of the general assembly.

(15) The identity of a donor of a gift made to a public agency if:

(A) the donor requires nondisclosure of the donor's identity as a condition of making the gift; or

(B) after the gift is made, the donor or a member of the donor's family requests nondisclosure.

(16) Library or archival records:

(A) which can be used to identify any library patron; or

(B) deposited with or acquired by a library upon a condition that the records be disclosed only:

(i) to qualified researchers;

(ii) after the passing of a period of years that is specified in the documents under which the deposit or acquisition is made; or

(iii) after the death of persons specified at the time of the acquisition or deposit.

However, nothing in this subdivision shall limit or affect contracts entered into by the Indiana state library pursuant to IC 4-1-6-8.

(17) The identity of any person who contacts the bureau of motor vehicles concerning the ability of a driver to operate a motor vehicle safely and the medical records and evaluations made by the bureau of motor vehicles staff or members of the driver licensing medical advisory board regarding the ability of a driver to operate a motor vehicle safely. However, upon written request to the commissioner of the bureau of motor vehicles, the driver must be given copies of the driver's medical records and evaluations.

(18) School safety and security measures, plans, and systems, including emergency preparedness plans developed under 511 IAC 6.1-2-2.5.

(19) A record or a part of a record, the public disclosure of which would have a reasonable likelihood of threatening public safety by exposing a vulnerability to terrorist attack. A record described under this subdivision includes the following:

(A) A record assembled, prepared, or maintained to prevent, mitigate, or respond to an act of terrorism under IC 35-47-12-1 (before its repeal), an act of agricultural terrorism under IC 35-47-12-2 (before its repeal), or a felony terrorist offense (as defined in IC 35-50-2-18).

(B) Vulnerability assessments.

(C) Risk planning documents.

- (D) Needs assessments.
- (E) Threat assessments.
- (F) Intelligence assessments.
- (G) Domestic preparedness strategies.
- (H) The location of community drinking water wells and surface water intakes.
- (I) The emergency contact information of emergency responders and volunteers.
- (J) Infrastructure records that disclose the configuration of critical systems such as voting system and voter registration system critical infrastructure, communication, electrical, ventilation, water, and wastewater systems.
- (K) Detailed drawings or specifications of structural elements, floor plans, and operating, utility, or security systems, whether in paper or electronic form, of any building or facility located on an airport (as defined in IC 8-21-1-1) that is owned, occupied, leased, or maintained by a public agency, or any part of a law enforcement recording that captures information about airport security procedures, areas, or systems. A record described in this clause may not be released for public inspection by any public agency without the prior approval of the public agency that owns, occupies, leases, or maintains the airport. Both of the following apply to the public agency that owns, occupies, leases, or maintains the airport:
 - (i) The public agency is responsible for determining whether the public disclosure of a record or a part of a record, including a law enforcement recording, has a reasonable likelihood of threatening public safety by exposing a security procedure, area, system, or vulnerability to terrorist attack.
 - (ii) The public agency must identify a record described under item (i) and clearly mark the record as "confidential and not subject to public disclosure under IC 5-14-3-4(b)(19)(J) without approval of (insert name of submitting public agency)". However, in the case of a law enforcement recording, the public agency must clearly mark the record as "confidential and not subject to public disclosure under IC 5-14-3-4(b)(19)(K) without approval of (insert name of the public agency that owns, occupies, leases, or maintains the airport)".
- (L) The home address, home telephone number, and emergency contact information for any:
 - (i) emergency management worker (as defined in IC 10-14-3-3);
 - (ii) public safety officer (as defined in IC 35-47-4.5-3);
 - (iii) emergency medical responder (as defined in IC 16-18-2-109.8); or
 - (iv) advanced emergency medical technician (as defined in IC 16-18-2-6.5).

This subdivision does not apply to a record or portion of a record pertaining to a location or structure owned or protected by a public agency in the event that an act of terrorism under IC 35-47-12-1 (before its repeal), an act of agricultural terrorism under IC 35-47-12-2 (before its repeal), or a felony terrorist offense (as defined in IC 35-50-2-18) has occurred at that location or structure, unless release of the record or portion of the record would have a reasonable likelihood of threatening public safety by exposing a vulnerability of other locations or structures to terrorist attack.

(20) The following personal information concerning a customer of a municipally owned utility (as defined in IC 8-1-2-1):

- (A) Telephone number.
- (B) Address.
- (C) Social Security number.

(21) The following personal information about a complainant contained in records of a law enforcement agency:

- (A) Telephone number.
- (B) The complainant's address. However, if the complainant's address is the location of the suspected crime, infraction, accident, or complaint reported, the address shall be made available for public inspection and copying.

(22) Notwithstanding subdivision (8)(A), the name, compensation, job title, business address, business telephone number, job description, education and training background, previous work experience, or dates of first employment of a law enforcement officer who is operating in an undercover capacity.

(23) Records requested by an offender that:

(A) contain personal information relating to:

(i) a correctional officer (as defined in IC 5-10-10-1.5);

(ii) a law enforcement officer (as defined in IC 35-31.5-2-185);

(iii) a judge (as defined in IC 33-38-12-3);

(iv) the victim of a crime; or

(v) a family member of a correctional officer, law enforcement officer (as defined in IC 35-31.5-2-185), judge (as defined in IC 33-38-12-3), or victim of a crime;

or

(B) concern or could affect the security of a jail or correctional facility.

(24) Information concerning an individual less than eighteen (18) years of age who participates in a conference, meeting, program, or activity conducted or supervised by a state educational institution, including the following information regarding the individual or the individual's parent or guardian:

(A) Name.

(B) Address.

(C) Telephone number.

(D) Electronic mail account address.

(25) Criminal intelligence information.

(26) The following information contained in a report of unclaimed property under IC 32-34-1-26 or in a claim for unclaimed property under IC 32-34-1-36:

(A) Date of birth.

(B) Driver's license number.

(C) Taxpayer identification number.

(D) Employer identification number.

(E) Account number.

(27) Except as provided in subdivision (19) and sections 5.1 and 5.2 of this chapter, a law enforcement recording. However, before disclosing the recording, the public agency must comply with the obscuring requirements of sections 5.1 and 5.2 of this chapter, if applicable.

(28) Records relating to negotiations between a state educational institution and another entity concerning the establishment of a collaborative relationship or venture to advance the research, engagement, or educational mission of the state educational institution, if the records are created while negotiations are in progress. The terms of the final offer of public financial resources communicated by the state educational institution to an industrial, a research, or a commercial prospect shall be available for inspection and copying under section 3 of this chapter after negotiations with that prospect have terminated. However, this subdivision does not apply to records regarding research prohibited under IC 16-34.5-1-2 or any other law.

(c) Nothing contained in subsection (b) shall limit or affect the right of a person to inspect and copy a public record required or directed to be made by any statute or by any rule of a public agency.

(d) Notwithstanding any other law, a public record that is classified as confidential, other than a record concerning an adoption or patient medical records, shall be made available for inspection and copying seventy-five (75) years after the creation of that record.

(e) Only the content of a public record may form the basis for the adoption by any public agency of a rule or procedure creating an exception from disclosure under this section.

(f) Except as provided by law, a public agency may not adopt a rule or procedure that creates an exception from disclosure under this section based upon whether a public record

is stored or accessed using paper, electronic media, magnetic media, optical media, or other information storage technology.

(g) Except as provided by law, a public agency may not adopt a rule or procedure nor impose any costs or liabilities that impede or restrict the reproduction or dissemination of any public record.

(h) Notwithstanding subsection (d) and section 7 of this chapter:

- (1) public records subject to IC 5-15 may be destroyed only in accordance with record retention schedules under IC 5-15; or
- (2) public records not subject to IC 5-15 may be destroyed in the ordinary course of business.

As added by P.L.19-1983, SEC.6. Amended by P.L.57-1983, SEC.1; P.L.34-1984, SEC.2; P.L.54-1985, SEC.3; P.L.50-1986, SEC.2; P.L.20-1988, SEC.12; P.L.11-1990, SEC.111; P.L.1-1991, SEC.38; P.L.10-1991, SEC.9; P.L.50-1991, SEC.1; P.L.49-1991, SEC.1; P.L.1-1992, SEC.11; P.L.2-1993, SEC.50; P.L.58-1993, SEC.4; P.L.190-1999, SEC.2; P.L.37-2000, SEC.2; P.L.271-2001, SEC.1; P.L.201-2001, SEC.1; P.L.1-2002, SEC.17; P.L.173-2003, SEC.5; P.L.261-2003, SEC.7; P.L.208-2003, SEC.1; P.L.200-2003, SEC.3; P.L.210-2005, SEC.1; P.L.1-2006, SEC.102; P.L.101-2006, SEC.4; P.L.2-2007, SEC.101; P.L.172-2007, SEC.1; P.L.179-2007, SEC.9; P.L.3-2008, SEC.29; P.L.51-2008, SEC.2; P.L.98-2008, SEC.4; P.L.120-2008, SEC.2; P.L.94-2010, SEC.1; P.L.170-2011, SEC.1; P.L.134-2012, SEC.18; P.L.184-2013, SEC.1; P.L.248-2013, SEC.3; P.L.175-2013, SEC.1; P.L.56-2014, SEC.1; P.L.168-2014, SEC.9; P.L.9-2015, SEC.1; P.L.181-2015, SEC.20; P.L.145-2016, SEC.3; P.L.58-2016, SEC.3; P.L.217-2016, SEC.3; P.L.197-2017, SEC.3; P.L.71-2019, SEC.31; P.L.66-2019, SEC.1; P.L.211-2019, SEC.5; P.L.255-2019, SEC.1.

IC 5-14-3-4.1 Repealed

As added by P.L.35-1984, SEC.3. Repealed by P.L.1-1989, SEC.75.

IC 5-14-3-4.3 Job title or job descriptions of law enforcement officers

Sec. 4.3. Nothing contained in section 4(b)(8) of this chapter requires a law enforcement agency to release to the public the job title or job description of law enforcement officers.

As added by P.L.35-1984, SEC.1.

IC 5-14-3-4.4 Investigatory records, records relating to criminal intelligence information, records relating to public safety; agency actions; court actions

Sec. 4.4. (a) This section applies to a request for a record that the public agency considers to be excepted from disclosure under section 4(b)(1) or 4(b)(25) of this chapter. The public agency may do either of the following:

- (1) Deny disclosure of the record or a part of the record. The person requesting the information may appeal the denial under section 9 of this chapter.
- (2) Refuse to confirm or deny the existence of the record, regardless of whether the record exists or does not exist, if the fact of the record's existence or nonexistence would reveal information that would:
 - (A) impede or compromise an ongoing law enforcement investigation or result in danger to an individual's safety, including the safety of a law enforcement officer or a confidential source; or
 - (B) reveal information that would have a reasonable likelihood of threatening public safety.

(b) This subsection applies to a request for a record that the public agency considers to be excepted from disclosure under section 4(b)(19) of this chapter. The agency may consult with the governor's security council established by IC 10-19-8.1-2 in formulating a response. The public agency may do either of the following:

- (1) Deny disclosure of the record or a part of the record. The agency or the

counterterrorism and security council shall provide a general description of the record being withheld and of how disclosure of the record would have a reasonable likelihood of threatening public safety by exposing a vulnerability to terrorist attack. The person requesting the information may appeal the denial under section 9 of this chapter.

(2) Refuse to confirm or deny the existence of the record regardless of whether the record exists or does not exist, if the fact of the record's existence or nonexistence would reveal information that would have a reasonable likelihood of threatening public safety.

(c) If a public agency does not respond to a request for a record under this section:

(1) within twenty-four (24) hours of receiving the request for a record from a person who:

(A) is physically present in the agency office;

(B) makes the request by telephone; or

(C) requests enhanced access to a document; or

(2) within seven (7) days of receiving the request for a record made by mail or facsimile;

the request for the record is deemed denied. The person requesting the information may appeal the denial under section 9 of this chapter.

(d) If a public agency refuses to confirm or deny the existence of a record under this section, the name and title or position of the person responsible for the refusal shall be given to the person making the records request.

(e) A person who has received a refusal from an agency to confirm or deny the existence of a record may file an action in the circuit or superior court of the county in which the response was received:

(1) to compel the public agency to confirm whether the record exists or does not exist; and

(2) if the public agency confirms that the record exists, to compel the agency to permit the person to inspect and copy the record.

(f) The court shall determine the matter de novo, with the burden of proof on the public agency to sustain its refusal to confirm or deny the existence of the record. The public agency meets its burden of proof by filing a public affidavit with the court that provides with reasonable specificity of detail, and not simply conclusory statements, the basis of the agency's claim that it cannot be required to confirm or deny the existence of the requested record. If the public agency meets its burden of proof, the burden of proof shifts to the person requesting access to the record. The person requesting access to the record meets the person's burden of proof by proving any of the following:

(1) The agency's justifications for not confirming the existence of the record contradict other evidence in the trial record.

(2) The agency is withholding the record in bad faith.

(3) An official with authority to speak for the agency has acknowledged to the public in a documented disclosure that the record exists. The person requesting the record must prove that the information requested:

(A) is as specific as the information previously disclosed; and

(B) matches the previously disclosed information.

(g) Either party may make an interlocutory appeal of the trial court's determination on whether the agency's refusal to confirm or deny the existence of the record was proper.

(h) If the court, after the disposition of any interlocutory appeals, finds that the agency's refusal to confirm or deny was improper, the court shall order the agency to disclose whether the record exists or does not exist. If the record exists and the agency claims that the record is exempt from disclosure under this chapter, the court may review the public record in camera to determine whether any part of the record may be withheld.

(i) In an action filed under this section, the court shall award reasonable attorney's fees, court costs, and other reasonable expenses of litigation to the prevailing party if:

- (1) the plaintiff substantially prevails; or
- (2) the defendant substantially prevails and the court finds the action was frivolous or vexatious.

A plaintiff is eligible for the awarding of attorney's fees, court costs, and other reasonable expenses regardless of whether the plaintiff filed the action without first seeking and receiving an informal inquiry response or advisory opinion from the public access counselor.

(j) A court that hears an action under this section may not assess a civil penalty under section 9.5 of this chapter in connection with the action.

As added by P.L.248-2013, SEC.4. Amended by P.L.249-2019, SEC.1.

IC 5-14-3-4.5 Repealed

As added by P.L.4-2005, SEC.29. Repealed by P.L.175-2013, SEC.2.

IC 5-14-3-4.7 Negotiation records; final offers; certification of final offer disclosure

Sec. 4.7. (a) Records relating to negotiations between the Indiana finance authority and industrial, research, or commercial prospects are excepted from section 3 of this chapter at the discretion of the authority if the records are created while negotiations are in progress.

(b) Notwithstanding subsection (a), the terms of the final offer of public financial resources communicated by the authority to an industrial, a research, or a commercial prospect shall be available for inspection and copying under section 3 of this chapter after negotiations with that prospect have terminated.

(c) When disclosing a final offer under subsection (b), the authority shall certify that the information being disclosed accurately and completely represents the terms of the final offer.

As added by P.L.235-2005, SEC.85.

IC 5-14-3-4.8 Records exempt from disclosure requirements; tourism development negotiations; final offers public

Sec. 4.8. (a) Records relating to negotiations between the office of tourism development (before July 1, 2020) or the Indiana destination development corporation (after June 30, 2020) and industrial, research, or commercial prospects are excepted from section 3 of this chapter at the discretion of the office of tourism development (before July 1, 2020) or the Indiana destination development corporation (after June 30, 2020) if the records are created while negotiations are in progress.

(b) Notwithstanding subsection (a), the terms of the final offer of public financial resources communicated by the office of tourism development (before July 1, 2020) or the Indiana destination development corporation (after June 30, 2020) to an industrial, a research, or a commercial prospect shall be available for inspection and copying under section 3 of this chapter after negotiations with that prospect have terminated.

(c) When disclosing a final offer under subsection (b), the office of tourism development (before July 1, 2020) or the Indiana destination development corporation (after June 30, 2020) shall certify that the information being disclosed accurately and completely represents the terms of the final offer.

As added by P.L.229-2005, SEC.3. Amended by P.L.78-2019, SEC.3.

IC 5-14-3-4.9 Ports of Indiana negotiation records excepted from disclosure; disclosure of final offers

Sec. 4.9. (a) Records relating to negotiations between the ports of Indiana and industrial, research, or commercial prospects are excepted from section 3 of this chapter at the discretion of the ports of Indiana if the records are created while negotiations are in progress.

(b) Notwithstanding subsection (a), the terms of the final offer of public financial resources communicated by the ports of Indiana to an industrial, a research, or a commercial prospect shall be available for inspection and copying under section 3 of this chapter after

negotiations with that prospect have terminated.

(c) When disclosing a final offer under subsection (b), the ports of Indiana shall certify that the information being disclosed accurately and completely represents the terms of the final offer.

As added by P.L.98-2008, SEC.5.

IC 5-14-3-5 Information relating to arrest or summons; jailed persons; records of law enforcement agencies and private university police departments

Sec. 5. (a) If a person is arrested or summoned for an offense, the following information shall be made available for inspection and copying:

- (1) Information that identifies the person including the person's name, age, and address.
- (2) Information concerning any charges on which the arrest or summons is based.
- (3) Information relating to the circumstances of the arrest or the issuance of the summons, such as the:
 - (A) time and location of the arrest or the issuance of the summons;
 - (B) investigating or arresting officer (other than an undercover officer or agent); and
 - (C) investigating or arresting law enforcement agency.

(b) If a person is received in a jail or lock-up, the following information shall be made available for inspection and copying:

- (1) Information that identifies the person including the person's name, age, and address.
- (2) Information concerning the reason for the person being placed in the jail or lock-up, including the name of the person on whose order the person is being held.
- (3) The time and date that the person was received and the time and date of the person's discharge or transfer.
- (4) The amount of the person's bail or bond, if it has been fixed.

(c) This subsection does not apply to a private university police department, which is governed instead by subsection (d). An agency shall maintain a daily log or record that lists suspected crimes, accidents, or complaints, and the following information shall be made available for inspection and copying:

- (1) The time, substance, and location of all complaints or requests for assistance received by the agency.
- (2) The time and nature of the agency's response to all complaints or requests for assistance.
- (3) If the incident involves an alleged crime or infraction:
 - (A) the time, date, and location of occurrence;
 - (B) the name and age of any victim, unless the victim is a victim of a crime under IC 35-42-4 or IC 35-42-3.5;
 - (C) the factual circumstances surrounding the incident; and
 - (D) a general description of any injuries, property, or weapons involved.

The information required in this subsection shall be made available for inspection and copying in compliance with this chapter. The record containing the information must be created not later than twenty-four (24) hours after the suspected crime, accident, or complaint has been reported to the agency.

(d) A private university police department shall make available for inspection and copying:

- (1) information created or received after July 1, 2016, that is described in subsections (a) and (b); and
- (2) information (including the daily log):
 - (A) created in compliance with; and
 - (B) to the extent that public access is required under;

20 U.S.C. 1092 and 34 CFR 668.

(e) This chapter does not affect IC 5-2-4, IC 10-13-3, or IC 5-11-1-9.

As added by P.L.19-1983, SEC.6. Amended by P.L.39-1992, SEC.1; P.L.2-2003, SEC.24; P.L.1-2012, SEC.1; P.L.217-2016, SEC.4.

**IC 5-14-3-5.1 Inspection of law enforcement recordings; obscuring of
undercover law enforcement officer; obscuring of confidential
informants**

Sec. 5.1. (a) As used in this section, "requestor" means the following:

- (1) An individual who is depicted in a law enforcement recording.
- (2) If the individual described in subdivision (1) is deceased:
 - (A) the surviving spouse, father, mother, brother, sister, son, or daughter of the individual; or
 - (B) the personal representative (as defined in IC 6-4.1-1-9) of or an attorney representing the deceased individual's estate.
- (3) If the individual described in subdivision (1) is an incapacitated person (as defined in IC 29-3-1-7.5), the legal guardian, attorney, or attorney in fact of the incapacitated person.
- (4) A person that is an owner, tenant, lessee, or occupant of real property, if the interior of the real property is depicted in the recording.
- (5) A person who:
 - (A) is the victim of a crime; or
 - (B) suffers a loss due to personal injury or property damage;if the events depicted in the law enforcement recording are relevant to the person's loss or to the crime committed against the person.

(b) A public agency shall allow a requestor to inspect a law enforcement recording at least twice, if:

- (1) the requestor submits a written request under section 3 of this chapter for inspection of the recording; and
- (2) if section 4(b)(19) of this chapter applies, the public agency that owns, occupies, leases, or maintains the airport approves the disclosure of the recording.

The public agency shall allow the requestor to inspect the recording in the company of the requestor's attorney. A law enforcement recording may not be copied or recorded by the requestor or the requestor's attorney during an inspection.

(c) Before an inspection under subsection (b), the public agency:

- (1) shall obscure in the recording information described in section 4(a) of this chapter; and
- (2) may obscure any information identifying:
 - (A) a law enforcement officer operating in an undercover capacity; or
 - (B) a confidential informant.

(d) Before an inspection under subsection (b), only the information in the recording described in subsection (c) may be obscured by the public agency.

(e) If a person is denied access to inspect a recording under this section, the person may appeal the denial under section 9 of this chapter.

As added by P.L.58-2016, SEC.4.

**IC 5-14-3-5.2 Exemptions to right of inspection; court orders permitting
inspection**

Sec. 5.2. (a) A public agency shall permit any person to inspect or copy a law enforcement recording unless one (1) or more of the following circumstances apply:

- (1) Section 4(b)(19) of this chapter applies and the person has not demonstrated that the public agency that owns, occupies, leases, or maintains the airport approves the disclosure of the recording.
- (2) The public agency finds, after due consideration of the facts of the particular case, that access to or dissemination of the recording:

- (A) creates a significant risk of substantial harm to any person or to the general public;
- (B) is likely to interfere with the ability of a person to receive a fair trial by creating prejudice or bias concerning the person or a claim or defense presented by the person;
- (C) may affect an ongoing investigation, if the recording is an investigatory record of a law enforcement agency as defined in section 2 of this chapter and notwithstanding its exclusion under section 4(b)(1) of this chapter; or
- (D) would not serve the public interest.

However, before permitting a person to inspect or copy the recording, the public agency must comply with the obscuring provisions of subsection (e), if applicable.

(b) If a public agency denies a person the opportunity to inspect or copy a law enforcement recording under subsection (a), the person may petition the circuit or superior court of the county in which the law enforcement recording was made for an order permitting inspection or copying of a law enforcement recording. The court shall review the decision of the public agency de novo and grant the order unless one (1) or more of the following apply:

- (1) If section 4(b)(19) of this chapter applies, the petitioner fails to establish by a preponderance of the evidence that the public agency that owns, occupies, leases, or maintains the airport approves the disclosure of the recording.
- (2) The public agency establishes by a preponderance of the evidence in light of the facts of the particular case, that access to or dissemination of the recording:
 - (A) creates a significant risk of substantial harm to any person or to the general public;
 - (B) is likely to interfere with the ability of a person to receive a fair trial by creating prejudice or bias concerning the person or a claim or defense presented by the person;
 - (C) may affect an ongoing investigation, if the recording is an investigatory record of a law enforcement agency, as defined in section 2 of this chapter, notwithstanding its exclusion under section 4 of this chapter; or
 - (D) would not serve the public interest.

(c) Notwithstanding section 9(i) of this chapter, a person that obtains an order for inspection of or to copy a law enforcement recording under this section may not be awarded attorney's fees, court costs, and other reasonable expenses of litigation. The penalty provisions of section 9.5 of this chapter do not apply to a petition filed under this section.

(d) If the court grants a petition for inspection of or to copy the law enforcement recording, the public agency shall disclose the recording. However, before disclosing the recording, the public agency must comply with the obscuring provisions of subsection (e), if applicable.

- (e) A public agency that discloses a law enforcement recording under this section:
 - (1) shall obscure:
 - (A) any information that is required to be obscured under section 4(a) of this chapter; and
 - (B) depictions of:
 - (i) an individual's death or a dead body;
 - (ii) acts of severe violence that are against any individual who is clearly visible and that result in serious bodily injury (as defined in IC 35-31.5-2-292);
 - (iii) serious bodily injury (as defined in IC 35-31.5-2-292);
 - (iv) nudity (as defined in IC 35-49-1-5);
 - (v) an individual whom the public agency reasonably believes is less than eighteen (18) years of age;
 - (vi) personal medical information;
 - (vii) a victim of a crime, or any information identifying the victim of a crime, if the

public agency finds that obscuring this information is necessary for the victim's safety; and

(viii) a witness to a crime or an individual who reports a crime, or any information identifying a witness to a crime or an individual who reports a crime, if the public agency finds that obscuring this information is necessary for the safety of the witness or individual who reports a crime; and

(2) may obscure:

(A) any information identifying:

(i) a law enforcement officer operating in an undercover capacity; or

(ii) a confidential informant; and

(B) any information that the public agency may withhold from disclosure under section 4(b)(2) through 4(b)(26) of this chapter.

(f) A court shall expedite a proceeding filed under this section. Unless prevented by extraordinary circumstances, the court shall conduct a hearing (if required) and rule on a petition filed under this section not later than thirty (30) days after the date the petition is filed.

As added by P.L.58-2016, SEC.5. Amended by P.L.85-2017, SEC.13.

IC 5-14-3-5.3 Retention of law enforcement recordings

Sec. 5.3. (a) Except as provided in subsection (c), a public agency that is not the state or a state agency shall retain an unaltered, unobscured law enforcement recording for at least one hundred ninety (190) days after the date of the recording.

(b) Except as provided in subsection (c), a public agency that is the state or a state agency shall retain an unaltered, unobscured law enforcement recording for at least two hundred eighty (280) days after the date of the recording.

(c) A public agency shall retain an unaltered, unobscured law enforcement recording for a period longer than the period described in subsections (a) and (b) if the following conditions are met:

(1) Except as provided in subdivision (3), if a person defined as a requestor as set forth in section 5.1(a) of this chapter notifies the public agency in writing not more than:

(A) one hundred eighty (180) days (if the public agency is not the state or a state agency); or

(B) two hundred seventy (270) days (if the public agency is the state or a state agency);

after the date of the recording that the recording is to be retained, the recording shall be retained for at least two (2) years after the date of the recording. The public agency may not request or require the person to provide a reason for the retention.

(2) Except as provided in subdivision (3), if a formal or informal complaint is filed with the public agency regarding a law enforcement activity depicted in the recording less than:

(A) one hundred eighty (180) days (if the public agency is not the state or a state agency); or

(B) two hundred seventy (270) days (if the public agency is the state or a state agency);

after the date of the recording, the public agency shall automatically retain the recording for at least two (2) years after the date of the recording.

(3) If a recording is used in a criminal, civil, or administrative proceeding, the public agency shall retain the recording until final disposition of all appeals and order from the court.

(d) The public agency may retain a recording for training purposes for any length of time.

As added by P.L.58-2016, SEC.6.

IC 5-14-3-5.5 Sealing certain records by court; hearing; notice

Sec. 5.5. (a) This section applies to a judicial public record.

(b) As used in this section, "judicial public record" does not include a record submitted to a court for the sole purpose of determining whether the record should be sealed.

(c) Before a court may seal a public record not declared confidential under section 4(a) of this chapter, it must hold a hearing at a date and time established by the court. Notice of the hearing shall be posted at a place designated for posting notices in the courthouse.

(d) At the hearing, parties or members of the general public must be permitted to testify and submit written briefs. A decision to seal all or part of a public record must be based on findings of fact and conclusions of law, showing that the remedial benefits to be gained by effectuating the public policy of the state declared in section 1 of this chapter are outweighed by proof by a preponderance of the evidence by the person seeking the sealing of the record that:

- (1) a public interest will be secured by sealing the record;
- (2) dissemination of the information contained in the record will create a serious and imminent danger to that public interest;
- (3) any prejudicial effect created by dissemination of the information cannot be avoided by any reasonable method other than sealing the record;
- (4) there is a substantial probability that sealing the record will be effective in protecting the public interest against the perceived danger; and
- (5) it is reasonably necessary for the record to remain sealed for a period of time.

Sealed records shall be unsealed at the earliest possible time after the circumstances necessitating the sealing of the records no longer exist.

As added by P.L.54-1985, SEC.4. Amended by P.L.68-1987, SEC.1.

IC 5-14-3-6 Partially disclosable records; computer or microfilm record systems; fees

Sec. 6. (a) If a public record contains disclosable and nondisclosable information, the public agency shall, upon receipt of a request under this chapter, separate the material that may be disclosed and make it available for inspection and copying.

(b) If a public record stored on computer tape, computer disks, microfilm, or a similar or analogous record system is made available to:

- (1) a person by enhanced access under section 3.5 of this chapter; or
- (2) a governmental entity by an electronic device;

the public agency may not make the record available for inspection without first separating the material in the manner required by subsection (a).

(c) A public agency may charge a person who makes a request for disclosable information the agency's direct cost of reprogramming a computer system if:

- (1) the disclosable information is stored on a computer tape, computer disc, or a similar or analogous record system; and
- (2) the public agency is required to reprogram the computer system to separate the disclosable information from nondisclosable information.

(d) A public agency is not required to reprogram a computer system to provide:

- (1) enhanced access; or
- (2) access to a governmental entity by an electronic device.

As added by P.L.19-1983, SEC.6. Amended by P.L.54-1985, SEC.5; P.L.58-1993, SEC.5; P.L.77-1995, SEC.5.

IC 5-14-3-6.5 Confidentiality of public record

Sec. 6.5. A public agency that receives a confidential public record from another public agency shall maintain the confidentiality of the public record.

As added by P.L.34-1984, SEC.3.

IC 5-14-3-7 Protection against loss, alteration, destruction, and

unauthorized enhanced access

Sec. 7. (a) A public agency shall protect public records from loss, alteration, mutilation, or destruction, and regulate any material interference with the regular discharge of the functions or duties of the public agency or public employees.

(b) A public agency shall take precautions that protect the contents of public records from unauthorized enhanced access, unauthorized access by an electronic device, or alteration.

(c) This section does not operate to deny to any person the rights secured by section 3 of this chapter.

As added by P.L.19-1983, SEC.6. Amended by P.L.58-1993, SEC.6.

IC 5-14-3-8 Fees; copies

Sec. 8. (a) For the purposes of this section, "state agency" has the meaning set forth in IC 4-13-1-1.

(b) Except as provided in this section, a public agency may not charge any fee under this chapter for the following:

(1) To inspect a public record.

(2) This subdivision applies only to a school corporation and a charter school. This subdivision does not apply to a request for a search by an exclusive representative (as defined in IC 20-29-2-9). To search for a record that is in an electronic format, if the search does not exceed five (5) hours.

(3) Subject to subdivision (2), to search for, examine, or review a record to determine whether the record may be disclosed.

(4) To provide an electronic copy of a public record by electronic mail. However, a public agency may charge a fee for a public record transmitted by electronic mail if the fee for the public record is authorized under:

(A) subsection (f) or (j);

(B) section 6(c) of this chapter; or

(C) IC 36-2-7-10 or IC 36-2-7-10.1 concerning records of the county recorder.

(c) The Indiana department of administration shall establish a uniform copying fee for the copying of one (1) page of a standard-sized document by state agencies. The fee may not exceed the average cost of copying records by state agencies or ten cents (\$0.10) per page, whichever is greater. A state agency may not collect more than the uniform copying fee for providing a copy of a public record. However, a state agency shall establish and collect a reasonable fee for copying nonstandard-sized documents.

(d) This subsection applies to a public agency that is not a state agency. The fiscal body (as defined in IC 36-1-2-6) of the public agency, or the governing body, if there is no fiscal body, shall establish a fee schedule for the certification or copying of documents. The fee for certification of documents may not exceed five dollars (\$5) per document. The fee for copying documents may not exceed the greater of:

(1) ten cents (\$0.10) per page for copies that are not color copies or twenty-five cents (\$0.25) per page for color copies; or

(2) the actual cost to the agency of copying the document.

As used in this subsection, "actual cost" means the cost of paper and the per-page cost for use of copying or facsimile equipment and does not include labor costs or overhead costs. A fee established under this subsection must be uniform throughout the public agency and uniform to all purchasers.

(e) If:

(1) a person is entitled to a copy of a public record under this chapter; and

(2) the public agency which is in possession of the record has reasonable access to a machine capable of reproducing the public record;

the public agency must provide at least one (1) copy of the public record to the person. However, if a public agency does not have reasonable access to a machine capable of reproducing the record or if the person cannot reproduce the record by use of enhanced

access under section 3.5 of this chapter, the person is only entitled to inspect and manually transcribe the record. A public agency may require that the payment for search and copying costs be made in advance.

(f) Notwithstanding subsection (b), (c), (d), (g), (h), or (i), a public agency shall collect any certification, copying, facsimile machine transmission, or search fee that is specified by statute or is ordered by a court.

(g) Except as provided by subsection (h), for providing a duplicate of a computer tape, computer disc, microfilm, law enforcement recording, or similar or analogous record system containing information owned by the public agency or entrusted to it, a public agency may charge a fee, uniform to all purchasers, that does not exceed the sum of the following:

(1) The agency's direct cost of supplying the information in that form. However, the fee for a copy of a law enforcement recording may not exceed one hundred fifty dollars (\$150).

(2) The standard cost for selling the same information to the public in the form of a publication if the agency has published the information and made the publication available for sale.

(3) In the case of the legislative services agency, a reasonable percentage of the agency's direct cost of maintaining the system in which the information is stored. However, the amount charged by the legislative services agency under this subdivision may not exceed the sum of the amounts it may charge under subdivisions (1) and (2).

(h) This subsection applies to the fee charged by a public agency for providing enhanced access to a public record. A public agency may charge any reasonable fee agreed on in the contract under section 3.5 of this chapter for providing enhanced access to public records.

(i) This subsection applies to the fee charged by a public agency for permitting a governmental entity to inspect public records by means of an electronic device. A public agency may charge any reasonable fee for the inspection of public records under this subsection, or the public agency may waive any fee for the inspection.

(j) Except as provided in subsection (k), a public agency may charge a fee, uniform to all purchasers, for providing an electronic map that is based upon a reasonable percentage of the agency's direct cost of maintaining, upgrading, and enhancing the electronic map and for the direct cost of supplying the electronic map in the form requested by the purchaser. If the public agency is within a political subdivision having a fiscal body, the fee is subject to the approval of the fiscal body of the political subdivision.

(k) The fee charged by a public agency under subsection (j) to cover costs for maintaining, upgrading, and enhancing an electronic map may be waived by the public agency if the electronic map for which the fee is charged will be used for a noncommercial purpose, including the following:

(1) Public agency program support.

(2) Nonprofit activities.

(3) Journalism.

(4) Academic research.

(l) This subsection does not apply to a state agency. A fee collected under subsection (g) for the copying of a law enforcement recording may be:

(1) retained by the public agency; and

(2) used without appropriation for one (1) or more of the following purposes:

(A) To purchase cameras and other equipment for use in connection with the agency's law enforcement recording program.

(B) For training concerning law enforcement recording.

(C) To defray the expenses of storing, producing, and copying law enforcement recordings.

Money from a fee described in this subsection does not revert to the local general fund at the end of a fiscal year.

(m) This subsection applies to a school corporation and a charter school. For purposes of

this subsection, "computer processing time" means the amount of time a computer takes to process a command or script to extract or copy electronically stored data that is the subject of a public records request. A school corporation or charter school may not charge a fee for the first five (5) hours required to search for records that are in an electronic format. A school corporation or charter school may charge a search fee for any time spent searching for records that are in an electronic format that exceeds five (5) hours. If the school corporation or charter school charges a search fee, the school corporation or charter school shall charge an hourly fee that does not exceed the lesser of:

- (1) the hourly rate of the person making the search; or
- (2) twenty dollars (\$20) per hour.

A school corporation or charter school charging an hourly fee under this subsection for searching for records that are in an electronic format may charge only for time that the person making the search actually spends in searching for the records that are in an electronic format. A school corporation or charter school may not charge for computer processing time and may not establish a minimum fee for searching for records that are in an electronic format. A school corporation or charter school shall make a good faith effort to complete a search for records that are in an electronic format that is within a reasonable time in order to minimize the amount of a search fee. The fee must be prorated to reflect any search time of less than one (1) hour.

As added by P.L.19-1983, SEC.6. Amended by P.L.54-1985, SEC.6; P.L.51-1986, SEC.2; P.L.58-1993, SEC.7; P.L.78-1995, SEC.1; P.L.151-1999, SEC.1; P.L.89-2001, SEC.1; P.L.215-2007, SEC.1; P.L.16-2008, SEC.1; P.L.58-2016, SEC.7; P.L.171-2018, SEC.3; P.L.287-2019, SEC.1.

IC 5-14-3-8.3 Enhanced access fund; establishment by ordinance; purpose

Sec. 8.3. (a) The fiscal body of a political subdivision having a public agency that charges a fee under section 8(h) or 8(i) of this chapter shall adopt an ordinance establishing an enhanced access fund. The ordinance must specify that the fund consists of fees collected under section 8(h) or 8(i) of this chapter. The fund shall be administered by the public agency or officer designated in the ordinance or resolution. Money in the fund must be appropriated and expended in the manner authorized in the ordinance.

(b) The fund is a dedicated fund with the following purposes:

- (1) The replacement, improvement, and expansion of capital expenditures.
- (2) The reimbursement of operating expenses incurred in providing enhanced access to public information.

As added by P.L.58-1993, SEC.8.

IC 5-14-3-8.5 Electronic map generation fund; establishment by ordinance; purpose

Sec. 8.5. (a) The fiscal body of a political subdivision having a public agency that charges a fee under section 8(j) of this chapter shall adopt an ordinance establishing an electronic map generation fund. The ordinance must specify that the fund consists of fees collected under section 8(j) of this chapter. The fund shall be administered by the public agency that collects the fees.

(b) The electronic map generation fund is a dedicated fund with the following purposes:

- (1) The maintenance, upgrading, and enhancement of the electronic map.
- (2) The reimbursement of expenses incurred by a public agency in supplying an electronic map in the form requested by a purchaser.

As added by P.L.58-1993, SEC.9.

IC 5-14-3-9 Denial of disclosure; action to compel disclosure; intervenors; burden of proof; attorney's fees and costs

Sec. 9. (a) This section does not apply to a request for information under section 4.4 of

this chapter.

(b) A denial of disclosure by a public agency occurs when the person making the request is physically present in the office of the agency, makes the request by telephone, or requests enhanced access to a document and:

- (1) the person designated by the public agency as being responsible for public records release decisions refuses to permit inspection and copying of a public record when a request has been made; or
- (2) twenty-four (24) hours elapse after any employee of the public agency refuses to permit inspection and copying of a public record when a request has been made;

whichever occurs first.

(c) If a person requests by mail or by facsimile a copy or copies of a public record, a denial of disclosure does not occur until seven (7) days have elapsed from the date the public agency receives the request.

(d) If a request is made orally, either in person or by telephone, a public agency may deny the request orally. However, if a request initially is made in writing, by facsimile, or through enhanced access, or if an oral request that has been denied is renewed in writing or by facsimile, a public agency may deny the request if:

- (1) the denial is in writing or by facsimile; and
- (2) the denial includes:
 - (A) a statement of the specific exemption or exemptions authorizing the withholding of all or part of the public record; and
 - (B) the name and the title or position of the person responsible for the denial.

(e) A person who has been denied the right to inspect or copy a public record by a public agency may file an action in the circuit or superior court of the county in which the denial occurred to compel the public agency to permit the person to inspect and copy the public record. Whenever an action is filed under this subsection, the public agency must notify each person who supplied any part of the public record at issue:

- (1) that a request for release of the public record has been denied; and
- (2) whether the denial was in compliance with an informal inquiry response or advisory opinion of the public access counselor.

Such persons are entitled to intervene in any litigation that results from the denial. The person who has been denied the right to inspect or copy need not allege or prove any special damage different from that suffered by the public at large.

(f) The court shall determine the matter de novo, with the burden of proof on the public agency to sustain its denial. If the issue in de novo review under this section is whether a public agency properly denied access to a public record because the record is exempted under section 4(a) of this chapter, the public agency meets its burden of proof under this subsection by establishing the content of the record with adequate specificity and not by relying on a conclusory statement or affidavit.

(g) This subsection does not apply to an action under section 5.2 of this chapter. If the issue in a de novo review under this section is whether a public agency properly denied access to a public record because the record is exempted under section 4(b) of this chapter:

- (1) the public agency meets its burden of proof under this subsection by:
 - (A) proving that:
 - (i) the record falls within any one (1) of the categories of exempted records under section 4(b) of this chapter; and
 - (ii) if the action is for denial of access to a recording under section 5.1 of this chapter, the plaintiff is not a "requestor" as that term is defined in section 5.1 of this chapter; and
 - (B) establishing the content of the record with adequate specificity and not by relying on a conclusory statement or affidavit; and
- (2) a person requesting access to a public record meets the person's burden of proof under this subsection by proving that the denial of access is arbitrary or capricious.

(h) The court may review the public record in camera to determine whether any part of it may be withheld under this chapter. However, if the complaint alleges that a public agency denied disclosure of a public record by redacting information in the public record, the court shall conduct an in camera inspection of the public record with the redacted information included.

(i) Except as provided in subsection (k), in any action filed under this section, a court shall award reasonable attorney's fees, court costs, and other reasonable expenses of litigation to the prevailing party if:

- (1) the plaintiff substantially prevails; or
- (2) the defendant substantially prevails and the court finds the action was frivolous or vexatious.

Except as provided in subsection (k), the plaintiff is not eligible for the awarding of attorney's fees, court costs, and other reasonable expenses if the plaintiff filed the action without first seeking and receiving an informal inquiry response or advisory opinion from the public access counselor, unless the plaintiff can show the filing of the action was necessary because the denial of access to a public record under this chapter would prevent the plaintiff from presenting that public record to a public agency preparing to act on a matter of relevance to the public record whose disclosure was denied.

(j) Except as provided in subsection (k), a court may assess a civil penalty under section 9.5 of this chapter only if the plaintiff obtained an advisory opinion from the public access counselor before filing an action under this section as set forth in section 9.5 of this chapter.

(k) This subsection applies only to an action to appeal the denial of access to a law enforcement recording under section 5.1 of this chapter. A requestor (as defined in section 5.1 of this chapter) may bring an action to appeal from the denial of access to a law enforcement recording without first seeking or receiving an informal inquiry response or advisory opinion from the public access counselor. If the requestor prevails in an action under this subsection:

- (1) the requestor is eligible for an award of reasonable attorney's fees, court costs, and other reasonable expenses; and
- (2) a court may assess a civil penalty under section 9.5 of this chapter.

(l) A court shall expedite the hearing of an action filed under this section.

As added by P.L.19-1983, SEC.6. Amended by P.L.54-1985, SEC.7; P.L.50-1986, SEC.3; P.L.68-1987, SEC.2; P.L.58-1993, SEC.10; P.L.19-1997, SEC.4; P.L.70-1999, SEC.2 and P.L.191-1999, SEC.2; P.L.173-2003, SEC.6 and P.L.261-2003, SEC.8; P.L.22-2005, SEC.2; P.L.134-2012, SEC.19; P.L.248-2013, SEC.5; P.L.58-2016, SEC.8.

IC 5-14-3-9.5 Civil penalties imposed on public agency, officer, or management level employee

Sec. 9.5. (a) This section does not apply to any matter regarding:

- (1) the work product of the legislative services agency under personnel rules approved by the legislative council; or
- (2) the work product of individual members and the partisan staffs of the general assembly.

(b) As used in subsections (c) through (k), "individual" means:

- (1) an officer of a public agency; or
- (2) an individual employed in a management level position with a public agency.

(c) If an individual:

- (1) continues to deny a request that complies with section 3(b) of this chapter for inspection or copying of a public record after the public access counselor has issued an advisory opinion:
 - (A) regarding the request for inspection or copying of the public record; and
 - (B) that instructs the public agency to allow access to the public record; and
- (2) denies the request with the specific intent to unlawfully withhold a public record

that is subject to disclosure under this chapter; the individual and the public agency employing the individual are subject to a civil penalty under subsection (h).

(d) If an individual intentionally charges a copying fee that the individual knows exceeds the amount set by statute, fee schedule, ordinance, or court order, the individual is subject to a civil penalty under subsection (h).

(e) A civil penalty may only be imposed as part of an action filed under section 9 of this chapter. A court may not impose a civil penalty under this section unless the public access counselor has issued an advisory opinion:

- (1) to the complainant and the public agency;
- (2) that instructs the public agency to allow access to the public record; and
- (3) before the action under section 9 of this chapter is filed.

Nothing in this section prevents both the person requesting the public record and the public agency from requesting an advisory opinion from the public access counselor.

(f) It is a defense to the imposition of a civil penalty under this section that the individual denied access to a public record in reliance on either of the following:

- (1) An opinion of the public agency's legal counsel.
- (2) An opinion of the attorney general.

(g) A court may impose a civil penalty for a violation under subsection (c) against one (1) or more of the following:

- (1) The individual named as a defendant in the action.
- (2) The public agency named as a defendant in the action.

(h) In an action under this section, a court may impose the following civil penalties:

- (1) Not more than one hundred dollars (\$100) for the first violation.
- (2) Not more than five hundred dollars (\$500) for each additional violation.

A civil penalty imposed under this section is in addition to any other civil or criminal penalty imposed. However, in any one (1) action brought under this section, a court may impose only one (1) civil penalty against an individual, even if the court finds that the individual committed multiple violations. This subsection does not preclude a court from imposing another civil penalty against an individual in a separate action, but an individual may not be assessed more than one (1) civil penalty in any one (1) action brought under this section.

(i) A court shall distribute monthly to the auditor of state any penalties collected under this section for deposit in the education fund established by IC 5-14-4-14.

(j) An individual is personally liable for a civil penalty imposed on the individual under this section. A civil penalty imposed against a public agency under this section shall be paid from the public agency's budget.

(k) If an officer of a public agency directs an individual who is employed in a management level position to deny a request as described in subsection (c)(1), the management level employee is not subject to civil penalties under subsection (h).

As added by P.L.134-2012, SEC.20.

IC 5-14-3-10 Classified confidential information; unauthorized disclosure or failure to protect; offense; discipline

Sec. 10. (a) A public employee, a public official, or an employee or officer of a contractor or subcontractor of a public agency, except as provided by IC 4-15-10, who knowingly or intentionally discloses information classified as confidential by state statute, including information declared confidential under:

- (1) section 4(a) of this chapter; or
- (2) section 4(b) of this chapter if the public agency having control of the information declares it to be confidential;

commits a Class A infraction.

(b) A public employee may be disciplined in accordance with the personnel policies of the agency by which the employee is employed if the employee intentionally, knowingly, or

recklessly discloses or fails to protect information classified as confidential by state statute.

(c) A public employee, a public official, or an employee or officer of a contractor or subcontractor of a public agency who unintentionally and unknowingly discloses confidential or erroneous information in response to a request under IC 5-14-3-3(d) or who discloses confidential information in reliance on an advisory opinion by the public access counselor is immune from liability for such a disclosure.

(d) This section does not apply to any provision incorporated into state law from a federal statute.

As added by P.L.17-1984, SEC.2. Amended by P.L.54-1985, SEC.8; P.L.68-1987, SEC.3; P.L.77-1995, SEC.6; P.L.70-1999, SEC.3 and P.L.191-1999, SEC.3; P.L.126-2012, SEC.24.

IC 5-14-3.3 Chapter 3.3. Government Data

5-14-3.3-1	"Data owner"
5-14-3.3-2	"Executive state agency"
5-14-3.3-3	"Governmental entity"
5-14-3.3-4	"Government data"
5-14-3.3-5	"Government web site"
5-14-3.3-6	"Machine readable"
5-14-3.3-7	"Open format"
5-14-3.3-8	"Political subdivision"
5-14-3.3-9	"Web site owner"
5-14-3.3-10	Government data standards; applicability
5-14-3.3-11	Data storage goal
5-14-3.3-12	Chapter does not require recording or conversion of data to preferable format
5-14-3.3-13	Disclosure of data in accordance with other laws
5-14-3.3-14	Immunity of web site owner, employees for disclosure
5-14-3.3-15	Fee for access to data
5-14-3.3-16	Data owner responsibilities

IC 5-14-3.3-1 "Data owner"

Sec. 1. As used in this chapter, "data owner" means a governmental entity that creates or gathers data from other sources and stores that data for its governmental purposes.

As added by P.L.269-2017, SEC.6.

IC 5-14-3.3-2 "Executive state agency"

Sec. 2. (a) As used in this chapter, "executive state agency" refers to any agency, authority, board, bureau, commission, department, division, office, or other unit of state government in the executive, including the administrative, department of state government established by any of the following:

- (1) The Constitution of the State of Indiana.
- (2) An Indiana statute.
- (3) An administrative rule.
- (4) An executive order.

(b) The term does not include the following:

- (1) The legislative department of state government.
- (2) The judicial department of state government.
- (3) The Indiana finance authority established by IC 5-1.2-3-1.
- (4) A political subdivision.
- (5) A state educational institution.

As added by P.L.269-2017, SEC.6. Amended by P.L.189-2018, SEC.39.

IC 5-14-3.3-3 "Governmental entity"

Sec. 3. As used in this chapter, "governmental entity" refers to any of the following:

- (1) An executive state agency.
- (2) A political subdivision.
- (3) An agency of a political subdivision.
- (4) A state educational institution.

As added by P.L.269-2017, SEC.6.

IC 5-14-3.3-4 "Government data"

Sec. 4. As used in this chapter, "government data" refers to any electronically recorded information created, received, maintained, or stored by or otherwise in the control of a governmental entity. The term does not include any of the following:

- (1) The investigative records of law enforcement agencies that employ the law enforcement officers listed in IC 35-31.5-2-185.

(2) The confidential advisory opinions requested or given by the office of the inspector general.

(3) Other information deemed confidential by IC 4-2-6, IC 4-2-7, IC 5-2-4, IC 31-33-18, IC 9-32-16-1, IC 10-13-3, 26 CFR 20, or 28 CFR 23.

(4) Confidential investigative records related to an investigation under IC 4-31, IC 4-33, or IC 4-35 and any other information classified as confidential under IC 4-31, IC 4-33, or IC 4-35.

As added by P.L.269-2017, SEC.6.

IC 5-14-3.3-5 "Government web site"

Sec. 5. As used in this chapter, "government web site" refers to an Internet web site that is established for a governmental entity.

As added by P.L.269-2017, SEC.6.

IC 5-14-3.3-6 "Machine readable"

Sec. 6. As used in this chapter, "machine readable" refers to a format in which government data can be easily processed by a computer without human intervention while ensuring that semantic meaning is not lost.

As added by P.L.269-2017, SEC.6.

IC 5-14-3.3-7 "Open format"

Sec. 7. As used in this chapter, "open format" means a technical format based on an underlying open standard that is:

- (1) not encumbered by restrictions that would impede use or reuse; and
- (2) maintained by a standards organization.

As added by P.L.269-2017, SEC.6.

IC 5-14-3.3-8 "Political subdivision"

Sec. 8. As used in this chapter, "political subdivision" has the meaning set forth in IC 36-1-2-13.

As added by P.L.269-2017, SEC.6.

IC 5-14-3.3-9 "Web site owner"

Sec. 9. As used in this chapter, "web site owner" refers to the governmental entity that:

- (1) establishes and maintains a government web site; and
- (2) is responsible for the content of that site.

As added by P.L.269-2017, SEC.6.

IC 5-14-3.3-10 Government data standards; applicability

Sec. 10. Except as provided in this chapter or in another statute, the standards stated in this chapter apply to government data.

As added by P.L.269-2017, SEC.6.

IC 5-14-3.3-11 Data storage goal

Sec. 11. A governmental entity should strive to store data in a machine readable and open format.

As added by P.L.269-2017, SEC.6.

IC 5-14-3.3-12 Chapter does not require recording or conversion of data to preferable format

Sec. 12. Except as otherwise specifically provided in this chapter or another statute, this chapter does not require a governmental entity to record information or expend resources for the purpose of computer programming to make or convert data to a format required under

this chapter.

As added by P.L.269-2017, SEC.6.

IC 5-14-3.3-13 Disclosure of data in accordance with other laws

Sec. 13. A government web site may disclose government data only in accordance with IC 4-1-6 and IC 5-14-3.

As added by P.L.269-2017, SEC.6.

IC 5-14-3.3-14 Immunity of web site owner, employees for disclosure

Sec. 14. A web site owner and its officers, officials, and employees are immune from any civil liability for posting confidential information if the information was posted in reliance on a determination made by a data owner about the confidentiality of information on the government web site.

As added by P.L.269-2017, SEC.6.

IC 5-14-3.3-15 Fee for access to data

Sec. 15. Except as specifically provided in IC 4-5-10-2, IC 4-13.1-2-4, IC 5-14-3-3.5, IC 5-14-3-3.6, or another statute, a web site owner may not charge a fee for access to the data on the web site.

As added by P.L.269-2017, SEC.6.

IC 5-14-3.3-16 Data owner responsibilities

Sec. 16. (a) This section applies to a data owner only if an Indiana statute requires the data owner to submit government data to a web site owner.

(b) A web site owner may require the data owner to submit the government data in an electronic format on a prescribed form.

(c) A data owner shall include a link on the data owner's Internet web site to the Internet web site of the web site owner to which the data owner is required to submit government data.

As added by P.L.269-2017, SEC.6.

IC 5-14-3.5 Chapter 3.5. Access to Financial Data for State Agencies

5-14-3.5-1	"State agency"
5-14-3.5-2	Data on Indiana transparency web site
5-14-3.5-3	Graphic representations of data
5-14-3.5-4	Public access not allowed to certain data
5-14-3.5-5	Immunity from civil liability
5-14-3.5-6	State agencies providing required data to auditor of state
5-14-3.5-7	Prohibition against charging fee for access
5-14-3.5-8	Cooperation by state agencies
5-14-3.5-9	State agencies not required to record information or expend resources for computer programming
5-14-3.5-10	Links to other web sites
5-14-3.5-11	Links on state agency web sites to Indiana transparency web site
5-14-3.5-12	Completing design and posting information
5-14-3.5-13	Repealed
5-14-3.5-14	Submitting of forms in an electronic format

IC 5-14-3.5-1 "State agency"

Sec. 1. (a) As used in this chapter, "state agency" means an authority, a board, a branch, a commission, a committee, a department, a division, or another instrumentality of government, including the administrative branch of state government, the legislative branch of state government, and the judicial branch of state government.

(b) The term does not include a state educational institution.

As added by P.L.172-2011, SEC.15.

IC 5-14-3.5-2 Data on Indiana transparency web site

Sec. 2. (a) The auditor of state, working with the office of technology established by IC 4-13.1-2-1, or another organization that is part of a state educational institution, and the office of management and budget established by IC 4-3-22-3, shall post on the Indiana transparency Internet web site the following data:

- (1) A listing of state expenditures and fund balances, including expenditures for contracts, grants, and leases.
- (2) A listing of state owned real and personal property that has a value of more than twenty thousand dollars (\$20,000).

The web site must be electronically searchable by the public and must be intuitive to users of the web site.

(b) The data base must include for each state agency:

- (1) the amount, date, payer, and payee of expenditures;
- (2) a listing of state expenditures by:
 - (A) personal services;
 - (B) other operating expenses; or
 - (C) total operating expenses;to reflect how the funds were appropriated in the state budget act;
- (3) a listing of state fund balances; and
- (4) a listing of property owned by the state.

(c) The data base must include for each state educational institution a listing of the annual salaries for employees of the state educational institution.

As added by P.L.172-2011, SEC.15. Amended by P.L.177-2013, SEC.1.

IC 5-14-3.5-3 Graphic representations of data

Sec. 3. The auditor of state may enhance and organize the presentation of the information through the use of graphic representations.

As added by P.L.172-2011, SEC.15.

IC 5-14-3.5-4 Public access not allowed to certain data

Sec. 4. (a) The auditor of state may not allow public access under this section to:

- (1) a payee's address;
- (2) personal information that is protected under state or federal law or rule; or
- (3) information that is protected as a trade secret under state or federal law or by rule.

(b) The auditor of state may make information protected under subsection (a) available in an aggregate format only.

As added by P.L.172-2011, SEC.15.

IC 5-14-3.5-5 Immunity from civil liability

Sec. 5. The state and state officers, officials, and employees are immune from any civil liability for posting confidential information under section 4 of this chapter if the information was posted in reliance on a determination made by a state agency about the confidentiality of information relating to the agency's expenditures or fund balances.

As added by P.L.172-2011, SEC.15.

IC 5-14-3.5-6 State agencies providing required data to auditor of state

Sec. 6. To the extent any information required to be in the data base is collected or maintained by a state agency or state educational institution, the state agency or state educational institution shall provide that information to the auditor of state for inclusion in the data base.

As added by P.L.172-2011, SEC.15. Amended by P.L.177-2013, SEC.2.

IC 5-14-3.5-7 Prohibition against charging fee for access

Sec. 7. The auditor of state may not charge a fee for access to the data base.

As added by P.L.172-2011, SEC.15.

IC 5-14-3.5-8 Cooperation by state agencies

Sec. 8. Except as provided in section 9 of this chapter, a state agency shall cooperate with and provide information to the auditor of state as necessary to implement and administer this chapter.

As added by P.L.172-2011, SEC.15.

IC 5-14-3.5-9 State agencies not required to record information or expend resources for computer programming

Sec. 9. This chapter does not require a state agency to record information or expend resources for the purpose of computer programming to make information reportable under this chapter.

As added by P.L.172-2011, SEC.15.

IC 5-14-3.5-10 Links to other web sites

Sec. 10. The office of technology established by IC 4-13.1-2-1 shall work with the auditor of state to include a link on the Internet web site established under this chapter to the Internet web site of each Internet web site operated by:

- (1) the state; or
- (2) a state agency.

As added by P.L.172-2011, SEC.15.

IC 5-14-3.5-11 Links on state agency web sites to Indiana transparency web site

Sec. 11. Each state agency shall include a link on the agency's Internet web site to the Internet web site established under this chapter.

As added by P.L.172-2011, SEC.15.

IC 5-14-3.5-12 Completing design and posting information

Sec. 12. The auditor of state and the office of technology shall initially complete the design of the Internet web site and establish and post the information required under this chapter for all state agencies.

As added by P.L.172-2011, SEC.15.

IC 5-14-3.5-13 Repealed

As added by P.L.172-2011, SEC.15. Repealed by P.L.121-2016, SEC.11.

IC 5-14-3.5-14 Submitting of forms in an electronic format

Sec. 14. In order to comply with this chapter, the auditor may require that forms required to be submitted under this chapter be submitted in an electronic format.

As added by P.L.172-2011, SEC.15.

IC 5-14-3.6 Chapter 3.6. Access to Financial Data for State Educational Institutions

5-14-3.6-1	"Commission"
5-14-3.6-2	"State educational institution"
5-14-3.6-3	Web site established by commission
5-14-3.6-4	Links on state educational institutions' web sites
5-14-3.6-5	Repealed

IC 5-14-3.6-1 "Commission"

Sec. 1. As used in this chapter, "commission" refers to the commission for higher education of the state of Indiana established by IC 21-18-2.

As added by P.L.172-2011, SEC.16.

IC 5-14-3.6-2 "State educational institution"

Sec. 2. As used in this chapter, "state educational institution" has the meaning set forth in IC 21-7-13-32.

As added by P.L.172-2011, SEC.16.

IC 5-14-3.6-3 Web site established by commission

Sec. 3. The commission shall establish a web site where members of the public may view the following:

- (1) The audited financial statement of each state educational institution.
- (2) A comparison between the amount appropriated to each state educational institution and the amount allotted for expenditure by the state educational institution.
- (3) Information concerning the outstanding debt of each state educational institution, the purposes for which the outstanding debt was used, and the sources of repayment for the outstanding debt.
- (4) For each state educational institution, all financial and other reports to a state agency that are public records.

As added by P.L.172-2011, SEC.16.

IC 5-14-3.6-4 Links on state educational institutions' web sites

Sec. 4. Each state educational institution shall include a link on the state educational institution's Internet web site to the web site established under this chapter.

As added by P.L.172-2011, SEC.16.

IC 5-14-3.6-5 Repealed

As added by P.L.172-2011, SEC.16. Repealed by P.L.121-2016, SEC.12.

IC 5-14-3.7 Chapter 3.7. Access to Financial Data for Local Schools

5-14-3.7-1	"Department"
5-14-3.7-2	"Political subdivision"
5-14-3.7-2.5	"School corporation"
5-14-3.7-3	Department posting information on Indiana transparency web site
5-14-3.7-4	Presentation of information
5-14-3.7-5	Public access not allowed for certain information
5-14-3.7-6	Immunity from civil liability
5-14-3.7-7	Information to be provided to the department by public schools
5-14-3.7-8	Fee for access prohibited
5-14-3.7-9	Public schools required to cooperate and provide information to the department
5-14-3.7-10	Recording information or expending resources for computer programming not required
5-14-3.7-11	Links on state web site and public school web sites
5-14-3.7-12	Links on public school web sites
5-14-3.7-13	Design of web site and establishing and posting information
5-14-3.7-14	Report by the department
5-14-3.7-15	Forms submitted in an electronic format
5-14-3.7-16	Repealed

IC 5-14-3.7-1 "Department"

Sec. 1. As used in this chapter, "department" means the department of education established by IC 20-19-3-1.

As added by P.L.172-2011, SEC.17.

IC 5-14-3.7-2 "Political subdivision"

Sec. 2. As used in this chapter, "public school" has the meaning set forth in IC 20-18-2-15.

As added by P.L.172-2011, SEC.17.

IC 5-14-3.7-2.5 "School corporation"

Sec. 2.5. As used in this chapter, "school corporation" has the meaning set forth in IC 36-1-2-17.

As added by P.L.84-2014, SEC.2.

IC 5-14-3.7-3 Department posting information on Indiana transparency web site

Sec. 3. (a) The department, working with the office of technology established by IC 4-13.1-2-1 or another organization that is part of a state educational institution, the state board of accounts established by IC 5-11-1-1, the department of local government finance established under IC 6-1.1-30-1.1, and the office of management and budget established by IC 4-3-22-3, shall post on the Indiana transparency Internet web site a data base that lists expenditures and fund balances, including expenditures for contracts, grants, and leases, for public schools. The web site must be electronically searchable by the public.

(b) The data base must include for public schools:

- (1) the amount, date, payer, and payee of expenditures;
- (2) a listing of expenditures specifically identifying those for:
 - (A) personal services;
 - (B) other operating expenses or total operating expenses; and
 - (C) debt service, including lease payments, related to debt;
- (3) a listing of fund balances, specifically identifying balances in funds that are being used for accumulation of money for future capital needs;
- (4) a listing of real and personal property owned by the public school; and

(5) the report required under IC 6-1.1-33.5-7.

As added by P.L.172-2011, SEC.17. Amended by P.L.84-2014, SEC.3; P.L.208-2016, SEC.2; P.L.213-2018(ss), SEC.1.

IC 5-14-3.7-4 Presentation of information

Sec. 4. To the extent possible, the department shall present information in the data base established under this chapter in a manner that is searchable and intuitive to users.

As added by P.L.172-2011, SEC.17.

IC 5-14-3.7-5 Public access not allowed for certain information

Sec. 5. (a) The department may not allow public access under this section to:

- (1) a payee's address;
- (2) personal information that is protected under state or federal law or rule; or
- (3) information that is protected as a trade secret under state or federal law or by rule.

(b) The department may make information protected under subsection (a) available in an aggregate format only.

As added by P.L.172-2011, SEC.17.

IC 5-14-3.7-6 Immunity from civil liability

Sec. 6. Employees of the state are immune from any civil liability for posting confidential information under section 5 of this chapter if an employee of the state posted the information in reliance on a determination made by a public school about the confidentiality of information relating to the educational institution's expenditures or fund balances.

As added by P.L.172-2011, SEC.17.

IC 5-14-3.7-7 Information to be provided to the department by public schools

Sec. 7. To the extent any information required to be in the data base is collected or maintained by a public school, the public school shall provide that information to the department for inclusion in the data base.

As added by P.L.172-2011, SEC.17.

IC 5-14-3.7-8 Fee for access prohibited

Sec. 8. The department may not charge a fee for access to the data base.

As added by P.L.172-2011, SEC.17.

IC 5-14-3.7-9 Public schools required to cooperate and provide information to the department

Sec. 9. Except as provided in section 10 of this chapter, a public school shall cooperate with and provide information to the department as necessary to implement and administer this chapter.

As added by P.L.172-2011, SEC.17.

IC 5-14-3.7-10 Recording information or expending resources for computer programming not required

Sec. 10. This chapter does not require a public school or state agency to record information or expend resources for the purpose of computer programming to make information reportable under this chapter. This section does not waive requirements under any law that a prescribed form must be submitted electronically.

As added by P.L.172-2011, SEC.17.

IC 5-14-3.7-11 Links on state web site and public school web sites

Sec. 11. The office of technology established by IC 4-13.1-2-1 shall work with the

department to include a link on the Internet web site established under this chapter to the Internet web site of each Internet web site operated by:

- (1) the state; or
- (2) a public school.

As added by P.L.172-2011, SEC.17.

IC 5-14-3.7-12 Links on public school web sites

Sec. 12. Each public school shall include a link on the public school's Internet web site to the Internet web site established under this chapter.

As added by P.L.172-2011, SEC.17.

IC 5-14-3.7-13 Design of web site and establishing and posting information

Sec. 13. The department and the office of technology shall initially complete the design of the Internet web site and establish and post the information required under this chapter for all public schools.

As added by P.L.172-2011, SEC.17.

IC 5-14-3.7-14 Report by the department

Sec. 14. Not later than November 15, 2011, the department shall provide a report to the state board of finance and the legislative council on the progress the office has made to comply with this chapter. The report to the legislative council must be in an electronic format under IC 5-14-6.

As added by P.L.172-2011, SEC.17.

IC 5-14-3.7-15 Forms submitted in an electronic format

Sec. 15. In order to comply with this chapter, the department may require that forms required to be submitted under this chapter be submitted in an electronic format.

As added by P.L.172-2011, SEC.17.

IC 5-14-3.7-16 Repealed

As added by P.L.84-2014, SEC.4. Amended by P.L.244-2017, SEC.7. Repealed by P.L.213-2018 (ss), SEC.2.

IC 5-14-3.8 Chapter 3.8. Access to Financial Data for Local Units

5-14-3.8-1	"Department"
5-14-3.8-2	"Political subdivision"
5-14-3.8-3	Information posted on the Indiana transparency web site
5-14-3.8-3.5	Taxing unit contracts
5-14-3.8-4	Immunity from civil liability
5-14-3.8-5	Recording of information or expending resources for computer programming not required
5-14-3.8-6	Repealed
5-14-3.8-7	Submission of forms in an electronic format
5-14-3.8-8	Development of fiscal health indicators; publication on Internet dashboard
5-14-3.8-9	Certifications of tax distributions and settlement

IC 5-14-3.8-1 "Department"

Sec. 1. As used in this chapter, "department" means the department of local government finance established under IC 6-1.1-30-1.1.

As added by P.L.172-2011, SEC.18.

IC 5-14-3.8-2 "Political subdivision"

Sec. 2. As used in this chapter, "political subdivision" has the meaning set forth in IC 5-11-10.5-1.

As added by P.L.172-2011, SEC.18.

IC 5-14-3.8-3 Information posted on the Indiana transparency web site

Sec. 3. The department, working with the office of technology established by IC 4-13.1-2-1, or another organization that is part of a state educational institution, the office of management and budget established by IC 4-3-22-3, and the state board of accounts established by IC 5-11-1-1, shall post on the Indiana transparency Internet web site the following:

- (1) The financial reports required by IC 5-11-1-4.
- (2) The report on expenditures per capita prepared under IC 6-1.1-33.5-7.
- (3) A listing of the property tax rates certified by the department.
- (4) An index of audit reports prepared by the state board of accounts.
- (5) Local development agreement reports prepared under IC 4-33-23-10 and IC 4-33-23-17.
- (6) Information for evaluating the fiscal health of a political subdivision in the format required by section 8(b) of this chapter.
- (7) A listing of expenditures specifically identifying those for:
 - (A) personal services;
 - (B) other operating expenses or total operating expenses; and
 - (C) debt service, including lease payments, related to debt.
- (8) A listing of fund balances, specifically identifying balances in funds that are being used for accumulation of money for future capital needs.
- (9) Any other financial information deemed appropriate by the department.

As added by P.L.172-2011, SEC.18. Amended by P.L.229-2013, SEC.37; P.L.84-2014, SEC.5; P.L.208-2016, SEC.3.

IC 5-14-3.8-3.5 Taxing unit contracts

Sec. 3.5. (a) This section applies only to contracts that a political subdivision that is a taxing unit (as defined in IC 6-1.1-1-21) enters into after June 30, 2016.

(b) As used in this section, "contract" includes all pages of a contract and any attachments to the contract.

(c) A political subdivision shall upload a digital copy of a contract to the Indiana

transparency Internet web site one (1) time if the total cost of the contract to the political subdivision exceeds fifty thousand dollars (\$50,000) during the term of the contract. This subsection applies to all contracts for any subject, purpose, or term, except that a political subdivision is not required to upload a copy of an employment contract between the political subdivision and an employee of the political subdivision. In the case of a collective bargaining agreement, the political subdivision shall upload a copy of the collective bargaining agreement and a copy of a blank or sample individual employment contract. A political subdivision shall upload the contract not later than sixty (60) days after the date the contract is executed. If a political subdivision enters into a contract that the political subdivision reasonably expects when entered into will not exceed fifty thousand dollars (\$50,000) in cost to the political subdivision but at a later date determines or expects the contract to exceed fifty thousand dollars (\$50,000) in cost to the political subdivision, the political subdivision shall upload a copy of the contract within sixty (60) days after the date on which the political subdivision makes the determination or realizes the expectation that the contract will exceed fifty thousand dollars (\$50,000) in cost to the political subdivision.

(d) Nothing in this section prohibits the political subdivision from withholding any information in the contract that the political subdivision shall or may withhold from disclosure under IC 5-14-3. A political subdivision may redact or obscure signatures on a contract. The political subdivision is solely responsible for redacting information in the contract.

As added by P.L.142-2016, SEC.1. Amended by P.L.255-2017, SEC.1; P.L.257-2019, SEC.7.

IC 5-14-3.8-4 Immunity from civil liability

Sec. 4. Employees of the department are immune from any civil liability for posting confidential information under section 3 of this chapter if an employee of the department posted the information in reliance on a determination made by a political subdivision.

As added by P.L.172-2011, SEC.18.

IC 5-14-3.8-5 Recording of information or expending resources for computer programming not required

Sec. 5. This chapter does not require a political subdivision to record information or expend resources for the purpose of computer programming to make information reportable under this chapter. This section does not waive requirements under any law that a prescribed form must be submitted electronically.

As added by P.L.172-2011, SEC.18.

IC 5-14-3.8-6 Repealed

As added by P.L.172-2011, SEC.18. Repealed by P.L.121-2016, SEC.13.

IC 5-14-3.8-7 Submission of forms in an electronic format

Sec. 7. The department may require that prescribed forms be submitted in an electronic format. The department, working with the office of technology established by IC 4-13.1-2-1 or another organization that is part of a state educational institution, shall develop and maintain a secure, web-based system that facilitates electronic submission of the forms under this section. Political subdivisions shall submit forms under this section through the web-based system as prescribed by the department.

As added by P.L.172-2011, SEC.18. Amended by P.L.137-2012, SEC.10.

IC 5-14-3.8-8 Development of fiscal health indicators; publication on Internet dashboard

Sec. 8. (a) The department shall develop indicators of fiscal health for evaluating the fiscal health of a political subdivision. The department may consider including any of the following in the indicators developed under this subsection:

- (1) The cash balance of a political subdivision.
- (2) The debt to revenue ratio of a political subdivision.
- (3) The condition of a political subdivision's property tax base and income tax base, if any, as measured by both the assessed value of the political subdivision and the amount of per capita revenue generated from the political subdivision's tax bases.
- (4) The per capita amount of a political subdivision's general fund operating revenue or in the case of a school corporation, the school corporation's education fund and operations fund revenue.
- (5) Any trends in the amount of a political subdivision's tax revenue.
- (6) Whether a political subdivision maintains a structural deficit or a structural surplus.
- (7) The number and size of the tax increment financing districts designated by a redevelopment commission established by the political subdivision, if any.
- (8) The extent that the political subdivision is affected by tax increment financing districts.
- (9) The extent that the political subdivision's property tax base is affected by exempt properties.
- (10) The political subdivision's bond rating.
- (11) The amount of retiree benefits paid by the political subdivision.
- (12) The amount of pension contributions paid on behalf of the political subdivision's employees.
- (13) Any other factor that the department considers relevant to evaluating the fiscal health of a political subdivision.

(b) The department shall use the indicators developed under subsection (a) and the associated fiscal data to present the information for evaluating the fiscal health of a political subdivision on the Indiana transparency Internet web site. The information must be presented in a manner that:

- (1) can be conveniently and easily accessed from a single web page; and
- (2) is commonly known as an Internet dashboard.

The information must be available on the Indiana transparency Internet web site in the format required by this subsection before July 1, 2015.

(c) Neither the department of local government finance nor any other state agency may use the fiscal health indicators developed under this section to assign a political subdivision a summative grade.

As added by P.L.84-2014, SEC.6. Amended by P.L.244-2017, SEC.8.

IC 5-14-3.8-9 Certifications of tax distributions and settlement

Sec. 9. The county auditor of each county shall submit the certification of tax distribution and settlement to the Indiana transparency Internet web site biannually and not later than the following dates:

- (1) For the distribution and settlement to be completed by the fifty-first day after May 10 of a year under IC 6-1.1-27-1, not later than July 15 of the same year.
- (2) For the distribution and settlement to be completed by the fifty-first day after November 10 of a year under IC 6-1.1-27-1, not later than January 15 of the following year.

As added by P.L.257-2019, SEC.8.

IC 5-14-3.9 Chapter 3.9. Financial and Operational Summary of a Political Subdivision

5-14-3.9-1	"Department"
5-14-3.9-2	"Political subdivision"
5-14-3.9-3	"Summary"
5-14-3.9-4	Application of chapter
5-14-3.9-5	Political subdivision summary publication on Internet web site
5-14-3.9-6	Information included in summary
5-14-3.9-7	Form of summary
5-14-3.9-8	School corporation educational performance information

IC 5-14-3.9-1 "Department"

Sec. 1. As used in this chapter, "department" refers to the department of local government finance established by IC 6-1.1-30-1.1.

As added by P.L.208-2016, SEC.4.

IC 5-14-3.9-2 "Political subdivision"

Sec. 2. As used in this chapter, "political subdivision" means a county, township, city, town, school corporation, library district, fire protection district, public transportation corporation, local hospital authority or corporation, local airport authority district, special service district, special taxing district, or other separate local governmental entity that may sue and be sued.

As added by P.L.208-2016, SEC.4.

IC 5-14-3.9-3 "Summary"

Sec. 3. As used in this chapter, "summary" means the financial and operational summary required by this chapter.

As added by P.L.208-2016, SEC.4.

IC 5-14-3.9-4 Application of chapter

Sec. 4. This chapter applies only to a political subdivision that has an Internet web site. This chapter does not require a political subdivision to establish an Internet web site.

As added by P.L.208-2016, SEC.4.

IC 5-14-3.9-5 Political subdivision summary publication on Internet web site

Sec. 5. (a) After July 31, 2017, the department shall publish an annual summary of each political subdivision on the Indiana transparency Internet web site on the dates determined by the department.

(b) A political subdivision shall prominently display on the main Internet web page of the political subdivision's Internet web site the link provided by the department to the Indiana transparency Internet web site established under IC 5-14-3.7.

As added by P.L.208-2016, SEC.4.

IC 5-14-3.9-6 Information included in summary

Sec. 6. The department shall determine the information to be disclosed in the summary that the department considers necessary to reflect the financial condition and operations of the political subdivision, which may include the following:

- (1) Information disclosed under IC 5-14-3.7 or IC 5-14-3.8.
- (2) Total operating budget.
- (3) Approximate number of full-time and part-time employees.
- (4) Outstanding indebtedness and interest paid on indebtedness.
- (5) Disbursements.
- (6) Assessed valuation and tax rates.

(7) Revenue from all sources.
As added by P.L.208-2016, SEC.4.

IC 5-14-3.9-7 Form of summary

Sec. 7. (a) Subject to the requirements of this section, the department shall determine the form of the summary, which must be presented in a manner that:

- (1) can be conveniently and easily accessed from a single web page; and
- (2) is commonly known as an Internet dashboard.

(b) The summary must be in a form that is concise and reasonably easy to understand.

As added by P.L.208-2016, SEC.4.

IC 5-14-3.9-8 School corporation educational performance information

Sec. 8. (a) This section applies only to a school corporation.

(b) The summary must include the educational performance information of each school in the school corporation. The department of education (established by IC 20-19-3-1) shall determine the contents of the educational performance information.

As added by P.L.208-2016, SEC.4.

IC 5-14-4 Chapter 4. Public Access Counselor

5-14-4-1	"Counselor" defined
5-14-4-2	"Office" defined
5-14-4-3	"Public access laws" defined
5-14-4-4	"Public agency" defined
5-14-4-5	Establishment of office
5-14-4-6	Appointment; term
5-14-4-7	Removal for cause
5-14-4-8	Vacancies in office
5-14-4-9	Requirements for position
5-14-4-10	Powers and duties
5-14-4-11	Additional personnel
5-14-4-12	Annual report by counselor
5-14-4-13	Statute of limitations
5-14-4-14	Education fund

IC 5-14-4-1 "Counselor" defined

Sec. 1. As used in this chapter, "counselor" refers to the public access counselor appointed under section 6 of this chapter.

As added by P.L.70-1999, SEC.4 and P.L.191-1999, SEC.4.

IC 5-14-4-2 "Office" defined

Sec. 2. As used in this chapter, "office" refers to the office of the public access counselor established under section 5 of this chapter.

As added by P.L.70-1999, SEC.4 and P.L.191-1999, SEC.4.

IC 5-14-4-3 "Public access laws" defined

Sec. 3. As used in this chapter, "public access laws" refers to:

- (1) IC 5-14-1.5;
- (2) IC 5-14-3; or
- (3) any other state statute or rule governing access to public meetings or public records.

As added by P.L.70-1999, SEC.4 and P.L.191-1999, SEC.4.

IC 5-14-4-4 "Public agency" defined

Sec. 4. As used in this chapter, "public agency" has the meaning set forth in:

- (1) IC 5-14-1.5-2 for purposes of matters concerning public meetings; and
- (2) IC 5-14-3-2 for purposes of matters concerning public records.

As added by P.L.70-1999, SEC.4 and P.L.191-1999, SEC.4.

IC 5-14-4-5 Establishment of office

Sec. 5. The office of the public access counselor is established. The office shall be administered by the public access counselor appointed under section 6 of this chapter.

As added by P.L.70-1999, SEC.4 and P.L.191-1999, SEC.4.

IC 5-14-4-6 Appointment; term

Sec. 6. The governor shall appoint a public access counselor for a term of four (4) years at a salary to be fixed by the governor.

As added by P.L.70-1999, SEC.4 and P.L.191-1999, SEC.4.

IC 5-14-4-7 Removal for cause

Sec. 7. The governor may remove the counselor for cause.

As added by P.L.70-1999, SEC.4 and P.L.191-1999, SEC.4.

IC 5-14-4-8 Vacancies in office

Sec. 8. If a vacancy occurs in the office, the governor shall appoint an individual to serve for the remainder of the counselor's unexpired term.
As added by P.L.70-1999, SEC.4 and P.L.191-1999, SEC.4.

IC 5-14-4-9 Requirements for position

Sec. 9. (a) The counselor must be a practicing attorney.

(b) The counselor shall apply the counselor's full efforts to the duties of the office and may not be actively engaged in any other occupation, practice, profession, or business.
As added by P.L.70-1999, SEC.4 and P.L.191-1999, SEC.4.

IC 5-14-4-10 Powers and duties

Sec. 10. The counselor has the following powers and duties:

- (1) To establish and administer a program to train public officials and educate the public on the rights of the public and the responsibilities of public agencies under the public access laws. The counselor may contract with a person or a public or private entity to fulfill the counselor's responsibility under this subdivision.
- (2) To conduct research.
- (3) To prepare interpretive and educational materials and programs in cooperation with the office of the attorney general.
- (4) To distribute to newly elected or appointed public officials the public access laws and educational materials concerning the public access laws.
- (5) To respond to informal inquiries made by the public and public agencies by telephone, in writing, in person, by facsimile, or by electronic mail concerning the public access laws.
- (6) To issue advisory opinions to interpret the public access laws upon the request of a person or a public agency. However, the counselor may not issue an advisory opinion concerning a specific matter with respect to which a lawsuit has been filed under IC 5-14-1.5 or IC 5-14-3.
- (7) To make recommendations to the general assembly concerning ways to improve public access.

As added by P.L.70-1999, SEC.4 and P.L.191-1999, SEC.4.

IC 5-14-4-11 Additional personnel

Sec. 11. The counselor may employ additional personnel necessary to carry out the functions of the office subject to the approval of the budget agency.
As added by P.L.70-1999, SEC.4 and P.L.191-1999, SEC.4.

IC 5-14-4-12 Annual report by counselor

Sec. 12. The counselor shall submit a report in an electronic format under IC 5-14-6 not later than June 30 of each year to the legislative services agency concerning the activities of the counselor for the previous year. The report must include the following information:

- (1) The total number of inquiries and complaints received.
- (2) The number of inquiries and complaints received each from the public, the media, and government agencies.
- (3) The number of inquiries and complaints that were resolved.
- (4) The number of complaints received about each of the following:
 - (A) State agencies.
 - (B) County agencies.
 - (C) City agencies.
 - (D) Town agencies.
 - (E) Township agencies.
 - (F) School corporations.
 - (G) Other local agencies.

(5) The number of complaints received concerning each of the following:

(A) Public records.

(B) Public meetings.

(6) The total number of written advisory opinions issued and pending.

As added by P.L.70-1999, SEC.4 and P.L.191-1999, SEC.4. Amended by P.L.28-2004, SEC.58.

IC 5-14-4-13 Statute of limitations

Sec. 13. An informal inquiry or other request for assistance under this chapter does not delay the running of a statute of limitation that applies to a lawsuit under IC 5-14-1.5 or IC 5-14-3 concerning the subject matter of the inquiry or other request.

As added by P.L.70-1999, SEC.4 and P.L.191-1999, SEC.4.

IC 5-14-4-14 Education fund

Sec. 14. (a) An education fund is established to provide funds for the program established under section 10(1) of this chapter.

(b) The fund consists of the following:

(1) Civil penalties collected under IC 5-14-1.5-7.5 and IC 5-14-3-9.5.

(2) Money appropriated by the general assembly.

(3) Grants, gifts, contributions, and money received from any other source.

(c) The treasurer of state shall administer the fund. The following may be paid from money in the fund:

(1) Expenses of administering the fund.

(2) Nonrecurring administrative expenses incurred to carry out the purposes of this section.

(d) Money in the fund at the end of a state fiscal year does not revert to the state general fund.

(e) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public funds may be invested. Interest that accrues from these investments shall be deposited in the fund.

As added by P.L.134-2012, SEC.21.

IC 5-14-5 Chapter 5. Formal Complaint Procedure

5-14-5-1	"Counselor" defined
5-14-5-2	"Person" defined
5-14-5-3	"Public agency" defined
5-14-5-4	Complaint not required to file action
5-14-5-5	Cooperation from public agencies
5-14-5-6	Grounds for complaint
5-14-5-7	Time for filing complaint
5-14-5-8	Complaint forwarded to public agency
5-14-5-9	Advisory opinion
5-14-5-10	Priority of complaints
5-14-5-11	Form of complaint
5-14-5-12	Statute of limitations

IC 5-14-5-1 "Counselor" defined

Sec. 1. As used in this chapter, "counselor" refers to the public access counselor appointed under IC 5-14-4-6.

As added by P.L.70-1999, SEC.5 and P.L.191-1999, SEC.5.

IC 5-14-5-2 "Person" defined

Sec. 2. As used in this chapter, "person" means an individual, a business, a corporation, an association, or an organization. The term does not include a public agency.

As added by P.L.70-1999, SEC.5 and P.L.191-1999, SEC.5.

IC 5-14-5-3 "Public agency" defined

Sec. 3. As used in this chapter, "public agency" has the meaning set forth in:

- (1) IC 5-14-1.5-2, for purposes of matters concerning public meetings; and
- (2) IC 5-14-3-2, for purposes of matters concerning public records.

As added by P.L.70-1999, SEC.5 and P.L.191-1999, SEC.5.

IC 5-14-5-4 Complaint not required to file action

Sec. 4. A person or a public agency is not required to file a complaint under this chapter before filing an action under IC 5-14-1.5 or IC 5-14-3.

As added by P.L.70-1999, SEC.5 and P.L.191-1999, SEC.5.

IC 5-14-5-5 Cooperation from public agencies

Sec. 5. A public agency shall cooperate with the counselor in any investigation or proceeding under this chapter.

As added by P.L.70-1999, SEC.5 and P.L.191-1999, SEC.5.

IC 5-14-5-6 Grounds for complaint

Sec. 6. A person or a public agency denied:

- (1) the right to inspect or copy records under IC 5-14-3;
- (2) the right to attend any public meeting of a public agency in violation of IC 5-14-1.5;
- or
- (3) any other right conferred by IC 5-14-3 or IC 5-14-1.5 or any other state statute or rule governing access to public meetings or public records;

may file a formal complaint with the counselor under the procedure prescribed by this chapter or may make an informal inquiry under IC 5-14-4-10(5).

As added by P.L.70-1999, SEC.5 and P.L.191-1999, SEC.5.

IC 5-14-5-7 Time for filing complaint

Sec. 7. (a) A person or a public agency that chooses to file a formal complaint with the

counselor must file the complaint not later than thirty (30) days after:

- (1) the denial; or
 - (2) the person filing the complaint receives notice in fact that a meeting was held by a public agency, if the meeting was conducted secretly or without notice.
- (b) A complaint is considered filed on the date it is:
- (1) received by the counselor; or
 - (2) postmarked, if received more than thirty (30) days after the date of the denial that is the subject of the complaint.

As added by P.L.70-1999, SEC.5 and P.L.191-1999, SEC.5.

IC 5-14-5-8 Complaint forwarded to public agency

Sec. 8. When the counselor receives a complaint under section 7 of this chapter, the counselor shall immediately forward a copy of the complaint to the public agency that is the subject of the complaint.

As added by P.L.70-1999, SEC.5 and P.L.191-1999, SEC.5.

IC 5-14-5-9 Advisory opinion

Sec. 9. Except as provided in section 10 of this chapter, the counselor shall issue an advisory opinion on the complaint not later than thirty (30) days after the complaint is filed.

As added by P.L.70-1999, SEC.5 and P.L.191-1999, SEC.5.

IC 5-14-5-10 Priority of complaints

Sec. 10. (a) If the counselor determines that a complaint has priority, the counselor shall issue an advisory opinion on the complaint not later than seven (7) days after the complaint is filed.

(b) The counselor shall adopt rules under IC 4-22-2 establishing criteria for complaints that have priority.

As added by P.L.70-1999, SEC.5 and P.L.191-1999, SEC.5.

IC 5-14-5-11 Form of complaint

Sec. 11. The public access counselor shall determine the form of a formal complaint filed under this chapter.

As added by P.L.70-1999, SEC.5 and P.L.191-1999, SEC.5.

IC 5-14-5-12 Statute of limitations

Sec. 12. The filing of a formal complaint under this chapter does not delay the running of a statute of limitation that applies to a lawsuit under IC 5-14-1.5 or IC 5-14-3 concerning the subject matter of the complaint.

As added by P.L.70-1999, SEC.5 and P.L.191-1999, SEC.5.

IC 5-14-6 Chapter 6. Electronic Transmission of Reports to the General Assembly

5-14-6-1	"Public agency"
5-14-6-2	"Report"
5-14-6-3	Prohibition on paper reports to the general assembly; restriction on use of public funds for paper reports
5-14-6-4	Electronic format required; distribution of electronic information

IC 5-14-6-1 "Public agency"

Sec. 1. As used in this chapter, "public agency" includes the following:

- (1) The judicial branch of state government.
- (2) A state agency (as defined in IC 4-13-1-1).
- (3) A body corporate and politic created by statute.
- (4) A state educational institution.

As added by P.L.51-2003, SEC.1. Amended by P.L.2-2007, SEC.102.

IC 5-14-6-2 "Report"

Sec. 2. As used in this chapter, "report" includes any annual or other report that a public agency:

- (1) voluntarily; or
- (2) under a statutory directive;

submits to the entire membership of the general assembly, the legislative services agency, the legislative council, or a committee established under IC 2-5-1.3-4. The term does not include any document prepared at the request of an individual member of the general assembly.

As added by P.L.51-2003, SEC.1. Amended by P.L.53-2014, SEC.65.

IC 5-14-6-3 Prohibition on paper reports to the general assembly; restriction on use of public funds for paper reports

Sec. 3. (a) A public agency may not submit a report to the general assembly, the legislative services agency, the legislative council, or a committee established under IC 2-5-1.3-4 on paper.

(b) Notwithstanding any law, no funds appropriated to a public agency from the state treasury may be used to duplicate, print, distribute, or mail a report to the general assembly, the legislative services agency, the legislative council, or a committee established under IC 2-5-1.3-4 in violation of this chapter.

As added by P.L.51-2003, SEC.1. Amended by P.L.53-2014, SEC.66.

IC 5-14-6-4 Electronic format required; distribution of electronic information

Sec. 4. (a) A public agency shall submit all reports in an electronic format specified by the executive director of the legislative services agency. Unless otherwise specified in statute, the electronic copy shall be delivered to the executive director of the legislative services agency.

(b) An agency that submits a report under subsection (a) shall do the following:

- (1) Post, or cause to be posted, a copy of the report on the Internet.
- (2) Subject to the policies established by the legislative council, send a copy of the report:
 - (A) for reports required to be sent to the entire membership of the general assembly, to each member of the general assembly;
 - (B) for reports required to be sent to the legislative council, to each member of the legislative council; and
 - (C) for reports required to be sent to a committee established under IC 2-5-1.3-4, to

each member of the committee;
using the member's senate or house of representatives electronic mail address. The legislative council may provide for the legislative services agency to make electronic distribution of reports under this subdivision instead of having the agency make the distribution.

(c) The legislative services agency shall periodically compile reports received under this chapter on a CD-ROM or other suitable storage medium and shall distribute copies of the CD-ROM or other medium to any member of the general assembly who requests a copy.

As added by P.L.51-2003, SEC.1. Amended by P.L.53-2014, SEC.67.

IC 5-14-7 **Chapter 7. Repealed**
Repealed by P.L.123-2015, SEC.28.