

# SENATE BILL No. 241

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 5-14-3-2.

**Synopsis:** Public records. Provides that the term "public record" in the access to public records law does not include material received by the agency from the federal government that is exempt from disclosure under the federal Freedom of Information Act (FOIA) or that is designated by an agency of the federal government as Sensitive But Unclassified Information.

**Effective:** Upon passage.

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**Wyss, Arnold J**

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

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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.

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# SENATE BILL No. 241



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 5-14-3-2, AS AMENDED BY P.L.51-2008,  
2 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
3 UPON PASSAGE]: Sec. 2. (a) The definitions set forth in this section  
4 apply throughout this chapter.  
5 (b) "Copy" includes transcribing by handwriting, photocopying,  
6 xerography, duplicating machine, duplicating electronically stored data  
7 onto a disk, tape, drum, or any other medium of electronic data storage,  
8 and reproducing by any other means.  
9 (c) "Direct cost" means one hundred five percent (105%) of the sum  
10 of the cost of:  
11 (1) the initial development of a program, if any;  
12 (2) the labor required to retrieve electronically stored data; and  
13 (3) any medium used for electronic output;  
14 for providing a duplicate of electronically stored data onto a disk, tape,  
15 drum, or other medium of electronic data retrieval under section 8(g)  
16 of this chapter, or for reprogramming a computer system under section  
17 6(c) of this chapter.



1 (d) "Electronic map" means copyrighted data provided by a public  
2 agency from an electronic geographic information system.

3 (e) "Enhanced access" means the inspection of a public record by a  
4 person other than a governmental entity and that:

5 (1) is by means of an electronic device other than an electronic  
6 device provided by a public agency in the office of the public  
7 agency; or

8 (2) requires the compilation or creation of a list or report that does  
9 not result in the permanent electronic storage of the information.

10 (f) "Facsimile machine" means a machine that electronically  
11 transmits exact images through connection with a telephone network.

12 (g) "Inspect" includes the right to do the following:

13 (1) Manually transcribe and make notes, abstracts, or memoranda.

14 (2) In the case of tape recordings or other aural public records, to  
15 listen and manually transcribe or duplicate, or make notes,  
16 abstracts, or other memoranda from them.

17 (3) In the case of public records available:

18 (A) by enhanced access under section 3.5 of this chapter; or

19 (B) to a governmental entity under section 3(c)(2) of this  
20 chapter;

21 to examine and copy the public records by use of an electronic  
22 device.

23 (4) In the case of electronically stored data, to manually transcribe  
24 and make notes, abstracts, or memoranda or to duplicate the data  
25 onto a disk, tape, drum, or any other medium of electronic  
26 storage.

27 (h) "Investigatory record" means information compiled in the course  
28 of the investigation of a crime.

29 (i) "Offender" means a person confined in a penal institution as the  
30 result of the conviction for a crime.

31 (j) "Patient" has the meaning set out in IC 16-18-2-272(d).

32 (k) "Person" means an individual, a corporation, a limited liability  
33 company, a partnership, an unincorporated association, or a  
34 governmental entity.

35 (l) "Provider" has the meaning set out in IC 16-18-2-295(b) and  
36 includes employees of the state department of health or local boards of  
37 health who create patient records at the request of another provider or  
38 who are social workers and create records concerning the family  
39 background of children who may need assistance.

40 (m) "Public agency", except as provided in section 2.1 of this  
41 chapter, means the following:

42 (1) Any board, commission, department, division, bureau,

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1 committee, agency, office, instrumentality, or authority, by  
 2 whatever name designated, exercising any part of the executive,  
 3 administrative, judicial, or legislative power of the state.

4 (2) Any:

5 (A) county, township, school corporation, city, or town, or any  
 6 board, commission, department, division, bureau, committee,  
 7 office, instrumentality, or authority of any county, township,  
 8 school corporation, city, or town;

9 (B) political subdivision (as defined by IC 36-1-2-13); or

10 (C) other entity, or any office thereof, by whatever name  
 11 designated, exercising in a limited geographical area the  
 12 executive, administrative, judicial, or legislative power of the  
 13 state or a delegated local governmental power.

14 (3) Any entity or office that is subject to:

15 (A) budget review by either the department of local  
 16 government finance or the governing body of a county, city,  
 17 town, township, or school corporation; or

18 (B) an audit by the state board of accounts that is required by  
 19 statute, rule, or regulation.

20 (4) Any building corporation of a political subdivision that issues  
 21 bonds for the purpose of constructing public facilities.

22 (5) Any advisory commission, committee, or body created by  
 23 statute, ordinance, or executive order to advise the governing  
 24 body of a public agency, except medical staffs or the committees  
 25 of any such staff.

26 (6) Any law enforcement agency, which means an agency or a  
 27 department of any level of government that engages in the  
 28 investigation, apprehension, arrest, or prosecution of alleged  
 29 criminal offenders, such as the state police department, the police  
 30 or sheriff's department of a political subdivision, prosecuting  
 31 attorneys, members of the excise police division of the alcohol  
 32 and tobacco commission, conservation officers of the department  
 33 of natural resources, gaming agents of the Indiana gaming  
 34 commission, gaming control officers of the Indiana gaming  
 35 commission, and the security division of the state lottery  
 36 commission.

37 (7) Any license branch staffed by employees of the bureau of  
 38 motor vehicles commission under IC 9-16.

39 (8) The state lottery commission established by IC 4-30-3-1,  
 40 including any department, division, or office of the commission.

41 (9) The Indiana gaming commission established under IC 4-33,  
 42 including any department, division, or office of the commission.

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1 (10) The Indiana horse racing commission established by IC 4-31,  
2 including any department, division, or office of the commission.

3 (n) "Public record" means any writing, paper, report, study, map,  
4 photograph, book, card, tape recording, or other material that is  
5 created, received, retained, maintained, or filed by or with a public  
6 agency and which is generated on paper, paper substitutes,  
7 photographic media, chemically based media, magnetic or machine  
8 readable media, electronically stored data, or any other material,  
9 regardless of form or characteristics. **The term does not include**  
10 **material received by a public agency from an agency of the federal**  
11 **government that is:**

12 (1) **exempt from disclosure to the public under an exemption**  
13 **of the federal Freedom of Information Act under 5 U.S.C. 552**  
14 **or any other federal law; or**

15 (2) **designated by the federal government as Sensitive But**  
16 **Unclassified Information, including information designated**  
17 **as:**

18 (A) **For Official Use Only;**

19 (B) **Law Enforcement Sensitive;**

20 (C) **Sensitive Homeland Security Information;**

21 (D) **Sensitive Security Information;**

22 (E) **Protected Critical Infrastructure Information; or**

23 (F) **Chemical-terrorism Vulnerability Information.**

24 (o) "Standard-sized documents" includes all documents that can be  
25 mechanically reproduced (without mechanical reduction) on paper  
26 sized eight and one-half (8 1/2) inches by eleven (11) inches or eight  
27 and one-half (8 1/2) inches by fourteen (14) inches.

28 (p) "Trade secret" has the meaning set forth in IC 24-2-3-2.

29 (q) "Work product of an attorney" means information compiled by  
30 an attorney in reasonable anticipation of litigation. The term includes  
31 the attorney's:

32 (1) notes and statements taken during interviews of prospective  
33 witnesses; and

34 (2) legal research or records, correspondence, reports, or  
35 memoranda to the extent that each contains the attorney's  
36 opinions, theories, or conclusions.

37 This definition does not restrict the application of any exception under  
38 section 4 of this chapter.

39 **SECTION 2. An emergency is declared for this act.**

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