
SENATE BILL No. 103

DIGEST OF INTRODUCED BILL

Citations Affected: IC 5-14; IC 34-30-2.

Synopsis: Public access issues. Requires a public agency to: (1) allow inspection or copying; or (2) make copies; of a public record within a reasonable time after the request is received by the agency. Provides that a court may impose a civil penalty against: (1) an officer of a public agency or an individual employed in a management level position with a public agency; or (2) the public agency; for violating the public records law or the open door law. Provides that a court may impose a civil penalty of: (1) not more than \$100 for the first violation; and (2) not more than \$500 for any additional violations. Provides that a court may: (1) impose only one civil penalty against an individual in an action even if the court finds that the individual committed multiple violations; and (2) impose another civil penalty against the individual in a separate action. Provides that if an officer of a state or local government agency orders a management level employee to: (1) not give proper notice of a public meeting or executive session; or (2) deny or interfere with a person's request to inspect or copy a public document; the employee is not subject to a civil penalty for violating the statute. Provides that if a local government agency has the capacity to send electronic mail, the agency shall provide notice to anyone (other than news media) that makes an annual request for notice by: (1) transmitting the notice by electronic mail; or (2) posting the notice on the agency's Internet web site (if the agency has an Internet web site). Provides that a court may not declare a governmental action void for failure to give notice by electronic mail or posting on the local government agency's Internet web site if the agency made a good faith
(Continued next page)

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Effective: July 1, 2012.

Mrvan

January 4, 2012, read first time and referred to Committee on Local Government.



effort to comply with the statute. Provides that a public agency may withhold from public disclosure personal information regarding an individual less than 18 years of age who participates in an activity conducted or supervised by a state educational institution, including personal information regarding the individual's parent or guardian. Requires (rather than allows) a court to review public records in camera to determine whether redaction of the records violates the public records act. If a formal complaint is filed, requires the public access counselor to review public records in camera without redaction (excluding redacted information that is the work product of an attorney and records that the agency is prohibited by law from disclosing) to determine whether the redaction of the records violated the public records act. Provides that unredacted documents that are in the possession of the public access counselor for in camera inspection are confidential while in the possession of the public access counselor. Creates an education fund for a program administered by the public access counselor to train public officials and educate the public on the rights of the public and the responsibilities of public agencies under the public access laws. Provides that a public agency has discretion as to whether to disclose a public record requested by an offender containing personal information relating to a judge, law enforcement officer, or family member of a judge or law enforcement officer. Allows the public access counselor to obtain an administrative subpoena to compel production of public records denied by a public agency if the public access counselor determines that the records were wrongfully withheld.

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Introduced

Second Regular Session 117th General Assembly (2012)

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 2011 Regular Session of the General Assembly.

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SENATE BILL No. 103

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 5-14-1.5-5, AS AMENDED BY P.L.177-2005,
2 SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2012]: Sec. 5. (a) Public notice of the date, time, and place of
4 any meetings, executive sessions, or of any rescheduled or reconvened
5 meeting, shall be given at least forty-eight (48) hours (excluding
6 Saturdays, Sundays, and legal holidays) before the meeting. This
7 requirement does not apply to reconvened meetings (not including
8 executive sessions) where announcement of the date, time, and place
9 of the reconvened meeting is made at the original meeting and recorded
10 in the memoranda and minutes thereof, and there is no change in the
11 agenda.

12 (b) Public notice shall be given by the governing body of a public
13 agency ~~by~~ **as follows:**

14 (1) **The governing body of a public agency shall give public**
15 **notice by** posting a copy of the notice at the principal office of the



1 public agency holding the meeting or, if no such office exists, at
 2 the building where the meeting is to be held. ~~and~~

3 **(2) The governing body of a public agency shall give public**
 4 **notice by** delivering notice to all news media which deliver by
 5 ~~January †~~ an annual written request for ~~such the~~ notices **not later**
 6 **than December 31** for the next succeeding calendar year to the
 7 governing body of the public agency. The governing body shall
 8 give notice by one (1) of the following methods:

9 (A) Depositing the notice in the United States mail with
 10 postage prepaid.

11 (B) Transmitting the notice by electronic mail, **if the public**
 12 **agency has the capacity to transmit electronic mail.**

13 (C) Transmitting the notice by facsimile (fax).

14 **(3) This subdivision applies only to the governing body of a**
 15 **public agency of a political subdivision described in section**
 16 **2(a)(2), 2(a)(4), or 2(a)(5) of this chapter that has the capacity**
 17 **to send electronic mail. The governing body of a public agency**
 18 **shall give public notice by delivering notice to any person**
 19 **(other than news media) that delivers an annual written**
 20 **request for the notices not later than December 31 for the next**
 21 **succeeding calendar year to the governing body of the public**
 22 **agency. The governing body shall give notice by one (1) of the**
 23 **following methods, which shall be determined by the**
 24 **governing body:**

25 (A) Transmitting the notice by electronic mail.

26 (B) Publishing the notice on the public agency's Internet
 27 web site at least forty-eight (48) hours in advance of the
 28 meeting, if the public agency has an Internet web site.

29 **A court may not declare void any policy, decision, or final action**
 30 **under section 7 of this chapter based on a failure to give a person**
 31 **notice under subdivision (3) if the public agency made a good faith**
 32 **effort to comply with subdivision (3).** If a governing body comes into
 33 existence after ~~January †~~, **December 31**, it shall comply with this
 34 ~~subdivision subsection~~ upon receipt of a written request for notice. In
 35 addition, a state agency (as defined in IC 4-13-1-1) shall provide
 36 electronic access to the notice through the computer gateway
 37 administered by the office of technology established by IC 4-13.1-2-1.

38 (c) Notice of regular meetings need be given only once each year,
 39 except that an additional notice shall be given where the date, time, or
 40 place of a regular meeting or meetings is changed. This subsection does
 41 not apply to executive sessions.

42 (d) If a meeting is called to deal with an emergency involving actual

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1 or threatened injury to person or property, or actual or threatened
2 disruption of the governmental activity under the jurisdiction of the
3 public agency by any event, then the time requirements of notice under
4 this section shall not apply, but:

5 (1) news media which have requested notice of meetings **under**
6 **subsection (b)(2)** must be given the same notice as is given to the
7 members of the governing body; and

8 (2) the public must be notified by posting a copy of the notice
9 according to ~~this section~~: **subsection (b)(1)**.

10 (e) This section shall not apply where notice by publication is
11 required by statute, ordinance, rule, or regulation.

12 (f) This section shall not apply to:

13 (1) the department of local government finance, the Indiana board
14 of tax review, or any other governing body which meets in
15 continuous session, except that this section applies to meetings of
16 these governing bodies which are required by or held pursuant to
17 statute, ordinance, rule, or regulation; or

18 (2) the executive of a county or the legislative body of a town if
19 the meetings are held solely to receive information or
20 recommendations in order to carry out administrative functions,
21 to carry out administrative functions, or confer with staff
22 members on matters relating to the internal management of the
23 unit. "Administrative functions" do not include the awarding of
24 contracts, the entering into contracts, or any other action creating
25 an obligation or otherwise binding a county or town.

26 (g) This section does not apply to the general assembly.

27 (h) Notice has not been given in accordance with this section if a
28 governing body of a public agency convenes a meeting at a time so
29 unreasonably departing from the time stated in its public notice that the
30 public is misled or substantially deprived of the opportunity to attend,
31 observe, and record the meeting.

32 SECTION 2. IC 5-14-1.5-7, AS AMENDED BY P.L.179-2007,
33 SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
34 JULY 1, 2012]: Sec. 7. (a) An action may be filed by any person in any
35 court of competent jurisdiction to:

36 (1) obtain a declaratory judgment;

37 (2) enjoin continuing, threatened, or future violations of this
38 chapter; or

39 (3) declare void any policy, decision, or final action:

40 (A) taken at an executive session in violation of section 3(a) of
41 this chapter;

42 (B) taken at any meeting of which notice is not given in

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- 1 accordance with section 5 of this chapter;
 2 (C) that is based in whole or in part upon official action taken
 3 at any:
 4 (i) executive session in violation of section 3(a) of this
 5 chapter;
 6 (ii) meeting of which notice is not given in accordance with
 7 section 5 of this chapter; or
 8 (iii) series of gatherings in violation of section 3.1 of this
 9 chapter; or
 10 (D) taken at a meeting held in a location in violation of section
 11 8 of this chapter.

12 The plaintiff need not allege or prove special damage different from
 13 that suffered by the public at large.

14 (b) Regardless of whether a formal complaint or an informal inquiry
 15 is pending before the public access counselor, any action to declare any
 16 policy, decision, or final action of a governing body void, or to enter an
 17 injunction which would invalidate any policy, decision, or final action
 18 of a governing body, based on violation of this chapter occurring before
 19 the action is commenced, shall be commenced:

- 20 (1) prior to the delivery of any warrants, notes, bonds, or
 21 obligations if the relief sought would have the effect, if granted,
 22 of invalidating the notes, bonds, or obligations; or
 23 (2) with respect to any other subject matter, within thirty (30)
 24 days of either:
 25 (A) the date of the act or failure to act complained of; or
 26 (B) the date that the plaintiff knew or should have known that
 27 the act or failure to act complained of had occurred;

28 whichever is later. If the challenged policy, decision, or final action is
 29 recorded in the memoranda or minutes of a governing body, a plaintiff
 30 is considered to have known that the act or failure to act complained of
 31 had occurred not later than the date that the memoranda or minutes are
 32 first available for public inspection.

33 (c) If a court finds that a governing body of a public agency has
 34 violated this chapter, it may not find that the violation was cured by the
 35 governing body by only having taken final action at a meeting that
 36 complies with this chapter.

37 (d) In determining whether to declare any policy, decision, or final
 38 action void, a court shall consider the following factors among other
 39 relevant factors:

- 40 (1) The extent to which the violation:
 41 (A) affected the substance of the policy, decision, or final
 42 action;

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1 (B) denied or impaired access to any meetings that the public
 2 had a right to observe and record; and
 3 (C) prevented or impaired public knowledge or understanding
 4 of the public's business.
 5 (2) Whether voiding of the policy, decision, or final action is a
 6 necessary prerequisite to a substantial reconsideration of the
 7 subject matter.
 8 (3) Whether the public interest will be served by voiding the
 9 policy, decision, or final action by determining which of the
 10 following factors outweighs the other:
 11 (A) The remedial benefits gained by effectuating the public
 12 policy of the state declared in section 1 of this chapter.
 13 (B) The prejudice likely to accrue to the public if the policy,
 14 decision, or final action is voided, including the extent to
 15 which persons have relied upon the validity of the challenged
 16 action and the effect declaring the challenged action void
 17 would have on them.
 18 (4) Whether the defendant acted in compliance with an informal
 19 inquiry response or advisory opinion issued by the public access
 20 counselor concerning the violation.
 21 (e) If a court declares a policy, decision, or final action of a
 22 governing body of a public agency void, the court may enjoin the
 23 governing body from subsequently acting upon the subject matter of
 24 the voided act until it has been given substantial reconsideration at a
 25 meeting or meetings that comply with this chapter.
 26 (f) In any action filed under this section, a court shall award
 27 reasonable attorney's fees, court costs, and other reasonable expenses
 28 of litigation to the prevailing party if:
 29 (1) the plaintiff prevails; or
 30 (2) the defendant prevails and the court finds that the action is
 31 frivolous and vexatious.
 32 The plaintiff is not eligible for the awarding of attorney's fees, court
 33 costs, and other reasonable expenses if the plaintiff filed the action
 34 without first seeking and receiving an informal inquiry response or
 35 advisory opinion from the public access counselor, unless the plaintiff
 36 can show the filing of the action was necessary to prevent a violation
 37 of this chapter.
 38 **(g) In an action filed under this section, a court may assess a**
 39 **civil penalty under section 7.5 of this chapter.**
 40 ~~(g)~~ **(h)** A court shall expedite the hearing of an action filed under
 41 this section.
 42 SECTION 3. IC 5-14-1.5-7.5 IS ADDED TO THE INDIANA

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1 CODE AS A NEW SECTION TO READ AS FOLLOWS
 2 [EFFECTIVE JULY 1, 2012]: **Sec. 7.5. (a) This section applies only**
 3 **to an individual who is:**

- 4 (1) **an officer of a public agency; or**
 5 (2) **employed in a management level position with a public**
 6 **agency.**

7 (b) **An individual who knowingly and intentionally fails to**
 8 **perform a duty imposed on the individual under this chapter by:**

- 9 (1) **failing to give proper notice of a regular meeting, special**
 10 **meeting, or executive session;**
 11 (2) **taking final action outside a regular meeting or special**
 12 **meeting;**
 13 (3) **participating in a secret ballot during a meeting;**
 14 (4) **discussing in an executive session subjects not eligible for**
 15 **an executive session;**
 16 (5) **failing to prepare a memorandum of a meeting required**
 17 **by section 4 of this chapter; or**
 18 (6) **participating in at least one (1) gathering of a series of**
 19 **gatherings under section 3.1 of this chapter;**

20 **subjects the individual and the public agency to a civil penalty**
 21 **under subsection (d).**

22 (c) **Except as provided in subsection (g), a court may impose a**
 23 **civil penalty against one (1) or more of the following:**

- 24 (1) **The individual named as a defendant in the action.**
 25 (2) **The public agency named as a defendant in the action.**

26 (d) **The court may impose against each entity listed in subsection**
 27 **(c) the following civil penalties:**

- 28 (1) **Not more than one hundred dollars (\$100) for the first**
 29 **violation.**
 30 (2) **Not more than five hundred dollars (\$500) for each**
 31 **additional violation.**

32 **The penalty imposed under this section is in addition to any other**
 33 **civil or criminal penalty imposed. However, in any one (1) action**
 34 **brought under this section, a court may impose only one (1) civil**
 35 **penalty against an individual, even if the court finds that the**
 36 **individual committed multiple violations. This subsection does not**
 37 **preclude a court from imposing another civil penalty against an**
 38 **individual in a separate action, but an individual may not be**
 39 **assessed more than one (1) civil penalty in any one (1) action**
 40 **brought under this section.**

41 (e) **A court shall distribute monthly to the auditor of state any**
 42 **penalties collected under this section for deposit in the education**

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1 fund established by IC 5-14-4-14.

2 (f) An individual is personally liable for a civil penalty imposed
3 under this section. A civil penalty imposed against a public agency
4 shall be paid from the public agency's budget.

5 (g) If an officer of a public agency directs an individual who is
6 employed in a management level position to perform any action
7 under subsection (b)(1), the management level employee is not
8 subject to civil penalties under subsection (d).

9 SECTION 4. IC 5-14-3-3, AS AMENDED BY P.L.2-2007,
10 SECTION 100, IS AMENDED TO READ AS FOLLOWS
11 [EFFECTIVE JULY 1, 2012]: Sec. 3. (a) Any person may inspect and
12 copy the public records of any public agency during the regular
13 business hours of the agency, except as provided in section 4 of this
14 chapter. A request for inspection or copying must:

- 15 (1) identify with reasonable particularity the record being
16 requested; and
17 (2) be, at the discretion of the agency, in writing on or in a form
18 provided by the agency.

19 No request may be denied because the person making the request
20 refuses to state the purpose of the request, unless such condition is
21 required by other applicable statute.

22 (b) A public agency may not deny or interfere with the exercise of
23 the right stated in subsection (a). **Within a reasonable time after the**
24 **request is received by the agency**, the public agency shall either:

- 25 (1) provide the requested copies to the person making the request;
26 or
27 (2) allow the person to make copies:
28 (A) on the agency's equipment; or
29 (B) on the person's own equipment.

30 (c) Notwithstanding subsections (a) and (b), a public agency may or
31 may not do the following:

- 32 (1) In accordance with a contract described in section 3.5 of this
33 chapter, permit a person to inspect and copy through the use of
34 enhanced access public records containing information owned by
35 or entrusted to the public agency.
36 (2) Permit a governmental entity to use an electronic device to
37 inspect and copy public records containing information owned by
38 or entrusted to the public agency.

39 (d) Except as provided in subsection (e), a public agency that
40 maintains or contracts for the maintenance of public records in an
41 electronic data storage system shall make reasonable efforts to provide
42 to a person making a request a copy of all disclosable data contained

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1 in the records on paper, disk, tape, drum, or any other method of
 2 electronic retrieval if the medium requested is compatible with the
 3 agency's data storage system. This subsection does not apply to an
 4 electronic map.

5 (e) A state agency may adopt a rule under IC 4-22-2, and a political
 6 subdivision may enact an ordinance, prescribing the conditions under
 7 which a person who receives information on disk or tape under
 8 subsection (d) may or may not use the information for commercial
 9 purposes, including to sell, advertise, or solicit the purchase of
 10 merchandise, goods, or services, or sell, loan, give away, or otherwise
 11 deliver the information obtained by the request to any other person for
 12 these purposes. Use of information received under subsection (d) in
 13 connection with the preparation or publication of news, for nonprofit
 14 activities, or for academic research is not prohibited. A person who
 15 uses information in a manner contrary to a rule or ordinance adopted
 16 under this subsection may be prohibited by the state agency or political
 17 subdivision from obtaining a copy or any further data under subsection
 18 (d).

19 (f) Notwithstanding the other provisions of this section, a public
 20 agency is not required to create or provide copies of lists of names and
 21 addresses (including electronic mail account addresses) unless the
 22 public agency is required to publish such lists and disseminate them to
 23 the public under a statute. However, if a public agency has created a
 24 list of names and addresses (excluding electronic mail account
 25 addresses) it must permit a person to inspect and make memoranda
 26 abstracts from the list unless access to the list is prohibited by law. The
 27 lists of names and addresses (including electronic mail account
 28 addresses), described in subdivisions (1) through (3) may not be
 29 disclosed by public agencies to any individual or entity for political
 30 purposes and may not be used by any individual or entity for political
 31 purposes. In addition, the lists of names and addresses (including
 32 electronic mail account addresses) described in subdivisions (1)
 33 through (3) may not be disclosed by public agencies to commercial
 34 entities for commercial purposes and may not be used by commercial
 35 entities for commercial purposes. The prohibition in this subsection
 36 against the disclosure of lists for political or commercial purposes
 37 applies to the following lists of names and addresses (including
 38 electronic mail account addresses):

- 39 (1) A list of employees of a public agency.
 40 (2) A list of persons attending conferences or meetings at a state
 41 educational institution or of persons involved in programs or
 42 activities conducted or supervised by the state educational

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1 institution.

2 (3) A list of students who are enrolled in a public school
3 corporation if the governing body of the public school corporation
4 adopts a policy:

5 (A) with respect to disclosure related to a commercial purpose,
6 prohibiting the disclosure of the list to commercial entities for
7 commercial purposes;

8 (B) with respect to disclosure related to a commercial purpose,
9 specifying the classes or categories of commercial entities to
10 which the list may not be disclosed or by which the list may
11 not be used for commercial purposes; or

12 (C) with respect to disclosure related to a political purpose,
13 prohibiting the disclosure of the list to individuals and entities
14 for political purposes.

15 A policy adopted under subdivision (3)(A) or (3)(B) must be uniform
16 and may not discriminate among similarly situated commercial entities.
17 For purposes of this subsection, "political purposes" means influencing
18 the election of a candidate for federal, state, legislative, local, or school
19 board office or the outcome of a public question or attempting to solicit
20 a contribution to influence the election of a candidate for federal, state,
21 legislative, local, or school board office or the outcome of a public
22 question.

23 (g) A public agency may not enter into or renew a contract or an
24 obligation:

25 (1) for the storage or copying of public records; or

26 (2) that requires the public to obtain a license or pay copyright
27 royalties for obtaining the right to inspect and copy the records
28 unless otherwise provided by applicable statute;

29 if the contract, obligation, license, or copyright unreasonably impairs
30 the right of the public to inspect and copy the agency's public records.

31 (h) If this section conflicts with IC 3-7, the provisions of IC 3-7
32 apply.

33 SECTION 5. IC 5-14-3-4, AS AMENDED BY P.L.170-2011,
34 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
35 JULY 1, 2012]: Sec. 4. (a) The following public records are excepted
36 from section 3 of this chapter and may not be disclosed by a public
37 agency, unless access to the records is specifically required by a state
38 or federal statute or is ordered by a court under the rules of discovery:

39 (1) Those declared confidential by state statute.

40 (2) Those declared confidential by rule adopted by a public
41 agency under specific authority to classify public records as
42 confidential granted to the public agency by statute.

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

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- 1 (3) Test questions, scoring keys, and other examination data used
- 2 in administering a licensing examination, examination for
- 3 employment, or academic examination before the examination is
- 4 given or if it is to be given again.
- 5 (4) Scores of tests if the person is identified by name and has not
- 6 consented to the release of the person's scores.
- 7 (5) The following:
- 8 (A) Records relating to negotiations between the Indiana
- 9 economic development corporation, the ports of Indiana, the
- 10 Indiana state department of agriculture, the Indiana finance
- 11 authority, an economic development commission, a local
- 12 economic development organization (as defined in
- 13 IC 5-28-11-2(3)), or a governing body of a political
- 14 subdivision with industrial, research, or commercial prospects,
- 15 if the records are created while negotiations are in progress.
- 16 (B) Notwithstanding clause (A), the terms of the final offer of
- 17 public financial resources communicated by the Indiana
- 18 economic development corporation, the ports of Indiana, the
- 19 Indiana finance authority, an economic development
- 20 commission, or a governing body of a political subdivision to
- 21 an industrial, a research, or a commercial prospect shall be
- 22 available for inspection and copying under section 3 of this
- 23 chapter after negotiations with that prospect have terminated.
- 24 (C) When disclosing a final offer under clause (B), the Indiana
- 25 economic development corporation shall certify that the
- 26 information being disclosed accurately and completely
- 27 represents the terms of the final offer.
- 28 (6) Records that are intra-agency or interagency advisory or
- 29 deliberative material, including material developed by a private
- 30 contractor under a contract with a public agency, that are
- 31 expressions of opinion or are of a speculative nature, and that are
- 32 communicated for the purpose of decision making.
- 33 (7) Diaries, journals, or other personal notes serving as the
- 34 functional equivalent of a diary or journal.
- 35 (8) Personnel files of public employees and files of applicants for
- 36 public employment, except for:
- 37 (A) the name, compensation, job title, business address,
- 38 business telephone number, job description, education and
- 39 training background, previous work experience, or dates of
- 40 first and last employment of present or former officers or
- 41 employees of the agency;
- 42 (B) information relating to the status of any formal charges

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

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- 1 (17) The identity of any person who contacts the bureau of motor
- 2 vehicles concerning the ability of a driver to operate a motor
- 3 vehicle safely and the medical records and evaluations made by
- 4 the bureau of motor vehicles staff or members of the driver
- 5 licensing medical advisory board regarding the ability of a driver
- 6 to operate a motor vehicle safely. However, upon written request
- 7 to the commissioner of the bureau of motor vehicles, the driver
- 8 must be given copies of the driver's medical records and
- 9 evaluations.
- 10 (18) School safety and security measures, plans, and systems,
- 11 including emergency preparedness plans developed under 511
- 12 IAC 6.1-2-2.5.
- 13 (19) A record or a part of a record, the public disclosure of which
- 14 would have a reasonable likelihood of threatening public safety
- 15 by exposing a vulnerability to terrorist attack. A record described
- 16 under this subdivision includes:
 - 17 (A) a record assembled, prepared, or maintained to prevent,
 - 18 mitigate, or respond to an act of terrorism under IC 35-47-12-1
 - 19 or an act of agricultural terrorism under IC 35-47-12-2;
 - 20 (B) vulnerability assessments;
 - 21 (C) risk planning documents;
 - 22 (D) needs assessments;
 - 23 (E) threat assessments;
 - 24 (F) intelligence assessments;
 - 25 (G) domestic preparedness strategies;
 - 26 (H) the location of community drinking water wells and
 - 27 surface water intakes;
 - 28 (I) the emergency contact information of emergency
 - 29 responders and volunteers;
 - 30 (J) infrastructure records that disclose the configuration of
 - 31 critical systems such as communication, electrical, ventilation,
 - 32 water, and wastewater systems; and
 - 33 (K) detailed drawings or specifications of structural elements,
 - 34 floor plans, and operating, utility, or security systems, whether
 - 35 in paper or electronic form, of any building or facility located
 - 36 on an airport (as defined in IC 8-21-1-1) that is owned,
 - 37 occupied, leased, or maintained by a public agency. A record
 - 38 described in this clause may not be released for public
 - 39 inspection by any public agency without the prior approval of
 - 40 the public agency that owns, occupies, leases, or maintains the
 - 41 airport. The public agency that owns, occupies, leases, or
 - 42 maintains the airport:

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- 1 (i) is responsible for determining whether the public
- 2 disclosure of a record or a part of a record has a reasonable
- 3 likelihood of threatening public safety by exposing a
- 4 vulnerability to terrorist attack; and
- 5 (ii) must identify a record described under item (i) and
- 6 clearly mark the record as "confidential and not subject to
- 7 public disclosure under IC 5-14-3-4(b)(19)(J) without
- 8 approval of (insert name of submitting public agency)".
- 9 This subdivision does not apply to a record or portion of a record
- 10 pertaining to a location or structure owned or protected by a
- 11 public agency in the event that an act of terrorism under
- 12 IC 35-47-12-1 or an act of agricultural terrorism under
- 13 IC 35-47-12-2 has occurred at that location or structure, unless
- 14 release of the record or portion of the record would have a
- 15 reasonable likelihood of threatening public safety by exposing a
- 16 vulnerability of other locations or structures to terrorist attack.
- 17 (20) The following personal information concerning a customer
- 18 of a municipally owned utility (as defined in IC 8-1-2-1):
- 19 (A) Telephone number.
- 20 (B) Address.
- 21 (C) Social Security number.
- 22 (21) The following personal information about a complainant
- 23 contained in records of a law enforcement agency:
- 24 (A) Telephone number.
- 25 (B) The complainant's address. However, if the complainant's
- 26 address is the location of the suspected crime, infraction,
- 27 accident, or complaint reported, the address shall be made
- 28 available for public inspection and copying.
- 29 (22) Notwithstanding subdivision (8)(A), the name,
- 30 compensation, job title, business address, business telephone
- 31 number, job description, education and training background,
- 32 previous work experience, or dates of first employment of a law
- 33 enforcement officer who is operating in an undercover capacity.
- 34 (23) Records requested by an offender that:
- 35 (A) contain personal information relating to:
- 36 (i) a correctional officer (as defined in IC 5-10-10-1.5);
- 37 **(ii) a law enforcement officer (as defined in**
- 38 **IC 35-41-1-17);**
- 39 **(iii) a judge (as defined in IC 33-38-12-3);**
- 40 ~~(ii)~~ **(iv) the victim of a crime; or**
- 41 ~~(iii)~~ **(v) a family member of a correctional officer, law**
- 42 **enforcement officer (as defined in IC 35-41-1-17), judge**

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(as defined in IC 33-38-12-3), or the victim of a crime; or
(B) concern or could affect the security of a jail or correctional facility.

(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 address.**

(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.

SECTION 6. IC 5-14-3-9, AS AMENDED BY P.L.22-2005, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 9. (a) A denial of disclosure by a public agency occurs when the person making the request is physically present in the office of the agency, makes the request by telephone, or requests enhanced access to a document and:

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1 (1) the person designated by the public agency as being
 2 responsible for public records release decisions refuses to permit
 3 inspection and copying of a public record when a request has
 4 been made; or

5 (2) twenty-four (24) hours elapse after any employee of the public
 6 agency refuses to permit inspection and copying of a public
 7 record when a request has been made;

8 whichever occurs first.

9 (b) If a person requests by mail or by facsimile a copy or copies of
 10 a public record, a denial of disclosure does not occur until seven (7)
 11 days have elapsed from the date the public agency receives the request.

12 (c) If a request is made orally, either in person or by telephone, a
 13 public agency may deny the request orally. However, if a request
 14 initially is made in writing, by facsimile, or through enhanced access,
 15 or if an oral request that has been denied is renewed in writing or by
 16 facsimile, a public agency may deny the request if:

17 (1) the denial is in writing or by facsimile; and

18 (2) the denial includes:

19 (A) a statement of the specific exemption or exemptions
 20 authorizing the withholding of all or part of the public record;
 21 and

22 (B) the name and the title or position of the person responsible
 23 for the denial.

24 (d) This subsection applies to a board, a commission, a department,
 25 a division, a bureau, a committee, an agency, an office, an
 26 instrumentality, or an authority, by whatever name designated,
 27 exercising any part of the executive, administrative, judicial, or
 28 legislative power of the state. If an agency receives a request to inspect
 29 or copy a record that the agency considers to be excepted from
 30 disclosure under section 4(b)(19) of this chapter, the agency may
 31 consult with the counterterrorism and security council established by
 32 IC 10-19-8-1. If an agency denies the disclosure of a record or a part of
 33 a record under section 4(b)(19) of this chapter, the agency or the
 34 counterterrorism and security council shall provide a general
 35 description of the record being withheld and of how disclosure of the
 36 record would have a reasonable likelihood of threatening the public
 37 safety.

38 (e) A person who has been denied the right to inspect or copy a
 39 public record by a public agency may file an action in the circuit or
 40 superior court of the county in which the denial occurred to compel the
 41 public agency to permit the person to inspect and copy the public
 42 record. Whenever an action is filed under this subsection, the public

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1 agency must notify each person who supplied any part of the public
2 record at issue:

- 3 (1) that a request for release of the public record has been denied;
4 and
5 (2) whether the denial was in compliance with an informal inquiry
6 response or advisory opinion of the public access counselor.

7 Such persons are entitled to intervene in any litigation that results from
8 the denial. The person who has been denied the right to inspect or copy
9 need not allege or prove any special damage different from that
10 suffered by the public at large.

11 (f) The court shall determine the matter de novo, with the burden of
12 proof on the public agency to sustain its denial. If the issue in de novo
13 review under this section is whether a public agency properly denied
14 access to a public record because the record is exempted under section
15 4(a) of this chapter, the public agency meets its burden of proof under
16 this subsection by establishing the content of the record with adequate
17 specificity and not by relying on a conclusory statement or affidavit.

18 (g) If the issue in a de novo review under this section is whether a
19 public agency properly denied access to a public record because the
20 record is exempted under section 4(b) of this chapter:

21 (1) the public agency meets its burden of proof under this
22 subsection by:

23 (A) proving that the record falls within any one (1) of the
24 categories of exempted records under section 4(b) of this
25 chapter; and

26 (B) establishing the content of the record with adequate
27 specificity and not by relying on a conclusory statement or
28 affidavit; and

29 (2) a person requesting access to a public record meets the
30 person's burden of proof under this subsection by proving that the
31 denial of access is arbitrary or capricious.

32 (h) The court may review the public record in camera to determine
33 whether any part of it may be withheld under this chapter. **However,**
34 **if the complaint alleges that a public agency denied disclosure of a**
35 **public record by redacting information in the public record, the**
36 **court shall conduct an in camera inspection of the public record**
37 **without the information redacted.**

38 (i) In any action filed under this section, a court shall award
39 reasonable attorney's fees, court costs, and other reasonable expenses
40 of litigation to the prevailing party if:

- 41 (1) the plaintiff substantially prevails; or
42 (2) the defendant substantially prevails and the court finds the

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1 action was frivolous or vexatious.
 2 The plaintiff is not eligible for the awarding of attorney's fees, court
 3 costs, and other reasonable expenses if the plaintiff filed the action
 4 without first seeking and receiving an informal inquiry response or
 5 advisory opinion from the public access counselor, unless the plaintiff
 6 can show the filing of the action was necessary because the denial of
 7 access to a public record under this chapter would prevent the plaintiff
 8 from presenting that public record to a public agency preparing to act
 9 on a matter of relevance to the public record whose disclosure was
 10 denied.

11 **(j) In an action filed under this section, a court may assess a civil**
 12 **penalty under section 9.5 of this chapter.**

13 **(j) (k) A court shall expedite the hearing of an action filed under this**
 14 **section.**

15 SECTION 7. IC 5-14-3-9.5 IS ADDED TO THE INDIANA CODE
 16 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 17 1, 2012]: **Sec. 9.5. (a) As used in this section, "individual" means:**

- 18 **(1) an officer of a public agency; or**
- 19 **(2) an individual employed in a management level position**
 20 **with a public agency.**

- 21 **(b) If an individual:**
- 22 **(1) denies a request complying with section 3(a) of this**
 23 **chapter for inspection or copying of a public record; and**
- 24 **(2) knows or reasonably should know that the public record**
 25 **is subject to disclosure under this chapter;**

26 **the individual and the public agency employing the individual are**
 27 **subject to a civil penalty under subsection (e).**

- 28 **(c) If an individual charges a copying fee that the individual**
 29 **knows or reasonably should know exceeds the amount set by**
 30 **statute, fee schedule, ordinance, or court order, the individual is**
 31 **subject to a civil penalty under subsection (e).**

- 32 **(d) A court may impose a civil penalty for a violation under**
 33 **subsection (b) against one (1) or more of the following:**

- 34 **(1) The individual named as a defendant in the action.**
- 35 **(2) The public agency named as a defendant in the action.**

- 36 **(e) In an action under this section, a court may impose the**
 37 **following civil penalties:**

- 38 **(1) Not more than one hundred dollars (\$100) for the first**
 39 **violation.**
- 40 **(2) Not more than five hundred dollars (\$500) for each**
 41 **additional violation.**

42 **The penalty imposed under this section is in addition to any other**

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1 **civil or criminal penalty imposed. However, in any one (1) action**
 2 **brought under this section, a court may impose only one (1) civil**
 3 **penalty against an individual, even if the court finds that the**
 4 **individual committed multiple violations. This subsection does not**
 5 **preclude a court from imposing another civil penalty against an**
 6 **individual in a separate action, but an individual may not be**
 7 **assessed more than one (1) civil penalty in any one (1) action**
 8 **brought under this section.**

9 **(f) A court shall distribute monthly to the auditor of state any**
 10 **penalties collected under this section for deposit in the education**
 11 **fund established by IC 5-14-4-14.**

12 **(g) An individual is personally liable for a civil penalty imposed**
 13 **under this section. A civil penalty imposed against a public agency**
 14 **shall be paid from the public agency's budget.**

15 **(h) If an officer of a public agency directs an individual who is**
 16 **employed in a management level position to perform any action**
 17 **under subsection (b)(1), the management level employee is not**
 18 **subject to civil penalties under subsection (e).**

19 SECTION 8. IC 5-14-4-10 IS AMENDED TO READ AS
 20 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 10. The counselor has
 21 the following powers and duties:

22 (1) To establish and administer a program to train public officials
 23 and educate the public on the rights of the public and the
 24 responsibilities of public agencies under the public access laws.
 25 The counselor may contract with a person or a public or private
 26 entity to fulfill the counselor's responsibility under this
 27 subdivision.

28 (2) To conduct research.

29 (3) To prepare interpretive and educational materials and
 30 programs in cooperation with the office of the attorney general.

31 (4) To distribute to newly elected or appointed public officials the
 32 public access laws and educational materials concerning the
 33 public access laws.

34 (5) To respond to informal inquiries made by the public and
 35 public agencies by telephone, in writing, in person, by facsimile,
 36 or by electronic mail concerning the public access laws.

37 (6) To issue advisory opinions to interpret the public access laws
 38 upon the request of a person or a public agency. However, the
 39 counselor may not issue an advisory opinion concerning a specific
 40 matter with respect to which a lawsuit has been filed under
 41 IC 5-14-1.5 or IC 5-14-3.

42 (7) To make recommendations to the general assembly

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concerning ways to improve public access.

(8) To compel the production of public records of a public agency by a subpoena enforceable by the circuit or superior court of the county where the subpoena is to be issued.

SECTION 9. IC 5-14-4-14 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: **Sec. 14. (a) An education fund is established to fund a program under section 10(1) of this chapter.**

(b) The fund consists of the following:

(1) Civil penalties collected under IC 5-14-1.5-7.5 and IC 5-14-3-9.5.

(2) Money appropriated by the general assembly.

(3) Grants, gifts, contributions, and money received from any other source.

(c) The treasurer of state shall administer the fund. The following may be paid from money in the fund:

(1) Expenses of administering the fund.

(2) Nonrecurring administrative expenses incurred to carry out the purposes of this section.

(d) Money in the fund at the end of a state fiscal year does not revert to the state general fund.

(e) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public funds may be invested. Interest that accrues from these investments shall be deposited in the fund.

SECTION 10. IC 5-14-5-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: **Sec. 9.** Except as provided in section 10 of this chapter, the counselor shall issue an advisory opinion on the complaint not later than thirty (30) days after:

(1) the complaint is filed; or

(2) an in camera inspection is completed under section 10.5 of this chapter.

SECTION 11. IC 5-14-5-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2012]: **Sec. 10. (a)** If the counselor determines that a complaint has priority, the counselor shall issue an advisory opinion on the complaint not later than seven (7) days after:

(1) the complaint is filed; or

(2) an in camera inspection is completed under section 10.5 of this chapter.

(b) The counselor shall adopt rules under IC 4-22-2 establishing criteria for complaints that have priority.

SECTION 12. IC 5-14-5-10.5 IS ADDED TO THE INDIANA

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1 CODE AS A NEW SECTION TO READ AS FOLLOWS
 2 [EFFECTIVE JULY 1, 2012]: **Sec. 10.5. (a) Except as provided in**
 3 **subsections (e) and (i), if a formal complaint is filed alleging that a**
 4 **public agency denied disclosure of a public record by redacting**
 5 **information in the public record, the counselor shall conduct an in**
 6 **camera inspection of the public record without the information**
 7 **redacted.**

8 **(b) Both parties to the dispute shall be notified of the in camera**
 9 **inspection. However, neither the parties nor their representatives**
 10 **may be present during the inspection.**

11 **(c) The counselor shall provide a written notice to the public**
 12 **agency that includes the following:**

13 **(1) A statement of the date, time, place, and nature of the**
 14 **inspection.**

15 **(2) The documents to be inspected.**

16 **(3) The manner in which the documents must be presented to**
 17 **the counselor for inspection.**

18 **(4) Any other information the counselor considers relevant.**

19 **(d) Except as provided in subsection (e), the public agency shall:**

20 **(1) deliver the documents specified under subsection (c)(2) to**
 21 **the counselor for inspection in a sealed envelope; and**

22 **(2) deliver to the counselor and the complainant:**

23 **(A) a certification signed by the custodian of the**
 24 **documents stipulating that the copies of the documents**
 25 **delivered to the counselor are true and complete copies of**
 26 **the documents in question with no alterations or**
 27 **redactions; and**

28 **(B) an in camera inspection index that:**

29 **(i) gives the title or name of each document, or any part**
 30 **of the document, claimed to be exempt from disclosure;**

31 **(ii) provides a description of each document that is**
 32 **general enough to explain the exemptions without**
 33 **compromising the alleged reason for the exemption from**
 34 **disclosure;**

35 **(iii) lists the reasons that each document, or any part of**
 36 **the document, is alleged to be exempt from disclosure;**
 37 **and**

38 **(iv) fully explains why the alleged reason for exemption**
 39 **from disclosure applies to each document.**

40 **(e) If the redacted information in a public record is the work**
 41 **product of an attorney (as defined in IC 5-14-3-2(q)), the counselor**
 42 **may not inspect the public record with the redaction removed. If**

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1 the notice provided by the counselor under subsection (c) requests
 2 disclosure of redacted information that is the work product of an
 3 attorney, the public agency shall do the following:

4 (1) Deliver the documents specified under subsection (c)(2) to
 5 the counselor, with the information redacted.

6 (2) Deliver an index to the counselor and the complainant
 7 that:

8 (A) gives the title or name of each document, or any part
 9 of the document, claimed to be exempt from disclosure on
 10 the basis that the document or any part of the document is
 11 the work product of an attorney;

12 (B) provides a description of each document that is general
 13 enough to explain the exemption without compromising the
 14 alleged reason for the exemption from disclosure;

15 (C) lists the reasons that each document, or any part of the
 16 document, is alleged to be exempt from disclosure; and

17 (D) fully explains why the alleged reason for exemption
 18 from disclosure applies to each document.

19 (f) The counselor or anyone else authorized to inspect the
 20 documents may not make copies of the documents or take notes
 21 making reference to specific information contained in the
 22 documents. Upon completion of an in camera inspection, the
 23 counselor shall seal the documents and return them to the
 24 custodian of the documents. The sealed documents are confidential
 25 while in the possession of the counselor.

26 (g) An advisory opinion issued on the complaint may not discuss
 27 the specific contents of the documents and may refer only to the
 28 assigned reference number or the general descriptions of the
 29 documents listed in the in camera inspection index.

30 (h) This section does not prohibit a court from conducting an in
 31 camera inspection of a public record under IC 5-14-3-9(h) without
 32 the information that is the work product of an attorney (as defined
 33 in IC 5-14-3-2(q)) redacted.

34 (i) If the redacted information in a public record is redacted
 35 under IC 5-14-3-4(a), the public agency shall cite the relevant
 36 statute that prohibits the information from being disclosed, and the
 37 counselor may not inspect the public record with the redaction
 38 removed.

39 SECTION 13. IC 5-14-5-13 IS ADDED TO THE INDIANA CODE
 40 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 41 1, 2012]: Sec. 13. (a) This section applies if the counselor issues an
 42 advisory opinion on a formal complaint finding that a public

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1 agency wrongfully denied access to a public record.
 2 (b) On behalf of the person filing the formal complaint, the
 3 counselor may compel production of the records from the public
 4 agency under an administrative subpoena issued under IC 4-21.5-3.
 5 (c) If a public agency refuses to produce the records that are the
 6 subject of an administrative subpoena, the counselor may petition
 7 for a court order compelling compliance with the subpoena under
 8 IC 4-21.5-6.
 9 (d) If the counselor requests a subpoena under this section, the
 10 public agency shall notify each person who supplied any part of the
 11 public record at issue that:
 12 (1) a request for release of the public record has been denied;
 13 and
 14 (2) the counselor has requested the issuance of an
 15 administrative subpoena.
 16 A person notified under this subsection is entitled to intervene in
 17 any litigation that results from the denial.
 18 (e) A person is not required to exhaust any administrative
 19 remedies under this section or any other applicable law before
 20 filing an action under IC 5-14-3-9.
 21 SECTION 14. IC 34-30-2-14.1 IS ADDED TO THE INDIANA
 22 CODE AS A NEW SECTION TO READ AS FOLLOWS
 23 [EFFECTIVE JULY 1, 2012]: **Sec. 14.1. IC 5-14-1.5-7.5 (Concerning**
 24 **a public employee who, acting on the orders of a superior, fails to**
 25 **provide proper notice of a public meeting or executive session).**
 26 SECTION 15. IC 34-30-2-14.2 IS ADDED TO THE INDIANA
 27 CODE AS A NEW SECTION TO READ AS FOLLOWS
 28 [EFFECTIVE JULY 1, 2012]: **Sec. 14.2. IC 5-14-3-9.5 (Concerning**
 29 **a public employee who, acting on the orders of a superior, denies**
 30 **or interferes with a person's request for inspection or copying of a**
 31 **public record).**

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