



Reprinted  
March 6, 2001

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## HOUSE BILL No. 1083

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DIGEST OF HB 1083 (Updated March 5, 2001 1:47 PM - DI 87)

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

**Synopsis:** Confidentiality of public employee bargaining. Provides that agents appointed by a governing body of a public agency to conduct collective bargaining on behalf of the governing body are not subject to the open door law. (Currently only agents appointed by a school corporation to conduct collective bargaining on behalf of the school corporation are exempted from the open door law.) Provides that a public employee's electronic mail and records concerning a public employee's Internet usage are confidential.

**Effective:** July 1, 2001.

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**Cheney, Kruzan, Alderman,  
Mannweiler**

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January 8, 2001, read first time and referred to Committee on Education.  
February 26, 2001, amended, reported — Do Pass.  
March 5, 2001, read second time, amended, ordered engrossed.

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HB 1083—LS 6128/DI 87+



Reprinted  
March 6, 2001

First Regular Session 112th General Assembly (2001)

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 2000 General Assembly.

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## HOUSE BILL No. 1083

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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 5-14-1.5-2 IS AMENDED TO READ AS  
2 FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 2. For the purposes of  
3 this chapter:  
4 (a) "Public agency" means the following:  
5 (1) Any board, commission, department, agency, authority, or  
6 other entity, by whatever name designated, exercising a portion of  
7 the executive, administrative, or legislative power of the state.  
8 (2) Any county, township, school corporation, city, town, political  
9 subdivision, or other entity, by whatever name designated,  
10 exercising in a limited geographical area the executive,  
11 administrative, or legislative power of the state or a delegated  
12 local governmental power.  
13 (3) Any entity which is subject to either:  
14 (A) budget review by either the state board of tax  
15 commissioners or the governing body of a county, city, town,  
16 township, or school corporation; or  
17 (B) audit by the state board of accounts.

HB 1083—LS 6128/DI 87+



- 1 (4) Any building corporation of a political subdivision of the state  
 2 of Indiana that issues bonds for the purpose of constructing public  
 3 facilities.  
 4 (5) Any advisory commission, committee, or body created by  
 5 statute, ordinance, or executive order to advise the governing  
 6 body of a public agency, except medical staffs or the committees  
 7 of any such staff.  
 8 (6) The Indiana gaming commission established by IC 4-33,  
 9 including any department, division, or office of the commission.  
 10 (7) The Indiana horse racing commission established by IC 4-31,  
 11 including any department, division, or office of the commission.  
 12 (b) "Governing body" means two (2) or more individuals who are:  
 13 (1) a public agency that:  
 14 (A) is a board, a commission, an authority, a council, a  
 15 committee, a body, or other entity; and  
 16 (B) takes official action on public business;  
 17 (2) the board, commission, council, or other body of a public  
 18 agency which takes official action upon public business; or  
 19 (3) any committee appointed directly by the governing body or its  
 20 presiding officer to which authority to take official action upon  
 21 public business has been delegated. An agent or agents appointed  
 22 by a ~~school corporation~~ **the governing body** to conduct collective  
 23 bargaining on behalf of ~~that school corporation~~ **the governing**  
 24 **body** does not constitute a governing body for purposes of this  
 25 chapter.  
 26 (c) "Meeting" means a gathering of a majority of the governing body  
 27 of a public agency for the purpose of taking official action upon public  
 28 business. It does not include:  
 29 (1) any social or chance gathering not intended to avoid this  
 30 chapter;  
 31 (2) any on-site inspection of any project or program;  
 32 (3) traveling to and attending meetings of organizations devoted  
 33 to betterment of government; or  
 34 (4) a caucus.  
 35 (d) "Official action" means to:  
 36 (1) receive information;  
 37 (2) deliberate;  
 38 (3) make recommendations;  
 39 (4) establish policy;  
 40 (5) make decisions; or  
 41 (6) take final action.  
 42 (e) "Public business" means any function upon which the public

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1 agency is empowered or authorized to take official action.

2 (f) "Executive session" means a meeting from which the public is  
3 excluded, except the governing body may admit those persons  
4 necessary to carry out its purpose.

5 (g) "Final action" means a vote by the governing body on any  
6 motion, proposal, resolution, rule, regulation, ordinance, or order.

7 (h) "Caucus" means a gathering of members of a political party or  
8 coalition which is held for purposes of planning political strategy and  
9 holding discussions designed to prepare the members for taking official  
10 action.

11 (i) "Deliberate" means a discussion ~~which that~~ may reasonably be  
12 expected to result in official action (defined under subsection (d)(3),  
13 (d)(4), (d)(5), or (d)(6)).

14 (j) "News media" means all newspapers qualified to receive legal  
15 advertisements under IC 5-3-1, all news services (as defined in  
16 IC 34-6-2-87), and all licensed commercial or public radio or television  
17 stations.

18 (k) "Person" means an individual, a corporation, a limited liability  
19 company, a partnership, an unincorporated association, or a  
20 governmental entity.

21 SECTION 2. IC 5-14-1.5-6.1, AS AMENDED BY P.L.37-2000,  
22 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
23 JULY 1, 2001]: Sec. 6.1. (a) As used in this section, "public official"  
24 means a person:

- 25 (1) who is a member of a governing body of a public agency; or  
26 (2) whose tenure and compensation are fixed by law and who  
27 executes an oath.

28 (b) Executive sessions may be held only in the following instances:

- 29 (1) Where authorized by federal or state statute.  
30 (2) For discussion of strategy with respect to any of the following:  
31 (A) Collective bargaining.  
32 (B) Initiation of litigation or litigation that is either pending or  
33 has been threatened specifically in writing.  
34 (C) The implementation of security systems.  
35 (D) The purchase or lease of real property by the governing  
36 body up to the time a contract or option to purchase or lease is  
37 executed by the parties.

38 However, all such strategy discussions must be necessary for  
39 competitive or bargaining reasons and **may or** may not include  
40 competitive or bargaining adversaries.

- 41 (3) For discussion of the assessment, design, and implementation  
42 of school safety and security measures, plans, and systems.

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- 1 (4) Interviews with industrial or commercial prospects or agents  
 2 of industrial or commercial prospects by the department of  
 3 commerce, the Indiana development finance authority, the film  
 4 commission, the Indiana business modernization and technology  
 5 corporation, or economic development commissions.  
 6 (5) To receive information about and interview prospective  
 7 employees.  
 8 (6) With respect to any individual over whom the governing body  
 9 has jurisdiction:  
 10 (A) to receive information concerning the individual's alleged  
 11 misconduct; and  
 12 (B) to discuss, before a determination, the individual's status  
 13 as an employee, a student, or an independent contractor who  
 14 is a physician.  
 15 (7) For discussion of records classified as confidential by state or  
 16 federal statute.  
 17 (8) To discuss before a placement decision an individual student's  
 18 abilities, past performance, behavior, and needs.  
 19 (9) To discuss a job performance evaluation of individual  
 20 employees. This subdivision does not apply to a discussion of the  
 21 salary, compensation, or benefits of employees during a budget  
 22 process.  
 23 (10) When considering the appointment of a public official, to do  
 24 the following:  
 25 (A) Develop a list of prospective appointees.  
 26 (B) Consider applications.  
 27 (C) Make one (1) initial exclusion of prospective appointees  
 28 from further consideration.  
 29 Notwithstanding IC 5-14-3-4(b)(12), a governing body may  
 30 release and shall make available for inspection and copying in  
 31 accordance with IC 5-14-3-3 identifying information concerning  
 32 prospective appointees not initially excluded from further  
 33 consideration. An initial exclusion of prospective appointees from  
 34 further consideration may not reduce the number of prospective  
 35 appointees to fewer than three (3) unless there are fewer than  
 36 three (3) prospective appointees. Interviews of prospective  
 37 appointees must be conducted at a meeting that is open to the  
 38 public.  
 39 (11) To train school board members with an outside consultant  
 40 about the performance of the role of the members as public  
 41 officials.  
 42 (12) To prepare or score examinations used in issuing licenses,

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- 1 certificates, permits, or registrations under IC 15-5-1.1 or IC 25.  
 2 (c) A final action must be taken at a meeting open to the public.  
 3 (d) Public notice of executive sessions must state the subject matter  
 4 by specific reference to the enumerated instance or instances for which  
 5 executive sessions may be held under subsection (b). The requirements  
 6 stated in section 4 of this chapter for memoranda and minutes being  
 7 made available to the public is modified as to executive sessions in that  
 8 the memoranda and minutes must identify the subject matter  
 9 considered by specific reference to the enumerated instance or  
 10 instances for which public notice was given. The governing body shall  
 11 certify by a statement in the memoranda and minutes of the governing  
 12 body that no subject matter was discussed in the executive session  
 13 other than the subject matter specified in the public notice.  
 14 (e) A governing body may not conduct an executive session during  
 15 a meeting, except as otherwise permitted by applicable statute. A  
 16 meeting may not be recessed and reconvened with the intent of  
 17 circumventing this subsection.  
 18 SECTION 3. IC 5-14-3-4, AS AMENDED BY P.L.37-2000,  
 19 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 20 JULY 1, 2001]: Sec. 4. (a) The following public records are excepted  
 21 from section 3 of this chapter and may not be disclosed by a public  
 22 agency, unless access to the records is specifically required by a state  
 23 or federal statute or is ordered by a court under the rules of discovery:  
 24 (1) Those declared confidential by state statute.  
 25 (2) Those declared confidential by rule adopted by a public  
 26 agency under specific authority to classify public records as  
 27 confidential granted to the public agency by statute.  
 28 (3) Those required to be kept confidential by federal law.  
 29 (4) Records containing trade secrets.  
 30 (5) Confidential financial information obtained, upon request,  
 31 from a person. However, this does not include information that is  
 32 filed with or received by a public agency pursuant to state statute.  
 33 (6) Information concerning research, including actual research  
 34 documents, conducted under the auspices of an institution of  
 35 higher education, including information:  
 36 (A) concerning any negotiations made with respect to the  
 37 research; and  
 38 (B) received from another party involved in the research.  
 39 (7) Grade transcripts and license examination scores obtained as  
 40 part of a licensure process.  
 41 (8) Those declared confidential by or under rules adopted by the  
 42 supreme court of Indiana.

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

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

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

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1 entities for commercial purposes and may not be used by commercial  
 2 entities for commercial purposes:

3 (1) A list of employees of a public agency.  
 4 (2) A list of persons attending conferences or meetings at a state  
 5 institution of higher education or of persons involved in programs  
 6 or activities conducted or supervised by the state institution of  
 7 higher education.  
 8 (3) A list of students who are enrolled in a public school  
 9 corporation if the governing body of the public school corporation  
 10 adopts a policy:

11 (A) prohibiting the disclosure of the list to commercial entities  
 12 for commercial purposes; or  
 13 (B) specifying the classes or categories of commercial entities  
 14 to which the list may not be disclosed or by which the list may  
 15 not be used for commercial purposes.

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

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

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

25 (f) Notwithstanding subsection (e) and section 7 of this chapter:

26 (1) public records subject to IC 5-15 may be destroyed only in  
 27 accordance with record retention schedules under IC 5-15; or  
 28 (2) public records not subject to IC 5-15 may be destroyed in the  
 29 ordinary course of business.

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Education, to which was referred House Bill 1083, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 3, line 39, delete ".".

Page 3, line 39, reset in roman "and may not include".

Page 3, line 39, after "and" insert "**may or**".

Page 3, reset in roman line 40.

and when so amended that said bill do pass.

(Reference is to HB 1083 as introduced.)

PORTER, Chair

Committee Vote: yeas 13, nays 1.

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## HOUSE MOTION

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

Page 5, after line 17, begin a new paragraph and insert:

"SECTION 3. IC 5-14-3-4, AS AMENDED BY P.L.37-2000, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 4. (a) The following public records are excepted from section 3 of this chapter and may not be disclosed by a public agency, unless access to the records is specifically required by a state or federal statute or is ordered by a court under the rules of discovery:

- (1) Those declared confidential by state statute.
- (2) Those declared confidential by rule adopted by a public agency under specific authority to classify public records as confidential granted to the public agency by statute.
- (3) Those required to be kept confidential by federal law.
- (4) Records containing trade secrets.
- (5) Confidential financial information obtained, upon request, from a person. However, this does not include information that is filed with or received by a public agency pursuant to state statute.
- (6) Information concerning research, including actual research documents, conducted under the auspices of an institution of higher education, including information:
  - (A) concerning any negotiations made with respect to the research; and
  - (B) received from another party involved in the research.
- (7) Grade transcripts and license examination scores obtained as part of a licensure process.
- (8) Those declared confidential by or under rules adopted by the supreme court of Indiana.
- (9) Patient medical records and charts created by a provider, unless the patient gives written consent under IC 16-39.
- (10) Application information declared confidential by the twenty-first century research and technology fund board under IC 4-4-5.1.
- (11) Electronic mail sent or received by an employee of a public agency. This subdivision does not apply to reports, applications, and other documents that are filed with or sent to a public agency by electronic mail.**
- (12) Records concerning the use of the Internet by employees of a public agency.**

(b) Except as otherwise provided by subsection (a), the following public records shall be excepted from section 3 of this chapter at the

HB 1083—LS 6128/DI 87+



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discretion of a public agency:

- (1) Investigatory records of law enforcement agencies. However, certain law enforcement records must be made available for inspection and copying as provided in section 5 of this chapter.
- (2) The work product of an attorney representing, pursuant to state employment or an appointment by a public agency:
  - (A) a public agency;
  - (B) the state; or
  - (C) an individual.
- (3) Test questions, scoring keys, and other examination data used in administering a licensing examination, examination for employment, or academic examination before the examination is given or if it is to be given again.
- (4) Scores of tests if the person is identified by name and has not consented to the release of his scores.
- (5) The following:
  - (A) Records relating to negotiations between the department of commerce, the Indiana development finance authority, the film commission, the Indiana business modernization and technology corporation, or economic development commissions 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 department of commerce, the Indiana development finance authority, the film commission, the Indiana business modernization and technology corporation, or economic development commissions 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 department of commerce 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

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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) information concerning disciplinary actions in which final action has been taken and that resulted in the employee being disciplined or discharged.

However, all personnel file information shall be made available to the affected employee or his representative. This subdivision does not apply to disclosure of personnel information generally on all employees or for groups of employees without the request being particularized by employee name.

(9) Minutes or records of hospital medical staff meetings.

(10) Administrative or technical information that would jeopardize a recordkeeping or security system.

(11) Computer programs, computer codes, computer filing systems, and other software that are owned by the public agency or entrusted to it and portions of electronic maps entrusted to a public agency by a utility.

(12) Records specifically prepared for discussion or developed during discussion in an executive session under IC 5-14-1.5-6.1. However, this subdivision does not apply to that information required to be available for inspection and copying under subdivision (8).

(13) The work product of the legislative services agency under personnel rules approved by the legislative council.

(14) The work product of individual members and the partisan staffs of the general assembly.

(15) The identity of a donor of a gift made to a public agency if:

- (A) the donor requires nondisclosure of his identity as a condition of making the gift; or
- (B) after the gift is made, the donor or a member of the donor's family requests nondisclosure.

(16) Library or archival records:

- (A) which can be used to identify any library patron; or
- (B) deposited with or acquired by a library upon a condition

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that the records be disclosed only:

- (i) to qualified researchers;
- (ii) after the passing of a period of years that is specified in the documents under which the deposit or acquisition is made; or
- (iii) after the death of persons specified at the time of the acquisition or deposit.

However, nothing in this subdivision shall limit or affect contracts entered into by the Indiana state library pursuant to IC 4-1-6-8.

(17) The identity of any person who contacts the bureau of motor vehicles concerning the ability of a driver to operate a motor vehicle safely and the medical records and evaluations made by the bureau of motor vehicles staff or members of the driver licensing advisory committee. However, upon written request to the commissioner of the bureau of motor vehicles, the driver must be given copies of the driver's medical records and evaluations that concern the driver.

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

(c) Notwithstanding section 3 of this chapter, a public agency is not required to create or provide copies of lists of names and addresses, unless the public agency is required to publish such lists and disseminate them to the public pursuant to statute. However, if a public agency has created a list of names and addresses, it must permit a person to inspect and make memoranda abstracts from the lists unless access to the lists is prohibited by law. The following lists of names and addresses may not be disclosed by public agencies to commercial entities for commercial purposes and may not be used by commercial entities for commercial purposes:

- (1) A list of employees of a public agency.
- (2) A list of persons attending conferences or meetings at a state institution of higher education or of persons involved in programs or activities conducted or supervised by the state institution of higher education.
- (3) A list of students who are enrolled in a public school corporation if the governing body of the public school corporation adopts a policy:
  - (A) prohibiting the disclosure of the list to commercial entities for commercial purposes; or
  - (B) specifying the classes or categories of commercial entities



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to which the list may not be disclosed or by which the list may not be used for commercial purposes.

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

(d) 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.

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

(f) Notwithstanding subsection (e) 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."

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

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