

PROPOSED AMENDMENT

HB 1338 # 6

DIGEST

Public access counselor. Removes language allowing for the open door law and open records law to be construed liberally. Requires the public access counselor to, when issuing an advisory opinion, consider only the plain text of the public access laws and valid Indiana court opinions.

1 Page 1, between the enacting clause and line 1, begin a new
2 paragraph and insert:

3 "SECTION 1. IC 5-14-1.5-1 IS AMENDED TO READ AS
4 FOLLOWS [EFFECTIVE JULY 1, 2024]: Sec. 1. In enacting this
5 chapter, the general assembly finds and declares that this state and its
6 political subdivisions exist only to aid in the conduct of the business of
7 the people of this state. It is the intent of this chapter that the official
8 action of public agencies be conducted and taken openly, unless
9 otherwise expressly provided by statute, in order that the people may
10 be fully informed. The purposes of this chapter are remedial. ~~and its~~
11 ~~provisions are to be liberally construed with the view of carrying out its~~
12 ~~policy.~~".

13 Page 2, between lines 31 and 32, begin a new paragraph and insert:

14 "SECTION 3. IC 5-14-3-1 IS AMENDED TO READ AS
15 FOLLOWS [EFFECTIVE JULY 1, 2024]: Sec. 1. A fundamental
16 philosophy of the American constitutional form of representative
17 government is that government is the servant of the people and not
18 their master. Accordingly, it is the public policy of the state that all
19 persons are entitled to full and complete information regarding the
20 affairs of government and the official acts of those who represent them
21 as public officials and employees. Providing persons with the
22 information is an essential function of a representative government and
23 an integral part of the routine duties of public officials and employees,
24 whose duty it is to provide the information. This chapter shall ~~be~~
25 ~~liberally construed to implement this policy and~~ place the burden of
26 proof for the nondisclosure of a public record on the public agency that

1 would deny access to the record and not on the person seeking to
2 inspect and copy the record.

3 SECTION 4.IC 5-14-4-10.5 IS ADDED TO THE INDIANA CODE
4 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
5 1, 2024]: **Sec. 10.5. When issuing an advisory opinion, the public
6 access counselor shall consider only:**

- 7 **(1) the public access laws, as plainly written; and**
8 **(2) valid opinions of Indiana courts."**

9 Renumber all SECTIONS consecutively.

(Reference is to HB 1338 as reprinted January 19, 2024.)