

Adopted	Rejected
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COMMITTEE REPORT

YES:	12
NO:	0

MR. SPEAKER:

*Your Committee on Public Policy, Ethics and Veterans Affairs, to which was referred Senate Bill 445, 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 Page 1, between the enacting clause and line 1, begin a new
- 2 paragraph and insert:
- 3 "SECTION 1. IC 5-2-5-1, AS AMENDED BY P.L.24-2000,
- 4 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 5 UPON PASSAGE]: Sec. 1. The following definitions apply throughout
- 6 this chapter:
- 7 (1) "Limited criminal history" means information with respect to
- 8 any arrest, indictment, information, or other formal criminal
- 9 charge, which must include a disposition. However, information
- 10 about any arrest, indictment, information, or other formal criminal
- 11 charge which occurred less than one (1) year before the date of a
- 12 request shall be considered a limited criminal history even if no
- 13 disposition has been entered.
- 14 (2) "Bias crime" means an offense in which the person who

- 1 committed the offense knowingly or intentionally:
- 2 (A) selected the person who was injured; or
- 3 (B) damaged or otherwise affected property;
- 4 by the offense because of the color, creed, disability, national
- 5 origin, race, religion, or sexual orientation of the injured person
- 6 or of the owner or occupant of the affected property or because
- 7 the injured person or owner or occupant of the affected property
- 8 was associated with any other recognizable group or affiliation.
- 9 **(3) "Care" means the provision of care, treatment, education,**
- 10 **training, instruction, supervision, or recreation to children**
- 11 **less than eighteen (18) years of age.**
- 12 **(4) "Council" means the security and privacy council created**
- 13 **under section 11 of this chapter.**
- 14 ~~(4)~~ **(5) "Criminal history data" means information collected by**
- 15 **criminal justice agencies, the United States Department of Justice**
- 16 **for the department's information system, or individuals. The term**
- 17 **consists of the following:**
- 18 (A) Identifiable descriptions and notations of arrests,
- 19 indictments, informations, or other formal criminal charges.
- 20 (B) Information regarding an offender (as defined in
- 21 IC 5-2-12-4) obtained through sex offender registration under
- 22 IC 5-2-12.
- 23 (C) Any disposition, including sentencing, and correctional
- 24 system intake, transfer, and release.
- 25 **(6) "Certificated employee" has the meaning set forth in**
- 26 **IC 20-7.5-1-2.**
- 27 ~~(5)~~ **(7) "Criminal justice agency" means any agency or department**
- 28 **of any level of government whose principal function is the**
- 29 **apprehension, prosecution, adjudication, incarceration, probation,**
- 30 **rehabilitation, or representation of criminal offenders, the location**
- 31 **of parents with child support obligations under 42 U.S.C. 653, the**
- 32 **licensing and regulating of riverboat gambling operations, or the**
- 33 **licensing and regulating of pari-mutuel horse racing operations.**
- 34 **The term includes the Medicaid fraud control unit for the purpose**
- 35 **of investigating offenses involving Medicaid. The term includes**
- 36 **a nongovernmental entity that performs as its principal function**
- 37 **the:**
- 38 (A) apprehension, prosecution, adjudication, incarceration, or

- 1 rehabilitation of criminal offenders;
 2 (B) location of parents with child support obligations under 42
 3 U.S.C. 653;
 4 (C) licensing and regulating of riverboat gambling operations;
 5 or
 6 (D) licensing and regulating of pari-mutuel horse racing
 7 operations;
 8 under a contract with an agency or department of any level of
 9 government.
- 10 ~~(6)~~ **(8)** "Department" means the state police department.
 11 ~~(7)~~ **(9)** "Disposition" means information disclosing that criminal
 12 proceedings have been concluded or indefinitely postponed.
 13 ~~(8)~~ **(10)** "Inspection" means visual perusal and includes the right
 14 to make memoranda abstracts of the information.
 15 ~~(9)~~ **(11)** "Institute" means the Indiana criminal justice institute
 16 established under IC 5-2-6.
 17 ~~(10)~~ **(12)** "Law enforcement agency" means an agency or a
 18 department of any level of government whose principal function
 19 is the apprehension of criminal offenders.
 20 **(13) "National criminal history background check" means the**
 21 **criminal history record system maintained by the Federal**
 22 **Bureau of Investigation based on fingerprint identification or**
 23 **any other method of positive identification.**
 24 **(14) "Noncertificated employee" has the meaning set forth in**
 25 **IC 20-7.5-1-2.**
 26 ~~(11)~~ **(15)** "Protective order" has the meaning set forth in
 27 IC 5-2-9-2.1.
 28 **(16) "Qualified entity" means a business or an organization,**
 29 **whether public, private, for-profit, nonprofit, or voluntary,**
 30 **that provides care or care placement services, including a**
 31 **business or an organization that licenses or certifies others to**
 32 **provide care or care placement services.**
 33 ~~(12)~~ **(17)** "Release" means the furnishing of a copy, or an edited
 34 copy, of criminal history data.
 35 ~~(13)~~ **(18)** "Reportable offenses" means all felonies and those Class
 36 A misdemeanors which the superintendent may designate.
 37 ~~(14)~~ **(19)** "Request" means the asking for release or inspection of
 38 a limited criminal history by noncriminal justice organizations or

- 1 individuals in a manner which:
- 2 (A) reasonably ensures the identification of the subject of the
- 3 inquiry; and
- 4 (B) contains a statement of the purpose for which the
- 5 information is requested.

6 **(20) "School corporation" has the meaning set forth in**
 7 **IC 20-10.1-1-1.**

8 **(21) "Special education cooperative" has the meaning set**
 9 **forth in IC 20-1-6-20.**

10 ~~(15)~~ **(22) "Unidentified person" means a deceased or mentally**
 11 **incapacitated person whose identity is unknown."**

12 Page 3, line 22, after "corporation" insert ",".

13 Page 3, line 22, strike "(as defined in IC 20-10.1-1),".

14 Page 3, line 23, after "cooperative" insert ",".

15 Page 3, line 23, delete "(as defined in IC 20-1-6-20),".

16 Page 3, delete lines 27 through 42, begin a new paragraph and
 17 insert:

18 "SECTION 4. IC 5-2-5-15 IS ADDED TO THE INDIANA CODE
 19 AS A **NEW SECTION TO READ AS FOLLOWS [EFFECTIVE**
 20 **UPON PASSAGE]: Sec. 15. (a) The department is designated as the**
 21 **authorized agency to receive requests for, process, and disseminate**
 22 **the results of national criminal history background checks that**
 23 **comply with this section and 42 U.S.C. 5119a.**

24 **(b) A qualified entity may contact the department to request a**
 25 **national criminal history background check on any of the following**
 26 **persons:**

27 **(1) A person who seeks to be or is employed with the qualified**
 28 **entity. A request under this subdivision must be made not**
 29 **later than three (3) months after the person is initially**
 30 **employed by the qualified entity.**

31 **(2) A person who seeks to volunteer or is a volunteer with the**
 32 **qualified entity. A request under this subdivision must be**
 33 **made not later than three (3) months after the person initially**
 34 **volunteers with the qualified entity.**

35 **(c) A qualified entity must submit a request under subsection (b)**
 36 **in the form required by the department and provide a set of the**
 37 **person's fingerprints and any required fees with the request.**

38 **(d) If a qualified entity makes a request in conformity with**

1 subsection (b), the department shall submit the set of fingerprints
 2 provided with the request to the Federal Bureau of Investigation
 3 for a national criminal history background check for convictions
 4 described in IC 20-5-2-8. The department shall respond to the
 5 request in conformity with:

6 (1) the requirements of 42 U.S.C. 5119a; and

7 (2) the regulations prescribed by the United States attorney
 8 general under 42 U.S.C. 5119a.

9 (e) This subsection applies to a qualified entity that:

10 (1) is not a school corporation or a special education
 11 cooperative; or

12 (2) is a school corporation or a special education cooperative
 13 and seeks a national criminal history background check for a
 14 volunteer.

15 After receiving the results of a national criminal history
 16 background check from the Federal Bureau of Investigation, the
 17 department shall make a determination whether the applicant has
 18 been convicted of an offense described in IC 20-5-2-8 and convey
 19 the determination to the requesting qualified entity.

20 (f) This subsection applies to a qualified entity that:

21 (1) is a school corporation or a special education cooperative;
 22 and

23 (2) seeks a national criminal history background check for the
 24 purposes determining whether to employ or continue the
 25 employment of a certificated employee or a noncertificated
 26 employee of a school corporation or an equivalent position
 27 with a special education cooperative.

28 After receiving the results of a national criminal history
 29 background check from the Federal Bureau of Investigation, the
 30 department may exchange identification records concerning
 31 convictions for offenses described in IC 20-5-2-8 with the school
 32 corporation or special education cooperative solely for purposes of
 33 making an employment determination. The exchange may be made
 34 only for the official use of the officials with authority to make the
 35 employment determination. The exchange is subject to the
 36 restrictions on dissemination imposed under P.L. 92-544, (86 Stat.
 37 1115) (1972)."

38 Page 4, delete lines 1 through 8.

- 1 Page 4, line 34, after "request" insert "**under IC 5-2-5**".
- 2 Page 4, line 35, after "information" insert "**or a national criminal**
- 3 **history background check**".
- 4 Page 4, line 35, delete "from a local or".
- 5 Page 4, line 36, delete "state law enforcement agency".
- 6 Page 4, line 38, after "corporation." insert "**The school corporation**
- 7 **may require the individual to provide a set of fingerprints and pay**
- 8 **any fees required for a national criminal history background**
- 9 **check**".
- 10 Renumber all SECTIONS consecutively.
(Reference is to SB 445 as printed March 2, 2001.)

and when so amended that said bill do pass.

Representative Kuzman