



April 2, 2013

ENGROSSED
SENATE BILL No. 243

DIGEST OF SB 243 (Updated March 28, 2013 10:03 am - DI 75)

Citations Affected: IC 5-14.

Synopsis: Public records. Allows a public agency to withhold from public disclosure the home address, home telephone number, and emergency contact information for any emergency management worker, public safety officer, emergency medical responder, or advanced emergency medical technician.

Effective: Upon passage.

Wyss, Arnold J
(HOUSE SPONSOR — SOLIDAY)

January 7, 2013, read first time and referred to Committee on Homeland Security, Transportation and Veterans Affairs.

February 5, 2013, amended, reported favorably — Do Pass.

February 7, 2013, read second time, ordered engrossed.

February 8, 2013, engrossed.

February 11, 2013, read third time, passed. Yeas 47, nays 1.

HOUSE ACTION

March 12, 2013, read first time and referred to Committee on Local Government.

April 1, 2013, reported — Do Pass.

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ES 243—LS 6921/DI 87+



April 2, 2013

First Regular Session 118th General Assembly (2013)

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 2012 Regular Session of the General Assembly.

ENGROSSED SENATE BILL No. 243

A BILL FOR AN ACT to amend the Indiana Code concerning state and local administration.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 5-14-3-4, AS AMENDED BY P.L.134-2012,
2 SECTION 18, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 UPON PASSAGE]: Sec. 4. (a) The following public records are
4 excepted from section 3 of this chapter and may not be disclosed by a
5 public agency, unless access to the records is specifically required by
6 a state or federal statute or is ordered by a court under the rules of
7 discovery:
8 (1) Those declared confidential by state statute.
9 (2) Those declared confidential by rule adopted by a public
10 agency under specific authority to classify public records as
11 confidential granted to the public agency by statute.
12 (3) Those required to be kept confidential by federal law.
13 (4) Records containing trade secrets.
14 (5) Confidential financial information obtained, upon request,
15 from a person. However, this does not include information that is
16 filed with or received by a public agency pursuant to state statute.
17 (6) Information concerning research, including actual research

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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)(2)(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. However,
30 certain law enforcement records must be made available for
31 inspection and copying as provided in section 5 of this chapter.

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

34 (A) a public agency;

35 (B) the state; or

36 (C) an individual.

37 (3) Test questions, scoring keys, and other examination data used
38 in administering a licensing examination, examination for
39 employment, or academic examination before the examination is
40 given or if it is to be given again.

41 (4) Scores of tests if the person is identified by name and has not
42 consented to the release of the person's scores.

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- (5) The following:
 - (A) Records relating to negotiations between the Indiana economic development corporation, the ports of Indiana, the Indiana state department of agriculture, the Indiana finance authority, an economic development commission, a local economic development organization (as defined in IC 5-28-11-2(3)), or a governing body of a political subdivision with industrial, research, or commercial prospects, if the records are created while negotiations are in progress.
 - (B) Notwithstanding clause (A), the terms of the final offer of public financial resources communicated by the Indiana economic development corporation, the ports of Indiana, the Indiana finance authority, an economic development commission, or a governing body of a political subdivision to an industrial, a research, or a commercial prospect shall be available for inspection and copying under section 3 of this chapter after negotiations with that prospect have terminated.
 - (C) When disclosing a final offer under clause (B), the Indiana economic development corporation shall certify that the information being disclosed accurately and completely represents the terms of the final offer.
 - (6) Records that are intra-agency or interagency advisory or deliberative material, including material developed by a private contractor under a contract with a public agency, that are expressions of opinion or are of a speculative nature, and that are communicated for the purpose of decision making.
 - (7) Diaries, journals, or other personal notes serving as the functional equivalent of a diary or journal.
 - (8) Personnel files of public employees and files of applicants for public employment, except for:
 - (A) the name, compensation, job title, business address, business telephone number, job description, education and training background, previous work experience, or dates of first and last employment of present or former officers or employees of the agency;
 - (B) information relating to the status of any formal charges against the employee; and
 - (C) the factual basis for a disciplinary action in which final action has been taken and that resulted in the employee being suspended, demoted, or discharged.
- However, all personnel file information shall be made available to the affected employee or the employee's representative. This

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

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

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1 public disclosure under IC 5-14-3-4(b)(19)(J) without
 2 approval of (insert name of submitting public agency)"; and
 3 **(L) the home address, home telephone number, and**
 4 **emergency contact information for any:**

5 **(i) emergency management worker (as defined in**
 6 **IC 10-14-3-3);**

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

8 **(iii) emergency medical responder (as defined in**
 9 **IC 35-42-2-6); or**

10 **(iv) advanced emergency medical technician (as defined**
 11 **in IC 16-18-2-6.5).**

12 This subdivision does not apply to a record or portion of a record
 13 pertaining to a location or structure owned or protected by a
 14 public agency in the event that an act of terrorism under
 15 IC 35-47-12-1 or an act of agricultural terrorism under
 16 IC 35-47-12-2 has occurred at that location or structure, unless
 17 release of the record or portion of the record would have a
 18 reasonable likelihood of threatening public safety by exposing a
 19 vulnerability of other locations or structures to terrorist attack.

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

22 (A) Telephone number.

23 (B) Address.

24 (C) Social Security number.

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

27 (A) Telephone number.

28 (B) The complainant's address. However, if the complainant's
 29 address is the location of the suspected crime, infraction,
 30 accident, or complaint reported, the address shall be made
 31 available for public inspection and copying.

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

37 (23) Records requested by an offender that:

38 (A) contain personal information relating to:

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

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

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

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- 1 (iv) the victim of a crime; or
 2 (v) a family member of a correctional officer, law
 3 enforcement officer (as defined in IC 35-31.5-2-185), judge
 4 (as defined in IC 33-38-12-3), or victim of a crime; or
 5 (B) concern or could affect the security of a jail or correctional
 6 facility.
 7 (24) Information concerning an individual less than eighteen (18)
 8 years of age who participates in a conference, meeting, program,
 9 or activity conducted or supervised by a state educational
 10 institution, including the following information regarding the
 11 individual or the individual's parent or guardian:
 12 (A) Name.
 13 (B) Address.
 14 (C) Telephone number.
 15 (D) Electronic mail account address.
 16 (c) Nothing contained in subsection (b) shall limit or affect the right
 17 of a person to inspect and copy a public record required or directed to
 18 be made by any statute or by any rule of a public agency.
 19 (d) Notwithstanding any other law, a public record that is classified
 20 as confidential, other than a record concerning an adoption or patient
 21 medical records, shall be made available for inspection and copying
 22 seventy-five (75) years after the creation of that record.
 23 (e) Only the content of a public record may form the basis for the
 24 adoption by any public agency of a rule or procedure creating an
 25 exception from disclosure under this section.
 26 (f) Except as provided by law, a public agency may not adopt a rule
 27 or procedure that creates an exception from disclosure under this
 28 section based upon whether a public record is stored or accessed using
 29 paper, electronic media, magnetic media, optical media, or other
 30 information storage technology.
 31 (g) Except as provided by law, a public agency may not adopt a rule
 32 or procedure nor impose any costs or liabilities that impede or restrict
 33 the reproduction or dissemination of any public record.
 34 (h) Notwithstanding subsection (d) and section 7 of this chapter:
 35 (1) public records subject to IC 5-15 may be destroyed only in
 36 accordance with record retention schedules under IC 5-15; or
 37 (2) public records not subject to IC 5-15 may be destroyed in the
 38 ordinary course of business.
 39 **SECTION 2. An emergency is declared for this act.**

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COMMITTEE REPORT

Madam President: The Senate Committee on Homeland Security, Transportation and Veterans Affairs, to which was referred Senate Bill No. 243, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 5, line 26, after "systems;" strike "and".

Page 6, line 2, delete "." and insert "; and

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

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

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

(iii) emergency medical responder (as defined in IC 35-42-2-6); or

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

Page 7, delete lines 7 through 15.

and when so amended that said bill do pass.

(Reference is to SB 243 as introduced.)

WYSS, Chairperson

Committee Vote: Yeas 9, Nays 0.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Local Government, to which was referred Senate Bill 243, 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.

NEESE, Chair

Committee Vote: yeas 12, nays 0.

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