

SENATE MOTION

MR. PRESIDENT:

I move that Senate Bill 01 be amended to read as follows:

- 1 Page 3, between lines 22 and 23, begin a new paragraph and
2 insert:
3 "SECTION 2. IC 5-14-3-4 IS AMENDED TO READ AS
4 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 4. (a) The following
5 public records are excepted from section 3 of this chapter and may not
6 be disclosed by a public agency, unless access to the records is
7 specifically required by a state or federal statute or is ordered by a court
8 under the rules of discovery:
9 (1) Those declared confidential by state statute.
10 (2) Those declared confidential by rule adopted by a public
11 agency under specific authority to classify public records as
12 confidential granted to the public agency by statute.
13 (3) Those required to be kept confidential by federal law.
14 (4) Records containing trade secrets.
15 (5) Confidential financial information obtained, upon request,
16 from a person. However, this does not include information that
17 is filed with or received by a public agency pursuant to state
18 statute.
19 (6) Information concerning research, including actual research
20 documents, conducted under the auspices of an institution of
21 higher education, 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.

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

4 (1) Investigatory records of law enforcement agencies. However,
5 certain law enforcement records must be made available for
6 inspection and copying as provided in section 5 of this chapter.

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

9 (A) a public agency;

10 (B) the state; or

11 (C) an individual.

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

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

18 (5) The following:

19 (A) Records relating to negotiations between the
20 department of commerce, the Indiana development finance
21 authority, the film commission, the Indiana business
22 modernization and technology corporation, or economic
23 development commissions with industrial, research, or
24 commercial prospects, if the records are created while
25 negotiations are in progress.

26 (B) Notwithstanding clause (A), the terms of the final offer
27 of public financial resources communicated by the
28 department of commerce, the Indiana development finance
29 authority, the film commission, the Indiana business
30 modernization and technology corporation, or economic
31 development commissions to an industrial, a research, or a
32 commercial prospect shall be available for inspection and
33 copying under section 3 of this chapter after negotiations
34 with that prospect have terminated.

35 (C) When disclosing a final offer under clause (B), the
36 department of commerce shall certify that the information
37 being disclosed accurately and completely represents the
38 terms of the final offer.

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

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

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

- 1 (A) the name, compensation, job title, business address,
 2 business telephone number, job description, education and
 3 training background, previous work experience, or dates of
 4 first and last employment of present or former officers or
 5 employees of the agency;
 6 (B) information relating to the status of any formal charges
 7 against the employee; and
 8 (C) information concerning disciplinary actions in which
 9 final action has been taken and that resulted in the
 10 employee being disciplined or discharged.
- 11 However, all personnel file information shall be made available
 12 to the affected employee or his representative. This subdivision
 13 does not apply to disclosure of personnel information generally
 14 on all employees or for groups of employees without the request
 15 being particularized by employee name.
- 16 (9) Minutes or records of hospital medical staff meetings.
- 17 (10) Administrative or technical information that would
 18 jeopardize a recordkeeping or security system.
- 19 (11) Computer programs, computer codes, computer filing
 20 systems, and other software that are owned by the public agency
 21 or entrusted to it and portions of electronic maps entrusted to a
 22 public agency by a utility.
- 23 (12) Records specifically prepared for discussion or developed
 24 during discussion in an executive session under IC 5-14-1.5-6.1.
 25 However, this subdivision does not apply to that information
 26 required to be available for inspection and copying under
 27 subdivision (8).
- 28 (13) The work product of the legislative services agency under
 29 personnel rules approved by the legislative council.
- 30 (14) The work product of individual members and the partisan
 31 staffs of the general assembly.
- 32 (15) The identity of a donor of a gift made to a public agency if:
 33 (A) the donor requires nondisclosure of his identity as a
 34 condition of making the gift; or
 35 (B) after the gift is made, the donor or a member of the
 36 donor's family requests nondisclosure.
- 37 (16) Library or archival records:
 38 (A) which can be used to identify any library patron; or
 39 (B) deposited with or acquired by a library upon a condition
 40 that the records be disclosed only:
 41 (i) to qualified researchers;
 42 (ii) after the passing of a period of years that is
 43 specified in the documents under which the deposit or
 44 acquisition is made; or
 45 (iii) after the death of persons specified at the time of
 46 the acquisition or deposit.
- 47 However, nothing in this subdivision shall limit or affect

1 contracts entered into by the Indiana state library pursuant
2 to IC 4-1-6-8.

3 (17) The identity of any person who contacts the bureau of motor
4 vehicles concerning the ability of a driver to operate a motor
5 vehicle safely and the medical records and evaluations made by
6 the bureau of motor vehicles staff or members of the driver
7 licensing advisory committee. However, upon written request to
8 the commissioner of the bureau of motor vehicles, the driver
9 must be given copies of the driver's medical records and
10 evaluations that concern the driver.

11 **(18) Correspondence, memoranda, and records of telephone**
12 **calls, in whatever form, related to the performance of duties**
13 **by the legislative services agency and by individual members**
14 **and partisan staffs of the general assembly.**

15 (c) Notwithstanding section 3 of this chapter, a public agency is
16 not required to create or provide copies of lists of names and addresses,
17 unless the public agency is required to publish such lists and
18 disseminate them to the public pursuant to statute. However, if a public
19 agency has created a list of names and addresses, it must permit a
20 person to inspect and make memoranda abstracts from the lists unless
21 access to the lists is prohibited by law. The following lists of names and
22 addresses may not be disclosed by public agencies to commercial
23 entities for commercial purposes and may not be used by commercial
24 entities for commercial purposes:

- 25 (1) A list of employees of a public agency.
26 (2) A list of persons attending conferences or meetings at a state
27 institution of higher education or of persons involved in
28 programs or activities conducted or supervised by the state
29 institution of higher education.
30 (3) A list of students who are enrolled in a public school
31 corporation if the governing body of the public school
32 corporation adopts a policy:
33 (A) prohibiting the disclosure of the list to commercial
34 entities for commercial purposes; or
35 (B) specifying the classes or categories of commercial
36 entities to which the list may not be disclosed or by which
37 the list may not be used for commercial purposes.

38 A policy adopted under subdivision (3) must be uniform and may not
39 discriminate among similarly situated commercial entities.

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

43 (e) Notwithstanding any other law, a public record that is
44 classified as confidential, other than a record concerning an adoption,
45 shall be made available for inspection and copying seventy-five (75)
46 years after the creation of that record.

47 (f) Notwithstanding subsection (e) and section 7 of this chapter:

1 (1) public records subject to IC 5-15 may be destroyed only in
2 accordance with record retention schedules under IC 5-15; or
3 (2) public records not subject to IC 5-15 may be destroyed in the
4 ordinary course of business."
5 Renumber all SECTIONS consecutively.
(Reference is to SB 1 as printed January 22, 1999.)

Senator MILLS