

Adopted Rejected

COMMITTEE REPORT

YES:	15
NO:	0

MR. SPEAKER:

*Your Committee on Natural Resources, to which was referred House Bill 1409, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill **be amended** as follows:*

- 1 Delete the title and insert the following:
- 2 A BILL FOR AN ACT to amend the Indiana Code concerning
- 3 criminal law and procedure.
- 4 Delete everything after the enacting clause and insert the
- 5 following:
- 6 SECTION 1. IC 35-47-2.5-8, AS ADDED BY P.L.17-1997,
- 7 SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 8 NOVEMBER 30, 1998]: Sec. 8. (a) Except as otherwise provided in
- 9 this section, the state police department may not maintain records in
- 10 any form, including a computer data base, longer than thirty (30) days
- 11 after a dealer's request for a criminal history check concerning a buyer
- 12 or transferee who is not found to be prohibited from possessing and
- 13 transporting a firearm under state or federal law.
- 14 (b) A log of requests made to the state police department may be
- 15 maintained for not more than twelve (12) months, if the log consists
- 16 only of:

- 1 (1) the name of the purchaser;
 2 (2) the dealer identification number;
 3 (3) the unique approval number; ~~and~~
 4 (4) the transaction date; **and**
 5 **(5) a record indicating that the fee collected by the dealer**
 6 **under section 11 of this chapter has been transferred to the**
 7 **state police department.**

8 SECTION 2. IC 35-47-4-5 IS ADDED TO THE INDIANA CODE
 9 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 10 1, 1998]: **Sec. 5. (a) As used in this section, "serious violent felon"**
 11 **means a person who has been convicted of:**

- 12 (1) committing a serious violent felony in:
 13 (A) Indiana; or
 14 (B) any other jurisdiction in which the elements of the
 15 crime for which the conviction was entered are
 16 substantially similar to the elements of a serious violent
 17 felony; or
 18 (2) attempting to commit or conspiring to commit a serious
 19 violent felony in:
 20 (A) Indiana as provided under IC 35-41-5-1 or
 21 IC 35-45-5-2; or
 22 (B) any other jurisdiction in which the elements of the
 23 crime for which the conviction was entered are
 24 substantially similar to the elements of attempting to
 25 commit or conspiring to commit a serious violent felony.
 26 (b) As used in this section, "serious violent felony" means:
 27 (1) murder (IC 35-42-1-1);
 28 (2) voluntary manslaughter (IC 35-42-1-3);
 29 (3) reckless homicide (IC 35-42-1-5);
 30 (4) battery as a Class B felony (IC 35-42-2-1(a)(4)) or Class
 31 C felony (IC 35-42-2-1(a)(3));
 32 (5) aggravated battery (IC 35-42-2-1.5);
 33 (6) kidnapping (IC 35-42-3-2);
 34 (7) criminal confinement (IC 35-42-3-3);
 35 (8) rape (IC 35-42-4-1);
 36 (9) criminal deviate conduct (IC 35-42-4-2);
 37 (10) child molesting (IC 35-42-4-3);
 38 (11) sexual battery as a Class C felony (IC 35-42-4-8);

- 1 **(12) robbery (IC 35-42-5-1);**
 2 **(13) carjacking (IC 35-42-5-2);**
 3 **(14) arson as a Class A felony or Class B felony (IC**
 4 **35-43-1-1(a));**
 5 **(15) burglary as a Class A felony or Class B felony (IC**
 6 **35-43-2-1);**
 7 **(16) assisting a criminal as a Class C felony (IC 35-44-3-2);**
 8 **(17) resisting law enforcement as a Class B felony or Class C**
 9 **felony (IC 35-44-3-3);**
 10 **(18) escape as a Class C felony (IC 35-44-3-5);**
 11 **(19) trafficking with an inmate as a Class C felony (IC**
 12 **35-44-3-9);**
 13 **(20) criminal gang intimidation (IC 35-45-9-4);**
 14 **(21) stalking as a Class B felony or Class C felony (IC**
 15 **35-45-10-5);**
 16 **(22) incest (IC 35-46-1-3);**
 17 **(23) dealing in cocaine or a narcotic drug (IC 35-48-4-1);**
 18 **(24) dealing in a schedule I, II, or III controlled substance**
 19 **(IC 35-48-4-2);**
 20 **(25) dealing in a schedule IV controlled substance (IC**
 21 **35-48-4-3); or**
 22 **(26) dealing in a schedule V controlled substance (IC**
 23 **35-48-4-4).**
 24 **(c) A serious violent felon who knowingly or intentionally**
 25 **possesses a firearm commits unlawful possession of a firearm by a**
 26 **serious violent felon, a Class B felony.**
 27 SECTION 3. IC 35-48-4-6, AS AMENDED BY P.L.65-1996,
 28 SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 29 JULY 1, 1998]: Sec. 6. (a) A person who, without a valid prescription
 30 or order of a practitioner acting in the course of his professional
 31 practice, knowingly or intentionally possesses cocaine (pure or
 32 adulterated) or a narcotic drug (pure or adulterated) classified in
 33 schedule I or II commits possession of cocaine or a narcotic drug, a
 34 Class D felony, except as provided in subsection (b).
 35 (b) The offense is:
 36 (1) a Class C felony if:
 37 (A) the amount of the drug involved (pure or adulterated)
 38 weighs three (3) grams or more; **or**

1 **(B) the person in possession of the cocaine or narcotic**
 2 **drug was also in possession of a firearm (as defined in**
 3 **IC 35-47-1-5);**

4 (2) a Class B felony if the person in possession of the cocaine or
 5 narcotic drug possesses less than three (3) grams of pure or
 6 adulterated cocaine or narcotic drug:

7 (A) on a school bus; or

8 (B) in, on, or within one thousand (1,000) feet of:

9 (i) school property;

10 (ii) a public park; or

11 (iii) a family housing complex; and

12 (3) a Class A felony if the person possesses the cocaine or
 13 narcotic drug in an amount (pure or adulterated) weighing at
 14 least three (3) grams:

15 (A) on a school bus; or

16 (B) in, on, or within one thousand (1,000) feet of:

17 (i) school property;

18 (ii) a public park; or

19 (iii) a family housing complex.

20 SECTION 4. IC 35-50-2-2, AS AMENDED BY P.L.220-1997,
 21 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 22 JULY 1, 1998]: Sec. 2. (a) The court may suspend any part of a
 23 sentence for a felony, except as provided in this section or in section
 24 2.1 of this chapter.

25 (b) With respect to the crimes listed in this subsection, the court
 26 may suspend only that part of the sentence that is in excess of the
 27 minimum sentence:

28 (1) The crime committed was a Class A or Class B felony and
 29 the person has a prior unrelated felony conviction.

30 (2) The crime committed was a Class C felony and less than
 31 seven (7) years have elapsed between the date the person was
 32 discharged from probation, imprisonment, or parole, whichever
 33 is later, for a prior unrelated felony conviction and the date the
 34 person committed the Class C felony for which the person is
 35 being sentenced.

36 (3) The crime committed was a Class D felony and less than
 37 three (3) years have elapsed between the date the person was
 38 discharged from probation, imprisonment, or parole, whichever

1 is later, for a prior unrelated felony conviction and the date the
 2 person committed the Class D felony for which the person is
 3 being sentenced. However, the court may suspend the minimum
 4 sentence for the crime only if the court orders home detention
 5 under IC 35-38-1-21 or IC 35-38-2.5-5 instead of the minimum
 6 sentence specified for the crime under this chapter.

7 (4) The felony committed was:

8 (A) murder (IC 35-42-1-1);

9 (B) battery (IC 35-42-2-1) with a deadly weapon;

10 (C) sexual battery (IC 35-42-4-8) with a deadly weapon;

11 (D) kidnapping (IC 35-42-3-2);

12 (E) confinement (IC 35-42-3-3) with a deadly weapon;

13 (F) rape (IC 35-42-4-1) as a Class A felony;

14 (G) criminal deviate conduct (IC 35-42-4-2) as a Class A
 15 felony;

16 (H) child molesting (IC 35-42-4-3) as a Class A or Class B
 17 felony;

18 (I) robbery (IC 35-42-5-1) resulting in serious bodily injury
 19 or with a deadly weapon;

20 (J) arson (IC 35-43-1-1) for hire or resulting in serious
 21 bodily injury;

22 (K) burglary (IC 35-43-2-1) resulting in serious bodily
 23 injury or with a deadly weapon;

24 (L) resisting law enforcement (IC 35-44-3-3) with a deadly
 25 weapon;

26 (M) escape (IC 35-44-3-5) with a deadly weapon;

27 (N) rioting (IC 35-45-1-2) with a deadly weapon;

28 **(O) unlawful possession of a firearm by a serious violent
 29 felon (IC 35-47-4-5);**

30 ~~(P)~~ **(P)** dealing in cocaine or a narcotic drug (IC 35-48-4-1)
 31 as a Class A felony;

32 ~~(Q)~~ **(Q)** dealing in a schedule I, II, or III controlled
 33 substance (IC 35-48-4-2) if the amount of controlled
 34 substance involved has an aggregate weight of three (3)
 35 grams or more;

36 ~~(R)~~ **(R)** an offense under IC 9-30-5 (operating a vehicle
 37 while intoxicated) and the person who committed the
 38 offense has accumulated at least two (2) prior unrelated

- 1 convictions under IC 9-30-5; or
 2 ~~(R)~~ **(S)** aggravated battery (IC 35-42-2-1.5).
- 3 (c) Except as provided in subsection (e), whenever the court
 4 suspends a sentence for a felony, it shall place the person on probation
 5 under IC 35-38-2 for a fixed period to end not later than the date that
 6 the maximum sentence that may be imposed for the felony will expire.
- 7 (d) The minimum sentence for a person convicted of voluntary
 8 manslaughter may not be suspended unless the court finds at the
 9 sentencing hearing that the crime was not committed by means of a
 10 deadly weapon.
- 11 (e) Whenever the court suspends that part of an offender's (as
 12 defined in IC 5-2-12-4) sentence that is suspendible under subsection
 13 (b), the court shall place the offender on probation under IC 35-38-2 for
 14 not more than ten (10) years.
- 15 (f) An additional term of imprisonment imposed under
 16 IC 35-50-2-11 may not be suspended.
- 17 (g) A term of imprisonment imposed under IC 35-47-10-6 or
 18 IC 35-47-10-7 may not be suspended if the commission of the offense
 19 was knowing or intentional.
- 20 **(h) A term of imprisonment imposed under**
 21 **IC 35-48-4-6(b)(1)(B) may not be suspended.**
- 22 SECTION 5. IC 35-47-4-4 IS REPEALED [EFFECTIVE JULY 1,
 23 1998].
- (Reference is to HB 1409 as introduced.)

and when so amended that said bill do pass.

Representative Lytle