



March 10, 2015

**ENGROSSED
SENATE BILL No. 289**

DIGEST OF SB 289 (Updated March 10, 2015 11:01 am - DI 123)

Citations Affected: IC 5-14.

Synopsis: Confidential victim services requests. Permits, for purposes of the public records law, a law enforcement agency to share certain information with a crime victim advocate without the agency losing the discretion to keep this information confidential from other persons requesting records.

Effective: July 1, 2015.

**Arnold J, Steele, Broden, Houchin,
Zakas, Delph, Randolph**

(HOUSE SPONSORS — MCNAMARA, LAWSON L, HALE, MACER)

January 8, 2015, read first time and referred to Committee on Judiciary.
February 12, 2015, reported favorably — Do Pass.
February 16, 2015, read second time, ordered engrossed. Engrossed.
February 17, 2015, read third time, passed. Yeas 50, nays 0.

HOUSE ACTION

March 5, 2015, read first time and referred to Committee on Veterans Affairs and Public Safety.
March 10, 2015, reported — Do Pass.

ES 289—LS 6628/DI 106



March 10, 2015

First Regular Session 119th General Assembly (2015)

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 2014 Regular Session and 2014 Second Regular Technical Session of the General Assembly.

ENGROSSED SENATE BILL No. 289

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

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.168-2014,
2 SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2015]: 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

ES 289—LS 6628/DI 106



1 documents, conducted under the auspices of a state educational
2 institution, including information:

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

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

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

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

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

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

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

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

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

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

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

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

29 (1) Investigatory records of law enforcement agencies. **Law**
30 **enforcement agencies may share investigatory records with a**
31 **person who advocates on behalf of a crime victim, including**
32 **a victim advocate (as defined in IC 35-37-6-3.5) or a victim**
33 **service provider (as defined in IC 35-37-6-5), for the purposes**
34 **of providing services to a victim or describing services that**
35 **may be available to a victim, without the law enforcement**
36 **agency losing its discretion to keep those records confidential**
37 **from other records requesters.** However, certain law
38 enforcement records must be made available for inspection and
39 copying as provided in section 5 of this chapter.

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

42 (A) a public agency;



- 1 (B) the state; or
 2 (C) an individual.
- 3 (3) Test questions, scoring keys, and other examination data used
 4 in administering a licensing examination, examination for
 5 employment, or academic examination before the examination is
 6 given or if it is to be given again.
- 7 (4) Scores of tests if the person is identified by name and has not
 8 consented to the release of the person's scores.
- 9 (5) The following:
- 10 (A) Records relating to negotiations between the Indiana
 11 economic development corporation, the ports of Indiana, the
 12 Indiana state department of agriculture, the Indiana finance
 13 authority, an economic development commission, a local
 14 economic development organization (as defined in
 15 IC 5-28-11-2(3)), or a governing body of a political
 16 subdivision with industrial, research, or commercial prospects,
 17 if the records are created while negotiations are in progress.
- 18 (B) Notwithstanding clause (A), the terms of the final offer of
 19 public financial resources communicated by the Indiana
 20 economic development corporation, the ports of Indiana, the
 21 Indiana finance authority, an economic development
 22 commission, or a governing body of a political subdivision to
 23 an industrial, a research, or a commercial prospect shall be
 24 available for inspection and copying under section 3 of this
 25 chapter after negotiations with that prospect have terminated.
- 26 (C) When disclosing a final offer under clause (B), the Indiana
 27 economic development corporation shall certify that the
 28 information being disclosed accurately and completely
 29 represents the terms of the final offer.
- 30 (D) Notwithstanding clause (A), an incentive agreement with
 31 an incentive recipient shall be available for inspection and
 32 copying under section 3 of this chapter after the date the
 33 incentive recipient and the Indiana economic development
 34 corporation execute the incentive agreement regardless of
 35 whether negotiations are in progress with the recipient after
 36 that date regarding a modification or extension of the incentive
 37 agreement.
- 38 (6) Records that are intra-agency or interagency advisory or
 39 deliberative material, including material developed by a private
 40 contractor under a contract with a public agency, that are
 41 expressions of opinion or are of a speculative nature, and that are
 42 communicated for the purpose of decision making.



- 1 (7) Diaries, journals, or other personal notes serving as the
 2 functional equivalent of a diary or journal.
- 3 (8) Personnel files of public employees and files of applicants for
 4 public employment, except for:
- 5 (A) the name, compensation, job title, business address,
 6 business telephone number, job description, education and
 7 training background, previous work experience, or dates of
 8 first and last employment of present or former officers or
 9 employees of the agency;
- 10 (B) information relating to the status of any formal charges
 11 against the employee; and
- 12 (C) the factual basis for a disciplinary action in which final
 13 action has been taken and that resulted in the employee being
 14 suspended, demoted, or discharged.
- 15 However, all personnel file information shall be made available
 16 to the affected employee or the employee's representative. This
 17 subdivision does not apply to disclosure of personnel information
 18 generally on all employees or for groups of employees without the
 19 request being particularized by employee name.
- 20 (9) Minutes or records of hospital medical staff meetings.
- 21 (10) Administrative or technical information that would
 22 jeopardize a record keeping or security system.
- 23 (11) Computer programs, computer codes, computer filing
 24 systems, and other software that are owned by the public agency
 25 or entrusted to it and portions of electronic maps entrusted to a
 26 public agency by a utility.
- 27 (12) Records specifically prepared for discussion or developed
 28 during discussion in an executive session under IC 5-14-1.5-6.1.
 29 However, this subdivision does not apply to that information
 30 required to be available for inspection and copying under
 31 subdivision (8).
- 32 (13) The work product of the legislative services agency under
 33 personnel rules approved by the legislative council.
- 34 (14) The work product of individual members and the partisan
 35 staffs of the general assembly.
- 36 (15) The identity of a donor of a gift made to a public agency if:
- 37 (A) the donor requires nondisclosure of the donor's identity as
 38 a condition of making the gift; or
- 39 (B) after the gift is made, the donor or a member of the donor's
 40 family requests nondisclosure.
- 41 (16) Library or archival records:
- 42 (A) which can be used to identify any library patron; or



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



1 (K) detailed drawings or specifications of structural elements,
 2 floor plans, and operating, utility, or security systems, whether
 3 in paper or electronic form, of any building or facility located
 4 on an airport (as defined in IC 8-21-1-1) that is owned,
 5 occupied, leased, or maintained by a public agency. A record
 6 described in this clause may not be released for public
 7 inspection by any public agency without the prior approval of
 8 the public agency that owns, occupies, leases, or maintains the
 9 airport. The public agency that owns, occupies, leases, or
 10 maintains the airport:

11 (i) is responsible for determining whether the public
 12 disclosure of a record or a part of a record has a reasonable
 13 likelihood of threatening public safety by exposing a
 14 vulnerability to terrorist attack; and

15 (ii) must identify a record described under item (i) and
 16 clearly mark the record as "confidential and not subject to
 17 public disclosure under IC 5-14-3-4(b)(19)(J) without
 18 approval of (insert name of submitting public agency)"; and

19 (L) the home address, home telephone number, and emergency
 20 contact information for any:

21 (i) emergency management worker (as defined in
 22 IC 10-14-3-3);

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

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

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

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

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

38 (A) Telephone number.

39 (B) Address.

40 (C) Social Security number.

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



- 1 (A) Telephone number.
- 2 (B) The complainant's address. However, if the complainant's
- 3 address is the location of the suspected crime, infraction,
- 4 accident, or complaint reported, the address shall be made
- 5 available for public inspection and copying.
- 6 (22) Notwithstanding subdivision (8)(A), the name,
- 7 compensation, job title, business address, business telephone
- 8 number, job description, education and training background,
- 9 previous work experience, or dates of first employment of a law
- 10 enforcement officer who is operating in an undercover capacity.
- 11 (23) Records requested by an offender that:
- 12 (A) contain personal information relating to:
- 13 (i) a correctional officer (as defined in IC 5-10-10-1.5);
- 14 (ii) a law enforcement officer (as defined in
- 15 IC 35-31.5-2-185);
- 16 (iii) a judge (as defined in IC 33-38-12-3);
- 17 (iv) the victim of a crime; or
- 18 (v) a family member of a correctional officer, law
- 19 enforcement officer (as defined in IC 35-31.5-2-185), judge
- 20 (as defined in IC 33-38-12-3), or victim of a crime; or
- 21 (B) concern or could affect the security of a jail or correctional
- 22 facility.
- 23 (24) Information concerning an individual less than eighteen (18)
- 24 years of age who participates in a conference, meeting, program,
- 25 or activity conducted or supervised by a state educational
- 26 institution, including the following information regarding the
- 27 individual or the individual's parent or guardian:
- 28 (A) Name.
- 29 (B) Address.
- 30 (C) Telephone number.
- 31 (D) Electronic mail account address.
- 32 (25) Criminal intelligence information.
- 33 (26) The following information contained in a report of unclaimed
- 34 property under IC 32-34-1-26 or in a claim for unclaimed
- 35 property under IC 32-34-1-36:
- 36 (A) date of birth;
- 37 (B) driver's license number;
- 38 (C) taxpayer identification number;
- 39 (D) employer identification number; or
- 40 (E) account number.
- 41 (c) Nothing contained in subsection (b) shall limit or affect the right
- 42 of a person to inspect and copy a public record required or directed to



- 1 be made by any statute or by any rule of a public agency.
2 (d) Notwithstanding any other law, a public record that is classified
3 as confidential, other than a record concerning an adoption or patient
4 medical records, shall be made available for inspection and copying
5 seventy-five (75) years after the creation of that record.
6 (e) Only the content of a public record may form the basis for the
7 adoption by any public agency of a rule or procedure creating an
8 exception from disclosure under this section.
9 (f) Except as provided by law, a public agency may not adopt a rule
10 or procedure that creates an exception from disclosure under this
11 section based upon whether a public record is stored or accessed using
12 paper, electronic media, magnetic media, optical media, or other
13 information storage technology.
14 (g) Except as provided by law, a public agency may not adopt a rule
15 or procedure nor impose any costs or liabilities that impede or restrict
16 the reproduction or dissemination of any public record.
17 (h) Notwithstanding subsection (d) and section 7 of this chapter:
18 (1) public records subject to IC 5-15 may be destroyed only in
19 accordance with record retention schedules under IC 5-15; or
20 (2) public records not subject to IC 5-15 may be destroyed in the
21 ordinary course of business.



COMMITTEE REPORT

Madam President: The Senate Committee on Judiciary, to which was referred Senate Bill No. 289, 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 289 as introduced.)

STEELE, Chairperson

Committee Vote: Yeas 9, Nays 0

COMMITTEE REPORT

Mr. Speaker: Your Committee on Veterans Affairs and Public Safety, to which was referred Senate Bill 289, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

(Reference is to SB 289 as printed February 13, 2015.)

FRYE R

Committee Vote: Yeas 10, Nays 0

