

PREVAILED	Roll Call No. _____
FAILED	Ayes _____
WITHDRAWN	Noes _____
RULED OUT OF ORDER	

HOUSE MOTION _____

MR. SPEAKER:

I move that House Bill 1083 be amended to read as follows:

- 1 Page 5, after line 17, begin a new paragraph and insert:
- 2 "SECTION 3. IC 5-14-3-4, AS AMENDED BY P.L.37-2000,
- 3 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 4 JULY 1, 2001]: Sec. 4. (a) The following public records are excepted
- 5 from section 3 of this chapter and may not be disclosed by a public
- 6 agency, unless access to the records is specifically required by a state
- 7 or federal statute or is ordered by a court under the rules of 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
- 18 documents, conducted under the auspices of an institution of
- 19 higher education, including information:
- 20 (A) concerning any negotiations made with respect to the
- 21 research; and
- 22 (B) received from another party involved in the research.
- 23 (7) Grade transcripts and license examination scores obtained as
- 24 part of a licensure process.

- 1 (8) Those declared confidential by or under rules adopted by the
- 2 supreme court of Indiana.
- 3 (9) Patient medical records and charts created by a provider,
- 4 unless the patient gives written consent under IC 16-39.
- 5 (10) Application information declared confidential by the
- 6 twenty-first century research and technology fund board under
- 7 IC 4-4-5.1.
- 8 **(11) Electronic mail sent or received by an employee of a**
- 9 **public agency. This subdivision does not apply to reports,**
- 10 **applications, and other documents that are filed with or sent**
- 11 **to a public agency by electronic mail.**
- 12 **(12) Records concerning the use of the Internet by employees**
- 13 **of a public agency.**
- 14 (b) Except as otherwise provided by subsection (a), the following
- 15 public records shall be excepted from section 3 of this chapter at the
- 16 discretion of a public agency:
 - 17 (1) Investigatory records of law enforcement agencies. However,
 - 18 certain law enforcement records must be made available for
 - 19 inspection and copying as provided in section 5 of this chapter.
 - 20 (2) The work product of an attorney representing, pursuant to
 - 21 state employment or an appointment by a public agency:
 - 22 (A) a public agency;
 - 23 (B) the state; or
 - 24 (C) an individual.
 - 25 (3) Test questions, scoring keys, and other examination data used
 - 26 in administering a licensing examination, examination for
 - 27 employment, or academic examination before the examination is
 - 28 given or if it is to be given again.
 - 29 (4) Scores of tests if the person is identified by name and has not
 - 30 consented to the release of his scores.
 - 31 (5) The following:
 - 32 (A) Records relating to negotiations between the department
 - 33 of commerce, the Indiana development finance authority, the
 - 34 film commission, the Indiana business modernization and
 - 35 technology corporation, or economic development
 - 36 commissions with industrial, research, or commercial
 - 37 prospects, if the records are created while negotiations are in
 - 38 progress.
 - 39 (B) Notwithstanding clause (A), the terms of the final offer of
 - 40 public financial resources communicated by the department of
 - 41 commerce, the Indiana development finance authority, the film
 - 42 commission, the Indiana business modernization and
 - 43 technology corporation, or economic development
 - 44 commissions to an industrial, a research, or a commercial
 - 45 prospect shall be available for inspection and copying under
 - 46 section 3 of this chapter after negotiations with that prospect

- 1 have terminated.
- 2 (C) When disclosing a final offer under clause (B), the
3 department of commerce shall certify that the information
4 being disclosed accurately and completely represents the terms
5 of the final offer.
- 6 (6) Records that are intra-agency or interagency advisory or
7 deliberative material, including material developed by a private
8 contractor under a contract with a public agency, that are
9 expressions of opinion or are of a speculative nature, and that are
10 communicated for the purpose of decision making.
- 11 (7) Diaries, journals, or other personal notes serving as the
12 functional equivalent of a diary or journal.
- 13 (8) Personnel files of public employees and files of applicants for
14 public employment, except for:
- 15 (A) the name, compensation, job title, business address,
16 business telephone number, job description, education and
17 training background, previous work experience, or dates of
18 first and last employment of present or former officers or
19 employees of the agency;
- 20 (B) information relating to the status of any formal charges
21 against the employee; and
- 22 (C) information concerning disciplinary actions in which final
23 action has been taken and that resulted in the employee being
24 disciplined or discharged.
- 25 However, all personnel file information shall be made available
26 to the affected employee or his representative. This subdivision
27 does not apply to disclosure of personnel information generally on
28 all employees or for groups of employees without the request
29 being particularized by employee name.
- 30 (9) Minutes or records of hospital medical staff meetings.
- 31 (10) Administrative or technical information that would
32 jeopardize a recordkeeping or security system.
- 33 (11) Computer programs, computer codes, computer filing
34 systems, and other software that are owned by the public agency
35 or entrusted to it and portions of electronic maps entrusted to a
36 public agency by a utility.
- 37 (12) Records specifically prepared for discussion or developed
38 during discussion in an executive session under IC 5-14-1.5-6.1.
39 However, this subdivision does not apply to that information
40 required to be available for inspection and copying under
41 subdivision (8).
- 42 (13) The work product of the legislative services agency under
43 personnel rules approved by the legislative council.
- 44 (14) The work product of individual members and the partisan
45 staffs of the general assembly.
- 46 (15) The identity of a donor of a gift made to a public agency if:

- 1 (A) the donor requires nondisclosure of his identity as a
 2 condition of making the gift; or
 3 (B) after the gift is made, the donor or a member of the donor's
 4 family requests nondisclosure.
- 5 (16) Library or archival records:
 6 (A) which can be used to identify any library patron; or
 7 (B) deposited with or acquired by a library upon a condition
 8 that the records be disclosed only:
 9 (i) to qualified researchers;
 10 (ii) after the passing of a period of years that is specified in
 11 the documents under which the deposit or acquisition is
 12 made; or
 13 (iii) after the death of persons specified at the time of the
 14 acquisition or deposit.
- 15 However, nothing in this subdivision shall limit or affect
 16 contracts entered into by the Indiana state library pursuant to
 17 IC 4-1-6-8.
- 18 (17) The identity of any person who contacts the bureau of motor
 19 vehicles concerning the ability of a driver to operate a motor
 20 vehicle safely and the medical records and evaluations made by
 21 the bureau of motor vehicles staff or members of the driver
 22 licensing advisory committee. However, upon written request to
 23 the commissioner of the bureau of motor vehicles, the driver must
 24 be given copies of the driver's medical records and evaluations
 25 that concern the driver.
- 26 (18) School safety and security measures, plans, and systems,
 27 including emergency preparedness plans developed under 511
 28 IAC 6.1-2-2.5.
- 29 (c) Notwithstanding section 3 of this chapter, a public agency is not
 30 required to create or provide copies of lists of names and addresses,
 31 unless the public agency is required to publish such lists and
 32 disseminate them to the public pursuant to statute. However, if a public
 33 agency has created a list of names and addresses, it must permit a
 34 person to inspect and make memoranda abstracts from the lists unless
 35 access to the lists is prohibited by law. The following lists of names and
 36 addresses may not be disclosed by public agencies to commercial
 37 entities for commercial purposes and may not be used by commercial
 38 entities for commercial purposes:
 39 (1) A list of employees of a public agency.
 40 (2) A list of persons attending conferences or meetings at a state
 41 institution of higher education or of persons involved in programs
 42 or activities conducted or supervised by the state institution of
 43 higher education.
 44 (3) A list of students who are enrolled in a public school
 45 corporation if the governing body of the public school corporation
 46 adopts a policy:

- 1 (A) prohibiting the disclosure of the list to commercial entities
- 2 for commercial purposes; or
- 3 (B) specifying the classes or categories of commercial entities
- 4 to which the list may not be disclosed or by which the list may
- 5 not be used for commercial purposes.

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

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

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

15 (f) Notwithstanding subsection (e) and section 7 of this chapter:
 16 (1) public records subject to IC 5-15 may be destroyed only in
 17 accordance with record retention schedules under IC 5-15; or
 18 (2) public records not subject to IC 5-15 may be destroyed in the
 19 ordinary course of business."

(Reference is to HB 1083 as printed February 27, 2001.)

Representative Thompson