

# SENATE BILL No. 101

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 4-2-6-4; IC 5-14-3.

**Synopsis:** Public records. Restates the law describing the information that a public agency is required to keep about a public employee or an applicant for public employment. Describes the procedure for release of information that must be disclosed by a public agency relating to the suspension, demotion, or discharge of a public employee or former public employee.

**Effective:** July 1, 2018.

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January 3, 2018, read first time and referred to Committee on Local Government.

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Second Regular Session 120th General Assembly (2018)

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 2017 Regular Session of the General Assembly.

## SENATE BILL No. 101

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A BILL FOR AN ACT to amend the Indiana Code concerning state and local administration.

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

- 1 SECTION 1. IC 4-2-6-4, AS AMENDED BY P.L.126-2012,  
2 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
3 JULY 1, 2018]: Sec. 4. (a) The commission may do any of the  
4 following:  
5 (1) Upon a vote of four (4) members, refer any matter within the  
6 inspector general's authority to the inspector general for  
7 investigation.  
8 (2) Receive and hear any complaint filed with the commission by  
9 the inspector general that alleges a violation of:  
10 (A) this chapter;  
11 (B) a rule adopted under this chapter;  
12 (C) IC 4-2-7;  
13 (D) a rule adopted under IC 4-2-7;  
14 (E) IC 4-2-8; or  
15 (F) a rule adopted under IC 4-2-8.  
16 (3) Obtain information and, upon a vote of four (4) members,  
17 compel the attendance and testimony of witnesses and the



- 1 production of pertinent books and papers by a subpoena  
 2 enforceable by the circuit or superior court of the county where  
 3 the subpoena is to be issued.
- 4 (4) Recommend legislation to the general assembly relating to the  
 5 conduct and ethics of state officers, employees, special state  
 6 appointees, and persons who have business relationships with  
 7 agencies.
- 8 (5) Adopt rules under IC 4-22-2 to implement this chapter.
- 9 (6) Accept and file information:  
 10 (A) voluntarily supplied; and  
 11 (B) that exceeds the requirements of this chapter.
- 12 (7) Conduct research.
- 13 (b) The commission shall do the following:
- 14 (1) Act as an advisory body by issuing advisory opinions to  
 15 interpret this chapter, IC 4-2-7, or the rules adopted under this  
 16 chapter or IC 4-2-7, upon:  
 17 (A) request of:  
 18 (i) a state officer or a former state officer;  
 19 (ii) an employee or a former employee;  
 20 (iii) a person who has or had a business relationship with an  
 21 agency;  
 22 (iv) a special state appointee or former special state  
 23 appointee; or  
 24 (v) the inspector general; or  
 25 (B) motion of the commission.
- 26 (2) Conduct its proceedings in the following manner:  
 27 (A) When a complaint is filed with the commission, the  
 28 commission may:  
 29 (i) reject, without further proceedings, a complaint that the  
 30 commission considers frivolous or inconsequential;  
 31 (ii) reject, without further proceedings, a complaint that the  
 32 commission is satisfied has been dealt with appropriately by  
 33 an agency;  
 34 (iii) upon the vote of four (4) members, determine that the  
 35 complaint does not allege facts sufficient to constitute a  
 36 violation of this chapter or the code of ethics and dismiss the  
 37 complaint; or  
 38 (iv) forward a copy of the complaint to the attorney general,  
 39 the prosecuting attorney of the county in which the alleged  
 40 violation occurred, the state board of accounts, a state  
 41 officer, the appointing authority, or other appropriate person  
 42 for action, and stay the commission's proceedings pending



- 1 the other action.
- 2 (B) If a complaint is not disposed of under clause (A), a copy  
3 of the complaint shall be sent to the person alleged to have  
4 committed the violation.
- 5 (C) If the complaint is not disposed of under clause (A), the  
6 commission may promptly refer the alleged violation for  
7 additional investigation by the inspector general. If the  
8 commission finds by a majority vote that probable cause exists  
9 to support an alleged violation, it shall set a public hearing on  
10 the matter. The respondent shall be notified within fifteen (15)  
11 days of the commission's determination. Except as provided in  
12 this section, the commission's evidence relating to an  
13 investigation is confidential.
- 14 (D) A complaint filed with the commission is open for public  
15 inspection after the commission finds that probable cause  
16 exists. However, a complaint filed by the inspector general that  
17 contains confidential information under IC 4-2-7-8 may be  
18 redacted to exclude the confidential information. Every  
19 hearing and other proceeding in which evidence is received by  
20 the commission is open to the public. Investigative reports by  
21 the inspector general that are not filed with the commission  
22 may be kept confidential.
- 23 (E) A:
- 24 (i) complaint that is filed with; or  
25 (ii) proceeding that is held by;  
26 the commission before the commission has found probable  
27 cause is confidential unless the target of the investigation  
28 elects to have information disclosed, or the commission elects  
29 to respond to public statements by the person who filed the  
30 complaint.
- 31 (F) The commission may acknowledge:
- 32 (i) the existence and scope of an investigation before the  
33 finding of probable cause; or  
34 (ii) that the commission did not find probable cause to  
35 support an alleged violation.
- 36 (G) If a hearing is to be held, the respondent may examine and  
37 make copies of all evidence in the commission's possession  
38 relating to the charges. At the hearing, the charged party shall  
39 be afforded appropriate due process protection consistent with  
40 IC 4-21.5, including the right to be represented by counsel, the  
41 right to call and examine witnesses, the right to introduce  
42 exhibits, and the right to cross-examine opposing witnesses.



- 1 (H) After the hearing, the commission shall state its findings  
 2 of fact. If the commission, based on a preponderance of the  
 3 evidence, finds by a majority vote that the respondent has  
 4 violated this chapter, IC 4-2-7, IC 4-2-8, or a rule adopted  
 5 under this chapter, IC 4-2-7, or IC 4-2-8, it shall state its  
 6 findings in writing in a report, which shall be supported and  
 7 signed by a majority of the commission members and shall be  
 8 made public.
- 9 (I) If the commission, based on a preponderance of the  
 10 evidence, finds by a majority vote a violation of this chapter,  
 11 IC 4-2-7, IC 4-2-8, or a rule adopted under this chapter,  
 12 IC 4-2-7, or IC 4-2-8, the commission may also take any of the  
 13 actions provided in section 12 of this chapter.
- 14 (J) The report required under clause (H) shall be presented to:  
 15 (i) the respondent;  
 16 (ii) the appointing authority or state officer of the employee,  
 17 former employee, or special state appointee;  
 18 (iii) the appointing authority or state officer of an agency or  
 19 office that has a business relationship with the person  
 20 sanctioned; and  
 21 (iv) the governor.
- 22 (K) The commission may also forward the report to any of the  
 23 following:  
 24 (i) The prosecuting attorney of each county in which the  
 25 violation occurred.  
 26 (ii) The state board of accounts.  
 27 (iii) The state personnel director.  
 28 (iv) The attorney general.  
 29 (v) A state officer.  
 30 (vi) The appointing authority of the state employee or  
 31 agency that has a business relationship with the person  
 32 sanctioned.  
 33 (vii) Any other appropriate person.
- 34 (L) If the commission finds the respondent has not violated a  
 35 code or statutory provision or a rule adopted under this  
 36 chapter, IC 4-2-7, or IC 4-2-8, it shall dismiss the charges.
- 37 (3) Review all conflict of interest disclosures received by the  
 38 commission under IC 35-44.1-1-4, maintain an index of those  
 39 disclosures, and issue advisory opinions and screening procedures  
 40 as set forth in section 9 of this chapter.
- 41 (c) Notwithstanding ~~IC 5-14-3-4(b)(8)(C)~~, **IC 5-14-3-4(b)(8) and**  
 42 **IC 5-14-3-4.2**, the records of the commission concerning the case of a



1 respondent that are not confidential under IC 5-14-3-4(b)(2)(C), or  
 2 **IC 5-14-3-4(b)(8) and IC 5-14-3-4.2**, shall be available for inspection  
 3 and copying in accordance with IC 5-14-3.

4 SECTION 2. IC 5-14-3-4, AS AMENDED BY P.L.197-2017,  
 5 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 6 JULY 1, 2018]: Sec. 4. (a) The following public records are excepted  
 7 from section 3 of this chapter and may not be disclosed by a public  
 8 agency, unless access to the records is specifically required by a state  
 9 or federal statute or is ordered by a court under the rules of discovery:

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



- 1                   loss mitigation package under IC 32-30-10.5-10(a)(3).  
 2                   (14) The following information obtained from a call made to a  
 3                   fraud hotline established under IC 36-1-8-8.5:  
 4                   (A) The identity of any individual who makes a call to the  
 5                   fraud hotline.  
 6                   (B) A report, transcript, audio recording, or other information  
 7                   concerning a call to the fraud hotline.  
 8                   However, records described in this subdivision may be disclosed  
 9                   to a law enforcement agency, a private university police  
 10                   department, the attorney general, the inspector general, the state  
 11                   examiner, or a prosecuting attorney.  
 12                   (b) Except as otherwise provided by subsection (a), the following  
 13                   public records shall be excepted from section 3 of this chapter at the  
 14                   discretion of a public agency:  
 15                   (1) Investigatory records of law enforcement agencies or private  
 16                   university police departments. For purposes of this chapter, a law  
 17                   enforcement recording is not an investigatory record. Law  
 18                   enforcement agencies or private university police departments  
 19                   may share investigatory records with a person who advocates on  
 20                   behalf of a crime victim, including a victim advocate (as defined  
 21                   in IC 35-37-6-3.5) or a victim service provider (as defined in  
 22                   IC 35-37-6-5), for the purposes of providing services to a victim  
 23                   or describing services that may be available to a victim, without  
 24                   the law enforcement agency or private university police  
 25                   department losing its discretion to keep those records confidential  
 26                   from other records requesters. However, certain law enforcement  
 27                   records must be made available for inspection and copying as  
 28                   provided in section 5 of this chapter.  
 29                   (2) The work product of an attorney representing, pursuant to  
 30                   state employment or an appointment by a public agency:  
 31                   (A) a public agency;  
 32                   (B) the state; or  
 33                   (C) an individual.  
 34                   (3) Test questions, scoring keys, and other examination data used  
 35                   in administering a licensing examination, examination for  
 36                   employment, or academic examination before the examination is  
 37                   given or if it is to be given again.  
 38                   (4) Scores of tests if the person is identified by name and has not  
 39                   consented to the release of the person's scores.  
 40                   (5) The following:  
 41                   (A) Records relating to negotiations between:  
 42                   (i) the Indiana economic development corporation;



- 1 (ii) the ports of Indiana;  
2 (iii) the Indiana state department of agriculture;  
3 (iv) the Indiana finance authority;  
4 (v) an economic development commission;  
5 (vi) a local economic development organization that is a  
6 nonprofit corporation established under state law whose  
7 primary purpose is the promotion of industrial or business  
8 development in Indiana, the retention or expansion of  
9 Indiana businesses, or the development of entrepreneurial  
10 activities in Indiana; or  
11 (vii) a governing body of a political subdivision;  
12 with industrial, research, or commercial prospects, if the  
13 records are created while negotiations are in progress.  
14 However, this clause does not apply to records regarding  
15 research that is prohibited under IC 16-34.5-1-2 or any other  
16 law.
- 17 (B) Notwithstanding clause (A), the terms of the final offer of  
18 public financial resources communicated by the Indiana  
19 economic development corporation, the ports of Indiana, the  
20 Indiana finance authority, an economic development  
21 commission, or a governing body of a political subdivision to  
22 an industrial, a research, or a commercial prospect shall be  
23 available for inspection and copying under section 3 of this  
24 chapter after negotiations with that prospect have terminated.
- 25 (C) When disclosing a final offer under clause (B), the Indiana  
26 economic development corporation shall certify that the  
27 information being disclosed accurately and completely  
28 represents the terms of the final offer.
- 29 (D) Notwithstanding clause (A), an incentive agreement with  
30 an incentive recipient shall be available for inspection and  
31 copying under section 3 of this chapter after the date the  
32 incentive recipient and the Indiana economic development  
33 corporation execute the incentive agreement regardless of  
34 whether negotiations are in progress with the recipient after  
35 that date regarding a modification or extension of the incentive  
36 agreement.
- 37 (6) Records that are intra-agency or interagency advisory or  
38 deliberative material, including material developed by a private  
39 contractor under a contract with a public agency, that are  
40 expressions of opinion or are of a speculative nature, and that are  
41 communicated for the purpose of decision making.
- 42 (7) Diaries, journals, or other personal notes serving as the





1 functional equivalent of a diary or journal.

2 (8) ~~Personnel files of~~ **Records relating to a public employees**  
 3 **employee and files of applicants or an applicant** for public  
 4 employment. ~~except for:~~ **However, subject to section 4.2 of this**  
 5 **chapter, any of the following information contained in a**  
 6 **record relating to a public employee or an applicant for**  
 7 **public employment must be available for inspection and**  
 8 **copying in accordance with this chapter:**

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

14 (B) Information relating to the status of any formal charges  
 15 against the employee. ~~and~~

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

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

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

25 (10) Administrative or technical information that would  
 26 jeopardize a record keeping or security system.

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

31 (12) Records specifically prepared for discussion or developed  
 32 during discussion in an executive session under IC 5-14-1.5-6.1.  
 33 However, this subdivision does not apply to that information  
 34 required to be available for inspection and copying under  
 35 subdivision (8) **and section 4.2 of this chapter.**

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

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

40 (15) The identity of a donor of a gift made to a public agency if:  
 41 (A) the donor requires nondisclosure of the donor's identity as  
 42 a condition of making the gift; or



- 1 (B) after the gift is made, the donor or a member of the donor's  
 2 family requests nondisclosure.
- 3 (16) Library or archival records:
- 4 (A) which can be used to identify any library patron; or  
 5 (B) deposited with or acquired by a library upon a condition  
 6 that the records be disclosed only:
- 7 (i) to qualified researchers;  
 8 (ii) after the passing of a period of years that is specified in  
 9 the documents under which the deposit or acquisition is  
 10 made; or  
 11 (iii) after the death of persons specified at the time of the  
 12 acquisition or deposit.
- 13 However, nothing in this subdivision shall limit or affect contracts  
 14 entered into by the Indiana state library pursuant to IC 4-1-6-8.
- 15 (17) The identity of any person who contacts the bureau of motor  
 16 vehicles concerning the ability of a driver to operate a motor  
 17 vehicle safely and the medical records and evaluations made by  
 18 the bureau of motor vehicles staff or members of the driver  
 19 licensing medical advisory board regarding the ability of a driver  
 20 to operate a motor vehicle safely. However, upon written request  
 21 to the commissioner of the bureau of motor vehicles, the driver  
 22 must be given copies of the driver's medical records and  
 23 evaluations.
- 24 (18) School safety and security measures, plans, and systems,  
 25 including emergency preparedness plans developed under 511  
 26 IAC 6.1-2-2.5.
- 27 (19) A record or a part of a record, the public disclosure of which  
 28 would have a reasonable likelihood of threatening public safety  
 29 by exposing a vulnerability to terrorist attack. A record described  
 30 under this subdivision includes the following:
- 31 (A) A record assembled, prepared, or maintained to prevent,  
 32 mitigate, or respond to an act of terrorism under IC 35-47-12-1  
 33 or an act of agricultural terrorism under IC 35-47-12-2.  
 34 (B) Vulnerability assessments.  
 35 (C) Risk planning documents.  
 36 (D) Needs assessments.  
 37 (E) Threat assessments.  
 38 (F) Intelligence assessments.  
 39 (G) Domestic preparedness strategies.  
 40 (H) The location of community drinking water wells and  
 41 surface water intakes.  
 42 (I) The emergency contact information of emergency



- 1 responders and volunteers.
- 2 (J) Infrastructure records that disclose the configuration of  
3 critical systems such as communication, electrical, ventilation,  
4 water, and wastewater systems.
- 5 (K) Detailed drawings or specifications of structural elements,  
6 floor plans, and operating, utility, or security systems, whether  
7 in paper or electronic form, of any building or facility located  
8 on an airport (as defined in IC 8-21-1-1) that is owned,  
9 occupied, leased, or maintained by a public agency, or any part  
10 of a law enforcement recording that captures information  
11 about airport security procedures, areas, or systems. A record  
12 described in this clause may not be released for public  
13 inspection by any public agency without the prior approval of  
14 the public agency that owns, occupies, leases, or maintains the  
15 airport. Both of the following apply to the public agency that  
16 owns, occupies, leases, or maintains the airport:
- 17 (i) The public agency is responsible for determining whether  
18 the public disclosure of a record or a part of a record,  
19 including a law enforcement recording, has a reasonable  
20 likelihood of threatening public safety by exposing a  
21 security procedure, area, system, or vulnerability to terrorist  
22 attack.
- 23 (ii) The public agency must identify a record described  
24 under item (i) and clearly mark the record as "confidential  
25 and not subject to public disclosure under  
26 IC 5-14-3-4(b)(19)(J) without approval of (insert name of  
27 submitting public agency)". However, in the case of a law  
28 enforcement recording, the public agency must clearly mark  
29 the record as "confidential and not subject to public  
30 disclosure under IC 5-14-3-4(b)(19)(K) without approval of  
31 (insert name of the public agency that owns, occupies,  
32 leases, or maintains the airport)".
- 33 (L) The home address, home telephone number, and  
34 emergency contact information for any:
- 35 (i) emergency management worker (as defined in  
36 IC 10-14-3-3);
- 37 (ii) public safety officer (as defined in IC 35-47-4.5-3);
- 38 (iii) emergency medical responder (as defined in  
39 IC 16-18-2-109.8); or
- 40 (iv) advanced emergency medical technician (as defined in  
41 IC 16-18-2-6.5).
- 42 This subdivision does not apply to a record or portion of a record



1 pertaining to a location or structure owned or protected by a  
 2 public agency in the event that an act of terrorism under  
 3 IC 35-47-12-1 or an act of agricultural terrorism under  
 4 IC 35-47-12-2 has occurred at that location or structure, unless  
 5 release of the record or portion of the record would have a  
 6 reasonable likelihood of threatening public safety by exposing a  
 7 vulnerability of other locations or structures to terrorist attack.

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

10 (A) Telephone number.

11 (B) Address.

12 (C) Social Security number.

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

15 (A) Telephone number.

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

20 (22) Notwithstanding subdivision ~~(8)(A)~~ **(8) and section 4.2 of**  
 21 **this chapter**, the name, compensation, job title, business address,  
 22 business telephone number, job description, education and  
 23 training background, previous work experience, or dates of first  
 24 employment of a law enforcement officer who is operating in an  
 25 undercover capacity.

26 (23) Records requested by an offender that:

27 (A) contain personal information relating to:

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

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

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

32 (iv) the victim of a crime; or

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

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

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



- 1 (A) Name.  
 2 (B) Address.  
 3 (C) Telephone number.  
 4 (D) Electronic mail account address.  
 5 (25) Criminal intelligence information.  
 6 (26) The following information contained in a report of unclaimed  
 7 property under IC 32-34-1-26 or in a claim for unclaimed  
 8 property under IC 32-34-1-36:  
 9 (A) Date of birth.  
 10 (B) Driver's license number.  
 11 (C) Taxpayer identification number.  
 12 (D) Employer identification number.  
 13 (E) Account number.  
 14 (27) Except as provided in subdivision (19) and sections 5.1 and  
 15 5.2 of this chapter, a law enforcement recording. However, before  
 16 disclosing the recording, the public agency must comply with the  
 17 obscuring requirements of sections 5.1 and 5.2 of this chapter, if  
 18 applicable.  
 19 (28) Records relating to negotiations between a state educational  
 20 institution and another entity concerning the establishment of a  
 21 collaborative relationship or venture to advance the research,  
 22 engagement, or educational mission of the state educational  
 23 institution, if the records are created while negotiations are in  
 24 progress. The terms of the final offer of public financial resources  
 25 communicated by the state educational institution to an industrial,  
 26 a research, or a commercial prospect shall be available for  
 27 inspection and copying under section 3 of this chapter after  
 28 negotiations with that prospect have terminated. However, this  
 29 subdivision does not apply to records regarding research  
 30 prohibited under IC 16-34.5-1-2 or any other law.  
 31 (c) Nothing contained in subsection (b) shall limit or affect the right  
 32 of a person to inspect and copy a public record required or directed to  
 33 be made by any statute or by any rule of a public agency.  
 34 (d) Notwithstanding any other law, a public record that is classified  
 35 as confidential, other than a record concerning an adoption or patient  
 36 medical records, shall be made available for inspection and copying  
 37 seventy-five (75) years after the creation of that 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 3. IC 5-14-3-4.2 IS ADDED TO THE INDIANA CODE  
 13 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
 14 1, 2018]: **Sec. 4.2. (a) Notwithstanding section 4(b)(8)(A) through**  
 15 **4(b)(8)(C) of this chapter, a public agency may not disclose**  
 16 **information:**

17 (1) **about a public employee, former public employee, or an**  
 18 **applicant for public employment; and**

19 (2) **that is required to be kept confidential under this chapter,**  
 20 **another Indiana statute, or federal law.**

21 (b) **If a person requests any information described in section**  
 22 **4(b)(8)(A) through 4(b)(8)(C) of this chapter, the public agency**  
 23 **shall make available for inspection and copying the information**  
 24 **through either of the following:**

25 (1) **An existing record that contains the information**  
 26 **requested.**

27 (2) **Creating a new record that contains only the requested**  
 28 **information that is required to be disclosed under section**  
 29 **4(b)(8)(A) through 4(b)(8)(C) of this chapter.**

30 (c) **If the public agency chooses to make the requested**  
 31 **information available from an existing record that contains**  
 32 **information that is confidential and information that is not**  
 33 **confidential, the public agency shall make available for inspection**  
 34 **and copying the information that is not confidential under section**  
 35 **4(b)(8)(A) through 4(b)(8)(C) of this chapter as provided in section**  
 36 **6 of this chapter.**

37 (d) **If the public agency chooses to make the requested**  
 38 **information available for inspection and copying by creating a new**  
 39 **record under subsection (b)(2), the new record may not contain**  
 40 **any confidential information.**

41 (e) **If the requested information is the factual basis for a**  
 42 **disciplinary action as described in section 4(b)(8)(C) of this**



1 chapter, the record provided under subsection (b)(1) or the record  
 2 created under subsection (b)(2) must disclose the following  
 3 information:

4 (1) The name of the public employee suspended, demoted, or  
 5 discharged.

6 (2) A statement of the specific:

7 (A) statute;

8 (B) ordinance;

9 (C) rule; or

10 (D) policy;

11 that is the basis for the suspension, demotion, or discharge of  
 12 the public employee. If the statute, ordinance, rule, or policy  
 13 is generally available to the public, a citation to the statute,  
 14 ordinance, rule, or policy is sufficient.

15 (3) Findings of fact that support the public agency's:

16 (A) finding that the public employee violated the statute,  
 17 ordinance, rule, or policy referred to under subdivision (2);  
 18 and

19 (B) suspension, demotion, or discharge of the public  
 20 employee.

21 (f) Notwithstanding section 4(b)(8) of this chapter, the following  
 22 apply:

23 (1) A public agency shall make available all information the  
 24 public agency has about an employee or former employee  
 25 available to the employee, the former employee, or the  
 26 employee's or former employee's representative.

27 (2) A public agency shall make available for inspection and  
 28 copying general personnel information that the public agency  
 29 has on all its employees or for groups of its employees if  
 30 disclosure of the general information would not reveal  
 31 confidential information about a particular employee. If  
 32 disclosure of the general personnel information would reveal  
 33 confidential information about a particular individual, the  
 34 public agency shall make available for inspection and copying  
 35 the information that is not confidential as provided in section  
 36 6 of this chapter so that confidential information about any  
 37 particular individual is not disclosed.

