

# COMMITTEE REPORT

## MADAM PRESIDENT:

**The Senate Committee on Corrections, Criminal, and Civil Matters, to which was referred House Bill No. 1410, 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:**

- 1           Page 1, delete lines 1 through 17.
- 2           Delete page 2.
- 3           Page 3, delete lines 1 through 17, begin a new paragraph and insert:
- 4           "SECTION 1. IC 10-13-3-11, AS AMENDED BY P.L.20-2006,
- 5           SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 6           JULY 1, 2007]: Sec. 11. (a) As used in this chapter, "limited criminal
- 7           history" means information with respect to any arrest or criminal
- 8           charge, which must include:
- 9                 (1) a disposition, **if the disposition is known;** and
- 10                (2) a photograph of the person who is the subject of the limited
- 11                criminal history, if a photograph is available.
- 12           (b) However, the term includes information about any arrest or
- 13           criminal charge that occurred less than one (1) year before the date of
- 14           a request even if no disposition has been entered:
- 15           SECTION 2. IC 10-13-3-11.5 IS ADDED TO THE INDIANA
- 16           CODE AS A NEW SECTION TO READ AS FOLLOWS
- 17           [EFFECTIVE JULY 1, 2007]: **Sec. 11.5. As used in this chapter,**
- 18           **"name based limited criminal history check" means a search of**
- 19           **criminal history data maintained by the department that:**
- 20                 (1) **is conducted using the subject's name and other**

1           **identifying information that reasonably ensures the**  
 2           **identification of the subject; and**

3           **(2) does not use fingerprint identification or another method**  
 4           **of positive identification.**

5           SECTION 3. IC 10-13-3-19 IS AMENDED TO READ AS  
 6           FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 19. As used in this  
 7           chapter, "request" means asking for release or inspection of a limited  
 8           criminal history by noncriminal justice organizations or individuals in  
 9           a manner that:

10           (1) **provides the subject's name and other information that**  
 11           reasonably ensures the identification of the subject of the inquiry;  
 12           and

13           (2) contains a statement of the purpose for which the information  
 14           is requested.

15           SECTION 4. IC 10-13-3-27, AS AMENDED BY P.L.1-2006,  
 16           SECTION 171, AND AS AMENDED BY P.L.140-2006, SECTION 5  
 17           AND P.L.173-2006, SECTION 5, IS CORRECTED AND AMENDED  
 18           TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 27. (a)  
 19           Except as provided in subsection (b), ~~on request in response to a~~  
 20           **request for a name based limited criminal history check from a**  
 21           **noncriminal justice organization or an individual**, a law  
 22           enforcement agency shall release a limited criminal history to or allow  
 23           inspection of a limited criminal history by ~~the~~ noncriminal justice  
 24           ~~organizations~~ **organization** or ~~individuals~~ **the individual** only if the  
 25           subject of the request:

26           (1) has applied for employment with ~~a~~ **the** noncriminal justice  
 27           organization or individual;

28           (2) has applied for a license and *has provided* criminal history  
 29           data ~~is~~ *as* required by law to be provided in connection with the  
 30           license;

31           (3) is a candidate for public office or a public official;

32           (4) is in the process of being apprehended by a law enforcement  
 33           agency;

34           (5) is placed under arrest for the alleged commission of a crime;

35           (6) has charged that the subject's rights have been abused  
 36           repeatedly by criminal justice agencies;

37           (7) is the subject of a judicial decision or determination with  
 38           respect to the setting of bond, plea bargaining, sentencing, or

- 1 probation;
- 2 (8) has volunteered services that involve contact with, care of, or
- 3 supervision over a child who is being placed, matched, or
- 4 monitored by a social services agency or a nonprofit corporation;
- 5 **(9) is employed by the noncriminal justice organization or the**
- 6 **individual to provide services that involve contact with, care**
- 7 **of, or supervision over:**
- 8 **(A) a child; or**
- 9 **(B) an individual who is:**
- 10 **(i) a mentally ill individual (as defined in IC 12-7-2-131);**
- 11 **(ii) physically disabled; or**
- 12 **(iii) a developmentally disabled individual (as defined in**
- 13 **IC 12-7-2-62);**
- 14 ~~(9)~~ **(10)** is currently residing in a location designated by the
- 15 department of child services (established by ~~IC 31-33-1.5-2)~~
- 16 ~~IC 31-25-1-1~~) or by a juvenile court as the out-of-home placement
- 17 for a child at the time the child will reside in the location;
- 18 ~~(10)~~ **(11)** has volunteered services at a public school (as defined
- 19 in IC 20-18-2-15) or nonpublic school (as defined in
- 20 IC 20-18-2-12) that involve contact with, care of, or supervision
- 21 over a student enrolled in the school;
- 22 ~~(11)~~ **(12)** is being investigated for welfare fraud by an investigator
- 23 of the division of family resources or a county office of family and
- 24 children;
- 25 ~~(12)~~ **(13)** is being sought by the parent locator service of the child
- 26 support bureau of the ~~division~~ *department of family and children;*
- 27 *child services;*
- 28 ~~(13)~~ **(14)** is or was required to register as a sex ~~and violent~~
- 29 offender under ~~IC 5-2-12; IC 11-8-8;~~ or
- 30 ~~(14)~~ **(15)** has been convicted of any of the following:
- 31 (A) Rape (IC 35-42-4-1), if the victim is less than eighteen
- 32 (18) years of age.
- 33 (B) Criminal deviate conduct (IC 35-42-4-2), if the victim is
- 34 less than eighteen (18) years of age.
- 35 (C) Child molesting (IC 35-42-4-3).
- 36 (D) Child exploitation (IC 35-42-4-4(b)).
- 37 (E) Possession of child pornography (IC 35-42-4-4(c)).
- 38 (F) Vicarious sexual gratification (IC 35-42-4-5).

- 1 (G) Child solicitation (IC 35-42-4-6).  
 2 (H) Child seduction (IC 35-42-4-7).  
 3 (I) Sexual misconduct with a minor as a felony (IC 35-42-4-9).  
 4 (J) Incest (IC 35-46-1-3), if the victim is less than eighteen  
 5 (18) years of age.

6 However, limited criminal history information obtained from the  
 7 National Crime Information Center may not be released under this  
 8 section except to the extent permitted by the Attorney General of the  
 9 United States.

10 (b) **In response to a request for a name based limited criminal**  
 11 **history check from the noncriminal justice organization**, a law  
 12 enforcement agency shall allow inspection of a limited criminal history  
 13 by and release a limited criminal history to **any of** the following  
 14 noncriminal justice organizations:

- 15 (1) Federally chartered or insured banking institutions.  
 16 (2) Officials of state and local government for any of the  
 17 following purposes:  
 18 (A) Employment with a state or local governmental entity.  
 19 (B) Licensing.  
 20 (3) Segments of the securities industry identified under 15 U.S.C.  
 21 78q(f)(2).

22 (c) **The department shall provide a noncriminal justice**  
 23 **organization or an individual who requests a limited criminal**  
 24 **history check under this section with the following notice in**  
 25 **writing:**

26 **"The results of the criminal background check you have**  
 27 **requested include only records of arrests or convictions that**  
 28 **occurred in Indiana. These results do not include any arrests**  
 29 **or convictions that may have occurred in another state, nor do**  
 30 **they include an arrest or delinquency finding that may have**  
 31 **occurred while the subject was a minor."**

32 ~~(c)~~ (d) Any person who **knowingly or intentionally** uses limited  
 33 criminal history for any purpose not specified under this section  
 34 commits a Class A misdemeanor.

35 SECTION 5. IC 10-13-3-33 IS AMENDED TO READ AS  
 36 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 33. (a) The council  
 37 shall adopt rules under IC 4-22-2 to:

- 38 (1) assure the completeness and accuracy of criminal history data;

- 1 (2) protect information from loss, alteration, destruction, or  
 2 improper direct access to the information files;  
 3 (3) prevent unreasonable interference with the regular discharge  
 4 of the duties of employees of law enforcement agencies; ~~and~~  
 5 **(4) establish procedures to ensure the uniform and efficient**  
 6 **transmission of criminal history data to the department,**  
 7 **including the development of an electronic format for the**  
 8 **submission of criminal history data; and**  
 9 ~~(4)~~ **(5) carry out this chapter.**

10 (b) If a person makes a challenge under section 31(b) of this  
 11 chapter, the department shall:

- 12 (1) make the changes requested, if it determines the data is in  
 13 error; or  
 14 (2) conduct a hearing under IC 4-21.5-3, if requested by the  
 15 person making the challenge.

16 (c) The rules adopted under this chapter must provide for inspection  
 17 in a reasonable and timely manner.

18 SECTION 6. IC 10-13-3-36, AS AMENDED BY SEA 526-2007,  
 19 SECTION 147, IS AMENDED TO READ AS FOLLOWS  
 20 [EFFECTIVE JULY 1, 2007]: Sec. 36. (a) The department may not  
 21 charge a fee for responding to a request for ~~the release of a name based~~  
 22 ~~limited criminal history record check~~ if the request is made by a  
 23 nonprofit organization:

- 24 (1) that has been in existence for at least ten (10) years; and  
 25 (2) that:  
 26 (A) has a primary purpose of providing an individual  
 27 relationship for a child with an adult volunteer if the request  
 28 is made as part of a background investigation of a prospective  
 29 adult volunteer for the organization;  
 30 (B) is a home health agency licensed under IC 16-27-1;  
 31 (C) is a community mental retardation and other  
 32 developmental disabilities center (as defined in IC 12-7-2-39);  
 33 (D) is a supervised group living facility licensed under  
 34 IC 12-28-5;  
 35 (E) is an area agency on aging designated under IC 12-10-1;  
 36 (F) is a community action agency (as defined in  
 37 IC 12-14-23-2);  
 38 (G) is the owner or operator of a hospice program licensed

1 under IC 16-25-3; or  
2 (H) is a community mental health center (as defined in  
3 IC 12-7-2-38).

4 (b) Except as provided in subsection (d), the department may not  
5 charge a fee for responding to a request for ~~the release of a name based~~  
6 limited criminal history **record check** made by the department of child  
7 services or the division of family resources if the request is made as  
8 part of a background investigation of an applicant for a license under  
9 IC 12-17.2 or IC 31-27.

10 (c) The department may not charge a fee for responding to a request  
11 for ~~the release of a name based~~ limited criminal history **check** if the  
12 request is made by a school corporation, special education cooperative,  
13 or nonpublic school (as defined in IC 20-18-2-12) as part of a  
14 background investigation of a prospective or current employee or a  
15 prospective or current adult volunteer for the school corporation,  
16 special education cooperative, or nonpublic school.

17 (d) As used in this subsection, "state agency" means an authority, a  
18 board, a branch, a commission, a committee, a department, a division,  
19 or another instrumentality of state government, including the executive  
20 and judicial branches of state government, the principal secretary of the  
21 senate, the principal clerk of the house of representatives, the executive  
22 director of the legislative services agency, a state elected official's  
23 office, or a body corporate and politic, but does not include a state  
24 educational institution. The department may not charge a fee for  
25 responding to a request for ~~the release of a name based~~ limited  
26 criminal history **check** if the request is made:

- 27 (1) by a state agency; and  
28 (2) through the computer gateway that is administered by the  
29 office of technology established by IC 4-13.1-2-1.

30 (e) The department may not charge a fee for responding to a request  
31 for ~~the release of a name based~~ limited criminal history **record check**  
32 made by the Indiana professional licensing agency established by  
33 IC 25-1-5-3 if the request is:

- 34 (1) made through the computer gateway that is administered by  
35 the office of technology; and  
36 (2) part of a background investigation of a practitioner or an  
37 individual who has applied for a license issued by a board (as  
38 defined in IC 25-1-9-1).

1 (f) The department may not charge a church or religious society a  
 2 fee for responding to a request for ~~the release of a name based~~ limited  
 3 criminal history record **check** if:

4 (1) the church or religious society is a religious organization  
 5 exempt from federal income taxation under Section 501 of the  
 6 Internal Revenue Code;

7 (2) the request is made as part of a background investigation of a  
 8 prospective or current employee or a prospective or current adult  
 9 volunteer; and

10 (3) the employee or volunteer works in a nonprofit program or  
 11 ministry of the church or religious society, including a child care  
 12 ministry registered under IC 12-17.2-6.

13 **(g) The department may not charge the school of education of**  
 14 **a public or private postsecondary educational institution a fee for**  
 15 **responding to a request for a name based limited criminal history**  
 16 **record check if the request is made as part of a background**  
 17 **investigation of a student before or after the student begins the**  
 18 **student's field or classroom experience.**

19 SECTION 7. IC 12-7-2-61 IS AMENDED TO READ AS  
 20 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 61. "Developmental  
 21 disability" means the following:

22 (1) Except as provided in subdivision (2), before July 1, 1993, the  
 23 term means a disability of an individual that:

24 (A) is attributable to:

25 (i) mental retardation, cerebral palsy, epilepsy, or autism;

26 (ii) any other condition found to be closely related to mental  
 27 retardation, because this condition results in similar  
 28 impairment of general intellectual functioning or adaptive  
 29 behavior or requires similar treatment and services; or

30 (iii) dyslexia resulting from a disability described in this  
 31 subdivision;

32 (B) originates before the person is eighteen (18) years of age;

33 (C) has continued or is expected to continue indefinitely; and

34 (D) constitutes a substantial disability to the individual's  
 35 ability to function normally in society.

36 (2) For purposes of IC 12-10-7 and IC 12-28-1 before July 1,  
 37 1993, ~~and~~ for purposes of ~~IC 12-12~~ **this title** after June 30, 1993, ~~and~~  
 38 **for purposes of IC 10-13-3-27**, the term means a severe, chronic

- 1 disability of an individual that:
- 2 (A) is attributable to a mental or physical impairment, or a
- 3 combination of mental and physical impairments (other than
- 4 a sole diagnosis of mental illness);
- 5 (B) is manifested before the individual is twenty-two (22)
- 6 years of age;
- 7 (C) is likely to continue indefinitely;
- 8 (D) reflects the individual's need for a combination and
- 9 sequence of special, interdisciplinary, or generic care,
- 10 treatment, or other services that are of lifelong or extended
- 11 duration and are individually planned and coordinated; and
- 12 (E) results in substantial limitations in at least three (3) of the
- 13 following:
- 14 (i) Self-care.
- 15 (ii) Receptive and expressive language.
- 16 (iii) Learning.
- 17 (iv) Mobility.
- 18 (v) Self-direction.
- 19 (vi) Capacity for independent living.
- 20 (vii) Economic self-sufficiency."

21 Page 3, line 20, after "(a)" insert "**As used in this chapter,**

22 **"expanded criminal history check" means a criminal history**

23 **background check of an individual that includes a search of**

24 **records from a period of ten (10) years preceding the date of the**

25 **background check that are maintained by:**

- 26 (1) a county in Indiana; and
- 27 (2) a county in another state, if the individual who is the
- 28 subject of the background check resided in another state
- 29 within the ten (10) year period preceding the date of the
- 30 background check.
- 31 (b)".

32 Page 3, line 28, strike "or".

33 Page 3, line 30, after "corporation;" insert "or

34 (4) volunteer with the school corporation;".

35 Page 3, line 33, strike "(b)" and insert "(c)".

36 Page 3, line 36, delete "(c)" and insert "(d)".

37 Page 3, line 36, delete "criminal" and insert "check of".

38 Page 3, delete lines 37 through 40.

- 1 Page 3, line 41, delete "(2)".
- 2 Page 3, line 41, delete ";" and insert ", and:
- 3 (1) an expanded criminal history check; or
- 4 (2) a national criminal history background check;".
- 5 Page 3, run in lines 36 through 41.
- 6 Page 4, line 1, after "2007" insert "**and for each individual having**
- 7 **direct contact with children who enters into a contract with the**
- 8 **school corporation or is employed by an entity that has a contract**
- 9 **with a school corporation after June 30, 2007".**
- 10 Page 4, line 1, delete "A background check of in-state criminal" and
- 11 insert "**A background check required under this subsection must be**
- 12 **completed not later than three (3) months after the individual**
- 13 **begins employment or volunteer service with the school**
- 14 **corporation. In addition, a policy adopted under this section must**
- 15 **require the person who provides the background check to the**
- 16 **school corporation to include a disclaimer clearly explaining what**
- 17 **information is not included in the background check, and**
- 18 **prominently noting that an arrest or a pending charge is not**
- 19 **evidence of guilt."**
- 20 Page 4, delete lines 2 through 6.
- 21 Page 4, line 7, delete "(d)" and insert "(e)".
- 22 Page 4, line 8, delete "(c)" and insert "(d)".
- 23 Page 4, line 15, delete "(e)" and insert "(f)".
- 24 Page 4, line 17 after "entity" insert "**that is subject to the Fair**
- 25 **Credit Reporting Act (15 U.S.C. 1681 et seq.)"**.
- 26 Page 4, line 18, after "section." insert "**In evaluating a private**
- 27 **entity, the school corporation shall consider the entity's compliance**
- 28 **with subsection (j)."**
- 29 Page 4, line 19, delete "(f)" and insert "(g)".
- 30 Page 4, line 22, strike "limited".
- 31 Page 4, line 22, after "each" insert "**volunteer or"**.
- 32 Page 4, line 25, after "the" insert "**volunteer's or"**.
- 33 Page 4, line 27, after "Each" insert "**volunteer or"**.
- 34 Page 4, line 30, strike "limited".
- 35 Page 4, line 30, strike "or a national criminal history".
- 36 Page 4, line 31, strike "background check".
- 37 Page 4, line 31, after "the" insert "**volunteer or"**.
- 38 Page 4, line 33, delete "." and insert "**or the volunteer begins**

- 1       **volunteering.**"
- 2       Page 4, line 34, before "individual" insert "**volunteer or**".
- 3       Page 4, line 35, strike "national".
- 4       Page 4, line 36, after "Each" insert "**volunteer or**".
- 5       Page 4, line 37, before "individual" insert "**volunteer begins**
- 6       **volunteering or the**".
- 7       Page 4, line 38, after "of the" insert "**volunteer's or**".
- 8       Page 4, line 40, after "Each" insert "**volunteer or**".
- 9       Page 4, line 41, before "individual" insert "**the volunteer begins**
- 10       **volunteering or**".
- 11       Page 5, line 2, after "of the" insert "**volunteer's or**".
- 12       Page 5, line 4, before "individual's" insert "**volunteer's or**".
- 13       Page 5, line 8, after "Each" insert "**volunteer or**".
- 14       Page 5, line 9, before "individual" insert "**volunteer or**".
- 15       Page 5, line 10, before "individual's" insert "**volunteer's or**".
- 16       Page 5, line 10, strike "limited".
- 17       Page 5, line 13, after "employment" insert "**or the volunteer's**
- 18       **volunteer opportunity**".
- 19       Page 5, line 16, strike "or".
- 20       Page 5, line 18, after "corporation;" insert "**or**
- 21       **(C) volunteers with a school corporation;**".
- 22       Page 5, line 22, after "corporation" insert "**or who volunteers**".
- 23       Page 5, line 23, after "the" insert "**volunteer has or the**".
- 24       Page 5, line 29, after "the contract" insert "**or volunteer**
- 25       **opportunity**".
- 26       Page 5, line 29, after "a contract" insert "**or volunteer**
- 27       **opportunity**".
- 28       Page 5, line 36, delete "(g)" and insert "**(h)**".
- 29       Page 5, line 36, strike "limited".
- 30       Page 5, line 38, strike "limited".
- 31       Page 5, line 38, after "history." delete "The" and insert "**However,**
- 32       **the**".
- 33       Page 5, line 39, delete "is responsible for all" and insert "**may elect**
- 34       **to pay**".
- 35       Page 5, line 41, delete "(c)" and insert "**(d)**".
- 36       Page 5, line 42, delete "(h)" and insert "**(i)**".
- 37       Page 6, after line 1, begin a new paragraph and insert:

1           **"(j) A private entity that has entered into a contract with a**  
 2 **school corporation to perform a criminal history check under this**  
 3 **section may not use the information compiled as part of the**  
 4 **criminal history check of the individual for any other purpose**  
 5 **without the express written consent of the individual who is the**  
 6 **subject of the criminal history check. A private entity that violates**  
 7 **this subsection commits a Class A infraction.**

8           SECTION 8. IC 34-30-2-149.5 IS ADDED TO THE INDIANA  
 9 CODE AS A NEW SECTION TO READ AS FOLLOWS  
 10 [EFFECTIVE JULY 1, 2007]: **Sec. 149.5. IC 35-38-1-28 (Concerning**  
 11 **errors or omissions in the transmission of fingerprints, case history**  
 12 **data, or sentencing data).**

13           SECTION 9. IC 35-38-1-28 IS ADDED TO THE INDIANA CODE  
 14 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
 15 1, 2007]: **Sec. 28. (a) Except as provided in subsection (c),**  
 16 **immediately after sentencing for an offense, the court shall order**  
 17 **the defendant to be fingerprinted by an individual qualified to take**  
 18 **fingerprints. The fingerprints may be recorded in any reliable**  
 19 **manner, including by the use of a digital fingerprinting device.**

20           **(b) The court shall order a law enforcement officer to provide**  
 21 **the fingerprints to the prosecuting attorney and the state police**  
 22 **department, in hard copy or in an electronic format approved by**  
 23 **the security and privacy council established by IC 10-13-3-34.**

24           **(c) The court is not required to order the defendant to be**  
 25 **fingerprinted if the defendant was previously arrested and**  
 26 **processed at the county jail.**

27           **(d) A clerk, court, law enforcement officer, or prosecuting**  
 28 **attorney is immune from civil liability for an error or omission in**  
 29 **the transmission of fingerprints, case history data, or sentencing**  
 30 **data, unless the error or omission constitutes willful or wanton**  
 31 **misconduct or gross negligence.**

32           SECTION 3. IC 35-38-5-1 IS AMENDED TO READ AS  
 33 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 1. (a) Whenever:

34           (1) an individual is arrested but no criminal charges are filed  
 35 against the individual; ~~or~~

36           (2) ~~at a criminal charges charge~~ filed against an individual ~~are~~  
 37 ~~is dropped because:~~

38           ~~(A) of a mistaken identity;~~

- 1           ~~(B) no offense was in fact committed; or~~  
 2           ~~(C) there was an absence of probable cause; dismissed;~~  
 3           **(3) an individual is arrested and charged with committing an**  
 4           **offense and is subsequently found not guilty of committing the**  
 5           **offense; or**  
 6           **(4) a charge, arrest, or conviction incorrectly appears on a**  
 7           **person's criminal history as a result of identity deception,**  
 8           **identity theft, or mistake;**

9           the individual may petition the court for expungement of the records  
 10          related to the arrest.

11          (b) A petition for expungement of records must be verified and filed  
 12          in the court in which the charges were filed, or if no criminal charges  
 13          were filed, in a court with criminal jurisdiction in the county where the  
 14          arrest occurred. The petition must set forth:

- 15               (1) the date of the arrest;  
 16               (2) the charge;  
 17               (3) the law enforcement agency employing the arresting officer;  
 18               (4) any other known identifying information, such as the name of  
 19               the arresting officer, case number, or court cause number;  
 20               (5) the date of the petitioner's birth; and  
 21               (6) the petitioner's Social Security number.

22          (c) A copy of the petition shall be served on the law enforcement  
 23          agency and the state central repository for records.

24          (d) Upon receipt of a petition for expungement, the law enforcement  
 25          agency shall notify the court of the name and address of each agency  
 26          to which any records related to the arrest were forwarded. The clerk  
 27          shall immediately send a copy of the petition to each of those agencies.  
 28          Any agency desiring to oppose the expungement shall file a notice of  
 29          opposition with the court setting forth reasons for resisting the  
 30          expungement along with any sworn statements from individuals who  
 31          represent the agency that explain the reasons for resisting the  
 32          expungement within thirty (30) days after the petition is filed. A copy  
 33          of the notice of opposition and copies of any sworn statements shall be  
 34          served on the petitioner in accordance with the Rules of Trial  
 35          Procedure. The court shall:

- 36               (1) summarily grant the petition;  
 37               (2) set the matter for hearing; or  
 38               (3) summarily deny the petition, if the court determines that:

1 (A) the petition is insufficient; or  
 2 (B) based on information contained in sworn statements  
 3 submitted by individuals who represent an agency, the  
 4 petitioner is not entitled to an expungement of records.

5 (e) If a notice of opposition is filed and the court does not  
 6 summarily grant or summarily deny the petition, the court shall set the  
 7 matter for a hearing.

8 (f) After a hearing is held under this section, ~~the petition shall be~~  
 9 ~~granted unless~~ the court **may grant the petition if the court finds**

10 ~~(1) that~~ the conditions in subsection (a) have ~~not~~ been met. **In**  
 11 **determining whether to grant the petition, the court shall**  
 12 **consider whether:**

13 ~~(2) (1)~~ the individual has a record of arrests other than minor  
 14 traffic offenses; ~~or and~~

15 ~~(3) (2)~~ additional criminal charges are pending against the  
 16 individual.

17 SECTION 10. IC 35-38-5-5, AS AMENDED BY P.L.2-2005,  
 18 SECTION 124, IS AMENDED TO READ AS FOLLOWS  
 19 [EFFECTIVE JULY 1, 2007]: Sec. 5. (a) This section does not apply  
 20 to a request to a law enforcement agency for the release or inspection  
 21 of a limited criminal history to a noncriminal justice organization or  
 22 individual whenever the subject of the request is described in  
 23 IC 10-13-3-27(a)(8), **IC 10-13-3-27(a)(9)**, or ~~IC 10-13-3-27(a)(12)~~.  
 24 **IC 10-13-3-27(a)(13)**.

25 (b) A person may petition the state police department to limit access  
 26 to the person's limited criminal history to criminal justice agencies if  
 27 more than fifteen (15) years have elapsed since the date the person was  
 28 discharged from probation, imprisonment, or parole (whichever is  
 29 later) for the last conviction for a crime.

1           (c) When a petition is filed under subsection (b), the state police  
2 department shall not release limited criminal history to noncriminal  
3 justice agencies under IC 10-13-3-27."

4           Renumber all SECTIONS consecutively.  
            (Reference is to HB 1410 as reprinted February 13, 2007.)

**and when so amended that said bill do pass.**

Committee Vote: Yeas 8, Nays 0.

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**Steele**

**Chairperson**