



February 8, 2011

HOUSE BILL No. 1068

DIGEST OF HB 1068 (Updated February 8, 2011 12:23 pm - DI 116)

Citations Affected: IC 5-14; IC 35-45.

Synopsis: Public safety officer personal information. Provides that records that contain the residential address, personal telephone number, or personal electronic mail address of a law enforcement officer or firefighter contained in the records of the public agency that employs the law enforcement officer or firefighter are confidential for purposes of the law concerning access to public records. Makes it endangering a public safety officer, a Class D felony, for a person to knowingly or intentionally use an interactive computer service to post, publish, or otherwise disseminate the residential address of a law enforcement officer or firefighter if the person knows or reasonably should know that the posting, publishing, or dissemination of the residential address poses an imminent threat to the safety of: (1) the law enforcement officer or firefighter; or (2) a spouse, child, or parent of the law enforcement officer or firefighter.

Effective: July 1, 2011.

Hinkle, Klinker, Frye R, Moseley

January 5, 2011, read first time and referred to Committee on Veterans Affairs and Public Safety.
February 8, 2011, amended, reported — Do Pass.

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HB 1068—LS 6846/DI 69+



February 8, 2011

First Regular Session 117th General Assembly (2011)

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 2010 Regular Session of the General Assembly.

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HOUSE BILL No. 1068

A BILL FOR AN ACT to amend the Indiana Code concerning criminal law and procedure.

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.94-2010,
2 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2011]: Sec. 4. (a) The following public records are excepted
4 from section 3 of this chapter and may not be disclosed by a public
5 agency, unless access to the records is specifically required by a state
6 or federal statute or is ordered by a court under the rules of discovery:
7 (1) Those declared confidential by state statute.
8 (2) Those declared confidential by rule adopted by a public
9 agency under specific authority to classify public records as
10 confidential granted to the public agency by statute.
11 (3) Those required to be kept confidential by federal law.
12 (4) Records containing trade secrets.
13 (5) Confidential financial information obtained, upon request,
14 from a person. However, this does not include information that is
15 filed with or received by a public agency pursuant to state statute.
16 (6) Information concerning research, including actual research
17 documents, conducted under the auspices of a state educational

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- 1 institution, including information:
- 2 (A) concerning any negotiations made with respect to the
- 3 research; and
- 4 (B) received from another party involved in the research.
- 5 (7) Grade transcripts and license examination scores obtained as
- 6 part of a licensure process.
- 7 (8) Those declared confidential by or under rules adopted by the
- 8 supreme court of Indiana.
- 9 (9) Patient medical records and charts created by a provider,
- 10 unless the patient gives written consent under IC 16-39 or as
- 11 provided under IC 16-41-8.
- 12 (10) Application information declared confidential by the board
- 13 of the Indiana economic development corporation under
- 14 IC 5-28-16.
- 15 (11) A photograph, a video recording, or an audio recording of an
- 16 autopsy, except as provided in IC 36-2-14-10.
- 17 (12) A Social Security number contained in the records of a
- 18 public agency.
- 19 **(13) The residential address, personal telephone numbers, and**
- 20 **personal electronic mail addresses of a law enforcement**
- 21 **officer (as defined in IC 35-41-1-17) or firefighter (as defined**
- 22 **in IC 35-42-2-6) contained in the records of the public agency**
- 23 **that employs the law enforcement officer or firefighter.**
- 24 (b) Except as otherwise provided by subsection (a), the following
- 25 public records shall be excepted from section 3 of this chapter at the
- 26 discretion of a public agency:
- 27 (1) Investigatory records of law enforcement agencies. However,
- 28 certain law enforcement records must be made available for
- 29 inspection and copying as provided in section 5 of this chapter.
- 30 (2) The work product of an attorney representing, pursuant to
- 31 state employment or an appointment by a public agency:
- 32 (A) a public agency;
- 33 (B) the state; or
- 34 (C) an individual.
- 35 (3) Test questions, scoring keys, and other examination data used
- 36 in administering a licensing examination, examination for
- 37 employment, or academic examination before the examination is
- 38 given or if it is to be given again.
- 39 (4) Scores of tests if the person is identified by name and has not
- 40 consented to the release of the person's scores.
- 41 (5) The following:
- 42 (A) Records relating to negotiations between the Indiana

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1 economic development corporation, the ports of Indiana, the
 2 Indiana state department of agriculture, the Indiana finance
 3 authority, an economic development commission, a local
 4 economic development organization (as defined in
 5 IC 5-28-11-2(3)), or a governing body of a political
 6 subdivision with industrial, research, or commercial prospects,
 7 if the records are created while negotiations are in progress.

8 (B) Notwithstanding clause (A), the terms of the final offer of
 9 public financial resources communicated by the Indiana
 10 economic development corporation, the ports of Indiana, the
 11 Indiana finance authority, an economic development
 12 commission, or a governing body of a political subdivision to
 13 an industrial, a research, or a commercial prospect shall be
 14 available for inspection and copying under section 3 of this
 15 chapter after negotiations with that prospect have terminated.

16 (C) When disclosing a final offer under clause (B), the Indiana
 17 economic development corporation shall certify that the
 18 information being disclosed accurately and completely
 19 represents the terms of the final offer.

20 (6) Records that are intra-agency or interagency advisory or
 21 deliberative material, including material developed by a private
 22 contractor under a contract with a public agency, that are
 23 expressions of opinion or are of a speculative nature, and that are
 24 communicated for the purpose of decision making.

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

27 (8) Personnel files of public employees and files of applicants for
 28 public employment, except for:

29 (A) the name, compensation, job title, business address,
 30 business telephone number, job description, education and
 31 training background, previous work experience, or dates of
 32 first and last employment of present or former officers or
 33 employees of the agency;

34 (B) information relating to the status of any formal charges
 35 against the employee; and

36 (C) the factual basis for a disciplinary action in which final
 37 action has been taken and that resulted in the employee being
 38 suspended, demoted, or discharged.

39 However, all personnel file information shall be made available
 40 to the affected employee or the employee's representative. This
 41 subdivision does not apply to disclosure of personnel information
 42 generally on all employees or for groups of employees without the

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

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1 evaluations.

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

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

9 (A) a record assembled, prepared, or maintained to prevent,
 10 mitigate, or respond to an act of terrorism under IC 35-47-12-1
 11 or an act of agricultural terrorism under IC 35-47-12-2;

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 communication, electrical, ventilation,
 24 water, and wastewater systems; and

25 (K) detailed drawings or specifications of structural elements,
 26 floor plans, and operating, utility, or security systems, whether
 27 in paper or electronic form, of any building or facility located
 28 on an airport (as defined in IC 8-21-1-1) that is owned,
 29 occupied, leased, or maintained by a public agency. A record
 30 described in this clause may not be released for public
 31 inspection by any public agency without the prior approval of
 32 the public agency that owns, occupies, leases, or maintains the
 33 airport. The public agency that owns, occupies, leases, or
 34 maintains the airport:

35 (i) is responsible for determining whether the public
 36 disclosure of a record or a part of a record has a reasonable
 37 likelihood of threatening public safety by exposing a
 38 vulnerability to terrorist attack; and

39 (ii) must identify a record described under item (i) and
 40 clearly mark the record as "confidential and not subject to
 41 public disclosure under IC 5-14-3-4(b)(19)(J) without
 42 approval of (insert name of submitting public agency)".

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1 This subdivision does not apply to a record or portion of a record
 2 pertaining to a location or structure owned or protected by a
 3 public agency in the event that an act of terrorism under
 4 IC 35-47-12-1 or an act of agricultural terrorism under
 5 IC 35-47-12-2 has occurred at that location or structure, unless
 6 release of the record or portion of the record would have a
 7 reasonable likelihood of threatening public safety by exposing a
 8 vulnerability of other locations or structures to terrorist attack.
 9 (20) The following personal information concerning a customer
 10 of a municipally owned utility (as defined in IC 8-1-2-1):
 11 (A) Telephone number.
 12 (B) Address.
 13 (C) Social Security number.
 14 (21) The following personal information about a complainant
 15 contained in records of a law enforcement agency:
 16 (A) Telephone number.
 17 (B) The complainant's address. However, if the complainant's
 18 address is the location of the suspected crime, infraction,
 19 accident, or complaint reported, the address shall be made
 20 available for public inspection and copying.
 21 (22) Notwithstanding subdivision (8)(A), the name,
 22 compensation, job title, business address, business telephone
 23 number, job description, education and training background,
 24 previous work experience, or dates of first employment of a law
 25 enforcement officer who is operating in an 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) the victim of a crime; or
 30 (iii) a family member of a correctional officer or the victim
 31 of a crime; or
 32 (B) concern or could affect the security of a jail or correctional
 33 facility.
 34 (c) Nothing contained in subsection (b) shall limit or affect the right
 35 of a person to inspect and copy a public record required or directed to
 36 be made by any statute or by any rule of a public agency.
 37 (d) Notwithstanding any other law, a public record that is classified
 38 as confidential, other than a record concerning an adoption or patient
 39 medical records, shall be made available for inspection and copying
 40 seventy-five (75) years after the creation of that record.
 41 (e) Only the content of a public record may form the basis for the
 42 adoption by any public agency of a rule or procedure creating an

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1 exception from disclosure under this section.

2 (f) Except as provided by law, a public agency may not adopt a rule
3 or procedure that creates an exception from disclosure under this
4 section based upon whether a public record is stored or accessed using
5 paper, electronic media, magnetic media, optical media, or other
6 information storage technology.

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

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

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

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

15 SECTION 2. IC 35-45-2-6 IS ADDED TO THE INDIANA CODE
16 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
17 1, 2011]: **Sec. 6. (a) As used in this section, "interactive computer
18 service" means an Internet service, an information service, a
19 system, or an access software provider that provides or enables
20 computer access to a computer served by multiple users. The term
21 includes the following:**

22 (1) A service or system that:

23 (A) provides access; or

24 (B) is an intermediary;

25 to the Internet.

26 (2) A system operated by or services offered by a library,
27 school, state educational institution, or private postsecondary
28 educational institution.

29 (b) A person who:

30 (1) knowingly or intentionally uses an interactive computer
31 service to post, publish, or otherwise disseminate the
32 residential address of a law enforcement officer or firefighter;
33 and

34 (2) knows or reasonably should know that the posting,
35 publishing, or dissemination of the residential address poses
36 an imminent threat to the safety of:

37 (A) the law enforcement officer or firefighter; or

38 (B) a spouse, child, or parent of the law enforcement
39 officer or firefighter;

40 commits endangering a public safety officer, a Class D felony.

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Veterans Affairs and Public Safety, to which was referred House Bill 1068, 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 2, between lines 18 and 19, begin a new line block indented and insert:

"(13) The residential address, personal telephone numbers, and personal electronic mail addresses of a law enforcement officer (as defined in IC 35-41-1-17) or firefighter (as defined in IC 35-42-2-6) contained in the records of the public agency that employs the law enforcement officer or firefighter."

Page 2, delete lines 19 through 24.

and when so amended that said bill do pass.

(Reference is to HB 1068 as introduced.)

BORDERS, Chair

Committee Vote: yeas 9, nays 0.

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