

HOUSE BILL No. 1358

DIGEST OF INTRODUCED BILL

Citations Affected: IC 5-14-3-4; IC 16-37-1.

Synopsis: Confidentiality of birth and stillbirth records. Provides that a registration or certificate of a birth or stillbirth is open to public inspection and copying upon the request of any person that occurs 99 years (instead of 75 years) after the record is created.

Effective: July 1, 2022.

Porter

January 11, 2022, read first time and referred to Committee on Public Health.



Second Regular Session of the 122nd General Assembly (2022)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2021 Regular Session of the General Assembly.

HOUSE BILL No. 1358

A BILL FOR AN ACT to amend the Indiana Code concerning health.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 5-14-3-4, AS AMENDED BY P.L.197-2021,
2 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2022]: Sec. 4. (a) The following public records are excepted
4 from section 3 of this chapter and may not be disclosed by a public
5 agency, unless access to the records is specifically required by a state
6 or federal statute or is ordered by a court under the rules of discovery:
7 (1) Those declared confidential by state statute.
8 (2) Those declared confidential by rule adopted by a public
9 agency under specific authority to classify public records as
10 confidential granted to the public agency by statute.
11 (3) Those required to be kept confidential by federal law.
12 (4) Records containing trade secrets.
13 (5) Confidential financial information obtained, upon request,
14 from a person. However, this does not include information that is
15 filed with or received by a public agency pursuant to state statute.
16 (6) Information concerning research, including actual research
17 documents, conducted under the auspices of a state educational



- 1 institution, including information:
- 2 (A) concerning any negotiations made with respect to the
- 3 research; and
- 4 (B) received from another party involved in the research.
- 5 (7) Grade transcripts and license examination scores obtained as
- 6 part of a licensure process.
- 7 (8) Those declared confidential by or under rules adopted by the
- 8 supreme court of Indiana.
- 9 (9) Patient medical records and charts created by a provider,
- 10 unless the patient gives written consent under IC 16-39 or as
- 11 provided under IC 16-41-8.
- 12 (10) Application information declared confidential by the Indiana
- 13 economic development corporation under IC 5-28.
- 14 (11) A photograph, a video recording, or an audio recording of an
- 15 autopsy, except as provided in IC 36-2-14-10.
- 16 (12) A Social Security number contained in the records of a
- 17 public agency.
- 18 (13) The following information that is part of a foreclosure action
- 19 subject to IC 32-30-10.5:
- 20 (A) Contact information for a debtor, as described in
- 21 IC 32-30-10.5-8(d)(1)(B).
- 22 (B) Any document submitted to the court as part of the debtor's
- 23 loss mitigation package under IC 32-30-10.5-10(a)(3).
- 24 (14) The following information obtained from a call made to a
- 25 fraud hotline established under IC 36-1-8-8.5:
- 26 (A) The identity of any individual who makes a call to the
- 27 fraud hotline.
- 28 (B) A report, transcript, audio recording, or other information
- 29 concerning a call to the fraud hotline.
- 30 However, records described in this subdivision may be disclosed
- 31 to a law enforcement agency, a private university police
- 32 department, the attorney general, the inspector general, the state
- 33 examiner, or a prosecuting attorney.
- 34 (b) Except as otherwise provided by subsection (a), the following
- 35 public records shall be excepted from section 3 of this chapter at the
- 36 discretion of a public agency:
- 37 (1) Investigatory records of law enforcement agencies or private
- 38 university police departments. For purposes of this chapter, a law
- 39 enforcement recording is not an investigatory record. Law
- 40 enforcement agencies or private university police departments
- 41 may share investigatory records with a:
- 42 (A) person who advocates on behalf of a crime victim,



- 1 including a victim advocate (as defined in IC 35-37-6-3.5) or
 2 a victim service provider (as defined in IC 35-37-6-5), for the
 3 purposes of providing services to a victim or describing
 4 services that may be available to a victim; and
 5 (B) school corporation (as defined by IC 20-18-2-16(a)),
 6 charter school (as defined by IC 20-24-1-4), or nonpublic
 7 school (as defined by IC 20-18-2-12) for the purpose of
 8 enhancing the safety or security of a student or a school
 9 facility;
 10 without the law enforcement agency or private university police
 11 department losing its discretion to keep those records confidential
 12 from other records requesters. However, certain law enforcement
 13 records must be made available for inspection and copying as
 14 provided in section 5 of this chapter.
- 15 (2) The work product of an attorney representing, pursuant to
 16 state employment or an appointment by a public agency:
- 17 (A) a public agency;
 - 18 (B) the state; or
 - 19 (C) an individual.
- 20 (3) Test questions, scoring keys, and other examination data used
 21 in administering a licensing examination, examination for
 22 employment, or academic examination before the examination is
 23 given or if it is to be given again.
- 24 (4) Scores of tests if the person is identified by name and has not
 25 consented to the release of the person's scores.
- 26 (5) The following:
- 27 (A) Records relating to negotiations between:
 - 28 (i) the Indiana economic development corporation;
 - 29 (ii) the ports of Indiana;
 - 30 (iii) the Indiana state department of agriculture;
 - 31 (iv) the Indiana finance authority;
 - 32 (v) an economic development commission;
 - 33 (vi) the Indiana White River state park development
 - 34 commission;
 - 35 (vii) a local economic development organization that is a
 - 36 nonprofit corporation established under state law whose
 - 37 primary purpose is the promotion of industrial or business
 - 38 development in Indiana, the retention or expansion of
 - 39 Indiana businesses, or the development of entrepreneurial
 - 40 activities in Indiana; or
 - 41 (viii) a governing body of a political subdivision;
 - 42 with industrial, research, or commercial prospects, if the



- 1 records are created while negotiations are in progress.
 2 However, this clause does not apply to records regarding
 3 research that is prohibited under IC 16-34.5-1-2 or any other
 4 law.
- 5 (B) Notwithstanding clause (A), the terms of the final offer of
 6 public financial resources communicated by the Indiana
 7 economic development corporation, the ports of Indiana, the
 8 Indiana finance authority, an economic development
 9 commission, the Indiana White River state park development
 10 commission, or a governing body of a political subdivision to
 11 an industrial, a research, or a commercial prospect shall be
 12 available for inspection and copying under section 3 of this
 13 chapter after negotiations with that prospect have terminated.
- 14 (C) When disclosing a final offer under clause (B), the Indiana
 15 economic development corporation shall certify that the
 16 information being disclosed accurately and completely
 17 represents the terms of the final offer.
- 18 (D) Notwithstanding clause (A), an incentive agreement with
 19 an incentive recipient shall be available for inspection and
 20 copying under section 3 of this chapter after the date the
 21 incentive recipient and the Indiana economic development
 22 corporation execute the incentive agreement regardless of
 23 whether negotiations are in progress with the recipient after
 24 that date regarding a modification or extension of the incentive
 25 agreement.
- 26 (6) Records that are intra-agency or interagency advisory or
 27 deliberative material, including material developed by a private
 28 contractor under a contract with a public agency, that are
 29 expressions of opinion or are of a speculative nature, and that are
 30 communicated for the purpose of decision making.
- 31 (7) Diaries, journals, or other personal notes serving as the
 32 functional equivalent of a diary or journal.
- 33 (8) Personnel files of public employees and files of applicants for
 34 public employment, except for:
- 35 (A) the name, compensation, job title, business address,
 36 business telephone number, job description, education and
 37 training background, previous work experience, or dates of
 38 first and last employment of present or former officers or
 39 employees of the agency;
- 40 (B) information relating to the status of any formal charges
 41 against the employee; and
- 42 (C) the factual basis for a disciplinary action in which final



- 1 action has been taken and that resulted in the employee being
2 suspended, demoted, or discharged.
- 3 However, all personnel file information shall be made available
4 to the affected employee or the employee's representative. This
5 subdivision does not apply to disclosure of personnel information
6 generally on all employees or for groups of employees without the
7 request being particularized by employee name.
- 8 (9) Minutes or records of hospital medical staff meetings.
- 9 (10) Administrative or technical information that would
10 jeopardize a record keeping system, voting system, voter
11 registration system, or security system.
- 12 (11) Computer programs, computer codes, computer filing
13 systems, and other software that are owned by the public agency
14 or entrusted to it and portions of electronic maps entrusted to a
15 public agency by a utility.
- 16 (12) Records specifically prepared for discussion or developed
17 during discussion in an executive session under IC 5-14-1.5-6.1.
18 However, this subdivision does not apply to that information
19 required to be available for inspection and copying under
20 subdivision (8).
- 21 (13) The work product of the legislative services agency under
22 personnel rules approved by the legislative council.
- 23 (14) The work product of individual members and the partisan
24 staffs of the general assembly.
- 25 (15) The identity of a donor of a gift made to a public agency if:
26 (A) the donor requires nondisclosure of the donor's identity as
27 a condition of making the gift; or
28 (B) after the gift is made, the donor or a member of the donor's
29 family requests nondisclosure.
- 30 (16) Library or archival records:
31 (A) which can be used to identify any library patron; or
32 (B) deposited with or acquired by a library upon a condition
33 that the records be disclosed only:
34 (i) to qualified researchers;
35 (ii) after the passing of a period of years that is specified in
36 the documents under which the deposit or acquisition is
37 made; or
38 (iii) after the death of persons specified at the time of the
39 acquisition or deposit.
- 40 However, nothing in this subdivision shall limit or affect contracts
41 entered into by the Indiana state library pursuant to IC 4-1-6-8.
- 42 (17) The identity of any person who contacts the bureau of motor



1 vehicles concerning the ability of a driver to operate a motor
 2 vehicle safely and the medical records and evaluations made by
 3 the bureau of motor vehicles staff or members of the driver
 4 licensing medical advisory board regarding the ability of a driver
 5 to operate a motor vehicle safely. However, upon written request
 6 to the commissioner of the bureau of motor vehicles, the driver
 7 must be given copies of the driver's medical records and
 8 evaluations.

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

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

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

21 (B) Vulnerability assessments.

22 (C) Risk planning documents.

23 (D) Needs assessments.

24 (E) Threat assessments.

25 (F) Intelligence assessments.

26 (G) Domestic preparedness strategies.

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

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

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

35 (K) Detailed drawings or specifications of structural elements,
 36 floor plans, and operating, utility, or security systems, whether
 37 in paper or electronic form, of any building or facility located
 38 on an airport (as defined in IC 8-21-1-1) that is owned,
 39 occupied, leased, or maintained by a public agency, or any part
 40 of a law enforcement recording that captures information
 41 about airport security procedures, areas, or systems. A record
 42 described in this clause may not be released for public



1 inspection by any public agency without the prior approval of
 2 the public agency that owns, occupies, leases, or maintains the
 3 airport. Both of the following apply to the public agency that
 4 owns, occupies, leases, or maintains the airport:

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

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

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

23 (i) emergency management worker (as defined in
 24 IC 10-14-3-3);

25 (ii) public safety officer (as defined in IC 35-47-4.5-3);

26 (iii) emergency medical responder (as defined in
 27 IC 16-18-2-109.8); or

28 (iv) advanced emergency medical technician (as defined in
 29 IC 16-18-2-6.5).

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

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

42 (A) Telephone number.



- 1 (B) Address.
 2 (C) Social Security number.
 3 (21) The following personal information about a complainant
 4 contained in records of a law enforcement agency:
 5 (A) Telephone number.
 6 (B) The complainant's address. However, if the complainant's
 7 address is the location of the suspected crime, infraction,
 8 accident, or complaint reported, the address shall be made
 9 available for public inspection and copying.
 10 (22) Notwithstanding subdivision (8)(A), the name,
 11 compensation, job title, business address, business telephone
 12 number, job description, education and training background,
 13 previous work experience, or dates of first employment of a law
 14 enforcement officer who is operating in an undercover capacity.
 15 (23) Records requested by an offender, an agent, or a relative of
 16 an offender that:
 17 (A) contain personal information relating to:
 18 (i) a correctional officer (as defined in IC 5-10-10-1.5);
 19 (ii) a probation officer;
 20 (iii) a community corrections officer;
 21 (iv) a law enforcement officer (as defined in
 22 IC 35-31.5-2-185);
 23 (v) a judge (as defined in IC 33-38-12-3);
 24 (vi) the victim of a crime; or
 25 (vii) a family member of a correctional officer, probation
 26 officer, community corrections officer, law enforcement
 27 officer (as defined in IC 35-31.5-2-185), judge (as defined
 28 in IC 33-38-12-3), or victim of a crime; or
 29 (B) concern or could affect the security of a jail or correctional
 30 facility.
 31 For purposes of this subdivision, "agent" means a person who is
 32 authorized by an offender to act on behalf of, or at the direction
 33 of, the offender, and "relative" has the meaning set forth in
 34 IC 35-42-2-1(b). However, the term "agent" does not include an
 35 attorney in good standing admitted to the practice of law in
 36 Indiana.
 37 (24) Information concerning an individual less than eighteen (18)
 38 years of age who participates in a conference, meeting, program,
 39 or activity conducted or supervised by a state educational
 40 institution, including the following information regarding the
 41 individual or the individual's parent or guardian:
 42 (A) Name.



- 1 (B) Address.
 2 (C) Telephone number.
 3 (D) Electronic mail account address.
 4 (25) Criminal intelligence information.
 5 (26) The following information contained in a report of unclaimed
 6 property under IC 32-34-1.5-18 or in a claim for unclaimed
 7 property under IC 32-34-1.5-48:
 8 (A) Date of birth.
 9 (B) Driver's license number.
 10 (C) Taxpayer identification number.
 11 (D) Employer identification number.
 12 (E) Account number.
 13 (27) Except as provided in subdivision (19) and sections 5.1 and
 14 5.2 of this chapter, a law enforcement recording. However, before
 15 disclosing the recording, the public agency must comply with the
 16 obscuring requirements of sections 5.1 and 5.2 of this chapter, if
 17 applicable.
 18 (28) Records relating to negotiations between a state educational
 19 institution and another entity concerning the establishment of a
 20 collaborative relationship or venture to advance the research,
 21 engagement, or educational mission of the state educational
 22 institution, if the records are created while negotiations are in
 23 progress. The terms of the final offer of public financial resources
 24 communicated by the state educational institution to an industrial,
 25 a research, or a commercial prospect shall be available for
 26 inspection and copying under section 3 of this chapter after
 27 negotiations with that prospect have terminated. However, this
 28 subdivision does not apply to records regarding research
 29 prohibited under IC 16-34.5-1-2 or any other law.
 30 (c) Nothing contained in subsection (b) shall limit or affect the right
 31 of a person to inspect and copy a public record required or directed to
 32 be made by any statute or by any rule of a public agency.
 33 (d) Notwithstanding any other law, a public record that is classified
 34 as confidential, other than a record concerning an adoption, ~~or~~ patient
 35 medical records, **or a birth or stillbirth**, shall be made available for
 36 inspection and copying seventy-five (75) years after the creation of that
 37 record.
 38 (e) Only the content of a public record may form the basis for the
 39 adoption by any public agency of a rule or procedure creating an
 40 exception from disclosure under this section.
 41 (f) Except as provided by law, a public agency may not adopt a rule
 42 or procedure that creates an exception from disclosure under this



1 section based upon whether a public record is stored or accessed using
 2 paper, electronic media, magnetic media, optical media, or other
 3 information storage technology.

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

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

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

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

12 SECTION 2. IC 16-37-1-7.5 IS ADDED TO THE INDIANA CODE
 13 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 14 1, 2022]: **Sec. 7.5. (a) A registration or certificate of a birth or
 15 stillbirth shall be:**

16 **(1) open to public inspection; and**

17 **(2) a copy provided;**

18 **upon the request of any person that occurs on or after the date that**
 19 **is ninety-nine (99) years after the record's creation date.**

20 **(b) Notwithstanding subsection (a), the birth record of an**
 21 **adopted child remains subject to the confidentiality provisions of**
 22 **IC 31-19 regarding the release of adoption information.**

23 SECTION 3. IC 16-37-1-8, AS AMENDED BY P.L.43-2009,
 24 SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 25 JULY 1, 2022]: Sec. 8. (a) Except as provided in **section 7.5 of this**
 26 **chapter and** subsection (c), a local health officer shall provide a
 27 certification of birth, death, or stillbirth registration upon request by
 28 any person only if:

29 (1) the health officer is satisfied that the applicant has a direct
 30 interest in the matter;

31 (2) the health officer determines that the certificate is necessary
 32 for the determination of personal or property rights or for
 33 compliance with state or federal law; and

34 (3) the applicant for a birth certificate presents at least one (1)
 35 form of identification.

36 However, the local health officer must issue a certificate of an
 37 applicant's own birth registration.

38 (b) A local health officer's decision whether or not to issue a
 39 certified copy of a birth certificate is subject to review by a court.

40 (c) A local health officer may not issue a copy of a birth certificate
 41 of a missing child to which a notice has been attached under
 42 IC 10-13-5-11 without the authorization of the Indiana clearinghouse



1 for information on missing children and missing endangered adults.
2 (d) Upon determination that a person may be provided a
3 certification of death under subsection (a), the local health officer shall
4 provide to the person a certification of death that excludes information
5 concerning the cause of death if the person requests the exclusion of
6 this information.
7 SECTION 4. IC 16-37-1-10, AS AMENDED BY P.L.138-2019,
8 SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
9 JULY 1, 2022]: Sec. 10. (a) Information contained in a birth record is
10 confidential and may be disclosed only in accordance with this article.
11 (b) Except as provided in **section 7.5 of this chapter, and**
12 subsections (c) and (d), the records and files of the division of the state
13 department concerning vital statistics are subject to this article and
14 rules of the state department. Data contained in the records and files
15 may be disclosed only as follows:
16 (1) The state registrar shall permit inspection of the records or
17 issue a certified copy of a certificate or part of a certificate only
18 if the state registrar is satisfied of the following:
19 (A) That the applicant has a direct interest in the matter
20 recorded.
21 (B) That the information is necessary for the determination of
22 personal or property rights or for compliance with state or
23 federal law.
24 The state registrar's decision is subject to review by the state
25 department or a court under this section.
26 (2) The state department may disclose identifiable vital statistics
27 information to a legitimate researcher, if the researcher complies
28 with the following requirements:
29 (A) The researcher states in writing to the state department the
30 purpose, including:
31 (i) any intent to publish findings;
32 (ii) the nature of the data sought;
33 (iii) the personal information that would be required; and
34 (iv) the safeguards that will be taken to protect the identity
35 of the data subjects.
36 (B) The researcher executes an agreement with the state
37 department, on a form approved by the oversight committee on
38 public records established under IC 5-15-5.1-18, that:
39 (i) incorporates safeguards for protection of individual data
40 subjects;
41 (ii) defines the scope of the research project; and
42 (iii) informs the researcher that failure to abide by



- 1 conditions of the approved agreement constitutes a breach
 2 of contract and could result in civil litigation by any data
 3 subject.
- 4 (C) The researcher agrees to pay any direct or indirect costs of
 5 the research.
- 6 The state department shall determine whether the proposed
 7 safeguards are adequate to prevent the identity of an individual
 8 data subject from being known before approving the agreement.
 9 Upon execution of an agreement described in this subdivision, the
 10 state department shall maintain a copy of the agreement for the
 11 duration of the agreement's effective date.
- 12 (3) In any extraordinary case that the state registrar determines is
 13 a direct tangible and legitimate public interest.
- 14 (c) Notwithstanding subsection (b)(1) through (b)(3), a certificate
 15 of death received by a local health department (as defined in
 16 IC 16-18-2-211) or the state department is a public record that, upon
 17 request, must be made available for inspection and copying if:
- 18 (1) the copy made of the certificate of death is not a certified
 19 copy;
- 20 (2) any Social Security number that appears on the certificate of
 21 death is redacted; and
- 22 (3) any charge or fee that is due under section 9, 11, or 11.5 of
 23 this chapter is collected.
- 24 (d) The birth record of an adopted child remains subject to the
 25 confidentiality provisions of IC 31-19 regarding the release of adoption
 26 information.
- 27 (e) The state registrar may deny a request to inspect or copy a record
 28 concerning vital statistics that is in the state registrar's possession if the
 29 state registrar has a reasonable suspicion that releasing the record may
 30 result in fraud or identity theft.

