



February 28, 2020

ENGROSSED SENATE BILL No. 216

DIGEST OF SB 216 (Updated February 26, 2020 2:43 pm - DI 131)

Citations Affected: IC 5-14.

Synopsis: Disclosure of personal information to offender. Amends the access to public records act to provide that personal information regarding a correctional officer, law enforcement officer, judge, crime victim, or their family members may be withheld from disclosure when requested by a person confined in a prison, county jail, detention facility, or in a community corrections program as a result of the person's arrest or conviction for a crime, or that person's agent or relative. (Currently the law permits withholding personal information of officers, judges, victims, or their family members, if the information is requested by a person incarcerated in a penal institution after conviction for a crime.) Provides that the term "agent" does not include an attorney in good standing admitted to the practice of law in Indiana.

Effective: July 1, 2020.

**Sandlin, Koch, Freeman, Ford Jon,
Glick, Rogers, Buck,
Randolph Lonnie M, Houchin**
(HOUSE SPONSORS — BURTON, SHERMAN, PIERCE, YOUNG J)

January 6, 2020, read first time and referred to Committee on Judiciary.
January 30, 2020, reported favorably — Do Pass.
February 3, 2020, read second time, amended, ordered engrossed.
February 4, 2020, engrossed. Read third time, passed. Yeas 47, nays 0.

HOUSE ACTION

February 10, 2020, read first time and referred to Committee on Courts and Criminal Code.
February 27, 2020, amended, reported — Do Pass.

ES 216—LS 6485/DI 87



February 28, 2020

Second Regular Session of the 121st General Assembly (2020)

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 2019 Regular Session of the General Assembly.

ENGROSSED SENATE BILL No. 216

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 5-14-3-2, AS AMENDED BY P.L.85-2017,
2 SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2020]: Sec. 2. (a) The definitions set forth in this section apply
4 throughout this chapter.
5 (b) "Copy" includes transcribing by handwriting, photocopying,
6 xerography, duplicating machine, duplicating electronically stored data
7 onto a disk, tape, drum, or any other medium of electronic data storage,
8 and reproducing by any other means.
9 (c) "Criminal intelligence information" means data that has been
10 evaluated to determine that the data is relevant to:
11 (1) the identification of; and
12 (2) the criminal activity engaged in by;
13 an individual who or organization that is reasonably suspected of
14 involvement in criminal activity.
15 (d) "Direct cost" means one hundred five percent (105%) of the sum
16 of the cost of:
17 (1) the initial development of a program, if any;

ES 216—LS 6485/DI 87



- 1 (2) the labor required to retrieve electronically stored data; and
 2 (3) any medium used for electronic output;
 3 for providing a duplicate of electronically stored data onto a disk, tape,
 4 drum, or other medium of electronic data retrieval under section 8(g)
 5 of this chapter, or for reprogramming a computer system under section
 6 6(c) of this chapter.
- 7 (e) "Electronic map" means copyrighted data provided by a public
 8 agency from an electronic geographic information system.
- 9 (f) "Enhanced access" means the inspection of a public record by a
 10 person other than a governmental entity and that:
 11 (1) is by means of an electronic device other than an electronic
 12 device provided by a public agency in the office of the public
 13 agency; or
 14 (2) requires the compilation or creation of a list or report that does
 15 not result in the permanent electronic storage of the information.
- 16 (g) "Facsimile machine" means a machine that electronically
 17 transmits exact images through connection with a telephone network.
- 18 (h) "Inspect" includes the right to do the following:
 19 (1) Manually transcribe and make notes, abstracts, or memoranda.
 20 (2) In the case of tape recordings or other aural public records, to
 21 listen and manually transcribe or duplicate, or make notes,
 22 abstracts, or other memoranda from them.
 23 (3) In the case of public records available:
 24 (A) by enhanced access under section 3.5 of this chapter; or
 25 (B) to a governmental entity under section 3(c)(2) of this
 26 chapter;
 27 to examine and copy the public records by use of an electronic
 28 device.
 29 (4) In the case of electronically stored data, to manually transcribe
 30 and make notes, abstracts, or memoranda or to duplicate the data
 31 onto a disk, tape, drum, or any other medium of electronic
 32 storage.
- 33 (i) "Investigatory record" means information compiled in the course
 34 of the investigation of a crime.
- 35 (j) "Law enforcement activity" means:
 36 (1) a traffic stop;
 37 (2) a pedestrian stop;
 38 (3) an arrest;
 39 (4) a search;
 40 (5) an investigation;
 41 (6) a pursuit;
 42 (7) crowd control;



- 1 (8) traffic control; or
 2 (9) any other instance in which a law enforcement officer is
 3 enforcing the law.
- 4 The term does not include an administrative activity, including the
 5 completion of paperwork related to a law enforcement activity, or a
 6 custodial interrogation conducted in a place of detention as described
 7 in Indiana Evidence Rule 617, regardless of the ultimate admissibility
 8 of a statement made during the custodial interrogation.
- 9 (k) "Law enforcement recording" means an audio, visual, or
 10 audiovisual recording of a law enforcement activity captured by a
 11 camera or other device that is:
- 12 (1) provided to or used by a law enforcement officer in the scope
 13 of the officer's duties; and
 14 (2) designed to be worn by a law enforcement officer or attached
 15 to the vehicle or transportation of a law enforcement officer.
- 16 (l) "Offender" means a person confined in a **prison, county jail,**
 17 **detention facility,** penal institution, **or in a community corrections**
 18 **program** as the result of the **person's arrest or** conviction for a crime.
- 19 (m) "Patient" has the meaning set out in IC 16-18-2-272(d).
- 20 (n) "Person" means an individual, a corporation, a limited liability
 21 company, a partnership, an unincorporated association, or a
 22 governmental entity.
- 23 (o) "Private university police department" means the police officers
 24 appointed by the governing board of a private university under
 25 IC 21-17-5.
- 26 (p) "Provider" has the meaning set out in IC 16-18-2-295(b) and
 27 includes employees of the state department of health or local boards of
 28 health who create patient records at the request of another provider or
 29 who are social workers and create records concerning the family
 30 background of children who may need assistance.
- 31 (q) "Public agency", except as provided in section 2.1 of this
 32 chapter, means the following:
- 33 (1) Any board, commission, department, division, bureau,
 34 committee, agency, office, instrumentality, or authority, by
 35 whatever name designated, exercising any part of the executive,
 36 administrative, judicial, or legislative power of the state.
- 37 (2) Any:
- 38 (A) county, township, school corporation, city, or town, or any
 39 board, commission, department, division, bureau, committee,
 40 office, instrumentality, or authority of any county, township,
 41 school corporation, city, or town;
 42 (B) political subdivision (as defined by IC 36-1-2-13); or



- 1 (C) other entity, or any office thereof, by whatever name
 2 designated, exercising in a limited geographical area the
 3 executive, administrative, judicial, or legislative power of the
 4 state or a delegated local governmental power.
- 5 (3) Any entity or office that is subject to:
 6 (A) budget review by either the department of local
 7 government finance or the governing body of a county, city,
 8 town, township, or school corporation; or
 9 (B) an audit by the state board of accounts that is required by
 10 statute, rule, or regulation.
- 11 (4) Any building corporation of a political subdivision that issues
 12 bonds for the purpose of constructing public facilities.
- 13 (5) Any advisory commission, committee, or body created by
 14 statute, ordinance, or executive order to advise the governing
 15 body of a public agency, except medical staffs or the committees
 16 of any such staff.
- 17 (6) Any law enforcement agency, which means an agency or a
 18 department of any level of government that engages in the
 19 investigation, apprehension, arrest, or prosecution of alleged
 20 criminal offenders, such as the state police department, the police
 21 or sheriff's department of a political subdivision, prosecuting
 22 attorneys, members of the excise police division of the alcohol
 23 and tobacco commission, conservation officers of the department
 24 of natural resources, gaming agents of the Indiana gaming
 25 commission, gaming control officers of the Indiana gaming
 26 commission, and the security division of the state lottery
 27 commission.
- 28 (7) Any license branch operated under IC 9-14.1.
- 29 (8) The state lottery commission established by IC 4-30-3-1,
 30 including any department, division, or office of the commission.
- 31 (9) The Indiana gaming commission established under IC 4-33,
 32 including any department, division, or office of the commission.
- 33 (10) The Indiana horse racing commission established by IC 4-31,
 34 including any department, division, or office of the commission.
- 35 (11) A private university police department. The term does not
 36 include the governing board of a private university or any other
 37 department, division, board, entity, or office of a private
 38 university.
- 39 (r) "Public record" means any writing, paper, report, study, map,
 40 photograph, book, card, tape recording, or other material that is
 41 created, received, retained, maintained, or filed by or with a public
 42 agency and which is generated on paper, paper substitutes,



1 photographic media, chemically based media, magnetic or machine
 2 readable media, electronically stored data, or any other material,
 3 regardless of form or characteristics.

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

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

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

12 (1) notes and statements taken during interviews of prospective
 13 witnesses; and

14 (2) legal research or records, correspondence, reports, or
 15 memoranda to the extent that each contains the attorney's
 16 opinions, theories, or conclusions.

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

19 SECTION 2. IC 5-14-3-4, AS AMENDED BY THE TECHNICAL
 20 CORRECTIONS BILL OF THE 2020 GENERAL ASSEMBLY, IS
 21 AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]:
 22 Sec. 4. (a) The following public records are excepted from section 3 of
 23 this chapter and may not be disclosed by a public agency, unless access
 24 to the records is specifically required by a state or federal statute or is
 25 ordered by a court under the rules of discovery:

26 (1) Those declared confidential by state statute.

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

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

31 (4) Records containing trade secrets.

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

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

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

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

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



- 1 (8) Those declared confidential by or under rules adopted by the
 2 supreme court of Indiana.
- 3 (9) Patient medical records and charts created by a provider,
 4 unless the patient gives written consent under IC 16-39 or as
 5 provided under IC 16-41-8.
- 6 (10) Application information declared confidential by the Indiana
 7 economic development corporation under IC 5-28-16.
- 8 (11) A photograph, a video recording, or an audio recording of an
 9 autopsy, except as provided in IC 36-2-14-10.
- 10 (12) A Social Security number contained in the records of a
 11 public agency.
- 12 (13) The following information that is part of a foreclosure action
 13 subject to IC 32-30-10.5:
- 14 (A) Contact information for a debtor, as described in
 15 IC 32-30-10.5-8(d)(1)(B).
- 16 (B) Any document submitted to the court as part of the debtor's
 17 loss mitigation package under IC 32-30-10.5-10(a)(3).
- 18 (14) The following information obtained from a call made to a
 19 fraud hotline established under IC 36-1-8-8.5:
- 20 (A) The identity of any individual who makes a call to the
 21 fraud hotline.
- 22 (B) A report, transcript, audio recording, or other information
 23 concerning a call to the fraud hotline.
- 24 However, records described in this subdivision may be disclosed
 25 to a law enforcement agency, a private university police
 26 department, the attorney general, the inspector general, the state
 27 examiner, or a prosecuting attorney.
- 28 (b) Except as otherwise provided by subsection (a), the following
 29 public records shall be excepted from section 3 of this chapter at the
 30 discretion of a public agency:
- 31 (1) Investigatory records of law enforcement agencies or private
 32 university police departments. For purposes of this chapter, a law
 33 enforcement recording is not an investigatory record. Law
 34 enforcement agencies or private university police departments
 35 may share investigatory records with a:
- 36 (A) person who advocates on behalf of a crime victim,
 37 including a victim advocate (as defined in IC 35-37-6-3.5) or
 38 a victim service provider (as defined in IC 35-37-6-5), for the
 39 purposes of providing services to a victim or describing
 40 services that may be available to a victim; and
- 41 (B) school corporation (as defined by IC 20-18-2-16(a)),
 42 charter school (as defined by IC 20-24-1-4), or nonpublic



- 1 school (as defined by IC 20-18-2-12) for the purpose of
 2 enhancing the safety or security of a student or a school
 3 facility;
 4 without the law enforcement agency or private university police
 5 department losing its discretion to keep those records confidential
 6 from other records requesters. However, certain law enforcement
 7 records must be made available for inspection and copying as
 8 provided in section 5 of this chapter.
- 9 (2) The work product of an attorney representing, pursuant to
 10 state employment or an appointment by a public agency:
- 11 (A) a public agency;
 - 12 (B) the state; or
 - 13 (C) an individual.
- 14 (3) Test questions, scoring keys, and other examination data used
 15 in administering a licensing examination, examination for
 16 employment, or academic examination before the examination is
 17 given or if it is to be given again.
- 18 (4) Scores of tests if the person is identified by name and has not
 19 consented to the release of the person's scores.
- 20 (5) The following:
- 21 (A) Records relating to negotiations between:
 - 22 (i) the Indiana economic development corporation;
 - 23 (ii) the ports of Indiana;
 - 24 (iii) the Indiana state department of agriculture;
 - 25 (iv) the Indiana finance authority;
 - 26 (v) an economic development commission;
 - 27 (vi) a local economic development organization that is a
 28 nonprofit corporation established under state law whose
 29 primary purpose is the promotion of industrial or business
 30 development in Indiana, the retention or expansion of
 31 Indiana businesses, or the development of entrepreneurial
 32 activities in Indiana; or
 - 33 (vii) a governing body of a political subdivision;
- 34 with industrial, research, or commercial prospects, if the
 35 records are created while negotiations are in progress.
 36 However, this clause does not apply to records regarding
 37 research that is prohibited under IC 16-34.5-1-2 or any other
 38 law.
- 39 (B) Notwithstanding clause (A), the terms of the final offer of
 40 public financial resources communicated by the Indiana
 41 economic development corporation, the ports of Indiana, the
 42 Indiana finance authority, an economic development



- 1 commission, or a governing body of a political subdivision to
 2 an industrial, a research, or a commercial prospect shall be
 3 available for inspection and copying under section 3 of this
 4 chapter after negotiations with that prospect have terminated.
 5 (C) When disclosing a final offer under clause (B), the Indiana
 6 economic development corporation shall certify that the
 7 information being disclosed accurately and completely
 8 represents the terms of the final offer.
 9 (D) Notwithstanding clause (A), an incentive agreement with
 10 an incentive recipient shall be available for inspection and
 11 copying under section 3 of this chapter after the date the
 12 incentive recipient and the Indiana economic development
 13 corporation execute the incentive agreement regardless of
 14 whether negotiations are in progress with the recipient after
 15 that date regarding a modification or extension of the incentive
 16 agreement.
- 17 (6) Records that are intra-agency or interagency advisory or
 18 deliberative material, including material developed by a private
 19 contractor under a contract with a public agency, that are
 20 expressions of opinion or are of a speculative nature, and that are
 21 communicated for the purpose of decision making.
- 22 (7) Diaries, journals, or other personal notes serving as the
 23 functional equivalent of a diary or journal.
- 24 (8) Personnel files of public employees and files of applicants for
 25 public employment, except for:
- 26 (A) the name, compensation, job title, business address,
 27 business telephone number, job description, education and
 28 training background, previous work experience, or dates of
 29 first and last employment of present or former officers or
 30 employees of the agency;
- 31 (B) information relating to the status of any formal charges
 32 against the employee; and
- 33 (C) the factual basis for a disciplinary action in which final
 34 action has been taken and that resulted in the employee being
 35 suspended, demoted, or discharged.
- 36 However, all personnel file information shall be made available
 37 to the affected employee or the employee's representative. This
 38 subdivision does not apply to disclosure of personnel information
 39 generally on all employees or for groups of employees without the
 40 request being particularized by employee name.
- 41 (9) Minutes or records of hospital medical staff meetings.
- 42 (10) Administrative or technical information that would



- 1 jeopardize a record keeping system, voting system, voter
 2 registration system, or security system.
- 3 (11) Computer programs, computer codes, computer filing
 4 systems, and other software that are owned by the public agency
 5 or entrusted to it and portions of electronic maps entrusted to a
 6 public agency by a utility.
- 7 (12) Records specifically prepared for discussion or developed
 8 during discussion in an executive session under IC 5-14-1.5-6.1.
 9 However, this subdivision does not apply to that information
 10 required to be available for inspection and copying under
 11 subdivision (8).
- 12 (13) The work product of the legislative services agency under
 13 personnel rules approved by the legislative council.
- 14 (14) The work product of individual members and the partisan
 15 staffs of the general assembly.
- 16 (15) The identity of a donor of a gift made to a public agency if:
 17 (A) the donor requires nondisclosure of the donor's identity as
 18 a condition of making the gift; or
 19 (B) after the gift is made, the donor or a member of the donor's
 20 family requests nondisclosure.
- 21 (16) Library or archival records:
 22 (A) which can be used to identify any library patron; or
 23 (B) deposited with or acquired by a library upon a condition
 24 that the records be disclosed only:
 25 (i) to qualified researchers;
 26 (ii) after the passing of a period of years that is specified in
 27 the documents under which the deposit or acquisition is
 28 made; or
 29 (iii) after the death of persons specified at the time of the
 30 acquisition or deposit.
- 31 However, nothing in this subdivision shall limit or affect contracts
 32 entered into by the Indiana state library pursuant to IC 4-1-6-8.
- 33 (17) The identity of any person who contacts the bureau of motor
 34 vehicles concerning the ability of a driver to operate a motor
 35 vehicle safely and the medical records and evaluations made by
 36 the bureau of motor vehicles staff or members of the driver
 37 licensing medical advisory board regarding the ability of a driver
 38 to operate a motor vehicle safely. However, upon written request
 39 to the commissioner of the bureau of motor vehicles, the driver
 40 must be given copies of the driver's medical records and
 41 evaluations.
- 42 (18) School safety and security measures, plans, and systems,



1 including emergency preparedness plans developed under 511
2 IAC 6.1-2-2.5.

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

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

12 (B) Vulnerability assessments.

13 (C) Risk planning documents.

14 (D) Needs assessments.

15 (E) Threat assessments.

16 (F) Intelligence assessments.

17 (G) Domestic preparedness strategies.

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

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

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

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

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



- 1 attack.
- 2 (ii) The public agency must identify a record described
- 3 under item (i) and clearly mark the record as "confidential
- 4 and not subject to public disclosure under
- 5 IC 5-14-3-4(b)(19)(J) without approval of (insert name of
- 6 submitting public agency)". However, in the case of a law
- 7 enforcement recording, the public agency must clearly mark
- 8 the record as "confidential and not subject to public
- 9 disclosure under IC 5-14-3-4(b)(19)(K) without approval of
- 10 (insert name of the public agency that owns, occupies,
- 11 leases, or maintains the airport)".
- 12 (L) The home address, home telephone number, and
- 13 emergency contact information for any:
- 14 (i) emergency management worker (as defined in
- 15 IC 10-14-3-3);
- 16 (ii) public safety officer (as defined in IC 35-47-4.5-3);
- 17 (iii) emergency medical responder (as defined in
- 18 IC 16-18-2-109.8); or
- 19 (iv) advanced emergency medical technician (as defined in
- 20 IC 16-18-2-6.5).
- 21 This subdivision does not apply to a record or portion of a record
- 22 pertaining to a location or structure owned or protected by a
- 23 public agency in the event that an act of terrorism under
- 24 IC 35-47-12-1 (before its repeal), an act of agricultural terrorism
- 25 under IC 35-47-12-2 (before its repeal), or a felony terrorist
- 26 offense (as defined in IC 35-50-2-18) has occurred at that location
- 27 or structure, unless release of the record or portion of the record
- 28 would have a reasonable likelihood of threatening public safety
- 29 by exposing a vulnerability of other locations or structures to
- 30 terrorist attack.
- 31 (20) The following personal information concerning a customer
- 32 of a municipally owned utility (as defined in IC 8-1-2-1):
- 33 (A) Telephone number.
- 34 (B) Address.
- 35 (C) Social Security number.
- 36 (21) The following personal information about a complainant
- 37 contained in records of a law enforcement agency:
- 38 (A) Telephone number.
- 39 (B) The complainant's address. However, if the complainant's
- 40 address is the location of the suspected crime, infraction,
- 41 accident, or complaint reported, the address shall be made
- 42 available for public inspection and copying.



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

6 (23) Records requested by an offender, **an agent, or a relative of**
 7 **an offender** that:

8 (A) contain personal information relating to:

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

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

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

13 (iv) the victim of a crime; or

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

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

19 **For purposes of this subdivision, "agent" means a person who**
 20 **is authorized by an offender to act on behalf of, or at the**
 21 **direction of, the offender, and "relative" has the meaning set**
 22 **forth in IC 35-42-2-1(b). However, the term "agent" does not**
 23 **include an attorney in good standing admitted to the practice**
 24 **of law in Indiana.**

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

30 (A) Name.

31 (B) Address.

32 (C) Telephone number.

33 (D) Electronic mail account address.

34 (25) Criminal intelligence information.

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

38 (A) Date of birth.

39 (B) Driver's license number.

40 (C) Taxpayer identification number.

41 (D) Employer identification number.

42 (E) Account number.



- 1 (27) Except as provided in subdivision (19) and sections 5.1 and
 2 5.2 of this chapter, a law enforcement recording. However, before
 3 disclosing the recording, the public agency must comply with the
 4 obscuring requirements of sections 5.1 and 5.2 of this chapter, if
 5 applicable.
- 6 (28) Records relating to negotiations between a state educational
 7 institution and another entity concerning the establishment of a
 8 collaborative relationship or venture to advance the research,
 9 engagement, or educational mission of the state educational
 10 institution, if the records are created while negotiations are in
 11 progress. The terms of the final offer of public financial resources
 12 communicated by the state educational institution to an industrial,
 13 a research, or a commercial prospect shall be available for
 14 inspection and copying under section 3 of this chapter after
 15 negotiations with that prospect have terminated. However, this
 16 subdivision does not apply to records regarding research
 17 prohibited under IC 16-34.5-1-2 or any other law.
- 18 (c) Nothing contained in subsection (b) shall limit or affect the right
 19 of a person to inspect and copy a public record required or directed to
 20 be made by any statute or by any rule of a public agency.
- 21 (d) Notwithstanding any other law, a public record that is classified
 22 as confidential, other than a record concerning an adoption or patient
 23 medical records, shall be made available for inspection and copying
 24 seventy-five (75) years after the creation of that record.
- 25 (e) Only the content of a public record may form the basis for the
 26 adoption by any public agency of a rule or procedure creating an
 27 exception from disclosure under this section.
- 28 (f) Except as provided by law, a public agency may not adopt a rule
 29 or procedure that creates an exception from disclosure under this
 30 section based upon whether a public record is stored or accessed using
 31 paper, electronic media, magnetic media, optical media, or other
 32 information storage technology.
- 33 (g) Except as provided by law, a public agency may not adopt a rule
 34 or procedure nor impose any costs or liabilities that impede or restrict
 35 the reproduction or dissemination of any public record.
- 36 (h) Notwithstanding subsection (d) and section 7 of this chapter:
 37 (1) public records subject to IC 5-15 may be destroyed only in
 38 accordance with record retention schedules under IC 5-15; or
 39 (2) public records not subject to IC 5-15 may be destroyed in the
 40 ordinary course of business.



COMMITTEE REPORT

Madam President: The Senate Committee on Judiciary, to which was referred Senate Bill No. 216, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill DO PASS.

(Reference is to SB 216 as introduced.)

KOCH, Chairperson

Committee Vote: Yeas 10, Nays 0

 SENATE MOTION

Madam President: I move that Senate Bill 216 be amended to read as follows:

Page 5, after line 18, begin a new paragraph and insert:

"SECTION 2. IC 5-14-3-4, AS AMENDED BY THE TECHNICAL CORRECTIONS BILL OF THE 2020 GENERAL ASSEMBLY, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2020]:
 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.

ES 216—LS 6485/DI 87



(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, **and** 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, **an agent, or a relative of 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.

For purposes of this subdivision, "agent" means a person who is authorized by an offender to act on behalf of, or at the direction of, the offender, and "relative" has the meaning set forth in IC 35-42-2-1(b).

(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."

Renumber all SECTIONS consecutively.

(Reference is to SB 216 as printed January 31, 2020.)

SANDLIN



COMMITTEE REPORT

Mr. Speaker: Your Committee on Courts and Criminal Code, to which was referred Senate Bill 216, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 12, line 22, after "IC 35-42-2-1(b)." insert "**However, the term "agent" does not include an attorney in good standing admitted to the practice of law in Indiana.**".

and when so amended that said bill do pass.

(Reference is to SB 216 as reprinted February 4, 2020.)

MCNAMARA

Committee Vote: yeas 10, nays 0.

