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# HOUSE BILL No. 1253

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 5-2-5-16; IC 35-38-4-7.

**Synopsis:** Criminal records of juveniles. Provides for the sealing of criminal history data concerning an act committed by a person before the person became 18 years of age ten years after the person was last adjudicated a delinquent child. Specifies that this provision does not apply to a person who: (1) commits a sex offense, certain violent offenses, or murder; (2) is in a penal facility when the person is at least 22 years of age; (3) is arrested for a felony after the person becomes 18 years of age; or (4) has been convicted of a felony within ten years of the person being adjudicated a delinquent child.

**Effective:** July 1, 2003.

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### Smith V, Brown C

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January 13, 2003, read first time and referred to Committee on Courts and Criminal Code.

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First Regular Session 113th General Assembly (2003)

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 2002 Regular or Special Session of the General Assembly.

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## HOUSE BILL No. 1253



A BILL FOR AN ACT to amend the Indiana Code concerning courts and court officers.

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

1 SECTION 1. IC 5-2-5-16 IS ADDED TO THE INDIANA CODE  
2 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
3 1, 2003]: **Sec. 16. (a) This section does not apply to the following**  
4 **persons:**

- 5 (1) **An offender (as defined in IC 5-2-12-4) subject to sex**
- 6 **offender registration.**
- 7 (2) **A person convicted of murder.**
- 8 (3) **A person who is in a penal facility ten (10) years after the**
- 9 **person was last adjudicated a delinquent child.**
- 10 **(b) Subject to this section, if:**
- 11 **(1) the department, a criminal justice agency, or a juvenile**
- 12 **justice agency possesses criminal history information relating**
- 13 **to an act that a person committed or allegedly committed**
- 14 **before the person became eighteen (18) years of age;**
- 15 **(2) the:**
- 16 **(A) department; or**
- 17 **(B) criminal justice agency, after checking with the**



1 department;  
 2 does not find that the person was arrested for a felony that the  
 3 person committed after the person became eighteen (18) years  
 4 of age; and  
 5 (3) the person has not been convicted of a felony during the  
 6 ten (10) years since the person was last adjudicated a  
 7 delinquent child;  
 8 the department, criminal justice agency, or juvenile justice agency  
 9 shall seal the person's criminal history data ten (10) years after the  
 10 person was last adjudicated a delinquent child.

11 (c) Except as provided under subsection (d), the department,  
 12 criminal justice agency, or juvenile justice agency may not release  
 13 sealed criminal history data to, or allow inspection of sealed  
 14 criminal history data by, any agency or person other than the  
 15 person who is the subject of the criminal history data.

16 (d) A court may order the release or inspection of sealed  
 17 criminal history data only if:

18 (1) the person who is the subject of the sealed criminal history  
 19 data challenges its existence during a court proceeding; or  
 20 (2) the person who is the subject of the sealed criminal history  
 21 is arrested in the United States or in another country for an  
 22 act that:

23 (A) the person committed after the person became eighteen  
 24 (18) years of age; and

25 (B) is a felony in Indiana or the equivalent of a felony in  
 26 Indiana.

27 Criminal history data ordered released under subdivision (1) is  
 28 unsealed only to the extent reasonably necessary to refute the claim  
 29 under subdivision (1) that the sealed criminal history data does not  
 30 exist. Criminal history data ordered released under subdivision (2)  
 31 may be released or inspected as if the criminal history data had  
 32 never been sealed.

33 SECTION 2. IC 35-38-4-7 IS ADDED TO THE INDIANA CODE  
 34 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
 35 1, 2003]: Sec. 7. (a) This section does not apply to the following:

36 (1) An offender (as defined in IC 5-2-12-4) subject to sex  
 37 offender registration.

38 (2) A person convicted of murder.

39 (3) A person who is in a penal facility ten (10) years after the  
 40 person was last adjudicated a delinquent child.

41 (b) Subject to this section, if a court:

42 (1) possesses criminal history data (as defined in IC 5-2-5-1)

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1 or other records relating to a criminal act that a person  
 2 committed or allegedly committed before the person became  
 3 eighteen (18) years of age;

4 (2) after checking with the state police department, does not  
 5 find that the person was arrested for a felony that the person  
 6 committed or allegedly committed after the person became  
 7 eighteen (18) years of age; and

8 (3) finds that the person has not been convicted of a felony  
 9 during the ten (10) years since the person was last adjudicated  
 10 a delinquent child;

11 the court shall seal the person's criminal history data (as defined  
 12 in IC 5-2-5-1) or other related court records ten (10) years after the  
 13 person was last adjudicated a delinquent child.

14 (c) Except as provided in subsection (d), the court may not  
 15 release sealed criminal history data (as defined in IC 5-2-5-1) or  
 16 related court records to, or allow inspection of sealed criminal  
 17 history data (as defined in IC 5-2-5-1) or related court records by,  
 18 any agency or person other than the person who is the subject of  
 19 the criminal history data (as defined in IC 5-2-5-1) or related court  
 20 records.

21 (d) A court may order the release or inspection of sealed  
 22 criminal history data (as defined in IC 5-2-5-1) or related court  
 23 records only if:

24 (1) the person who is the subject of the sealed criminal history  
 25 data challenges its existence during a court proceeding; or

26 (2) the person who is the subject of the sealed criminal history  
 27 is arrested in the United States or in another country for an  
 28 act that:

29 (A) the person committed after the person became eighteen  
 30 (18) years of age; and

31 (B) is a felony in Indiana or the equivalent of a felony in  
 32 Indiana.

33 Criminal history data ordered released under subdivision (1) is  
 34 unsealed only to the extent reasonably necessary to refute the claim  
 35 under subdivision (1) that the sealed criminal history data does not  
 36 exist. Criminal history data ordered released under subdivision (2)  
 37 may be released or inspected as if the criminal history data had  
 38 never been sealed.

39 SECTION 3. [EFFECTIVE JULY 1, 2003] IC 5-2-5-16 and  
 40 IC 35-38-4-7, both as added by this act, apply only to a person who:

41 (1) was last adjudicated a delinquent child after June 30,  
 42 1993; or

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1           **(2) was last adjudicated a delinquent child before July 1, 1993,**  
2           **and petitions a court, the state police department, a juvenile**  
3           **justice agency, or a criminal justice agency that possesses**  
4           **criminal justice information to seal the person's criminal**  
5           **history information after June 30, 2003.**

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