

PRINTING CODE. Deletions appear in <this style type>. Insertions appear in [this style type]. Typeface changes are shown in <this >> style >> type > or in [this[] []style[] []type[]].

# HOUSE BILL No. 1142

Proposed Changes to January 31, 2023 printing by AM114202

## DIGEST OF PROPOSED AMENDMENT

Technical correction. Fixes a conflict with HB 1013 by renaming the "state department of health" to the "Indiana department of health".

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.64-2020,
- 2 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 3 JULY 1, 2023]: Sec. 2. (a) The definitions set forth in this section apply
- 4 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) "Criminal intelligence information" means data that has been
- 10 evaluated to determine that the data is relevant to:
- 11 (1) the identification of; and
- 12 (2) the criminal activity engaged in by;
- 13 an individual who or organization that is reasonably suspected of
- 14 involvement in criminal activity.
- 15 (d) "Direct cost" means one hundred five percent (105%) of the
- 16 sum of the cost of:
- 17 (1) the initial development of a program, if any;
- 18 (2) the labor required to retrieve electronically stored data; ~~and~~
- 19 **(3) the labor required to:**
- 20 **(A) obscure nondisclosable information; and**

M  
a  
r  
k  
u  
p

HB 1142—LS 6692/DI 87



DOCUMENT HAS NOT BEEN CHECKED FOR ACCURACY

- 1                   **(B) perform an administrative review to determine if all**  
 2                   **nondisclosable information has been obscured;**  
 3                   **in a law enforcement recording; and**  
 4                   ~~(3)~~ **(4) any medium used for electronic output;**  
 5                   for providing a duplicate of electronically stored data onto a disk, tape,  
 6                   drum, or other medium of electronic data retrieval under section 8(g)  
 7                   of this chapter, or for reprogramming a computer system under section  
 8                   6(c) of this chapter.
- 9                   (e) "Electronic map" means copyrighted data provided by a public  
 10                  agency from an electronic geographic information system.
- 11                  (f) "Enhanced access" means the inspection of a public record by  
 12                  a person other than a governmental entity and that:
- 13                  (1) is by means of an electronic device other than an electronic  
 14                  device provided by a public agency in the office of the public  
 15                  agency; or
- 16                  (2) requires the compilation or creation of a list or report that  
 17                  does not result in the permanent electronic storage of the  
 18                  information.
- 19                  (g) "Facsimile machine" means a machine that electronically  
 20                  transmits exact images through connection with a telephone network.
- 21                  (h) "Inspect" includes the right to do the following:
- 22                  (1) Manually transcribe and make notes, abstracts, or  
 23                  memoranda.
- 24                  (2) In the case of tape recordings or other aural public records,  
 25                  to listen and manually transcribe or duplicate, or make notes,  
 26                  abstracts, or other memoranda from them.
- 27                  (3) In the case of public records available:
- 28                          (A) by enhanced access under section 3.5 of this chapter; or  
 29                          (B) to a governmental entity under section 3(c)(2) of this  
 30                          chapter;
- 31                  to examine and copy the public records by use of an electronic  
 32                  device.
- 33                  (4) In the case of electronically stored data, to manually  
 34                  transcribe and make notes, abstracts, or memoranda or to  
 35                  duplicate the data onto a disk, tape, drum, or any other medium  
 36                  of electronic storage.
- 37                  (i) "Investigatory record" means information compiled in the  
 38                  course of the investigation of a crime.
- 39                  (j) "Law enforcement activity" means:
- 40                          (1) a traffic stop;  
 41                          (2) a pedestrian stop;  
 42                          (3) an arrest;

HB 1142—LS 6692/DI 87



DOCUMENT HAS NOT BEEN CHECKED FOR ACCURACY

M  
a  
r  
k  
u  
p

- 1 (4) a search;  
 2 (5) an investigation;  
 3 (6) a pursuit;  
 4 (7) crowd control;  
 5 (8) traffic control; or  
 6 (9) any other instance in which a law enforcement officer is  
 7 enforcing the law.
- 8 The term does not include an administrative activity, including the  
 9 completion of paperwork related to a law enforcement activity, or a  
 10 custodial interrogation conducted in a place of detention as described  
 11 in Indiana Evidence Rule 617, regardless of the ultimate admissibility  
 12 of a statement made during the custodial interrogation.
- 13 (k) "Law enforcement recording" means an audio, visual, or  
 14 audiovisual recording of a law enforcement activity captured by a  
 15 camera or other device that is:  
 16 (1) provided to or used by a law enforcement officer in the scope  
 17 of the officer's duties; and  
 18 (2) designed to be worn by a law enforcement officer or attached  
 19 to the vehicle or transportation of a law enforcement officer.
- 20 (l) "Offender" means a person confined in a prison, county jail,  
 21 detention facility, penal institution, or in a community corrections  
 22 program as the result of the person's arrest or conviction for a crime.
- 23 (m) "Patient" has the meaning set out in IC 16-18-2-272(d).
- 24 (n) "Person" means an individual, a corporation, a limited liability  
 25 company, a partnership, an unincorporated association, or a  
 26 governmental entity.
- 27 (o) "Private university police department" means the police  
 28 officers appointed by the governing board of a private university under  
 29 IC 21-17-5.
- 30 (p) "Provider" has the meaning set out in IC 16-18-2-295(b) and  
 31 includes employees of the [\[state of Indiana\]](#) department of health or  
 32 local boards of health who create patient records at the request of  
 33 another provider or who are social workers and create records  
 34 concerning the family background of children who may need  
 35 assistance.
- 36 (q) "Public agency", except as provided in section 2.1 of this  
 37 chapter, means the following:  
 38 (1) Any board, commission, department, division, bureau,  
 39 committee, agency, office, instrumentality, or authority, by  
 40 whatever name designated, exercising any part of the executive,  
 41 administrative, judicial, or legislative power of the state.  
 42 (2) Any:

M  
a  
r  
k  
u  
p

HB 1142—LS 6692/DI 87



DOCUMENT HAS NOT BEEN CHECKED FOR ACCURACY

- 1 (A) county, township, school corporation, city, or town, or  
 2 any board, commission, department, division, bureau,  
 3 committee, office, instrumentality, or authority of any  
 4 county, township, school corporation, city, or town;  
 5 (B) political subdivision (as defined by IC 36-1-2-13); or  
 6 (C) other entity, or any office thereof, by whatever name  
 7 designated, exercising in a limited geographical area the  
 8 executive, administrative, judicial, or legislative power of  
 9 the state or a delegated local governmental power.
- 10 (3) Any entity or office that is subject to:
- 11 (A) budget review by either the department of local  
 12 government finance or the governing body of a county, city,  
 13 town, township, or school corporation; or  
 14 (B) an audit by the state board of accounts that is required  
 15 by statute, rule, or regulation.
- 16 (4) Any building corporation of a political subdivision that issues  
 17 bonds for the purpose of constructing public facilities.
- 18 (5) Any advisory commission, committee, or body created by  
 19 statute, ordinance, or executive order to advise the governing  
 20 body of a public agency, except medical staffs or the committees  
 21 of any such staff.
- 22 (6) Any law enforcement agency, which means an agency or a  
 23 department of any level of government that engages in the  
 24 investigation, apprehension, arrest, or prosecution of alleged  
 25 criminal offenders, such as the state police department, the  
 26 police or sheriff's department of a political subdivision,  
 27 prosecuting attorneys, members of the excise police division of  
 28 the alcohol and tobacco commission, conservation officers of the  
 29 department of natural resources, gaming agents of the Indiana  
 30 gaming commission, gaming control officers of the Indiana  
 31 gaming commission, and the security division of the state lottery  
 32 commission.
- 33 (7) Any license branch operated under IC 9-14.1.
- 34 (8) The state lottery commission established by IC 4-30-3-1,  
 35 including any department, division, or office of the commission.
- 36 (9) The Indiana gaming commission established under IC 4-33,  
 37 including any department, division, or office of the commission.
- 38 (10) The Indiana horse racing commission established by  
 39 IC 4-31, including any department, division, or office of the  
 40 commission.
- 41 (11) A private university police department. The term does not  
 42 include the governing board of a private university or any other

M  
a  
r  
k  
u  
p

HB 1142—LS 6692/DI 87



DOCUMENT HAS NOT BEEN CHECKED FOR ACCURACY

1 department, division, board, entity, or office of a private  
2 university.

3 (r) "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.

10 (s) "Standard-sized documents" includes all documents that can be  
11 mechanically reproduced (without mechanical reduction) on paper  
12 sized eight and one-half (8 1/2) inches by eleven (11) inches or eight  
13 and one-half (8 1/2) inches by fourteen (14) inches.

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

15 (u) "Work product of an attorney" means information compiled by  
16 an attorney in reasonable anticipation of litigation. The term includes  
17 the attorney's:

- 18 (1) notes and statements taken during interviews of prospective  
19 witnesses; and
- 20 (2) legal research or records, correspondence, reports, or  
21 memoranda to the extent that each contains the attorney's  
22 opinions, theories, or conclusions.

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

25 SECTION 2. IC 5-14-3-3, AS AMENDED BY P.L.171-2018,  
26 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
27 JULY 1, 2023]: Sec. 3. (a) Any person may inspect and copy the public  
28 records of any public agency during the regular business hours of the  
29 agency, except as provided in section 4 of this chapter. A request for  
30 inspection or copying must:

- 31 (1) identify with reasonable particularity the record being  
32 requested; and
- 33 (2) be, at the discretion of the agency, in writing on or in a form  
34 provided by the agency.

35 No request may be denied because the person making the request  
36 refuses to state the purpose of the request, unless such condition is  
37 required by other applicable statute. If a request is for inspection or  
38 copying of a law enforcement recording, the request must provide the  
39 information required under subsection (i).

40 (b) A public agency may not deny or interfere with the exercise of  
41 the right stated in subsection (a). **If the public agency does not deny  
42 the request**, within a reasonable time after the request is received by

M  
a  
r  
k  
u  
p

HB 1142—LS 6692/DI 87



DOCUMENT HAS NOT BEEN CHECKED FOR ACCURACY

- 1 the agency the public agency shall either:
- 2 (1) provide the requested copies to the person making the
- 3 request; or
- 4 (2) allow the person to make copies:
- 5 (A) on the agency's equipment; or
- 6 (B) on the person's own equipment.
- 7 (c) Notwithstanding subsections (a) and (b), a public agency may
- 8 or may not do the following:
- 9 (1) In accordance with a contract described in section 3.5 of this
- 10 chapter, permit a person to inspect and copy through the use of
- 11 enhanced access public records containing information owned
- 12 by or entrusted to the public agency.
- 13 (2) Permit a governmental entity to use an electronic device to
- 14 inspect and copy public records containing information owned
- 15 by or entrusted to the public agency.
- 16 (d) Except as provided in subsection (e) and subject to subsection
- 17 (j), a public agency that maintains or contracts for the maintenance of
- 18 public records in an electronic data storage system shall make
- 19 reasonable efforts to provide to a person making a request a copy of all
- 20 disclosable data contained in the records on paper, disk, tape, drum, or
- 21 any other method of electronic retrieval if the medium requested is
- 22 compatible with the agency's data storage system. This subsection does
- 23 not apply to an electronic map.
- 24 (e) A state agency may adopt a rule under IC 4-22-2, and a
- 25 political subdivision may enact an ordinance, prescribing the
- 26 conditions under which a person who receives information on disk or
- 27 tape under subsection (d) may or may not use the information for
- 28 commercial purposes, including to sell, advertise, or solicit the
- 29 purchase of merchandise, goods, or services, or sell, loan, give away,
- 30 or otherwise deliver the information obtained by the request to any
- 31 other person for these purposes. Use of information received under
- 32 subsection (d) in connection with the preparation or publication of
- 33 news, for nonprofit activities, or for academic research is not
- 34 prohibited. A person who uses information in a manner contrary to a
- 35 rule or ordinance adopted under this subsection may be prohibited by
- 36 the state agency or political subdivision from obtaining a copy or any
- 37 further data under subsection (d).
- 38 (f) Notwithstanding the other provisions of this section, a public
- 39 agency is not required to create or provide copies of lists of names and
- 40 addresses (including electronic mail account addresses) unless the
- 41 public agency is required to publish such lists and disseminate them to
- 42 the public under a statute. However, if a public agency has created a

M  
a  
r  
k  
u  
p

HB 1142—LS 6692/DI 87



DOCUMENT HAS NOT BEEN CHECKED FOR ACCURACY

1 list of names and addresses (excluding electronic mail account  
 2 addresses), it must permit a person to inspect and make memoranda  
 3 abstracts from the list unless access to the list is prohibited by law. The  
 4 lists of names and addresses (including electronic mail account  
 5 addresses) described in subdivisions (1) through (3) may not be  
 6 disclosed by public agencies to any individual or entity for political  
 7 purposes and may not be used by any individual or entity for political  
 8 purposes. In addition, the lists of names and addresses (including  
 9 electronic mail account addresses) described in subdivisions (1)  
 10 through (3) may not be disclosed by public agencies to commercial  
 11 entities for commercial purposes and may not be used by commercial  
 12 entities for commercial purposes. The prohibition in this subsection  
 13 against the disclosure of lists for political or commercial purposes  
 14 applies to the following lists of names and addresses (including  
 15 electronic mail account addresses):

- 16 (1) A list of employees of a public agency.  
 17 (2) A list of persons attending conferences or meetings at a state  
 18 educational institution or of persons involved in programs or  
 19 activities conducted or supervised by the state educational  
 20 institution.  
 21 (3) A list of students who are enrolled in a public school  
 22 corporation if the governing body of the public school  
 23 corporation adopts a policy:  
 24 (A) with respect to disclosure related to a commercial  
 25 purpose, prohibiting the disclosure of the list to commercial  
 26 entities for commercial purposes;  
 27 (B) with respect to disclosure related to a commercial  
 28 purpose, specifying the classes or categories of commercial  
 29 entities to which the list may not be disclosed or by which  
 30 the list may not be used for commercial purposes; or  
 31 (C) with respect to disclosure related to a political purpose,  
 32 prohibiting the disclosure of the list to individuals and  
 33 entities for political purposes.

34 A policy adopted under subdivision (3)(A) or (3)(B) must be uniform  
 35 and may not discriminate among similarly situated commercial entities.  
 36 For purposes of this subsection, "political purposes" means influencing  
 37 the election of a candidate for federal, state, legislative, local, or school  
 38 board office or the outcome of a public question or attempting to solicit  
 39 a contribution to influence the election of a candidate for federal, state,  
 40 legislative, local, or school board office or the outcome of a public  
 41 question.

- 42 (g) A public agency may not enter into or renew a contract or an

**HB 1142—LS 6692/DI 87**



**DOCUMENT HAS NOT BEEN CHECKED FOR ACCURACY**

M  
a  
r  
k  
u  
p

1 obligation:  
 2 (1) for the storage or copying of public records; or  
 3 (2) that requires the public to obtain a license or pay copyright  
 4 royalties for obtaining the right to inspect and copy the records  
 5 unless otherwise provided by applicable statute;  
 6 if the contract, obligation, license, or copyright unreasonably impairs  
 7 the right of the public to inspect and copy the agency's public records.  
 8 (h) If this section conflicts with IC 3-7, the provisions of IC 3-7  
 9 apply.  
 10 (i) A request to inspect or copy a law enforcement recording must  
 11 be in writing. A request identifies a law enforcement recording with  
 12 reasonable particularity as required by this section only if the request  
 13 provides the following information regarding the law enforcement  
 14 activity depicted in the recording:  
 15 (1) The date and approximate time of the law enforcement  
 16 activity.  
 17 (2) The specific location where the law enforcement activity  
 18 occurred.  
 19 (3) The name of at least one (1) individual, other than a law  
 20 enforcement officer, who was directly involved in the law  
 21 enforcement activity.  
 22 (j) This subsection applies to a public record that is in an  
 23 electronic format. This subsection does not apply to a public record  
 24 recorded in the office of the county recorder. A public agency shall  
 25 provide an electronic copy or a paper copy of a public record, at the  
 26 option of the person making the request for the public record. This  
 27 subsection does not require a public agency to change the format of a  
 28 public record.  
 29 SECTION 3. IC 5-14-3-5.2, AS AMENDED BY P.L.85-2017,  
 30 SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 31 JULY 1, 2023]: Sec. 5.2. (a) A public agency shall permit any person  
 32 to inspect or copy a law enforcement recording unless one (1) or more  
 33 of the following circumstances apply:  
 34 (1) Section 4(b)(19) of this chapter applies and the person has  
 35 not demonstrated that the public agency that owns, occupies,  
 36 leases, or maintains the airport approves the disclosure of the  
 37 recording.  
 38 (2) The public agency finds, after due consideration of the facts  
 39 of the particular case, that access to or dissemination of the  
 40 recording:  
 41 (A) creates a significant risk of substantial harm to any  
 42 person or to the general public;

M  
a  
r  
k  
u  
p

HB 1142—LS 6692/DI 87



DOCUMENT HAS NOT BEEN CHECKED FOR ACCURACY



- 1 (B) is likely to interfere with the ability of a person to
- 2 receive a fair trial by creating prejudice or bias concerning
- 3 the person or a claim or defense presented by the person;
- 4 (C) may affect an ongoing investigation, if the recording is
- 5 an investigatory record of a law enforcement agency as
- 6 defined in section 2 of this chapter and notwithstanding its
- 7 exclusion under section 4(b)(1) of this chapter; or
- 8 (D) would not serve the public interest.

9 However, before permitting a person to inspect or copy the recording,  
 10 the public agency must comply with the obscuring provisions of  
 11 subsection (e), if applicable.

12 (b) If a public agency denies a person the opportunity to inspect or  
 13 copy a law enforcement recording under subsection (a), the person may  
 14 petition the circuit or superior court of the county in which the law  
 15 enforcement recording was made for an order permitting inspection or  
 16 copying of a law enforcement recording. The court shall review the  
 17 decision of the public agency de novo and grant the order unless one  
 18 (1) or more of the following apply:

19 (1) If section 4(b)(19) of this chapter applies, the petitioner fails  
 20 to establish by a preponderance of the evidence that the public  
 21 agency that owns, occupies, leases, or maintains the airport  
 22 approves the disclosure of the recording.

23 (2) The public agency establishes by a preponderance of the  
 24 evidence in light of the facts of the particular case, that access to  
 25 or dissemination of the recording:

- 26 (A) creates a significant risk of substantial harm to any
- 27 person or to the general public;
- 28 (B) is likely to interfere with the ability of a person to
- 29 receive a fair trial by creating prejudice or bias concerning
- 30 the person or a claim or defense presented by the person;
- 31 (C) may affect an ongoing investigation, if the recording is
- 32 an investigatory record of a law enforcement agency, as
- 33 defined in section 2 of this chapter, notwithstanding its
- 34 exclusion under section 4 of this chapter; or
- 35 (D) would not serve the public interest.

36 (c) Notwithstanding section 9(i) of this chapter, a person that  
 37 obtains an order for inspection of or to copy a law enforcement  
 38 recording under this section may not be awarded attorney's fees, court  
 39 costs, and other reasonable expenses of litigation. The penalty  
 40 provisions of section 9.5 of this chapter do not apply to a petition filed  
 41 under this section.

42 (d) If the court grants a petition for inspection of or to copy the law

M  
a  
r  
k  
u  
p

HB 1142—LS 6692/DI 87



1 enforcement recording, the public agency shall disclose the recording.  
2 However, before disclosing the recording, the public agency must  
3 comply with the obscuring provisions of subsection (e), if applicable.

4 **Any copy of the recording must be made by the public agency.**

5 (e) A public agency that discloses a law enforcement recording  
6 under this section:

7 (1) shall obscure:

8 (A) any information that is required to be obscured under  
9 section 4(a) of this chapter; and

10 (B) depictions of:

- 11 (i) an individual's death or a dead body;
- 12 (ii) acts of severe violence that are against any  
13 individual who is clearly visible and that result in  
14 serious bodily injury (as defined in IC 35-31.5-2-292);
- 15 (iii) serious bodily injury (as defined in  
16 IC 35-31.5-2-292);
- 17 (iv) nudity (as defined in IC 35-49-1-5);
- 18 (v) an individual whom the public agency reasonably  
19 believes is less than eighteen (18) years of age;
- 20 (vi) personal medical information;
- 21 (vii) a victim of a crime, or any information identifying  
22 the victim of a crime, if the public agency finds that  
23 obscuring this information is necessary for the victim's  
24 safety; and
- 25 (viii) a witness to a crime or an individual who reports  
26 a crime, or any information identifying a witness to a  
27 crime or an individual who reports a crime, if the  
28 public agency finds that obscuring this information is  
29 necessary for the safety of the witness or individual  
30 who reports a crime; and

31 (2) may obscure:

32 (A) any information identifying:

- 33 (i) a law enforcement officer operating in an  
34 undercover capacity; or
- 35 (ii) a confidential informant; and

36 (B) any information that the public agency may withhold  
37 from disclosure under section 4(b)(2) through 4(b)(26) of  
38 this chapter.

39 (f) A court shall expedite a proceeding filed under this section.

40 Unless prevented by extraordinary circumstances, the court shall  
41 conduct a hearing (if required) and rule on a petition filed under this  
42 section not later than thirty (30) days after the date the petition is filed. [

M  
a  
r  
k  
u  
p



1 1

M  
a  
r  
k  
u  
p

HB 1142—LS 6692/DI 87



DOCUMENT HAS NOT BEEN CHECKED FOR ACCURACY