

SENATE BILL No. 403

DIGEST OF INTRODUCED BILL

Citations Affected: IC 5-2-5.

Synopsis: Criminal history checks by school corporations. Allows a law enforcement agency to provide national and state criminal history data to a school corporation of an applicant for employment or the professional standards board if the law enforcement agency edits the data to include only limited criminal history information. Allows the law enforcement agency to obtain the information from the Indiana data and communication system. Allows the law enforcement agency to charge a fee of not more than \$5 for the service provided. Provides that a person who knowingly or intentionally misuses limited criminal history information commits a Class A misdemeanor.

Effective: July 1, 1998.

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January 9, 1998, read first time and referred to Committee on Corrections, Criminal and Civil Procedures.

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Introduced

Second Regular Session 110th General Assembly (1998)

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 1997 General Assembly.

SENATE BILL No. 403

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 5-2-5-5, AS AMENDED BY P.L.59-1995,
2 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 1998]: Sec. 5. (a) Except as provided in **section 5.5 of this**
4 **chapter and** subsection (b), on request, law enforcement agencies shall
5 release or allow inspection of a limited criminal history to noncriminal
6 justice organizations or individuals only if the subject of the request:
7 (1) has applied for employment with a noncriminal justice
8 organization or individual;
9 (2) has applied for a license and criminal history data as required
10 by law to be provided in connection with the license;
11 (3) is a candidate for public office or a public official;
12 (4) is in the process of being apprehended by a law enforcement
13 agency;
14 (5) is placed under arrest for the alleged commission of a crime;
15 (6) has charged that his rights have been abused repeatedly by
16 criminal justice agencies;
17 (7) is the subject of judicial decision or determination with

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- 1 respect to the setting of bond, plea bargaining, sentencing, or
 2 probation;
 3 (8) has volunteered services that involve contact with, care of, or
 4 supervision over a child who is being placed, matched, or
 5 monitored by a social services agency or a nonprofit corporation;
 6 (9) is being investigated for welfare fraud by an investigator of the
 7 division of family and children or a county office of family and
 8 children;
 9 (10) is being sought by the parent locator service of the child
 10 support bureau of the division of family and children; or
 11 (11) has been convicted of any of the following:
 12 (A) Rape (IC 35-42-4-1), if the victim is less than eighteen
 13 (18) years of age.
 14 (B) Criminal deviate conduct (IC 35-42-4-2), if the victim is
 15 less than eighteen (18) years of age.
 16 (C) Child molesting (IC 35-42-4-3).
 17 (D) Child exploitation (IC 35-42-4-4(b)).
 18 (E) Possession of child pornography (IC 35-42-4-4(c)).
 19 (F) Vicarious sexual gratification (IC 35-42-4-5).
 20 (G) Child solicitation (IC 35-42-4-6).
 21 (H) Child seduction (IC 35-42-4-7).
 22 (I) Incest (IC 35-46-1-3), if the victim is less than eighteen
 23 (18) years of age.

24 However, limited criminal history information obtained from the
 25 National Crime Information Center may not be released under this
 26 section except to the extent permitted by the Attorney General of the
 27 United States.

28 (b) A law enforcement agency shall allow inspection of a limited
 29 criminal history by and release a limited criminal history to the
 30 following noncriminal justice organizations:

- 31 (1) Federally chartered or insured banking institutions.
 32 (2) Officials of state and local government for the purpose of
 33 employment and licensing.
 34 (3) Segments of the securities industry identified under 15 U.S.C.
 35 78q(f)(2).

36 (c) Any person who uses limited criminal history for any purpose
 37 not specified under this section commits a Class A misdemeanor.

38 SECTION 2. IC 5-2-5-5.5 IS ADDED TO THE INDIANA CODE
 39 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 40 1, 1998]: **Sec. 5.5. (a) Subject to subsection (b), a law enforcement
 41 agency may:**

- 42 (1) **release the national and state criminal history data of an**

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1 individual who has applied for employment with a school
2 corporation to; or

3 (2) allow the inspection of the national and state criminal
4 history data of an individual who has applied for employment
5 with a school corporation by;

6 the school corporation or the professional standards board
7 established by IC 20-1-1.4 if the law enforcement agency edits the
8 criminal history data to include only the limited criminal history
9 of the individual. The law enforcement agency may obtain
10 information released or inspected under this section through the
11 Indiana data and communication system (IDACS).

12 (b) Criminal history data obtained from the National Crime
13 Information Center may not be released under this section except
14 to the extent permitted by the Attorney General of the United
15 States.

16 (c) A law enforcement agency may charge a fee of not more than
17 five dollars (\$5) for services provided under this section.

18 (d) A person who knowingly or intentionally uses a limited
19 criminal history obtained under this section for any purpose not
20 specified under this section commits a Class A misdemeanor.

21 SECTION 3. IC 5-2-5-7, AS AMENDED BY P.L.11-1994,
22 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
23 JULY 1, 1998]: Sec. 7. (a) Except as provided in **section 5.5 of this**
24 **chapter and** subsection (c), on request for release or inspection of a
25 limited criminal history, law enforcement agencies may and the
26 department shall do the following:

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

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

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

37 (b) Law enforcement agencies and the department shall edit
38 information so that the only information released or inspected is
39 information which:

40 (1) has been requested; and

41 (2) is limited criminal history information.

42 (c) The fee required under subsection (a) shall be waived if the

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1 request is from the institute for conviction information that will be used
2 to establish or update the sex offender registry under IC 5-2-12.

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