

Adopted Rejected

COMMITTEE REPORT

YES:	11
NO:	1

MR. SPEAKER:

*Your Committee on Courts and Criminal Code, to which was referred House Bill 1411, 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 everything after the enacting clause and insert the
- 2 following:
- 3 SECTION 1. IC 5-2-4-1 IS AMENDED TO READ AS FOLLOWS
- 4 [EFFECTIVE JULY 1, 1998]: Sec. 1. As used in this chapter, unless
- 5 the context otherwise requires:
- 6 (a) "Criminal history information" means information collected by
- 7 criminal justice agencies or individuals consisting of identifiable
- 8 descriptions and notations of arrests, detentions, indictments,
- 9 informations, or other formal criminal charges, and any disposition
- 10 arising therefrom, sentencing, correctional supervision, and release.
- 11 (b) "Criminal intelligence information" means information on
- 12 identifiable individuals compiled in an effort to anticipate, prevent or
- 13 monitor possible criminal activity. "Criminal intelligence information"
- 14 does not include criminal investigative information which is
- 15 information on identifiable individuals compiled in the course of the
- 16 investigation of specific criminal acts.

1 (c) "Criminal justice agency" means any agency or department of
 2 any level of government which performs as its principal function the
 3 apprehension, prosecution, adjudication, incarceration, rehabilitation
 4 of criminal offenders, or location of parents with child support
 5 obligations under 42 U.S.C. 653. **The term includes a**
 6 **nongovernmental entity that performs as its principal function the:**

7 (1) **apprehension, prosecution, adjudication, incarceration,**
 8 **or rehabilitation of criminal offenders; or**

9 (2) **location of parents with child support obligations under**
 10 **42 U.S.C. 653;**

11 **under a contract with an agency or department of any level of**
 12 **government.**

13 SECTION 2. IC 5-2-5-1, AS AMENDED BY P.L.32-1996,
 14 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 15 JULY 1, 1998]: Sec. 1. The following definitions apply throughout this
 16 chapter:

17 (1) "Limited criminal history" means information with respect to
 18 any arrest, indictment, information, or other formal criminal
 19 charge, which must include a disposition. However, information
 20 about any arrest, indictment, information, or other formal
 21 criminal charge which occurred less than one (1) year before the
 22 date of a request shall be considered a limited criminal history
 23 even if no disposition has been entered.

24 (2) "Council" means the security and privacy council created
 25 under section 11 of this chapter.

26 (3) "Criminal history data" means information collected by
 27 criminal justice agencies, the United States Department of
 28 Justice for the department's information system, or individuals.

29 The term consists of the following:

30 (A) Identifiable descriptions and notations of arrests,
 31 indictments, informations, or other formal criminal charges.

32 (B) Information regarding an offender (as defined in
 33 IC 5-2-12-4) obtained through sex offender registration
 34 under IC 5-2-12.

35 (C) Any disposition, including sentencing, and correctional
 36 system intake, transfer, and release.

37 (4) "Criminal justice agency" means any agency or department
 38 of any level of government whose principal function is the

1 apprehension, prosecution, adjudication, incarceration,
 2 probation, rehabilitation, or representation of criminal offenders,
 3 the location of parents with child support obligations under 42
 4 U.S.C. 653, the licensing and regulating of riverboat gambling
 5 operations, or the licensing and regulating of pari-mutuel horse
 6 racing operations. The term includes the Medicaid fraud control
 7 unit for the purpose of investigating offenses involving
 8 Medicaid. **The term includes a nongovernmental entity that**
 9 **performs as its principal function the:**

10 (A) **apprehension, prosecution, adjudication,**
 11 **incarceration, or rehabilitation of criminal offenders;**

12 (B) **location of parents with child support obligations**
 13 **under 42 U.S.C. 653;**

14 (C) **licensing and regulating of riverboat gambling**
 15 **operations; or**

16 (D) **licensing and regulating of pari-mutuel horse racing**
 17 **operations;**

18 **under a contract with an agency or department of any level**
 19 **of government.**

20 (5) "Department" means the state police department.

21 (6) "Disposition" means information disclosing that criminal
 22 proceedings have been concluded or indefinitely postponed.

23 (7) "Inspection" means visual perusal and includes the right to
 24 make memoranda abstracts of the information.

25 (8) "Institute" means the Indiana criminal justice institute
 26 established under IC 5-2-6.

27 (9) "Law enforcement agency" means an agency or a department
 28 of any level of government whose principal function is the
 29 apprehension of criminal offenders.

30 (10) "Protective order" has the meaning set forth in IC 5-2-9-2.1.

31 (11) "Release" means the furnishing of a copy, or an edited copy,
 32 of criminal history data.

33 (12) "Reportable offenses" means all felonies and those Class A
 34 misdemeanors which the superintendent may designate.

35 (13) "Request" means the asking for release or inspection of a
 36 limited criminal history by noncriminal justice organizations or
 37 individuals in a manner which:

38 (A) reasonably ensures the identification of the subject of

1 the inquiry; and
 2 (B) contains a statement of the purpose for which the
 3 information is requested.

4 (14) "Unidentified person" means a deceased or mentally
 5 incapacitated person whose identity is unknown.

6 SECTION 3. IC 5-2-5-7, AS AMENDED BY P.L.11-1994,
 7 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 8 JULY 1, 1998]: Sec. 7. (a) Except as provided in subsection (c), on
 9 request for release or inspection of a limited criminal history, law
 10 enforcement agencies may and the department shall do the following:

11 (1) Require a form, provided by them, to be completed. This
 12 form shall be maintained for a period of two (2) years and shall
 13 be available to the record subject upon request.

14 (2) Collect a three dollar (\$3) fee to defray the cost of processing
 15 a request for inspection.

16 (3) Collect a seven dollar (\$7) fee to defray the cost of
 17 processing a request for release. However, law enforcement
 18 agencies and the department may not charge the fee for requests
 19 received from the parent locator service of the child support
 20 bureau of the division of family and children.

21 (b) Law enforcement agencies and the department shall edit
 22 information so that the only information released or inspected is
 23 information which:

24 (1) has been requested; and

25 (2) is limited criminal history information.

26 (c) The fee required under subsection (a) shall be waived if the
 27 request is from the institute for conviction information that will be used
 28 to establish or update the sex **and violent** offender registry under
 29 IC 5-2-12.

30 SECTION 4. IC 5-2-6-3, AS AMENDED BY P.L.36-1997,
 31 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 32 JULY 1, 1998]: Sec. 3. (a) The institute is established to do the
 33 following:

34 (1) Evaluate state and local programs associated with:

35 (A) the prevention, detection, and solution of criminal
 36 offenses;

37 (B) law enforcement; and

38 (C) the administration of criminal and juvenile justice.

- 1 (2) Improve and coordinate all aspects of law enforcement,
 2 juvenile justice, and criminal justice in this state.
- 3 (3) Stimulate criminal and juvenile justice research.
- 4 (4) Develop new methods for the prevention and reduction of
 5 crime.
- 6 (5) Prepare applications for funds under the Omnibus Act and
 7 the Juvenile Justice Act.
- 8 (6) Administer victim and witness assistance funds.
- 9 (7) Administer the traffic safety functions assigned to the
 10 institute under IC 9-27-2.
- 11 (8) Compile and analyze information and disseminate the
 12 information to persons who make criminal justice decisions in
 13 this state.
- 14 (9) Serve as the criminal justice statistical analysis center for this
 15 state.
- 16 (10) Establish and maintain, in cooperation with the office of the
 17 secretary of family and social services, a sex **and violent**
 18 offender registry.
- 19 (11) Administer the application and approval process for
 20 designating an area of a consolidated or second class city as a
 21 public safety improvement area under IC 36-8-19.5.
- 22 (b) The registry established under subsection (a)(10) must include
 23 the names of all persons who:
- 24 (1) have been convicted in Indiana **before, on, or after June 30,**
 25 **1998**, of:
- 26 (A) rape (IC 35-42-4-1);
- 27 (B) criminal deviate conduct (IC 35-42-4-2);
- 28 (C) child molesting (IC 35-42-4-3);
- 29 (D) child exploitation (IC 35-42-4-4(b));
- 30 (E) vicarious sexual gratification (IC 35-42-4-5);
- 31 (F) child solicitation (IC 35-42-4-6);
- 32 (G) child seduction (IC 35-42-4-7);
- 33 (H) sexual misconduct with a minor as a Class A or Class
 34 B felony (IC 35-42-4-9);
- 35 (I) incest (IC 35-46-1-3); or
- 36 (J) sexual battery (IC 35-42-4-8); **or**
- 37 (2) **have been convicted in Indiana after June 30, 1998, of:**
- 38 (A) **kidnapping (IC 35-42-3-2), if the victim is less than**

1 **eighteen (18) years of age; or**
 2 **(B) criminal confinement (IC 35-42-3-3), if the victim is**
 3 **less than eighteen (18) years of age; or**
 4 (2) **(3)** are residing in Indiana and have been convicted in
 5 another state of a ~~sex an~~ offense that is substantially equivalent
 6 to any of the ~~sex~~ offenses ~~listed~~ **specified** in subdivision (1) **or**
 7 **violent offenses specified in subdivision (2).**

8 SECTION 5. IC 5-2-6-14, AS AMENDED BY P.L.11-1994,
 9 SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 10 JULY 1, 1998]: Sec. 14. (a) The victim and witness assistance fund is
 11 established. The institute shall administer the fund. Except as provided
 12 in subsection (e), expenditures from the fund may be made only in
 13 accordance with appropriations made by the general assembly.

14 (b) The source of the victim and witness assistance fund is the
 15 family violence and victim assistance fund established by IC 12-18-5-2.

16 (c) The institute may use money from the victim and witness
 17 assistance fund when awarding a grant or entering into a contract under
 18 this chapter, if the money is used for the support of a program in the
 19 office of a prosecuting attorney or in a state or local law enforcement
 20 agency designed to:

21 (1) help evaluate the physical, emotional, and personal needs of
 22 a victim resulting from a crime, and counsel or refer the victim
 23 to those agencies or persons in the community that can provide
 24 the services needed;

25 (2) provide transportation for victims and witnesses of crime to
 26 attend proceedings in the case when necessary; or

27 (3) provide other services to victims or witnesses of crime when
 28 necessary to enable them to participate in criminal proceedings
 29 without undue hardship or trauma.

30 (d) Money in the victim and witness assistance fund at the end of
 31 a particular fiscal year does not revert to the general fund.

32 (e) The institute may use money in the fund to:

33 (1) pay the costs of administering the fund, including
 34 expenditures for personnel and data;

35 (2) establish and maintain the sex **and violent** offender registry
 36 under IC 5-2-12; and

37 (3) provide training for persons to assist victims.

38 SECTION 6. IC 5-2-12-4, AS AMENDED BY P.L.36-1997,

1 SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
2 JULY 1, 1998]: Sec. 4. As used in this chapter, "offender" refers to:

- 3 (1) a person convicted in Indiana after June 30, 1994, of:
4 (A) rape (IC 35-42-4-1);
5 (B) criminal deviate conduct (IC 35-42-4-2);
6 (C) child molesting (IC 35-42-4-3);
7 (D) child exploitation (IC 35-42-4-4(b));
8 (E) vicarious sexual gratification (IC 35-42-4-5);
9 (F) child solicitation (IC 35-42-4-6);
10 (G) child seduction (IC 35-42-4-7);
11 (H) sexual misconduct with a minor as a Class A or Class
12 B felony (IC 35-42-4-9);
13 (I) incest (IC 35-46-1-3); ~~or~~
14 (J) sexual battery (IC 35-42-4-8);

- 15 **(2) a person convicted in Indiana after June 30, 1998, of:**
16 **(A) kidnapping (IC 35-42-3-2), if the victim is less than**
17 **eighteen (18) years of age; or**
18 **(B) criminal confinement (IC 35-42-3-3), if the victim is**
19 **less than eighteen (18) years of age;**

- 20 ~~(2)~~ **(3) a child who:**
21 (A) is at least fourteen (14) years of age;
22 (B) is on probation, is on parole, or is discharged from a
23 facility by the department of correction as a result of an
24 adjudication as a delinquent child for an act that would be
25 an offense described in subdivision (1) **or (2)** if committed
26 by an adult; and
27 (C) is found by a court by clear and convincing evidence to
28 be likely to repeat an act that would be an offense described
29 in subdivision (1) **or (2)** if committed by an adult; or

- 30 ~~(3)~~ **(4) a person residing in Indiana who was convicted after:**
31 **(A) June 30, 1994, in another state of a ~~sex an~~ offense that**
32 **is substantially equivalent to any of the ~~sex~~ offenses listed**
33 **in subdivision (1); or**
34 **(B) June 30, 1998, in another state of an offense that is**
35 **substantially equivalent to any of the violent offenses**
36 **listed in subdivision (2).**

37 SECTION 7. IC 5-2-12-4.5 IS ADDED TO THE INDIANA CODE
38 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY

1 1, 1998]: **Sec. 4.5. As used in this chapter, "sexually violent**
 2 **predator" means an individual who suffers from a mental**
 3 **abnormality or personality disorder that makes the individual**
 4 **likely to repeatedly engage in any of the offenses described in**
 5 **section 4 of this chapter.**

6 SECTION 8. IC 5-2-12-5, AS AMENDED BY P.L.33-1996,
 7 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 8 JULY 1, 1998]: Sec. 5. (a) An offender shall register with each local
 9 law enforcement authority having jurisdiction in the area where the
 10 offender resides or intends to reside for more than seven (7) days. The
 11 offender shall register not more than seven (7) days after the offender
 12 arrives at the place where the offender resides or intends to reside.

13 (b) ~~An offender's duty to register expires ten (10) years after the~~
 14 ~~date the offender is released from prison or any other facility operated~~
 15 ~~by the department of correction; placed on parole; or placed on~~
 16 ~~probation; whichever occurs last. **Whenever an offender registers**~~
 17 **with a local law enforcement authority under subsection (a), the**
 18 **local law enforcement agency shall immediately notify the institute**
 19 **of the offender's registration.**

20 SECTION 9. IC 5-2-12-7, AS ADDED BY P.L.11-1994,
 21 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 22 JULY 1, 1998]: Sec. 7. (a) At least thirty (30) days but not more than
 23 ninety (90) days before an offender who is required to register under
 24 this chapter is scheduled to be released from a correctional facility, an
 25 official of the correctional facility shall do the following:

26 (1) Inform the offender of the offender's duty to register under
 27 this chapter and require the offender to sign a written statement
 28 that the offender was informed or, if the offender refuses to sign
 29 the statement, certify that the offender was informed of the duty
 30 to register.

31 (2) Obtain the address where the offender expects to reside after
 32 the offender's release.

33 (3) Inform the applicable local law enforcement authority having
 34 jurisdiction in the area where the offender expects to reside of
 35 the offender's name, release date, new address, and the offense
 36 committed by the offender.

37 (b) **Notwithstanding any other law, not more than three (3)**
 38 **days after an offender who is required to register under this**

1 chapter is released from a correctional facility, an official of the
 2 correctional facility shall send to the state police department the
 3 following:

4 (1) The offender's fingerprints, photograph, and
 5 identification factors.

6 (2) The address where the offender expects to reside after the
 7 offender's release.

8 (3) The complete criminal history data (as defined in
 9 IC 5-2-5-1) of the offender.

10 (4) Information regarding the offender's past treatment for
 11 mental disorders.

12 SECTION 10. IC 5-2-12-7.5 IS ADDED TO THE INDIANA
 13 CODE AS A NEW SECTION TO READ AS FOLLOWS
 14 [EFFECTIVE JULY 1, 1998]: **Sec. 7.5. Notwithstanding any other**
 15 **law, upon receiving an offender's fingerprints from a correctional**
 16 **facility, the state police department shall immediately send the**
 17 **fingerprints to the Federal Bureau of Investigation.**

18 SECTION 11. IC 5-2-12-8.5 IS ADDED TO THE INDIANA
 19 CODE AS A NEW SECTION TO READ AS FOLLOWS
 20 [EFFECTIVE JULY 1, 1998]: **Sec. 8.5. (a) To verify an offender's**
 21 **current residence, the local law enforcement agency shall do the**
 22 **following:**

23 (1) Mail each offender a verification form to the offender's
 24 listed address at least one (1) time per year, beginning one (1)
 25 year after the date the offender is:

26 (A) released from a correctional facility operated by the
 27 department of correction;

28 (B) placed on parole; or

29 (C) placed on probation;

30 whichever occurs last.

31 (2) Mail a verification form to each offender who is
 32 designated a sexually violent predator under IC 35-38-1-7.5
 33 at least once every ninety (90) days beginning ninety (90)
 34 days after the date the offender is:

35 (A) released from a correctional facility operated by the
 36 department of correction;

37 (B) placed on parole; or

38 (C) placed on probation;

1 **whichever occurs last.**

2 **(b) If an offender fails to return a signed verification form**
3 **either by mail or in person, the local law enforcement agency shall**
4 **immediately notify the institute.**

5 SECTION 12. IC 5-2-12-10, AS ADDED BY P.L.11-1994,
6 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
7 JULY 1, 1998]: Sec. 10. The institute shall update the sex **and violent**
8 offender registry at least one (1) time every six (6) months.

9 SECTION 13. IC 5-2-12-11, AS ADDED BY P.L.11-1994,
10 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
11 JULY 1, 1998]: Sec. 11. The institute shall make the sex **and violent**
12 offender registry available on a computer disk. Each time the registry
13 is updated under section 10 of this chapter, the institute shall send one
14 (1) paper copy of the sex **and violent** offender registry to:

- 15 (1) all school corporations (as defined in IC 20-1-6-1);
- 16 (2) all nonpublic schools (as defined in IC 20-10.1-1-3);
- 17 (3) a state agency that licenses individuals who work with
- 18 children;
- 19 (4) the state personnel department to screen individuals who may
- 20 be hired to work with children;
- 21 (5) all child care facilities licensed by or registered in the state
- 22 of Indiana; and
- 23 (6) other entities that:
- 24 (A) provide services to children; and
- 25 (B) request the registry.

26 A copy of the sex **and violent** offender registry provided to an entity
27 under subdivision (5) or (6) may not include the home address of an
28 offender whose name appears in the registry.

29 SECTION 14. IC 5-2-12-12, AS AMENDED BY P.L.33-1996,
30 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
31 JULY 1, 1998]: Sec. 12. When the institute sends a copy of the sex **and**
32 **violent** offender registry to an entity under section 11 of this chapter,
33 the institute shall include a notice using the following or similar
34 language: "A person whose name appears on this registry has been
35 convicted of a sex offense **or a violent offense** against a child or has
36 been adjudicated a delinquent child for an act involving another child
37 that would be a sex **or violent** offense if committed by an adult.
38 Continuing to employ a person whose name appears on this registry

1 may result in civil liability for the employer.".

2 SECTION 15. IC 5-2-12-13, AS AMENDED BY P.L.33-1996,
3 SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
4 JULY 1, 1998]: Sec. 13. (a) **Except as provided in subsection (b)**, an
5 offender's duty to register expires ten (10) years after the date the
6 offender is released from prison or any other facility operated by the
7 department of correction, placed on parole, or placed on probation,
8 whichever occurs last.

9 **(b) An offender who is found to be a sexually violent predator**
10 **by a court under IC 35-38-1-7.5(b) is required to register for an**
11 **indefinite period unless a court, assisted by a board of experts,**
12 **finds that the offender is no longer a sexually violent predator**
13 **under IC 35-38-1-7.5(c).**

14 SECTION 16. IC 35-38-1-7.5 IS ADDED TO THE INDIANA
15 CODE AS A NEW SECTION TO READ AS FOLLOWS
16 [EFFECTIVE JULY 1, 1998]: Sec. 7.5. (a) **As used in this section,**
17 **"sexually violent predator" has the meaning set forth in**
18 **IC 5-2-12-4.5.**

19 **(b) This section applies whenever a court sentences a person**
20 **for a sex offense listed in IC 5-2-12-4(1)(A) through**
21 **IC 5-2-12-4(1)(J) for which the person is required to register with**
22 **the sex and violent offender registry under IC 5-2-12-5.**

23 **(c) At the sentencing hearing, the court shall determine**
24 **whether the person is a sexually violent predator. Before making**
25 **a determination under this section, the court shall consult with a**
26 **board of experts consisting of two (2) board certified psychologists**
27 **or psychiatrists who have expertise in criminal behavioral**
28 **disorders.**

29 **(d) If the court finds that a person is a sexually violent**
30 **predator:**

31 **(1) the person is required to register with the sex and violent**
32 **offender registry as provided in IC 5-2-12-13(b); and**

33 **(2) the court shall send notice of its finding under this**
34 **subsection to the criminal justice institute.**

35 **(e) A person who is found by a court to be a sexually violent**
36 **predator under subsection (c) may petition the court to consider**
37 **whether the person is no longer a sexually violent predator. The**
38 **person may file a petition under this subsection not earlier than ten**

1 **(10) years after the sentencing court makes its finding under**
2 **subsection (c). A person may file a petition under this subsection**
3 **not more than one (1) time per year. If a court finds that the person**
4 **is no longer a sexually violent predator, the court shall send notice**
5 **to the Indiana criminal justice institute that the person is no longer**
6 **considered a sexually violent predator.**

7 SECTION 17. IC 35-38-5-5 IS AMENDED TO READ AS
8 FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 5. (a) **This section does**
9 **not apply to a request to a law enforcement agency for the release**
10 **or inspection of a limited criminal history to a noncriminal justice**
11 **organization or individual whenever the subject of the request is**
12 **described in IC 5-2-5-5(a)(8) or IC 5-2-5-5(a)(11).**

13 (b) A person may petition the state police department to limit
14 access to his limited criminal history to criminal justice agencies if
15 more than fifteen (15) years have elapsed since the date the person was
16 discharged from probation, imprisonment, or parole (whichever is
17 later) for the last conviction for a crime.

18 ~~(b)~~ (c) When a petition is filed under subsection ~~(a)~~; (b), the state
19 police department shall not release limited criminal history to
20 noncriminal justice agencies under IC 5-2-5-5.

(Reference is to HB 1411 as introduced.)

and when so amended that said bill do pass.

Representative Dvorak