

Second Regular Session of the 123rd General Assembly (2024)

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 2023 Regular Session of the General Assembly.

SENATE ENROLLED ACT No. 172

AN ACT to amend the Indiana Code concerning state and local administration.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 5-2-6.1-2.5, AS ADDED BY P.L.121-2006, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2024]: Sec. 2.5. As used in this chapter, "emergency shelter care" means **temporary or transitional** housing ~~in a facility~~ having the primary purpose of providing ~~temporary or transitional~~ shelter for ~~the homeless or for a specific population of the homeless. a claimant to avoid contact with the person who committed the violent crime that is the basis for the claim.~~

SECTION 2. IC 5-2-6.1-5.5, AS ADDED BY P.L.121-2006, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2024]: Sec. 5.5. As used in this chapter, "motor vehicle" has the meaning set forth in ~~IC 7-1-1-3-26.3. IC 9-13-2-105.~~

SECTION 3. IC 5-2-6.1-5.7, AS ADDED BY P.L.129-2009, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2024]: Sec. 5.7. As used in this chapter, "~~out-of-pocket loss~~" "**out-of-pocket expense**" means: ~~an amount equal to the amount of reimbursement~~

- (1) **funeral expenses;**
- (2) **burial expenses;**
- (3) **cremation expenses; and**
- (4) **medical expenses that are payable under IC 27-8-10-3 for**

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each of the types of services and items provided to a victim as a result of the bodily injury or death upon which an application is based.

SECTION 4. IC 5-2-6.1-5.8 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2024]: **Sec. 5.8. As used in this chapter, "loss of income" means wages the victim would have earned had the victim not died or been injured, if the victim was employed at the time of the crime.**

SECTION 5. IC 5-2-6.1-6 IS REPEALED [EFFECTIVE JULY 1, 2024]. **Sec. 6. As used in this chapter, "person" includes a sole proprietorship, a partnership, a corporation, an association, a fiduciary, and an individual.**

SECTION 6. IC 5-2-6.1-7.5, AS ADDED BY P.L.48-2012, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2024]: **Sec. 7.5. As used in this chapter, "victim of a child sex crime" means an individual who was the victim of:**

- (1) child molesting (~~IC 35-42-4-3(a)~~); **(IC 35-42-4-3)**;
- (2) vicarious sexual gratification (IC 35-42-4-5);
- (3) child solicitation (IC 35-42-4-6);
- (4) child seduction (IC 35-42-4-7); **or**
- (5) incest (IC 35-46-1-3); **or**
- (6) sexual misconduct with a minor (IC 35-42-4-9)**;

and was less than eighteen (18) years of age at the time the crime occurred.

SECTION 7. IC 5-2-6.1-8, AS AMENDED BY P.L.65-2016, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2024]: **Sec. 8. As used in this chapter, "violent crime" means the following:**

- (1) A crime under the Indiana Code that is a felony of any kind or a Class A misdemeanor that results in bodily injury or death to the victim but does not include any of the following:
 - (A) A crime under IC 9-30-5 resulting from the operation of a vehicle other than a motor vehicle.
 - (B) Involuntary manslaughter resulting from the operation of a motor vehicle by a person who was not intoxicated (IC 35-42-1-4).
 - (C) Reckless homicide resulting from the operation of a motor vehicle by a person who was not intoxicated (IC 35-42-1-5).
 - (D) Criminal recklessness involving the use of a motor vehicle, unless the offense was intentional or the person using the motor vehicle was intoxicated (IC 35-42-2-2).
 - (E) A crime involving the operation of a motor vehicle if the



driver of the motor vehicle was not charged with an offense under IC 9-30-5.

~~(F) A battery offense included in IC 35-42-2 upon a child less than fourteen (14) years of age.~~

~~(G) Child molesting (IC 35-42-4-3).~~

~~(H) Child seduction (IC 35-42-4-7).~~

(2) A crime in another jurisdiction in which the elements of the crime are substantially similar to the elements of a crime that, if the crime results in death or bodily injury to the victim, would be a felony or a Class A misdemeanor if committed in Indiana.

However, the term does not include any of the following:

(A) A crime in another jurisdiction resulting from operating a vehicle, other than a motor vehicle, while intoxicated.

(B) A crime in another jurisdiction with elements substantially similar to involuntary manslaughter resulting from the operation of a motor vehicle if the crime was committed by a person who was not intoxicated.

(C) A crime in another jurisdiction with elements substantially similar to reckless homicide resulting from the operation of a motor vehicle if the crime was committed by a person who was not intoxicated.

(D) A crime in another jurisdiction with elements substantially similar to criminal recklessness involving the use of a motor vehicle unless the offense was intentional or the person using the motor vehicle was intoxicated.

(E) A crime involving the operation of a motor vehicle if the driver of the motor vehicle was not charged with an offense under IC 9-30-5.

(3) A terrorist act.

SECTION 8. IC 5-2-6.1-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2024]: Sec. 11. The division may do the following:

(1) Require from the attorney general, the state police department, local law enforcement personnel, a county department of public welfare, or a prosecuting attorney copies of investigations and data to assist the division in determining the validity of a claimant's application for assistance under this chapter.

~~(2) Require medical examination of victims.~~

~~(3)~~ **(2)** Hold hearings, administer oaths, examine any person under oath, issue subpoenas requiring the attendance and giving of testimony of witnesses, and require the production of books, papers, and documentary or other evidence. The subpoena powers



provided in this subdivision may be exercised only by the director of the division or the director's designated representative.

~~(4)~~ **(3)** Take or cause to be taken affidavits or depositions.

SECTION 9. IC 5-2-6.1-11.5, AS AMENDED BY P.L.198-2016, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2024]: Sec. 11.5. ~~A claimant's~~. **The following are confidential:**

(1) **A claimant's:**

(A) personal information (as defined in IC 9-14-6-6); and

~~(2)~~ **(B)** medical records. ~~are confidential.~~

(2) Records obtained during an investigation under section 26 of this chapter that are not publicly available.

SECTION 10. IC 5-2-6.1-13, AS AMENDED BY P.L.98-2022, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2024]: Sec. 13. (a) Subject to subsection (b) and except as provided in subsection (c), benefits may not be awarded:

(1) if the victim sustained the injury as a result of participating or assisting in, or attempting to commit or committing a criminal act;

(2) if the injury occurred while the victim was a resident in a county, city, or federal jail or prison or in an institution operated by the department of correction;

(3) if the victim profited or would have profited from the criminal act;

(4) if, at the time the injury occurred, the victim was intoxicated and contributed to the commission of an unrelated felony; or

(5) to a claimant who contributed to the injury or death of the victim.

(b) If the victim is a dependent child or dependent parent of the person who commits a violent crime, compensation may be awarded where justice requires.

(c) Benefits may be awarded to a person described in subsection (a)(4) who is the victim of a sex crime under IC 35-42-4, a crime involving domestic or family violence (as defined in IC 35-31.5-2-76), ~~or~~ a crime of domestic violence (as defined in IC 35-31.5-2-78), **or incest (as defined in IC 35-46-1-3).**

SECTION 11. IC 5-2-6.1-16, AS AMENDED BY P.L.31-2020, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2024]: Sec. 16. (a) A person eligible for assistance under section 12 of this chapter may file an application for assistance with the division. ~~if the violent crime was committed in Indiana.~~

(b) Except as provided in subsections (e) and (f), the application must be received by the division not more than one hundred eighty



(180) days after the date the crime was committed. The division may grant an extension of time for good cause shown by the claimant. However, and except as provided in subsections (e) and (f), the division may not accept an application that is received more than two (2) years after the date the crime was committed.

(c) The application must be filed in the office of the division in person, through the division's Internet web site, or by first class or certified mail. If requested, the division shall assist a victim in preparing the application.

(d) The division shall accept all applications filed in compliance with this chapter. Upon receipt of a complete application, the division shall promptly begin the investigation and processing of an application.

(e) An alleged victim of a child sex crime may submit an application to the division until the victim becomes thirty-one (31) years of age or in accordance with subsection (f).

(f) An alleged victim of a child sex crime described in IC 35-41-4-2(e) which meets the requirements of IC 35-41-4-2(p) may submit an application to the division not later than five (5) years after the earliest of the date on which:

- (1) the state first discovers evidence sufficient to charge the offender with the offense through DNA (deoxyribonucleic acid) analysis;
- (2) the state first becomes aware of the existence of a recording (as defined in IC 35-31.5-2-273) that provides evidence sufficient to charge the offender with the offense; or
- (3) a person confesses to the offense.

(g) An alleged victim of a battery offense included in IC 35-42-2 upon a child less than fourteen (14) years of age may submit an application to the division not later than five (5) years after the commission of the offense.

SECTION 12. IC 5-2-6.1-17, AS AMENDED BY P.L.98-2022, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2024]: Sec. 17. (a) Except for an alleged victim of a child sex crime, the division may not award compensation under this chapter unless the violent crime was reported to a law enforcement officer not more than seventy-two (72) hours after the occurrence of the crime.

(b) The division may not award compensation under this chapter until:

- (1) law enforcement and other records concerning the circumstances of the crime are available; and
- (2) any criminal investigation directly related to the crime has been substantially completed.

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(c) If the crime involved a motor vehicle, the division may not award compensation under this chapter until an information or indictment alleging the commission of a crime has been filed by a prosecuting attorney. **The division may award compensation under this chapter before an information or indictment alleging the commission of a crime has been filed where justice requires.**

(d) The division may accept proof that evidence was collected through a forensic exam described in IC 16-21-8 as **compliance with subsection (a) and as** cooperation with law enforcement, as required by sections 18 and 19 of this chapter.

SECTION 13. IC 5-2-6.1-20.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2024]: **Sec. 20.5. The division shall deny an award of compensation under this chapter if the claimant fails to fully cooperate with the division in the review, investigation, and processing of the claim.**

SECTION 14. IC 5-2-6.1-21 IS REPEALED [EFFECTIVE JULY 1, 2024]. ~~Sec. 21. (a) This section applies to claims filed with the division after December 31, 2005; and before July 1, 2009.~~

~~(b) This subsection does not apply to reimbursement for forensic and evidence gathering services provided under section 39 of this chapter.~~

~~(c) An award may not be made unless the claimant has incurred an out-of-pocket loss of at least one hundred dollars (\$100).~~

~~(d) Subject to subsections (b) and (c), the division may order the payment of compensation under this chapter for any of the following:~~

~~(1) Reasonable expenses incurred for necessary medical, chiropractic, hospital, dental, psychological, optometric, psychiatric, and ambulance services and prescription drugs and prosthetic devices that do not exceed the claimant's out-of-pocket loss.~~

~~(2) Loss of income the:~~

~~(A) victim would have earned had the victim not died or been injured, if the victim was employed at the time of the crime; or~~

~~(B) parent, guardian, or custodian of a victim who is less than eighteen (18) years of age incurred by taking time off work to care for the victim.~~

~~A claimant seeking reimbursement under this subdivision must provide the division with proof of employment and current wages.~~

~~(3) Reasonable emergency shelter care expenses; not to exceed the expenses for thirty (30) days; that are incurred for the claimant or a dependent of the claimant to avoid contact with a person who~~



committed the violent crime:

(4) Reasonable expense incurred for child care, not to exceed one thousand dollars (\$1,000), to replace child care the victim would have supplied had the victim not died or been injured:

(5) Loss of financial support the victim would have supplied to legal dependents had the victim not died or been injured:

(6) Documented expenses incurred for funeral, burial, or cremation of the victim that do not exceed four thousand dollars (\$4,000). The division shall disburse compensation under this subdivision in accordance with guidelines adopted by the division:

(7) Other actual expenses resulting from the bodily injury or death of the victim, including costs of mental health care, not to exceed two thousand dollars (\$2,000) for the immediate family of a homicide or sex crime victim, and any other actual expenses that the division determines reasonable:

(e) If a health care provider accepts payment from the division under this chapter, the health care provider may not require the victim to pay a copayment or an additional fee for the provision of services:

(f) A health care provider who seeks compensation from the division under this chapter may not simultaneously seek funding for services provided to a victim from any other source:

SECTION 15. IC 5-2-6.1-21.1, AS AMENDED BY THE TECHNICAL CORRECTIONS BILL OF THE 2024 GENERAL ASSEMBLY, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2024]: Sec. 21.1. (a) This section applies to claims filed with the division after June 30, 2009.

(b) This ~~subsection~~ **section** does not apply to reimbursement for forensic and evidence gathering services provided under section 39 of this chapter.

(c) An award may not be made unless the claimant has incurred an out-of-pocket ~~loss expense that exceeds of at least~~ one hundred dollars (\$100) **or has incurred loss of income that exceeds one hundred dollars (\$100)**.

(d) Subject to subsections (b) and (c), the division may order the payment of compensation under this chapter for any of the following **reasonable, documented expenses incurred within one hundred eighty (180) days after the date of the violent crime:**

(1) Reasonable expenses incurred ~~within one hundred eighty (180) days after the date of the violent crime~~ for Necessary:

(A) medical, chiropractic, hospital, dental, optometric, and ambulance services;



(B) prescription drugs; and
 (C) prosthetic devices;
 that do not exceed the claimant's out-of-pocket ~~loss~~ **expense**.

(2) Loss of income:

(A) the victim would have earned had the victim not died or been injured, if the victim was employed at the time of the violent crime; ~~or~~

(B) the parent, guardian, or custodian of a victim who is less than eighteen (18) years of age incurred by taking time off from work to care for the victim; ~~or~~

(C) the spouse of a victim incurred by taking time off from work to care for the victim.

A claimant seeking reimbursement under this subdivision must provide the division with proof of employment and current wages.

(3) ~~Reasonable~~ Emergency shelter care expenses, not to exceed the expenses for thirty (30) days, that are incurred for the claimant or a dependent of the claimant to avoid contact with a person who committed the violent crime.

(4) ~~Reasonable~~ Expense incurred for child care, not to exceed one thousand dollars (\$1,000), to replace child care the victim would have supplied had the victim not died or been injured.

(5) Loss of financial support the victim would have supplied to legal dependents had the victim not died or been injured.

(6) ~~Documented~~ Expenses incurred for funeral, burial, or cremation of the victim that do not exceed five thousand dollars (\$5,000). The division shall disburse compensation under this subdivision in accordance with guidelines adopted by the division.

(7) Outpatient mental health counseling, not to exceed three thousand dollars (\$3,000), concerning mental health issues related to the violent crime.

(8) Other actual expenses related to bodily injury to or the death of the victim that the division determines are reasonable.

(9) Replacement of windows or door locks.

(10) Cleanup of the scene of a violent crime.

(e) The division shall obtain written verification of all losses and expenses requested under this section before making an award.

~~(e)~~ (f) If a health care provider accepts payment from the division under this chapter, the health care provider may not require the victim to pay a copayment or an additional fee for the provision of services.

~~(f)~~ (g) A health care provider who seeks compensation from the division under this chapter may not simultaneously seek funding for



services provided to a victim from any other source.

~~(g)~~ **(h)** The director may extend the one hundred eighty (180) day compensation period established by subsection ~~(d)(1)~~ **(d)** for a period not to exceed two (2) years after the date of the violent crime if:

- (1) the victim or the victim's representative requests the extension; and
- (2) medical records and other documentation provided by the attending medical providers indicate that an extension is appropriate.

~~(h)~~ **(i)** The director may extend the one hundred eighty (180) day compensation period established by subsection ~~(d)(1)~~ **(d)** for outpatient mental health counseling, established by subsection (d)(7) **where justice requires, but for a period not to exceed two (2) years. if the victim:**

- ~~(1) was allegedly a victim of a sex crime (under IC 35-42-4) or incest (under IC 35-46-1-3);~~
- ~~(2) was under eighteen (18) years of age at the time of the alleged crime; and~~
- ~~(3) did not reveal the crime within two (2) years after the date of the alleged crime.~~

SECTION 16. IC 5-2-6.1-24, AS AMENDED BY P.L.100-2012, SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2024]: Sec. 24. The division shall employ sufficient ~~hearing officers~~ **claims analysts** to review each application for an award to carry out this chapter.

SECTION 17. IC 5-2-6.1-25 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2024]: Sec. 25. (a) The division shall review all applications to ensure that the applications are complete.

(b) If an application is not complete, the application shall be returned to the applicant with a brief statement of the additional information required.

(c) The applicant may, not more than thirty (30) days after receipt of the request for additional information, either supply the information or ~~appeal to seek an extension from the director.~~ **division.**

~~(d) The decision of the director is final.~~

~~(e)~~ **(d)** If:

- (1) the applicant does not furnish additional information; **or**
 - (2) additional time is not granted by the director for good cause;
- or**
- ~~(3) the applicant does not appeal the request not later than thirty (30) days after the request;~~

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the application shall be denied.

SECTION 18. IC 5-2-6.1-26, AS AMENDED BY P.L.113-2014, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2024]: Sec. 26. (a) If an application is complete, the division shall accept the application for filing and investigate the facts stated in the application.

(b) As part of the investigation, the division shall verify that:

- (1) a violent crime was committed;
- (2) the victim was killed or suffered bodily injury as a result of the crime;
- ~~(3) the requirements of sections 13, 16(a), 16(b), 17, 18, and 19 of this chapter are met; and~~
- ~~(4) (3) out-of-pocket loss expense exceeded one hundred dollars (\$100);~~
- (4) loss of income exceeded one hundred dollars (\$100); and**
- (5) all other requirements of this chapter are met.**

SECTION 19. IC 5-2-6.1-27 IS REPEALED [EFFECTIVE JULY 1, 2024]. Sec. 27. (a) A hearing officer may hold a hearing concerning the merits of the application to allow any interested person to appear to offer evidence and argument on any issue relevant to the application or to the facts surrounding the bodily injury or death upon which the application is based:

(b) If a hearing is held, the claimant shall be notified in writing by certified mail with return receipt requested fifteen (15) days in advance concerning the date, time, place, and scope of the hearing in accordance with IC 4-21.5-3.

(c) A hearing must be open to the public unless the hearing officer, in consultation with the director, determines that the hearing or a part of the hearing should be held in private in the interest of the victim or society where justice requires:

SECTION 20. IC 5-2-6.1-27.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2024]: Sec. 27.5. (a) **If, after investigation of the application, the division determines that the applicant does not qualify for compensation, a denial letter shall be issued to the applicant.**

(b) A denial of an application under this chapter constitutes an agency action for purposes of IC 4-21.5.

SECTION 21. IC 5-2-6.1-28 IS REPEALED [EFFECTIVE JULY 1, 2024]. Sec. 28. (a) Not more than ten (10) days after the hearing, the hearing officer shall issue a written decision supported by findings of fact and conclusions of law based on the record from the hearing; the



investigation; and the application of the claimant.

(b) Copies of the decision shall be mailed to the claimant at the address given in the application and to the attorney general.

SECTION 22. IC 5-2-6.1-28.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2024]: **Sec. 28.5. A claimant aggrieved by an action under this chapter may request an appeal under IC 4-21.5 by making a written request to the director within thirty (30) days of the date of the denial letter.**

SECTION 23. IC 5-2-6.1-29 IS REPEALED [EFFECTIVE JULY 1, 2024]. **Sec. 29:** (a) The state or a claimant may appeal the findings of the hearing officer not more than twenty-one (21) days after the date of receipt of the findings by filing a written appeal with the director.

(b) If an appeal is filed, the director shall review the matter and place the appeal on the docket for review by the division.

SECTION 24. IC 5-2-6.1-29.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2024]: **Sec. 29.5. (a) The state or a claimant may appeal an order issued by an administrative law judge under IC 4-21.5 within twenty-one (21) days of the date of the written determination by filing a written appeal with the director who shall place the appeal on the docket for review by the board of trustees of the institute.**

(b) An appeal under this section shall be limited to those facts evidenced in the record or proceedings and may, at the discretion of the board of trustees of the institute, be supplemented with a written statement by either the division or the claimant.

(c) A decision by the board of trustees of the institute shall be conclusive and binding upon the state and claimant, subject to judicial review under IC 4-21.5.

SECTION 25. IC 5-2-6.1-30 IS REPEALED [EFFECTIVE JULY 1, 2024]. **Sec. 30:** A proceeding under this chapter must be according to procedures adopted by the division.

SECTION 26. IC 5-2-6.1-31 IS REPEALED [EFFECTIVE JULY 1, 2024]. **Sec. 31:** The hearing officer may not deny an award without providing the claimant with an opportunity for a hearing.

SECTION 27. IC 5-2-6.1-36 IS REPEALED [EFFECTIVE JULY 1, 2024]. **Sec. 36:** (a) If:

- (1) the division determines that a claimant will suffer severe financial hardship unless an emergency award is made; and
 - (2) it appears likely that a final award will be made;
- an emergency award not to exceed five hundred dollars (\$500) may be



authorized by the director or the director's designated representative:

(b) The amount of an emergency award is:

- (1) deducted from the final award made by the division; and
- (2) recoverable from the claimant if no award is made by the division or to the extent that the emergency award exceeds the amount of the final award.

SECTION 28. IC 5-14-3-4, AS AMENDED BY P.L.86-2022, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2024]: 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 a state educational institution, 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 or as provided under IC 16-41-8.
- (10) Application information declared confidential by the Indiana economic development corporation under IC 5-28.
- (11) A photograph, a video recording, or an audio recording of an autopsy, except as provided in IC 36-2-14-10.
- (12) A Social Security number contained in the records of a public agency.
- (13) The following information that is part of a foreclosure action subject to IC 32-30-10.5:

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(A) Contact information for a debtor, as described in IC 32-30-10.5-8(d)(1)(B).

(B) Any document submitted to the court as part of the debtor's loss mitigation package under IC 32-30-10.5-10(a)(3).

(14) The following information obtained from a call made to a fraud hotline established under IC 36-1-8-8.5:

(A) The identity of any individual who makes a call to the fraud hotline.

(B) A report, transcript, audio recording, or other information concerning a call to the fraud hotline.

However, records described in this subdivision may be disclosed to a law enforcement agency, a private university police department, the attorney general, the inspector general, the state examiner, or a prosecuting attorney.

(15) Information described in section 5(c)(3)(B) of this chapter that is contained in a daily log or record described in section 5(c) of this chapter for a victim of a crime or delinquent act who is less than eighteen (18) years of age, unless and to the extent that:

(A) a parent, guardian, or custodian of the victim consents in writing to public disclosure of the records; and

(B) that parent, guardian, or custodian of the victim has not been charged with or convicted of committing a crime against the victim.

However, records described in this subdivision may be disclosed to the department of child services.

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

(1) Investigatory records of law enforcement agencies or private university police departments. For purposes of this chapter, a law enforcement recording is not an investigatory record. However, information described in subsection (a)(15) contained in a law enforcement recording is exempt from disclosure, unless and to the extent that a parent, guardian, or custodian of the victim consents in writing to public disclosure of the records. However, a parent, guardian, or custodian charged with or convicted of a crime against the victim may not consent to public disclosure of the records. Law enforcement agencies or private university police departments may share investigatory records with:

(A) a person who advocates on behalf of a crime victim, including a victim advocate (as defined in IC 35-37-6-3.5) or a victim service provider (as defined in IC 35-37-6-5), for the



purposes of providing services to a victim or describing services that may be available to a victim; ~~and~~

(B) a school corporation (as defined by IC 20-18-2-16(a)), charter school (as defined by IC 20-24-1-4), or nonpublic school (as defined by IC 20-18-2-12) for the purpose of enhancing the safety or security of a student or a school facility; **and**

(C) the victim services division of the Indiana criminal justice institute under IC 5-2-6-8, for the purposes of conducting an investigation under IC 5-2-6.1-26;

without the law enforcement agency or private university police department losing its discretion to keep those records confidential from other records requesters. 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 the person's scores.

(5) The following:

(A) Records relating to negotiations between:

- (i) the Indiana economic development corporation;
- (ii) the ports of Indiana;
- (iii) the Indiana state department of agriculture;
- (iv) the Indiana finance authority;
- (v) an economic development commission;
- (vi) the Indiana White River state park development commission;
- (vii) a local economic development organization that is a nonprofit corporation established under state law whose primary purpose is the promotion of industrial or business development in Indiana, the retention or expansion of Indiana businesses, or the development of entrepreneurial activities in Indiana; or
- (viii) a governing body of a political subdivision;



with industrial, research, or commercial prospects, if the records are created while negotiations are in progress. However, this clause does not apply to records regarding research that is prohibited under IC 16-34.5-1-2 or any other law.

(B) Notwithstanding clause (A), the terms of the final offer of public financial resources communicated by the Indiana economic development corporation, the ports of Indiana, the Indiana finance authority, an economic development commission, the Indiana White River state park development commission, or a governing body of a political subdivision 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 Indiana economic development corporation shall certify that the information being disclosed accurately and completely represents the terms of the final offer.

(D) Notwithstanding clause (A), an incentive agreement with an incentive recipient shall be available for inspection and copying under section 3 of this chapter after the date the incentive recipient and the Indiana economic development corporation execute the incentive agreement regardless of whether negotiations are in progress with the recipient after that date regarding a modification or extension of the incentive agreement.

(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 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) the factual basis for a disciplinary action in which final action has been taken and that resulted in the employee being suspended, demoted, or discharged.

However, all personnel file information shall be made available to the affected employee or the employee's 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 record keeping system, voting system, voter registration system, 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 the donor's 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 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 medical advisory board regarding the ability of a driver to operate a motor vehicle safely. 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.

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

(19) A record or a part of a record, the public disclosure of which would have a reasonable likelihood of threatening public safety by exposing a vulnerability to terrorist attack. A record described under this subdivision includes the following:

- (A) A record assembled, prepared, or maintained to prevent, mitigate, or respond to an act of terrorism under IC 35-47-12-1 (before its repeal), an act of agricultural terrorism under IC 35-47-12-2 (before its repeal), or a felony terrorist offense (as defined in IC 35-50-2-18).
- (B) Vulnerability assessments.
- (C) Risk planning documents.
- (D) Needs assessments.
- (E) Threat assessments.
- (F) Intelligence assessments.
- (G) Domestic preparedness strategies.
- (H) The location of community drinking water wells and surface water intakes.
- (I) The emergency contact information of emergency responders and volunteers.
- (J) Infrastructure records that disclose the configuration of critical systems such as voting system and voter registration system critical infrastructure, and communication, electrical, ventilation, water, and wastewater systems.
- (K) Detailed drawings or specifications of structural elements, floor plans, and operating, utility, or security systems, whether in paper or electronic form, of any building or facility located on an airport (as defined in IC 8-21-1-1) that is owned, occupied, leased, or maintained by a public agency, or any part of a law enforcement recording that captures information about airport security procedures, areas, or systems. A record



described in this clause may not be released for public inspection by any public agency without the prior approval of the public agency that owns, occupies, leases, or maintains the airport. Both of the following apply to the public agency that owns, occupies, leases, or maintains the airport:

(i) The public agency is responsible for determining whether the public disclosure of a record or a part of a record, including a law enforcement recording, has a reasonable likelihood of threatening public safety by exposing a security procedure, area, system, or vulnerability to terrorist attack.

(ii) The public agency must identify a record described under item (i) and clearly mark the record as "confidential and not subject to public disclosure under IC 5-14-3-4(b)(19)(J) without approval of (insert name of submitting public agency)". However, in the case of a law enforcement recording, the public agency must clearly mark the record as "confidential and not subject to public disclosure under IC 5-14-3-4(b)(19)(K) without approval of (insert name of the public agency that owns, occupies, leases, or maintains the airport)".

(L) The home address, home telephone number, and emergency contact information for any:

(i) emergency management worker (as defined in IC 10-14-3-3);

(ii) public safety officer (as defined in IC 35-47-4.5-3);

(iii) emergency medical responder (as defined in IC 16-18-2-109.8); or

(iv) advanced emergency medical technician (as defined in IC 16-18-2-6.5).

This subdivision does not apply to a record or portion of a record pertaining to a location or structure owned or protected by a public agency in the event that an act of terrorism under IC 35-47-12-1 (before its repeal), an act of agricultural terrorism under IC 35-47-12-2 (before its repeal), or a felony terrorist offense (as defined in IC 35-50-2-18) has occurred at that location or structure, unless release of the record or portion of the record would have a reasonable likelihood of threatening public safety by exposing a vulnerability of other locations or structures to terrorist attack.

(20) The following personal information concerning a customer of a municipally owned utility (as defined in IC 8-1-2-1):



- (A) Telephone number.
 - (B) Address.
 - (C) Social Security number.
- (21) The following personal information about a complainant contained in records of a law enforcement agency:
- (A) Telephone number.
 - (B) The complainant's address. However, if the complainant's address is the location of the suspected crime, infraction, accident, or complaint reported, the address shall be made available for public inspection and copying.
- (22) Notwithstanding subdivision (8)(A), the name, compensation, job title, business address, business telephone number, job description, education and training background, previous work experience, or dates of first employment of a law enforcement officer who is operating in an undercover capacity.
- (23) Records requested by an offender, an agent, or a relative of an offender that:
- (A) contain personal information relating to:
 - (i) a correctional officer (as defined in IC 5-10-10-1.5);
 - (ii) a probation officer;
 - (iii) a community corrections officer;
 - (iv) a law enforcement officer (as defined in IC 35-31.5-2-185);
 - (v) a judge (as defined in IC 33-38-12-3);
 - (vi) the victim of a crime; or
 - (vii) a family member of a correctional officer, probation officer, community corrections officer, law enforcement officer (as defined in IC 35-31.5-2-185), judge (as defined in IC 33-38-12-3), or victim of a crime; or
 - (B) concern or could affect the security of a jail or correctional facility.

For purposes of this subdivision, "agent" means a person who is authorized by an offender to act on behalf of, or at the direction of, the offender, and "relative" has the meaning set forth in IC 35-42-2-1(b). However, the term "agent" does not include an attorney in good standing admitted to the practice of law in Indiana.

- (24) Information concerning an individual less than eighteen (18) years of age who participates in a conference, meeting, program, or activity conducted or supervised by a state educational institution, including the following information regarding the individual or the individual's parent or guardian:



- (A) Name.
 - (B) Address.
 - (C) Telephone number.
 - (D) Electronic mail account address.
- (25) Criminal intelligence information.
- (26) The following information contained in a report of unclaimed property under IC 32-34-1.5-18 or in a claim for unclaimed property under IC 32-34-1.5-48:
- (A) Date of birth.
 - (B) Driver's license number.
 - (C) Taxpayer identification number.
 - (D) Employer identification number.
 - (E) Account number.
- (27) Except as provided in subdivision (19) and sections 5.1 and 5.2 of this chapter, a law enforcement recording. However, before disclosing the recording, the public agency must comply with the obscuring requirements of sections 5.1 and 5.2 of this chapter, if applicable.
- (28) Records relating to negotiations between a state educational institution and another entity concerning the establishment of a collaborative relationship or venture to advance the research, engagement, or educational mission of the state educational institution, if the records are created while negotiations are in progress. The terms of the final offer of public financial resources communicated by the state educational institution 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. However, this subdivision does not apply to records regarding research prohibited under IC 16-34.5-1-2 or any other law.
- (c) 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.
- (d) Notwithstanding any other law, a public record that is classified as confidential, other than a record concerning an adoption or patient medical records, shall be made available for inspection and copying seventy-five (75) years after the creation of that record.
- (e) Only the content of a public record may form the basis for the adoption by any public agency of a rule or procedure creating an exception from disclosure under this section.
- (f) Except as provided by law, a public agency may not adopt a rule or procedure that creates an exception from disclosure under this



section based upon whether a public record is stored or accessed using paper, electronic media, magnetic media, optical media, or other information storage technology.

(g) Except as provided by law, a public agency may not adopt a rule or procedure nor impose any costs or liabilities that impede or restrict the reproduction or dissemination of any public record.

(h) Notwithstanding subsection (d) 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.



President of the Senate

President Pro Tempore

Speaker of the House of Representatives

Governor of the State of Indiana

Date: _____ Time: _____

SEA 172 — Concur

