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HOUSE BILL No. 1360

Proposed Changes to introduced printing by AM136001

DIGEST OF PROPOSED AMENDMENT

Public records requests. Allows (rather than requires) a state or local public agency to: (1) establish an electronic portal for submission of a public records request (request); (2) charge a supplemental fee for processing a request from a non-Indiana resident or an out of state entity; (3) waive the supplemental fee if the public agency finds the request serves the public interest; and (4) report requests to the public access counselor that are suspected of being automated or data scraping or phishing activity.

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.64-2023,
2 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2026]: 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) **"Data scraping" means use of an automated system to**
16 **extract data from websites and other Internet accessible sources.**
17 (d) (e) "Direct cost" means one hundred five percent (105%) of the

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IN 1360—LS 6876/DI 119



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



1 of electronic storage.

2 ~~(i)~~ **(j)** "Investigatory record" means information compiled in the
3 course of the investigation of a crime.

4 ~~(j)~~ **(k)** "Law enforcement activity" means:

- 5 (1) a traffic stop;
- 6 (2) a pedestrian stop;
- 7 (3) an arrest;
- 8 (4) a search;
- 9 (5) an investigation;
- 10 (6) a pursuit;
- 11 (7) crowd control;
- 12 (8) traffic control; or
- 13 (9) any other instance in which a law enforcement officer is
- 14 enforcing the law.

15 The term does not include an administrative activity, including the
16 completion of paperwork related to a law enforcement activity, or a
17 custodial interrogation conducted in a place of detention as described
18 in Indiana Evidence Rule 617, regardless of the ultimate admissibility
19 of a statement made during the custodial interrogation.

20 ~~(k)~~ **(l)** "Law enforcement recording" means an audio, visual, or
21 audiovisual recording of a law enforcement activity captured by a
22 camera or other device that is:

- 23 (1) provided to or used by a law enforcement officer in the scope
24 of the officer's duties; and
- 25 (2) designed to be worn by a law enforcement officer or attached
26 to the vehicle or transportation of a law enforcement officer.

27 ~~(l)~~ **(m)** "Offender" means a person confined in a prison, county
28 jail, detention facility, penal institution, or in a community corrections
29 program as the result of the person's arrest or conviction for a crime.

30 ~~(m)~~ **(n)** "Patient" has the meaning set out in IC 16-18-2-272(d).

31 ~~(n)~~ **(o)** "Person" means an individual, a corporation, a limited
32 liability company, a partnership, an unincorporated association, or a
33 governmental entity.

34 **(p) "Phishing" means a method of obtaining information**
35 **through fraud in which the sender of a communication**
36 **intentionally misrepresents the identity of the sender in order to**
37 **induce the recipient of the communication to:**

- 38 **(1) divulge the information to the sender; or**
- 39 **(2) take an action that allows the sender access to the**
40 **information.**

41 ~~(o)~~ **(q)** "Private university police department" means the police
42 officers appointed by the governing board of a private university under



1 IC 21-17-5.

2 ~~(p)~~ (r) "Provider" has the meaning set out in IC 16-18-2-295(b)
 3 and includes employees of the Indiana department of health or local
 4 boards of health who create patient records at the request of another
 5 provider or who are social workers and create records concerning the
 6 family background of children who may need assistance.

7 ~~(q)~~ (s) "Public agency", except as provided in section 2.1 of this
 8 chapter, means the following:

9 (1) Any board, commission, department, division, bureau,
 10 committee, agency, office, instrumentality, or authority, by
 11 whatever name designated, exercising any part of the executive,
 12 administrative, judicial, or legislative power of the state.

13 (2) Any:

14 (A) county, township, school corporation, city, or town, or
 15 any board, commission, department, division, bureau,
 16 committee, office, instrumentality, or authority of any
 17 county, township, school corporation, city, or town;

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

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

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

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

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

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

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

35 (6) Any law enforcement agency, which means an agency or a
 36 department of any level of government that engages in the
 37 investigation, apprehension, arrest, or prosecution of alleged
 38 criminal offenders, such as the state police department, the
 39 police or sheriff's department of a political subdivision,
 40 prosecuting attorneys, members of the excise police division of
 41 the alcohol and tobacco commission, conservation officers of the
 42 department of natural resources, gaming agents of the Indiana



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gaming commission, gaming control officers of the Indiana gaming commission, and the security division of the state lottery commission.

(7) Any license branch operated under IC 9-14.1.

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

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

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

(11) A private university police department. The term does not include the governing board of a private university or any other department, division, board, entity, or office of a private university.

(~~r~~) (t) "Public record" means any writing, paper, report, study, map, photograph, book, card, tape recording, or other material that is created, received, retained, maintained, or filed by or with a public agency and which is generated on paper, paper substitutes, photographic media, chemically based media, magnetic or machine readable media, electronically stored data, or any other material, regardless of form or characteristics.

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

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

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

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

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

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

SECTION 2. IC 5-14-3-3.3 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2026]: **Sec. 3.3. A public agency ~~shall~~ [may] establish and maintain an electronic portal for submission of public records requests that:**



(1) incorporates Completely Automated Public Turing test to tell Computers and Humans Apart (CAPTCHA) or an equivalent mechanism for ensuring that a requestor is a human;

(2) requires verification of a requestor's physical address;

(3) indicates to the public agency whether the requestor is a resident of Indiana; and

(4) automatically logs and reports submissions suspected to be automated or to have originated from known sources of phishing or data scraping.

SECTION 3. IC 5-14-3-4.4, AS AMENDED BY P.L.249-2019, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2026]: Sec. 4.4. (a) This section applies to a request for a record that the public agency considers to be excepted from disclosure under section 4(b)(1) or 4(b)(25) of this chapter. The public agency may do either of the following:

(1) Deny disclosure of the record or a part of the record. The person requesting the information may appeal the denial under section 9 of this chapter.

(2) Refuse to confirm or deny the existence of the record, regardless of whether the record exists or does not exist, if the fact of the record's existence or nonexistence would reveal information that would:

(A) impede or compromise an ongoing law enforcement investigation or result in danger to an individual's safety, including the safety of a law enforcement officer or a confidential source; or

(B) reveal information that would have a reasonable likelihood of threatening public safety.

(b) This subsection applies to a request for a record that the public agency considers to be excepted from disclosure under section 4(b)(19) of this chapter. The agency may consult with the governor's security council established by IC 10-19-8.1-2 in formulating a response. The public agency may do either of the following:

(1) Deny disclosure of the record or a part of the record. The agency or the counterterrorism and security council shall provide a general description of the record being withheld and of how disclosure of the record would have a reasonable likelihood of threatening public safety by exposing a vulnerability to terrorist attack. The person requesting the information may appeal the denial under section 9 of this chapter.

(2) Refuse to confirm or deny the existence of the record



regardless of whether the record exists or does not exist, if the fact of the record's existence or nonexistence would reveal information that would have a reasonable likelihood of threatening public safety.

(c) If a public agency does not respond to a request for a record under this section:

(1) within twenty-four (24) hours of receiving the request for a record from a person who:

(A) is physically present in the agency office;

(B) makes the request by telephone; or

(C) requests enhanced access to a document; or

(2) within seven (7) days of receiving the request for a record made by mail, ~~or by facsimile~~, **or through an electronic portal under section 3.3 of this chapter**;

the request for the record is deemed denied. The person requesting the information may appeal the denial under section 9 of this chapter.

(d) If a public agency refuses to confirm or deny the existence of a record under this section, the name and title or position of the person responsible for the refusal shall be given to the person making the records request.

(e) A person who has received a refusal from an agency to confirm or deny the existence of a record may file an action in the circuit or superior court of the county in which the response was received:

(1) to compel the public agency to confirm whether the record exists or does not exist; and

(2) if the public agency confirms that the record exists, to compel the agency to permit the person to inspect and copy the record.

(f) The court shall determine the matter de novo, with the burden of proof on the public agency to sustain its refusal to confirm or deny the existence of the record. The public agency meets its burden of proof by filing a public affidavit with the court that provides with reasonable specificity of detail, and not simply conclusory statements, the basis of the agency's claim that it cannot be required to confirm or deny the existence of the requested record. If the public agency meets its burden of proof, the burden of proof shifts to the person requesting access to the record. The person requesting access to the record meets the person's burden of proof by proving any of the following:

(1) The agency's justifications for not confirming the existence of the record contradict other evidence in the trial record.

(2) The agency is withholding the record in bad faith.

(3) An official with authority to speak for the agency has



acknowledged to the public in a documented disclosure that the record exists. The person requesting the record must prove that the information requested:

(A) is as specific as the information previously disclosed; and

(B) matches the previously disclosed information.

(g) Either party may make an interlocutory appeal of the trial court's determination on whether the agency's refusal to confirm or deny the existence of the record was proper.

(h) If the court, after the disposition of any interlocutory appeals, finds that the agency's refusal to confirm or deny was improper, the court shall order the agency to disclose whether the record exists or does not exist. If the record exists and the agency claims that the record is exempt from disclosure under this chapter, the court may review the public record in camera to determine whether any part of the record may be withheld.

(i) In an action filed under this section, the court shall award reasonable attorney's fees, court costs, and other reasonable expenses of litigation to the prevailing party if:

(1) the plaintiff substantially prevails; or

(2) the defendant substantially prevails and the court finds the action was frivolous or vexatious.

A plaintiff is eligible for the awarding of attorney's fees, court costs, and other reasonable expenses regardless of whether the plaintiff filed the action without first seeking and receiving an informal inquiry response or advisory opinion from the public access counselor.

(j) A court that hears an action under this section may not assess a civil penalty under section 9.5 of this chapter in connection with the action.

SECTION 4. IC 5-14-3-8, AS AMENDED BY P.L.287-2019, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2026]: Sec. 8. (a) For the purposes of this section, "state agency" has the meaning set forth in IC 4-13-1-1.

(b) Except as provided in this section, a public agency may not charge any fee under this chapter for the following:

(1) To inspect a public record.

(2) This subdivision applies only to a school corporation and a charter school. This subdivision does not apply to a request for a search by an exclusive representative (as defined in IC 20-29-2-9). To search for a record that is in an electronic format, if the search does not exceed five (5) hours.

(3) Subject to subdivision (2), to search for, examine, or review



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a record to determine whether the record may be disclosed.

(4) To provide an electronic copy of a public record by electronic mail. However, a public agency may charge a fee for a public record transmitted by electronic mail if the fee for the public record is authorized under:

(A) subsection (f) or (j);

(B) section 6(c) of this chapter; or

(C) IC 36-2-7-10 or IC 36-2-7-10.1 concerning records of the county recorder.

(c) The Indiana department of administration shall establish a uniform copying fee for the copying of one (1) page of a standard-sized document by state agencies. The fee may not exceed the average cost of copying records by state agencies or ten cents (\$0.10) per page, whichever is greater. **Except as provided in subsection (n)**, a state agency may not collect more than the uniform copying fee for providing a copy of a public record. However, a state agency shall establish and collect a reasonable fee for copying nonstandard-sized documents.

(d) This subsection applies to a public agency that is not a state agency. The fiscal body (as defined in IC 36-1-2-6) of the public agency, or the governing body, if there is no fiscal body, shall establish a fee schedule for the certification or copying of documents. The fee for certification of documents may not exceed five dollars (\$5) per document. The fee for copying documents may not exceed the greater of:

(1) ten cents (\$0.10) per page for copies that are not color copies or twenty-five cents (\$0.25) per page for color copies; or

(2) the actual cost to the agency of copying the document.

As used in this subsection, "actual cost" means the cost of paper and the per-page cost for use of copying or facsimile equipment and does not include labor costs or overhead costs. A fee established under this subsection must be uniform throughout the public agency and uniform to all purchasers.

(e) If:

(1) a person is entitled to a copy of a public record under this chapter; and

(2) the public agency which is in possession of the record has reasonable access to a machine capable of reproducing the public record;

the public agency must provide at least one (1) copy of the public record to the person. However, if a public agency does not have reasonable access to a machine capable of reproducing the record or if



the person cannot reproduce the record by use of enhanced access under section 3.5 of this chapter, the person is only entitled to inspect and manually transcribe the record. A public agency may require that the payment for search and copying costs be made in advance.

(f) Notwithstanding subsection (b), (c), (d), (g), (h), ~~or~~ (i), ~~or~~ (n), a public agency shall collect any certification, copying, facsimile machine transmission, or search fee that is specified by statute or is ordered by a court.

(g) Except as provided by subsection (h), for providing a duplicate of a computer tape, computer disc, microfilm, law enforcement recording, or similar or analogous record system containing information owned by the public agency or entrusted to it, a public agency may charge a fee, uniform to all purchasers, that does not exceed the sum of the following:

(1) The agency's direct cost of supplying the information in that form. However, the fee for a copy of a law enforcement recording may not exceed one hundred fifty dollars (\$150).

(2) The standard cost for selling the same information to the public in the form of a publication if the agency has published the information and made the publication available for sale.

(3) In the case of the legislative services agency, a reasonable percentage of the agency's direct cost of maintaining the system in which the information is stored. However, the amount charged by the legislative services agency under this subdivision may not exceed the sum of the amounts it may charge under subdivisions (1) and (2).

(h) This subsection applies to the fee charged by a public agency for providing enhanced access to a public record. A public agency may charge any reasonable fee agreed on in the contract under section 3.5 of this chapter for providing enhanced access to public records.

(i) This subsection applies to the fee charged by a public agency for permitting a governmental entity to inspect public records by means of an electronic device. A public agency may charge any reasonable fee for the inspection of public records under this subsection, or the public agency may waive any fee for the inspection.

(j) Except as provided in subsection (k), a public agency may charge a fee, uniform to all purchasers, for providing an electronic map that is based upon a reasonable percentage of the agency's direct cost of maintaining, upgrading, and enhancing the electronic map and for the direct cost of supplying the electronic map in the form requested by the purchaser. If the public agency is within a political subdivision having a fiscal body, the fee is subject to the approval of the fiscal body



1 of the political subdivision.

2 (k) The fee charged by a public agency under subsection (j) to
3 cover costs for maintaining, upgrading, and enhancing an electronic
4 map may be waived by the public agency if the electronic map for
5 which the fee is charged will be used for a noncommercial purpose,
6 including the following:

- 7 (1) Public agency program support.
- 8 (2) Nonprofit activities.
- 9 (3) Journalism.
- 10 (4) Academic research.

11 (l) This subsection does not apply to a state agency. A fee
12 collected under subsection (g) for the copying of a law enforcement
13 recording may be:

- 14 (1) retained by the public agency; and
- 15 (2) used without appropriation for one (1) or more of the
16 following purposes:
 - 17 (A) To purchase cameras and other equipment for use in
18 connection with the agency's law enforcement recording
19 program.
 - 20 (B) For training concerning law enforcement recording.
 - 21 (C) To defray the expenses of storing, producing, and
22 copying law enforcement recordings.

23 Money from a fee described in this subsection does not revert to the
24 local general fund at the end of a fiscal year.

25 (m) This subsection applies to a school corporation and a charter
26 school. For purposes of this subsection, "computer processing time"
27 means the amount of time a computer takes to process a command or
28 script to extract or copy electronically stored data that is the subject of
29 a public records request. A school corporation or charter school may
30 not charge a fee for the first five (5) hours required to search for
31 records that are in an electronic format. A school corporation or charter
32 school may charge a search fee for any time spent searching for records
33 that are in an electronic format that exceeds five (5) hours. If the school
34 corporation or charter school charges a search fee, the school
35 corporation or charter school shall charge an hourly fee that does not
36 exceed the lesser of:

- 37 (1) the hourly rate of the person making the search; or
- 38 (2) twenty dollars (\$20) per hour.

39 A school corporation or charter school charging an hourly fee under
40 this subsection for searching for records that are in an electronic format
41 may charge only for time that the person making the search actually
42 spends in searching for the records that are in an electronic format. A



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school corporation or charter school may not charge for computer processing time and may not establish a minimum fee for searching for records that are in an electronic format. A school corporation or charter school shall make a good faith effort to complete a search for records that are in an electronic format that is within a reasonable time in order to minimize the amount of a search fee. The fee must be prorated to reflect any search time of less than one (1) hour.

(n) Except as provided in subsection (o), a public agency ~~shall~~ may collect a supplemental fee for processing public records requests submitted by non-Indiana residents or out-of-state entities. The fee:

(1) must be reasonably related to the cost of fulfilling the request; and

(2) may not exceed twenty-five cents (\$0.25) per page and twenty-five dollars (\$25) per hour of staff time spent processing the request.

(o) A public agency ~~shall~~ may waive the fee under subsection (n) if the public agency finds that the public records request serves the public interest.

SECTION 5. IC 5-14-3-8.1 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2026]: Sec. 8.1. (a) A public agency may give priority in fulfilling public records requests to:

(1) Indiana residents; and

(2) requests submitted for civic, journalistic, academic, or personal use.

(b) Requests identified as originating from out-of-state entities or automated systems may be:

(1) delayed as necessary to prevent disruption of core agency functions; and

(2) subject to a fee under section 8(n) of this chapter.

SECTION 6. IC 5-14-3-9, AS AMENDED BY P.L.58-2016, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2026]: Sec. 9. (a) This section does not apply to a request for information under section 4.4 of this chapter.

(b) A denial of disclosure by a public agency occurs when the person making the request is physically present in the office of the agency, makes the request by telephone, or requests enhanced access to a document and:

(1) the person designated by the public agency as being responsible for public records release decisions refuses to permit inspection and copying of a public record when a request has



1 been made; or

2 (2) twenty-four (24) hours elapse after any employee of the
3 public agency refuses to permit inspection and copying of a
4 public record when a request has been made;

5 whichever occurs first.

6 (c) If a person requests ~~by mail or by facsimile~~ a copy or copies of
7 a public record **by mail, by facsimile, or through an electronic**
8 **portal under section 3.3 of this chapter**, a denial of disclosure does
9 not occur until seven (7) days have elapsed from the date the public
10 agency receives the request.

11 (d) If a request is made orally, either in person or by telephone, a
12 public agency may deny the request orally. However, if a request
13 initially is made in writing, by facsimile, or through enhanced access,
14 or if an oral request that has been denied is renewed in writing or by
15 facsimile, a public agency may deny the request if:

16 (1) the denial is in writing or by facsimile; and

17 (2) the denial includes:

18 (A) a statement of the specific exemption or exemptions
19 authorizing the withholding of all or part of the public
20 record; and

21 (B) the name and the title or position of the person
22 responsible for the denial.

23 (e) A person who has been denied the right to inspect or copy a
24 public record by a public agency may file an action in the circuit or
25 superior court of the county in which the denial occurred to compel the
26 public agency to permit the person to inspect and copy the public
27 record. Whenever an action is filed under this subsection, the public
28 agency must notify each person who supplied any part of the public
29 record at issue:

30 (1) that a request for release of the public record has been
31 denied; and

32 (2) whether the denial was in compliance with an informal
33 inquiry response or advisory opinion of the public access
34 counselor.

35 Such persons are entitled to intervene in any litigation that results from
36 the denial. The person who has been denied the right to inspect or copy
37 need not allege or prove any special damage different from that
38 suffered by the public at large.

39 (f) The court shall determine the matter de novo, with the burden
40 of proof on the public agency to sustain its denial. If the issue in de
41 novo review under this section is whether a public agency properly
42 denied access to a public record because the record is exempted under



section 4(a) of this chapter, the public agency meets its burden of proof under this subsection by establishing the content of the record with adequate specificity and not by relying on a conclusory statement or affidavit.

(g) This subsection does not apply to an action under section 5.2 of this chapter. If the issue in a de novo review under this section is whether a public agency properly denied access to a public record because the record is exempted under section 4(b) of this chapter:

(1) the public agency meets its burden of proof under this subsection by:

(A) proving that:

(i) the record falls within any one (1) of the categories of exempted records under section 4(b) of this chapter; and

(ii) if the action is for denial of access to a recording under section 5.1 of this chapter, the plaintiff is not a "requestor" as that term is defined in section 5.1 of this chapter; and

(B) establishing the content of the record with adequate specificity and not by relying on a conclusory statement or affidavit; and

(2) a person requesting access to a public record meets the person's burden of proof under this subsection by proving that the denial of access is arbitrary or capricious.

(h) The court may review the public record in camera to determine whether any part of it may be withheld under this chapter. However, if the complaint alleges that a public agency denied disclosure of a public record by redacting information in the public record, the court shall conduct an in camera inspection of the public record with the redacted information included.

(i) Except as provided in subsection (k), in any action filed under this section, a court shall award reasonable attorney's fees, court costs, and other reasonable expenses of litigation to the prevailing party if:

(1) the plaintiff substantially prevails; or

(2) the defendant substantially prevails and the court finds the action was frivolous or vexatious.

Except as provided in subsection (k), the plaintiff is not eligible for the awarding of attorney's fees, court costs, and other reasonable expenses if the plaintiff filed the action without first seeking and receiving an informal inquiry response or advisory opinion from the public access counselor, unless the plaintiff can show the filing of the action was necessary because the denial of access to a public record under this



chapter would prevent the plaintiff from presenting that public record to a public agency preparing to act on a matter of relevance to the public record whose disclosure was denied.

(j) Except as provided in subsection (k), a court may assess a civil penalty under section 9.5 of this chapter only if the plaintiff obtained an advisory opinion from the public access counselor before filing an action under this section as set forth in section 9.5 of this chapter.

(k) This subsection applies only to an action to appeal the denial of access to a law enforcement recording under section 5.1 of this chapter. A requestor (as defined in section 5.1 of this chapter) may bring an action to appeal from the denial of access to a law enforcement recording without first seeking or receiving an informal inquiry response or advisory opinion from the public access counselor. If the requestor prevails in an action under this subsection:

(1) the requestor is eligible for an award of reasonable attorney's fees, court costs, and other reasonable expenses; and

(2) a court may assess a civil penalty under section 9.5 of this chapter.

(l) A court shall expedite the hearing of an action filed under this section.

SECTION 7. IC 5-14-3-11 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2026]: **Sec. 11. A public agency ~~<shall>~~ [may] report to the public access counselor, through a standardized mechanism prescribed by the public access counselor, public records requests received by the public agency that are suspected by the public agency of being:**

(1) automated; or

(2) data scraping or phishing activity.

SECTION 8. IC 5-14-3-12 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2026]: **Sec. 12. Nothing in this chapter shall prevent the general assembly from establishing reasonable and narrowly tailored procedural safeguards to preserve the integrity and availability of public agency resources.**

SECTION 9. IC 5-14-4-1.2 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2026]: **Sec. 1.2. As used in this chapter, "data scraping" has the meaning set forth in IC 5-14-3-2.**

SECTION 10. IC 5-14-4-2.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2026]: **Sec. 2.5. As used in this chapter, "phishing" has the meaning set forth in IC 5-14-3-2.**



SECTION 11. IC 5-14-4-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2026]: Sec. 10. The counselor has the following powers and duties:

(1) To establish and administer a program to train public officials and educate the public on the rights of the public and the responsibilities of public agencies under the public access laws. The counselor may contract with a person or a public or private entity to fulfill the counselor's responsibility under this subdivision.

(2) To conduct research.

(3) To prepare interpretive and educational materials and programs in cooperation with the office of the attorney general.

(4) To distribute to newly elected or appointed public officials the public access laws and educational materials concerning the public access laws.

(5) To respond to informal inquiries made by the public and public agencies by telephone, in writing, in person, by facsimile, or by electronic mail concerning the public access laws.

(6) To issue advisory opinions to interpret the public access laws upon the request of a person or a public agency. However, the counselor may not issue an advisory opinion concerning a specific matter with respect to which a lawsuit has been filed under IC 5-14-1.5 or IC 5-14-3.

(7) To make recommendations to the general assembly concerning ways to improve public access.

(8) To coordinate with public agencies to:

(A) track the volume and nature of public records requests received by public agencies; and

(B) identify patterns or sources of excessive, automated, phishing related, or data scraping based public records requests.

(9) To establish a standardized mechanism by which public agencies can report suspect public records requests under IC 5-14-3-11.

SECTION 12. IC 5-14-4-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2026]: Sec. 12. The counselor shall submit a report in an electronic format under IC 5-14-6 not later than June 30 of each year to the legislative services agency concerning the activities of the counselor for the previous year. The report must include the following information:

(1) Summary information regarding:

(A) the volume and nature of public records requests

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received by public agencies; and

(B) public records requests reported to the counselor by public agencies under IC 5-14-3-11.

(1) (2) The total number of inquiries and complaints received.

(2) (3) The number of inquiries and complaints received each from the public, the media, and government agencies.

(3) (4) The number of inquiries and complaints that were resolved.

(4) (5) The number of complaints received about each of the following:

(A) State agencies.

(B) County agencies.

(C) City agencies.

(D) Town agencies.

(E) Township agencies.

(F) School corporations.

(G) Other local agencies.

(5) (6) The number of complaints received concerning each of the following:

(A) Public records.

(B) Public meetings.

(6) (7) The total number of written advisory opinions issued and pending.

(8) Recommendations to the general assembly regarding statutory or administrative remedies to public records requests described in section 10(8)(B) of this chapter.

SECTION 13. IC 9-26-10-2, AS AMENDED BY P.L.11-2019, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2026]: Sec. 2. (a) As used in this section, "person" has the meaning set forth in ~~IC 5-14-3-2(n)~~ IC 5-14-3-2(o).

(b) Except as provided in subsections (c), (d), (e), and (f), all information contained in the emergency contact data base is confidential and exempt from:

(1) disclosure to any person; and

(2) public inspection under IC 5-14-3.

(c) The bureau may access information contained in the emergency contact data base for the purpose of deleting, logging, or revising emergency contact information contained in the emergency contact data base.

(d) A law enforcement officer may access information contained in the emergency contact data base for the purpose of complying with IC 9-26-2-5.



1 (e) A coroner may access information contained in the emergency
2 contact data base in the performance of the coroner's duties.

3 (f) Information contained in the emergency contact data base is
4 subject to disclosure to an appropriate person upon the bureau's receipt
5 of a:

- 6 (1) grand jury subpoena; or
7 (2) subpoena related to a criminal investigation. [
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