



Reprinted
February 29, 2000

ENGROSSED HOUSE BILL No. 1011

DIGEST OF HB 1011 (Updated February 28, 2000 2:25 PM - DI 69)

Citations Affected: IC 5-2.

Synopsis: Bias crimes. Defines a bias crime as an offense in which the person who committed the offense knowingly or intentionally selected the person injured or damaged or otherwise affected property: (1) because of the color, creed, disability, national origin, race, religion, or sexual orientation of the injured person or of the owner or occupant of the affected property; or (2) because the injured person or owner or occupant of the affected property was associated with any other recognizable group or affiliation. Requires law enforcement agencies to collect and report information concerning bias crimes in the manner and form prescribed by the state police department. Requires the Indiana central repository for criminal history information to submit a compiled report of this information to each law enforcement agency and the legislative council.

Effective: July 1, 2000.

Porter, Fry, Summers, Crawford, Brown C

(SENATE SPONSORS — WASHINGTON, HOWARD)

November 23, 1999, read first time and referred to Committee on Judiciary.
January 27, 2000, amended, reported — Do Pass.
February 1, 2000, read second time, ordered engrossed.
February 2, 2000, engrossed.
February 7, 2000, read third time, passed. Yeas 65, nays 34.

SENATE ACTION

February 10, 2000, read first time and referred to Committee on Judiciary.
February 24, 2000, amended, reported favorably — Do Pass.
February 28, 2000, read second time, amended, ordered engrossed.

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EH 1011—LS 6353/DI 69+



Reprinted
February 29, 2000

Second Regular Session 111th General Assembly (2000)

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 1999 General Assembly.

ENGROSSED HOUSE BILL No. 1011

A BILL FOR AN ACT to amend the Indiana Code concerning bias crimes and criminal law.

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

- 1 SECTION 1. IC 5-2-5-1 IS AMENDED TO READ AS FOLLOWS
2 [EFFECTIVE JULY 1, 2000]: Sec. 1. The following definitions apply
3 throughout this chapter:
4 (1) "Limited criminal history" means information with respect to
5 any arrest, indictment, information, or other formal criminal
6 charge, which must include a disposition. However, information
7 about any arrest, indictment, information, or other formal criminal
8 charge which occurred less than one (1) year before the date of a
9 request shall be considered a limited criminal history even if no
10 disposition has been entered.
11 (2) "**Bias crime**" means **an offense in which the person who**
12 **committed the offense knowingly or intentionally:**
13 (A) **selected the person who was injured; or**
14 (B) **damaged or otherwise affected property;**
15 **by the offense because of the color, creed, disability, national**
16 **origin, race, religion, or sexual orientation of the injured**
17 **person or of the owner or occupant of the affected property or**

EH 1011—LS 6353/DI 69+



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1 **because the injured person or owner or occupant of the**
 2 **affected property was associated with any other recognizable**
 3 **group or affiliation.**

4 (3) "Council" means the security and privacy council created
 5 under section 11 of this chapter.

6 ~~(4)~~ (4) "Criminal history data" means information collected by
 7 criminal justice agencies, the United States Department of Justice
 8 for the department's information system, or individuals. The term
 9 consists of the following:

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

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

15 (C) Any disposition, including sentencing, and correctional
 16 system intake, transfer, and release.

17 ~~(5)~~ (5) "Criminal justice agency" means any agency or department
 18 of any level of government whose principal function is the
 19 apprehension, prosecution, adjudication, incarceration, probation,
 20 rehabilitation, or representation of criminal offenders, the location
 21 of parents with child support obligations under 42 U.S.C. 653, the
 22 licensing and regulating of riverboat gambling operations, or the
 23 licensing and regulating of pari-mutuel horse racing operations.
 24 The term includes the Medicaid fraud control unit for the purpose
 25 of investigating offenses involving Medicaid. The term includes
 26 a nongovernmental entity that performs as its principal function
 27 the:

28 (A) apprehension, prosecution, adjudication, incarceration, or
 29 rehabilitation of criminal offenders;

30 (B) location of parents with child support obligations under 42
 31 U.S.C. 653;

32 (C) licensing and regulating of riverboat gambling operations;
 33 or

34 (D) licensing and regulating of pari-mutuel horse racing
 35 operations;

36 under a contract with an agency or department of any level of
 37 government.

38 ~~(6)~~ (6) "Department" means the state police department.

39 ~~(7)~~ (7) "Disposition" means information disclosing that criminal
 40 proceedings have been concluded or indefinitely postponed.

41 ~~(8)~~ (8) "Inspection" means visual perusal and includes the right to
 42 make memoranda abstracts of the information.

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- 1 ~~(8)~~ **(9)** "Institute" means the Indiana criminal justice institute
 2 established under IC 5-2-6.
 3 ~~(9)~~ **(10)** "Law enforcement agency" means an agency or a
 4 department of any level of government whose principal function
 5 is the apprehension of criminal offenders.
 6 ~~(10)~~ **(11)** "Protective order" has the meaning set forth in
 7 IC 5-2-9-2.1.
 8 ~~(11)~~ **(12)** "Release" means the furnishing of a copy, or an edited
 9 copy, of criminal history data.
 10 ~~(12)~~ **(13)** "Reportable offenses" means all felonies and those Class
 11 A misdemeanors which the superintendent may designate.
 12 ~~(13)~~ **(14)** "Request" means the asking for release or inspection of
 13 a limited criminal history by noncriminal justice organizations or
 14 individuals in a manner which:
 15 (A) reasonably ensures the identification of the subject of the
 16 inquiry; and
 17 (B) contains a statement of the purpose for which the
 18 information is requested.
 19 ~~(14)~~ **(15)** "Unidentified person" means a deceased or mentally
 20 incapacitated person whose identity is unknown.
 21 SECTION 2. IC 5-2-5-14.3 IS ADDED TO THE INDIANA CODE
 22 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 23 1, 2000]: **Sec. 14.3. (a) A law enforcement agency shall collect**
 24 **information concerning bias crimes.**
 25 **(b) At least two (2) times each year, a law enforcement agency**
 26 **shall submit information collected under subsection (a) to the**
 27 **Indiana central repository for criminal history information.**
 28 **Information shall be reported in the manner and form prescribed**
 29 **by the department.**
 30 **(c) At least one (1) time each year, the Indiana central**
 31 **repository for criminal history information shall submit a report**
 32 **that includes a compilation of information obtained under**
 33 **subsection (b) to each law enforcement agency and to the legislative**
 34 **council. A report submitted to a law enforcement agency and the**
 35 **legislative council under this subsection may not contain the name**
 36 **of a person who:**
 37 **(1) committed or allegedly committed a bias crime; or**
 38 **(2) was the victim or the alleged victim of a bias crime.**
 39 **(d) Except as provided in subsection (e), information collected,**
 40 **submitted, and reported under this section must be consistent with**
 41 **guidelines established for the acquisition, preservation, and**
 42 **exchange of identification records and information by:**

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- 1 **(1) the Attorney General of the United States; or**
- 2 **(2) the Federal Bureau of Investigation;**
- 3 **under 28 U.S.C. 534 and the Hate Crime Statistics Act, as amended**
- 4 **(28 U.S.C. 534 note).**
- 5 **(e) Information submitted under subsection (b) and reports**
- 6 **issued under subsection (c) shall, in conformity with guidelines**
- 7 **prescribed by the department:**
- 8 **(1) be separated in reports on the basis of whether it is an**
- 9 **alleged crime, a charged crime, or a crime for which a**
- 10 **conviction has been obtained; and**
- 11 **(2) be divided in reports on the basis of whether, in the**
- 12 **opinion of the reporting individual and, or the data collectors,**
- 13 **the bias was the primary motivation for the crime or only**
- 14 **incidental to the crime.**

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Judiciary, to which was referred House Bill 1011, 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:

Delete the title and insert the following:

A BILL FOR AN ACT to amend the Indiana Code concerning bias crimes and criminal law.

Page 1, delete lines 1 through 17.

Delete pages 2 through 4.

Page 5, delete lines 1 through 27, begin a new paragraph and insert:

"SECTION 1. IC 5-2-5-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 1. The following definitions apply throughout this chapter:

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

(2) "**Bias crime**" means an offense in which the person who committed the offense knowingly or intentionally:

(A) selected the person who was injured; or

(B) damaged or otherwise affected property;

by the offense because of the color, creed, disability, national origin, race, religion, sex, or sexual orientation of the injured person or of the owner or occupant of the affected property.

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

(4) "Criminal history data" means information collected by criminal justice agencies, the United States Department of Justice for the department's information system, or individuals. The term consists of the following:

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

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

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

(5) "Criminal justice agency" means any agency or department

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of any level of government whose principal function is the apprehension, prosecution, adjudication, incarceration, probation, rehabilitation, or representation of criminal offenders, the location of parents with child support obligations under 42 U.S.C. 653, the licensing and regulating of riverboat gambling operations, or the licensing and regulating of pari-mutuel horse racing operations. The term includes the Medicaid fraud control unit for the purpose of investigating offenses involving Medicaid. The term includes a nongovernmental entity that performs as its principal function the:

- (A) apprehension, prosecution, adjudication, incarceration, or rehabilitation of criminal offenders;
- (B) location of parents with child support obligations under 42 U.S.C. 653;
- (C) licensing and regulating of riverboat gambling operations; or
- (D) licensing and regulating of pari-mutuel horse racing operations;

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

~~(5)~~ (6) "Department" means the state police department.

~~(6)~~ (7) "Disposition" means information disclosing that criminal proceedings have been concluded or indefinitely postponed.

~~(7)~~ (8) "Inspection" means visual perusal and includes the right to make memoranda abstracts of the information.

~~(8)~~ (9) "Institute" means the Indiana criminal justice institute established under IC 5-2-6.

~~(9)~~ (10) "Law enforcement agency" means an agency or a department of any level of government whose principal function is the apprehension of criminal offenders.

~~(10)~~ (11) "Protective order" has the meaning set forth in IC 5-2-9-2.1.

~~(11)~~ (12) "Release" means the furnishing of a copy, or an edited copy, of criminal history data.

~~(12)~~ (13) "Reportable offenses" means all felonies and those Class A misdemeanors which the superintendent may designate.

~~(13)~~ (14) "Request" means the asking for release or inspection of a limited criminal history by noncriminal justice organizations or individuals in a manner which:

- (A) reasonably ensures the identification of the subject of the inquiry; and
- (B) contains a statement of the purpose for which the



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information is requested.

(~~14~~) **(15)** "Unidentified person" means a deceased or mentally incapacitated person whose identity is unknown."

Page 5, line 31, delete "(as defined in IC 35-41-1-3.5)".

Page 5, line 38, after "agency." insert "**A report submitted to a law enforcement agency under this subsection may not contain the name of a person who:**

- (1) committed or allegedly committed a bias crime; or**
- (2) was the victim or the alleged victim of a bias crime."**

Page 6, between lines 2 and 3, begin a new paragraph and insert:
 "SECTION 3. IC 35-41-1-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2000]: Sec. 1. (a) As used in this section, "Indiana" includes:

- (1) the area within the boundaries of the state of Indiana, as set forth in Article 14, Section 1 of the Constitution of the State of Indiana;
- (2) the portion of the Ohio River on which Indiana possesses concurrent jurisdiction with the state of Kentucky under Article 14, Section 2 of the Constitution of the State of Indiana; and
- (3) the portion of the Wabash River on which Indiana possesses concurrent jurisdiction with the state of Illinois under Article 14, Section 2 of the Constitution of the State of Indiana.

(b) A person may be convicted under Indiana law of an offense if:

- (1) either the conduct that is an element of the offense, the result that is an element, or both, occur in Indiana;
- (2) conduct occurring outside Indiana is sufficient under Indiana law to constitute an attempt to commit an offense in Indiana;
- (3) conduct occurring outside Indiana is sufficient under Indiana law to constitute a conspiracy to commit an offense in Indiana, and an overt act in furtherance of the conspiracy occurs in Indiana;
- (4) conduct occurring in Indiana establishes complicity in the commission of, or an attempt or conspiracy to commit, an offense in another jurisdiction that also is an offense under Indiana law; or
- (5) the offense consists of the omission to perform a duty imposed by Indiana law with respect to domicile, residence, or a relationship to a person, thing, or transaction in Indiana.

(c) It shall be the policy of the state of Indiana to prosecute all crimes equally without regard to color, creed, disability, national origin, race, religion, or sex of the person who committed the offense, the injured person, or the owner or occupant of the

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affected property.

(d) When the offense is homicide, either the death of the victim or bodily impact causing death constitutes a result under subsection (b)(1). If the body of a homicide victim is found in Indiana, it is presumed that the result occurred in Indiana."

Page 6, delete lines 3 through 42.

Delete pages 7 through 13.

and when so amended that said bill do pass.

(Reference is to HB 1011 as introduced.)

VILLALPANDO, Chair

Committee Vote: yeas 12, nays 2.

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COMMITTEE REPORT

Mr. President: The Senate Committee on Judiciary, to which was referred House Bill No. 1011, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 1, line 16, delete "sex,".

Page 3, line 18, delete "IC 5-2-5-14" and insert "IC 5-2-5-14.3".

Page 3, line 20, delete "14." and insert "**14.3**."

Page 3, delete lines 39 through 42.

Delete page 4.

and when so amended that said bill do pass.

(Reference is to HB 1011 as printed January 28, 2000.)

BRAY, Chairperson

Committee Vote: Yeas 10, Nays 0.

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SENATE MOTION

Mr. President: I move that Engrossed House Bill 1011 be amended to read as follows:

Page 3, line 28, after "agency" insert "**and to the legislative council**".

Page 3, line 29, after "agency" insert "**and the legislative council**".

(Reference is to EHB 1011 as printed February 25, 2000.)

WASHINGTON

SENATE MOTION

Mr. President: I move that Engrossed House Bill 1011 be amended to read as follows:

Page 1, line 17, delete "." and insert "**or because the injured person or owner or occupant of the affected property was associated with any other recognizable group or affiliation**".

(Reference is to EHB 1011 as printed February 25, 2000.)

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SENATE MOTION

Mr. President: I move that Engrossed House Bill 1011 be amended to read as follows:

Page 3, line 24, after "information." insert "**Information shall be reported in the manner and form prescribed by the department**".

Page 3, line 33, delete "Information" and insert "**Except as provided in subsection (e), information**".

Page 3, line 38, after "investigation" insert ";".

Page 3, line 38, block left beginning with "under".

Page 3, line 38, delete "." and insert "**and the Hate Crime Statistics Act, as amended (28 U.S.C. 534 note)**".

Page 3, after line 38, begin a new paragraph and insert:

"(e) Information submitted under subsection (b) and reports issued under subsection (c) shall, in conformity with guidelines prescribed by the department:

(1) be separated in reports on the basis of whether it is an alleged crime, a charged crime, or a crime for which a



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**conviction has been obtained; and
(2) be divided in reports on the basis of whether, in the opinion of the reporting individual and, or the data collectors, the bias was the primary motivation for the crime or only incidental to the crime.**

(Reference is to EHB 1011 as printed February 25, 2000.)

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