



Reprinted  
March 27, 2009

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**ENGROSSED**  
**HOUSE BILL No. 1462**

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DIGEST OF HB 1462 (Updated March 26, 2009 2:45 pm - DI 71)

**Citations Affected:** IC 4-6; IC 10-13; IC 13-19; IC 20-19; IC 20-24; IC 20-26; IC 20-28; IC 20-33; IC 34-6; IC 34-13; IC 34-30.

**Synopsis:** Various education matters. Requires the attorney general and the state superintendent of public instruction to publicize annually to teachers that the attorney general may defend suits against teachers and that teachers have qualified immunity for reasonable acts of discipline. Requires a school corporation, a charter school, and an accredited nonpublic school to conduct an expanded criminal history background check before employing a potential employee in any position within the school corporation. Adds possession of child pornography to the list of felonies for which a teacher may lose the teacher's license. Gives qualified immunity for certain school employees for reasonable acts of discipline. Establishes an administrative procedure for a student who has been removed from a classroom.

**Effective:** Upon passage; July 1, 2009; January 1, 2010.

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**Kersey, Porter, Behning, Barnes**

(SENATE SPONSORS — LUBBERS, SKINNER, KRUSE)

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January 14, 2009, read first time and referred to Committee on Education.  
February 5, 2009, amended, reported — Do Pass. Referred to Committee on Ways and Means pursuant to Rule 127.  
February 17, 2009, amended, reported — Do Pass.  
February 20, 2009, read second time, amended, ordered engrossed. Engrossed.  
February 25, 2009, read third time, passed. Yeas 97, nays 0.

SENATE ACTION

March 3, 2009, read first time and referred to Committee on Education and Career Development.  
March 19, 2009, amended, reported favorably — Do Pass.  
March 26, 2009, read second time, amended, ordered engrossed.

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EH 1462—LS 7424/DI 109+



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March 27, 2009

First Regular Session 116th General Assembly (2009)

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 2008 Regular Session of the General Assembly.

## ENGROSSED HOUSE BILL No. 1462

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

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

1 SECTION 1. IC 4-6-2-1.5, AS AMENDED BY P.L.78-2005,  
2 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
3 JULY 1, 2009]: Sec. 1.5. (a) Whenever any state governmental official  
4 or employee, whether elected or appointed, is made a party to a suit,  
5 and the attorney general determines that said suit has arisen out of an  
6 act which such official or employee in good faith believed to be within  
7 the scope of the official's or employee's duties as prescribed by statute  
8 or duly adopted regulation, the attorney general shall defend such  
9 person throughout such action.

10 (b) Whenever a teacher (as defined in IC 20-18-2-22) is made a  
11 party to a civil suit, and the attorney general determines that the suit  
12 has arisen out of an act that the teacher in good faith believed was  
13 within the scope of the teacher's duties in enforcing discipline policies  
14 developed under IC 20-33-8-12, the attorney general shall defend the  
15 teacher throughout the action.

16 (c) **Not later than August 15 of each year:**  
17 (1) **the attorney general shall draft; and**

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1           **(2) the state superintendent of public instruction shall**  
 2           **disseminate in:**  
 3               **(A) written;**  
 4               **(B) electronic; or**  
 5               **(C) other;**  
 6           **form;**

7           **a notice to each teacher concerning the teacher's qualified**  
 8           **immunity under IC 20-33-8-8(b)(3) and rights under this section.**

9           ~~(c)~~ **(d)** Whenever a school corporation (as defined in IC 20-26-2-4)  
 10           is made a party to a civil suit and the attorney general determines that  
 11           the suit has arisen out of an act authorized under IC 20-30-5-0.5 or  
 12           IC 20-30-5-4.5, the attorney general shall defend the school corporation  
 13           throughout the action.

14           ~~(d)~~ **(e)** A determination by the attorney general under subsection (a),  
 15           (b), or ~~(c)~~ **(d)** shall not be admitted as evidence in the trial of any such  
 16           civil action for damages.

17           ~~(e)~~ **(f)** Nothing in this chapter shall be construed to deprive any such  
 18           person of the person's right to select counsel of the person's own choice  
 19           at the person's own expense.

20           SECTION 2. IC 10-13-3-36, AS AMENDED BY P.L.2-2007,  
 21           SECTION 147, IS AMENDED TO READ AS FOLLOWS  
 22           [EFFECTIVE JANUARY 1, 2010]: Sec. 36. (a) The department may  
 23           not charge a fee for responding to a request for the release of a limited  
 24           criminal history record if the request is made by a nonprofit  
 25           organization:

- 26           (1) that has been in existence for at least ten (10) years; and
- 27           (2) that:
  - 28               (A) has a primary purpose of providing an individual
  - 29               relationship for a child with an adult volunteer if the request
  - 30               is made as part of a background investigation of a prospective
  - 31               adult volunteer for the organization;
  - 32               (B) is a home health agency licensed under IC 16-27-1;
  - 33               (C) is a community mental retardation and other
  - 34               developmental disabilities center (as defined in IC 12-7-2-39);
  - 35               (D) is a supervised group living facility licensed under
  - 36               IC 12-28-5;
  - 37               (E) is an area agency on aging designated under IC 12-10-1;
  - 38               (F) is a community action agency (as defined in
  - 39               IC 12-14-23-2);
  - 40               (G) is the owner or operator of a hospice program licensed
  - 41               under IC 16-25-3; or
  - 42               (H) is a community mental health center (as defined in

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IC 12-7-2-38).

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

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

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

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

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

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

(f) The department may not charge a church or religious society a fee for responding to a request for the release of a limited criminal history record if:

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

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- 1 (2) the request is made as part of a background investigation of a
- 2 prospective or current employee or a prospective or current adult
- 3 volunteer; and
- 4 (3) the employee or volunteer works in a nonprofit program or
- 5 ministry of the church or religious society, including a child care
- 6 ministry registered under IC 12-17.2-6.

7 **(g) The department may not charge the school of education of**  
 8 **a public or private postsecondary educational institution a fee for**  
 9 **responding to a request for the release of a limited criminal history**  
 10 **record if the request is made as part of a background investigation**  
 11 **of a student before or after the student begins the student's field or**  
 12 **classroom experience. However, the department may charge the**  
 13 **student a fee for responding to a request for the release of a limited**  
 14 **criminal history record.**

15 SECTION 3. IC 13-19-5-3, AS AMENDED BY P.L.221-2007,  
 16 SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 17 JULY 1, 2009]: Sec. 3. (a) The authority shall do the following under  
 18 this chapter:

- 19 (1) Be responsible for the management of all aspects of the
- 20 program.
- 21 (2) Prepare and provide program information.
- 22 (3) Negotiate the negotiable aspects of each financial assistance
- 23 agreement and submit the agreement to the budget agency for
- 24 approval.
- 25 (4) Sign each financial assistance agreement.
- 26 (5) Review each proposed project and financial assistance
- 27 agreement to determine if the project meets the credit, economic,
- 28 or fiscal criteria established by guidelines of the authority.
- 29 (6) Periodically inspect or cause to be inspected projects to
- 30 determine compliance with this chapter.
- 31 (7) Conduct or cause to be conducted an evaluation concerning
- 32 the financial ability of a political subdivision to:
- 33 (A) pay a loan or other financial assistance and other
- 34 obligations evidencing loans or other financial assistance, if
- 35 required to be paid; and
- 36 (B) otherwise comply with terms of the financial assistance
- 37 agreement.
- 38 (8) Evaluate or cause to be evaluated the technical aspects of the
- 39 political subdivision's:
- 40 (A) environmental assessment of potential brownfield
- 41 properties;
- 42 (B) proposed remediation; and

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1 (C) remediation activities conducted on brownfield properties.  
 2 (9) Inspect or cause to be inspected remediation activities  
 3 conducted under this chapter.  
 4 (10) Act as a liaison to the United States Environmental  
 5 Protection Agency regarding the program.  
 6 (11) Be a point of contact for political subdivisions concerning  
 7 questions about the program.  
 8 (12) Enter into memoranda of understanding, as necessary, with  
 9 the department and the budget agency concerning the  
 10 administration and management of the fund and the program.  
 11 (b) The authority may do the following under this chapter:  
 12 (1) Undertake activities to make private environmental insurance  
 13 products available to encourage and facilitate the cleanup and  
 14 redevelopment of brownfield properties.  
 15 (2) Enter into agreements with political subdivisions to manage  
 16 any of the following conducted on brownfield properties:  
 17 (A) Environmental assessment activities.  
 18 (B) Environmental remediation activities.  
 19 (c) The authority may:  
 20 (1) negotiate with;  
 21 (2) select; and  
 22 (3) contract with;  
 23 one (1) or more insurers to provide insurance products as described in  
 24 subsection (b)(1).  
 25 (d) Notwithstanding IC 13-23, IC 13-24-1, and IC 13-25-4, the  
 26 authority is not liable for any contamination addressed by the authority  
 27 under an agreement under subsection (b)(2) unless existing  
 28 contamination on the brownfield is exacerbated due to gross negligence  
 29 or intentional misconduct by the authority.  
 30 (e) For purposes of subsection (d), reckless, willful, or wanton  
 31 misconduct constitutes gross negligence.  
 32 (f) The authority is entitled to the same governmental immunity  
 33 afforded a political subdivision under ~~IC 34-13-3-3(23)~~  
 34 **IC 34-13-3-3(22)** for any act taken to investigate or remediate  
 35 hazardous substances, petroleum, or other pollutants associated with a  
 36 brownfield under an agreement under subsection (b)(2).  
 37 SECTION 4. IC 20-19-3-9 IS ADDED TO THE INDIANA CODE  
 38 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
 39 1, 2009]: **Sec. 9. The department shall establish and maintain a**  
 40 **searchable data base of information concerning employees and**  
 41 **former employees who have been reported to the department**  
 42 **under IC 20-28-5-8. The department shall make the data base**

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**available to the public.**

SECTION 5. IC 20-24-8-5, AS AMENDED BY P.L.2-2006, SECTION 111, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 5. The following statutes and rules and guidelines adopted under the following statutes apply to a charter school:

- (1) IC 5-11-1-9 (required audits by the state board of accounts).
- (2) IC 20-39-1-1 (unified accounting system).
- (3) IC 20-35 (special education).
- (4) IC 20-26-5-10 ~~and IC 20-28-5-9~~ (criminal history).
- (5) IC 20-26-5-6 (subject to laws requiring regulation by state agencies).
- (6) IC 20-28-7-14 (void teacher contract when two (2) contracts are signed).
- (7) IC 20-28-10-12 (nondiscrimination for teacher marital status).
- (8) IC 20-28-10-14 (teacher freedom of association).
- (9) IC 20-28-10-17 (school counselor immunity).
- (10) For conversion charter schools only, IC 20-28-6, IC 20-28-7, IC 20-28-8, IC 20-28-9, and IC 20-28-10.
- (11) IC 20-33-2 (compulsory school attendance).
- (12) IC 20-33-3 (limitations on employment of children).
- (13) IC 20-33-8-19, IC 20-33-8-21, and IC 20-33-8-22 (student due process and judicial review).
- (14) IC 20-33-8-16 (firearms and deadly weapons).
- (15) IC 20-34-3 (health and safety measures).
- (16) IC 20-33-9 (reporting of student violations of law).
- (17) IC 20-30-3-2 and IC 20-30-3-4 (patriotic commemorative observances).
- (18) IC 20-31-3, IC 20-32-4, IC 20-32-5, IC 20-32-6, IC 20-32-8, or any other statute, rule, or guideline related to standardized testing (assessment programs, including remediation under the assessment programs).
- (19) IC 20-33-7 (parental access to education records).
- (20) IC 20-31 (accountability for school performance and improvement).

SECTION 6. IC 20-26-1-1, AS ADDED BY P.L.1-2005, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: (a) Sec. 1. IC 20-26-1 through IC 20-26-5 and IC 20-26-7 apply to all school corporations.

**(b) Notwithstanding subsection (a), IC 20-26-5-10 applies to:**

- (1) a school corporation;**
- (2) a charter school; and**

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**(3) an accredited nonpublic school.**  
SECTION 7. IC 20-26-2-1.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 1.5. "Expanded criminal history check" means a criminal history background check of an individual that includes:**

- (1) a:**
  - (A) search of the records maintained by all counties in Indiana in which the individual who is the subject of the background check resided;**
  - (B) search of the records maintained by all counties or similar governmental units in another state, if the individual who is the subject of the background check resided in another state; and**
  - (C) check of:**
    - (i) sex offender registries in all fifty (50) states; or**
    - (ii) the national sex offender registry maintained by the United States Department of Justice; or**
- (2) a:**
  - (A) national criminal history background check (as defined in IC 10-13-3-12); and**
  - (B) check of:**
    - (i) sex offender registries in all fifty (50) states; or**
    - (ii) the national sex offender registry maintained by the United States Department of Justice.**

SECTION 8. IC 20-26-5-10, AS ADDED BY P.L.1-2005, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 10. (a) A school corporation, including a ~~school township~~ charter school and an accredited nonpublic school, shall adopt a policy concerning criminal history information for individuals who:**

- (1) apply for:**
    - (A) employment with the school corporation; or**
    - (B) employment with an entity with which the school corporation contracts for services;**
  - (2) seek to enter into a contract to provide services to the school corporation; or**
  - (3) are employed by an entity that seeks to enter into a contract to provide services to the school corporation;**
- if the individuals are likely to have direct, ongoing contact with children within the scope of the individuals' employment.

**(b) A school corporation, including a ~~school township~~ charter school and an accredited nonpublic school, shall administer a policy**

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1 adopted under this section uniformly for all individuals to whom the  
 2 policy applies. A policy adopted under this section ~~may~~ **must** require  
 3 ~~any of the following:~~ **that the school corporation, charter school, or**  
 4 **accredited nonpublic school conduct an expanded criminal history**  
 5 **check**

6 (1) ~~The school corporation, including a school township, may~~  
 7 ~~request limited criminal history information concerning each~~  
 8 ~~applicant for noncertificated employment or certificated~~  
 9 ~~employment from a local or state law enforcement agency before~~  
 10 ~~or not later than three (3) months after the applicant's employment~~  
 11 ~~by the school corporation,~~ **charter school, or accredited**  
 12 **nonpublic school.**

13 (2) Each individual hired for noncertificated employment or  
 14 certificated employment may be required to provide a written  
 15 consent for the school corporation, **charter school, or accredited**  
 16 **nonpublic school** to request under ~~IC 10-13-3~~ limited criminal  
 17 ~~history information or a national criminal history background~~ **an**  
 18 **expanded criminal history** check concerning the individual  
 19 before or not later than three (3) months after the individual's  
 20 employment by the school corporation. The school corporation,  
 21 **charter school, or accredited nonpublic school** may require the  
 22 individual to provide a set of fingerprints and pay any fees  
 23 required for a ~~national criminal history background~~ **the expanded**  
 24 **criminal history** check.

25 (3) Each individual hired for noncertificated employment may be  
 26 required at the time the individual is hired to submit a certified  
 27 copy of the individual's limited criminal history (as defined in  
 28 ~~IC 10-13-3-11~~) to the school corporation.

29 (4) Each individual hired for noncertificated employment may be  
 30 required at the time the individual is hired to:

31 (A) submit a request to the Indiana central repository for  
 32 limited criminal history information under ~~IC 10-13-3~~;

33 (B) obtain a copy of the individual's limited criminal history;  
 34 and

35 (C) submit to the school corporation the individual's limited  
 36 criminal history and a document verifying a disposition (as  
 37 defined in ~~IC 10-13-3-7~~) that does not appear on the limited  
 38 criminal history.

39 (5) Each applicant for noncertificated employment or certificated  
 40 employment may be required at the time the individual applies to  
 41 answer questions concerning the individual's ~~limited~~ **expanded**  
 42 **criminal history check**. The failure to answer honestly questions

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1 asked under this ~~subdivision~~ **subsection** is grounds for  
 2 termination of the employee's employment.

3 (6) Each individual that:

4 (A) seeks to enter into a contract to provide services to a  
 5 school corporation; or

6 (B) is employed by an entity that seeks to enter into a contract  
 7 with a school corporation;

8 may be required at the time the contract is formed to comply with  
 9 the procedures described in subdivisions (2), (4), and (5): An  
 10 individual who is employed by an entity that seeks to enter into a  
 11 contract with a school corporation to provide student services in  
 12 which the entity's employees have direct contact with students in  
 13 a school based program may be required to provide the consent  
 14 described in subdivision (2) or the information described in  
 15 subdivisions (4) and (5) to either the individual's employer or the  
 16 school corporation. Failure to comply with subdivisions (2), (4),  
 17 and (5), as required by the school corporation, is grounds for  
 18 termination of the contract. An entity that enters into a contract  
 19 with a school corporation to provide student services in which the  
 20 entity's employees have direct contact with students in a school  
 21 based program is allowed to obtain limited criminal history  
 22 information or a national criminal history background check  
 23 regarding the entity's applicants or employees in the same manner  
 24 that a school corporation may obtain the information.

25 (c) If an individual is required to obtain a limited criminal history  
 26 under this section, the individual is responsible **The applicant is**  
 27 **responsible** for all costs associated with obtaining the limited  
 28 **expanded** criminal history check. **An applicant may not be required**  
 29 **by a school corporation, charter school, or accredited nonpublic**  
 30 **school to obtain an expanded criminal history check more than one**  
 31 **(1) time during a five (5) year period.**

32 (d) (c) Information obtained under this section must be used in  
 33 accordance with ~~IC 10-13-3-29~~ law.

34 SECTION 9. IC 20-28-4-11, AS ADDED BY P.L.150-2006,  
 35 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 36 JULY 1, 2009]: Sec. 11. (a) This section applies only to:

37 (1) a school corporation; or

38 (2) a subject area;

39 that is designated by the state board as having an insufficient supply of  
 40 licensed teachers.

41 (b) The governing body of a school corporation or the appointing  
 42 authority of an accredited nonpublic school may employ a program

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1 participant if the program participant is hired to teach in a subject area  
2 or a school corporation to which this section applies.

3 (c) Before employing a program participant under subsection (b),  
4 the superintendent of the school corporation must make a  
5 determination that one (1) of the following conditions exists:

6 (1) There is no fully certified and highly qualified teacher  
7 available for the position.

8 (2) The program participant is the best qualified candidate for the  
9 position.

10 (d) A program participant who is employed under this section is  
11 eligible to receive a transition to teaching permit. The transition to  
12 teaching permit is valid for three (3) years, and may not be renewed.  
13 ~~IC 20-28-5-9 applies to a program participant who applies for a~~  
14 ~~transition to teaching permit.~~

15 (e) A program participant who is employed under this section:

16 (1) shall enter into either:

17 (A) a regular teacher's contract under IC 20-28-6-5; or

18 (B) a temporary teacher's contract under IC 20-28-6-6, if  
19 replacing a teacher on a leave of absence;

20 (2) is eligible to participate in a mentor teacher program; and

21 (3) satisfies the field or classroom experience component of the  
22 program under section 4(3) of this chapter.

23 (f) The state board:

24 (1) shall review; and

25 (2) may renew;

26 the designation of a school corporation or a subject area as having an  
27 insufficient supply of licensed teachers not more than two (2) years  
28 following the initial designation under subsection (a).

29 SECTION 10. IC 20-28-5-8, AS AMENDED BY P.L.151-2006,  
30 SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

31 JULY 1, 2009]: Sec. 8. (a) This section applies when a prosecuting  
32 attorney knows that a licensed employee of a public school or a  
33 nonpublic school has been convicted of an offense listed in subsection

34 (c). The prosecuting attorney shall immediately give written notice of  
35 the conviction to the following:

36 (1) The state superintendent.

37 (2) Except as provided in subdivision (3), the superintendent of  
38 the school corporation that employs the licensed employee or the  
39 equivalent authority if a nonpublic school employs the licensed

40 employee.

41 (3) The presiding officer of the governing body of the school  
42 corporation that employs the licensed employee, if the convicted

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1 licensed employee is the superintendent of the school corporation.  
 2 (b) The superintendent of a school corporation, presiding officer of  
 3 the governing body, or equivalent authority for a nonpublic school shall  
 4 immediately notify the state superintendent when the individual knows  
 5 that a current or former licensed employee of the public school or  
 6 nonpublic school has been convicted of an offense listed in subsection  
 7 (c), **or when the governing body or equivalent authority for a**  
 8 **nonpublic school takes any final action in relation to an employee**  
 9 **who engaged in any offense listed in subsection (c).**  
 10 (c) The department, after holding a hearing on the matter, shall  
 11 permanently revoke the license of a person who is known by the  
 12 department to have been convicted of any of the following felonies:  
 13 (1) Kidnapping (IC 35-42-3-2), if the victim is less than eighteen  
 14 (18) years of age.  
 15 (2) Criminal confinement (IC 35-42-3-3), if the victim is less than  
 16 eighteen (18) years of age.  
 17 (3) Rape (IC 35-42-4-1), if the victim is less than eighteen (18)  
 18 years of age.  
 19 (4) Criminal deviate conduct (IC 35-42-4-2), if the victim is less  
 20 than eighteen (18) years of age.  
 21 (5) Child molesting (IC 35-42-4-3).  
 22 (6) Child exploitation (IC 35-42-4-4(b)).  
 23 (7) Vicarious sexual gratification (IC 35-42-4-5).  
 24 (8) Child solicitation (IC 35-42-4-6).  
 25 (9) Child seduction (IC 35-42-4-7).  
 26 (10) Sexual misconduct with a minor (IC 35-42-4-9).  
 27 (11) Incest (IC 35-46-1-3), if the victim is less than eighteen (18)  
 28 years of age.  
 29 (12) Dealing in or manufacturing cocaine or a narcotic drug  
 30 (IC 35-48-4-1).  
 31 (13) Dealing in methamphetamine (IC 35-48-4-1.1).  
 32 (14) Dealing in a schedule I, II, or III controlled substance  
 33 (IC 35-48-4-2).  
 34 (15) Dealing in a schedule IV controlled substance  
 35 (IC 35-48-4-3).  
 36 (16) Dealing in a schedule V controlled substance (IC 35-48-4-4).  
 37 (17) Dealing in a counterfeit substance (IC 35-48-4-5).  
 38 (18) Dealing in marijuana, hash oil, or hashish  
 39 (IC 35-48-4-10(b)).  
 40 **(19) Possession of child pornography (IC 35-42-4-4(c)).**  
 41 (d) A license may be suspended by the state superintendent as  
 42 specified in IC 20-28-7-7.

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1           **(e) The department shall develop a data base of information on**  
2 **school corporation employees who have been reported to the**  
3 **department under this section.**

4           SECTION 11. IC 20-28-5-15, AS ADDED BY P.L.75-2008,  
5 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
6 JULY 1, 2009]: Sec. 15. (a) Notwithstanding section 3(b)(6) of this  
7 chapter, the department shall grant an initial practitioner's license in a  
8 specific subject area to an applicant who:

- 9           (1) has earned a postgraduate degree from a regionally accredited
- 10           postsecondary educational institution in the subject area in which
- 11           the applicant seeks to be licensed;
- 12           (2) has at least one (1) academic year of experience teaching
- 13           students in a middle school, high school, or college classroom
- 14           setting; and
- 15           (3) complies with sections 4 ~~9~~; and 12 of this chapter.

16           (b) An individual who receives an initial practitioner's license under  
17 this section may teach in the specific subject for which the individual  
18 is licensed only in:

- 19           (1) high school; or
- 20           (2) middle school;

21 if the subject area is designated by the state board as having a  
22 insufficient supply of licensed teachers.

23           (c) After receiving an initial practitioner's license under this section,  
24 an applicant who seeks to renew the applicant's initial practitioner's  
25 license or obtain a proficient practitioner's license must:

- 26           (1) demonstrate that the applicant has:
  - 27           (A) participated in cultural competency professional
  - 28           development activities;
  - 29           (B) obtained training and information from a special education
  - 30           teacher concerning exceptional learners; and
  - 31           (C) received:
    - 32           (i) training or certification that complies; or
    - 33           (ii) an exemption from compliance;
- 34           with the standards set forth in section 3(c) of this chapter; and
- 35           (2) meet the same requirements as other candidates.

36           SECTION 12. IC 20-33-8-8, AS ADDED BY P.L.1-2005,  
37 SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
38 JULY 1, 2009]: Sec. 8. (a) Student supervision and the desirable  
39 behavior of students in carrying out school purposes is the  
40 responsibility of:

- 41           (1) a school corporation; and
- 42           (2) the students of a school corporation.

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- 1 (b) In all matters relating to the discipline and conduct of students,
- 2 school corporation personnel:
- 3 (1) stand in the relation of parents to the students of the school
- 4 corporation; ~~and~~
- 5 (2) have the right to take any disciplinary action necessary to
- 6 promote student conduct that conforms with an orderly and
- 7 effective educational system, subject to this chapter; **and**
- 8 **(3) have qualified immunity with respect to a disciplinary**
- 9 **action taken to promote student conduct under subdivision (2)**
- 10 **if the action is taken in good faith and is reasonable.**

- 11 (c) Students must:
- 12 (1) follow responsible directions of school personnel in all
- 13 educational settings; and
- 14 (2) refrain from disruptive behavior that interferes with the
- 15 educational environment.

16 SECTION 13. IC 20-33-8-9, AS ADDED BY P.L.1-2005,  
 17 SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 18 UPON PASSAGE]: Sec. 9. (a) This section applies to an individual  
 19 who:

- 20 (1) is a teacher or other school staff member; and
- 21 (2) has students under the individual's charge.
- 22 (b) An individual may take any action that is reasonably necessary
- 23 to carry out or to prevent an interference with an educational function
- 24 that the individual supervises.

25 (c) Subject to rules of the governing body and the administrative  
 26 staff, an individual may remove a student for a period that does not  
 27 exceed five (5) school days from an educational function supervised by  
 28 the individual or another individual who is a teacher or other school  
 29 staff member.

30 **(d) If an individual removes a student from a class under**  
 31 **subsection (c), the principal may place the student in another**  
 32 **appropriate class or placement or into inschool suspension. The**  
 33 **principal may not return the student to the class from which the**  
 34 **student was removed until the principal has met with the student,**  
 35 **the student's teacher, and the student's parents to determine an**  
 36 **appropriate behavior plan for the student. If the student's parents**  
 37 **do not meet with the principal and the student's teacher within a**  
 38 **reasonable amount of time, the student may be moved to another**  
 39 **class at the principal's discretion.**

40 SECTION 14. IC 34-6-2-38, AS AMENDED BY P.L.1-2007,  
 41 SECTION 223, IS AMENDED TO READ AS FOLLOWS  
 42 [EFFECTIVE JULY 1, 2009]: Sec. 38. (a) "Employee" and "public

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1 employee", for purposes of section 91 of this chapter, IC 34-13-2,  
2 IC 34-13-3, IC 34-13-4, and IC 34-30-14, mean a person presently or  
3 formerly acting on behalf of a governmental entity, whether  
4 temporarily or permanently or with or without compensation, including  
5 members of boards, committees, commissions, authorities, and other  
6 instrumentalities of governmental entities, volunteer firefighters (as  
7 defined in IC 36-8-12-2), and elected public officials.

8 (b) The term also includes attorneys at law whether employed by the  
9 governmental entity as employees or independent contractors and  
10 physicians licensed under IC 25-22.5 and optometrists who provide  
11 medical or optical care to confined offenders (as defined in IC 11-8-1)  
12 within the course of their employment by or contractual relationship  
13 with the department of correction. However, the term does not include:

- 14 (1) an independent contractor (other than an attorney at law, a  
15 physician, or an optometrist described in this section);
- 16 (2) an agent or employee of an independent contractor;
- 17 (3) a person appointed by the governor to an honorary advisory or  
18 honorary military position; or
- 19 (4) a physician licensed under IC 25-22.5 with regard to a claim  
20 against the physician for an act or omission occurring or allegedly  
21 occurring in the physician's capacity as an employee of a hospital.

22 ~~(c) A physician licensed under IC 25-22.5 who is an employee of a  
23 governmental entity (as defined in section 49 of this chapter) shall be  
24 considered a public employee for purposes of IC 34-13-3-3(21).~~

25 ~~(d)~~ (c) For purposes of IC 34-13-3 and IC 34-13-4, the term includes  
26 a person that engages in an act or omission before July 1, 2004, in the  
27 person's capacity as:

- 28 (1) a contractor under IC 6-1.1-4-32 (repealed);
- 29 (2) an employee acting within the scope of the employee's duties  
30 for a contractor under IC 6-1.1-4-32 (repealed);
- 31 (3) a subcontractor of the contractor under IC 6-1.1-4-32  
32 (repealed) that is acting within the scope of the subcontractor's  
33 duties; or
- 34 (4) an employee of a subcontractor described in subdivision (3)  
35 that is acting within the scope of the employee's duties.

36 SECTION 15. IC 34-13-3-3, AS AMENDED BY P.L.47-2006,  
37 SECTION 48, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
38 JULY 1, 2009]: Sec. 3. A governmental entity or an employee acting  
39 within the scope of the employee's employment is not liable if a loss  
40 results from the following:

- 41 (1) The natural condition of unimproved property.
- 42 (2) The condition of a reservoir, dam, canal, conduit, drain, or

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- 1 similar structure when used by a person for a purpose that is not
- 2 foreseeable.
- 3 (3) The temporary condition of a public thoroughfare or extreme
- 4 sport area that results from weather.
- 5 (4) The condition of an unpaved road, trail, or footpath, the
- 6 purpose of which is to provide access to a recreation or scenic
- 7 area.
- 8 (5) The design, construction, control, operation, or normal
- 9 condition of an extreme sport area, if all entrances to the extreme
- 10 sport area are marked with:
- 11 (A) a set of rules governing the use of the extreme sport area;
- 12 (B) a warning concerning the hazards and dangers associated
- 13 with the use of the extreme sport area; and
- 14 (C) a statement that the extreme sport area may be used only
- 15 by persons operating extreme sport equipment.
- 16 This subdivision shall not be construed to relieve a governmental
- 17 entity from liability for the continuing duty to maintain extreme
- 18 sports areas in a reasonably safe condition.
- 19 (6) The initiation of a judicial or an administrative proceeding.
- 20 (7) The performance of a discretionary function; however, the
- 21 provision of medical or optical care as provided in IC 34-6-2-38
- 22 shall be considered as a ministerial act.
- 23 (8) The adoption and enforcement of or failure to adopt or enforce
- 24 a law (including rules and regulations), unless the act of
- 25 enforcement constitutes false arrest or false imprisonment.
- 26 (9) An act or omission performed in good faith and without
- 27 malice under the apparent authority of a statute which is invalid
- 28 if the employee would not have been liable had the statute been
- 29 valid.
- 30 (10) The act or omission of anyone other than the governmental
- 31 entity or the governmental entity's employee.
- 32 (11) The issuance, denial, suspension, or revocation of, or failure
- 33 or refusal to issue, deny, suspend, or revoke any permit, license,
- 34 certificate, approval, order, or similar authorization, where the
- 35 authority is discretionary under the law.
- 36 (12) Failure to make an inspection, or making an inadequate or
- 37 negligent inspection, of any property, other than the property of
- 38 a governmental entity, to determine whether the property
- 39 complied with or violates any law or contains a hazard to health
- 40 or safety.
- 41 (13) Entry upon any property where the entry is expressly or
- 42 impliedly authorized by law.

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- 1 (14) Misrepresentation if unintentional.
- 2 (15) Theft by another person of money in the employee's official
- 3 custody, unless the loss was sustained because of the employee's
- 4 own negligent or wrongful act or omission.
- 5 (16) Injury to the property of a person under the jurisdiction and
- 6 control of the department of correction if the person has not
- 7 exhausted the administrative remedies and procedures provided
- 8 by section 7 of this chapter.
- 9 (17) Injury to the person or property of a person under supervision
- 10 of a governmental entity and who is:
- 11 (A) on probation; or
- 12 (B) assigned to an alcohol and drug services program under
- 13 IC 12-23, a minimum security release program under
- 14 IC 11-10-8, a pretrial conditional release program under
- 15 IC 35-33-8, or a community corrections program under
- 16 IC 11-12.
- 17 (18) Design of a highway (as defined in IC 9-13-2-73), toll road
- 18 project (as defined in IC 8-15-2-4(4)), tollway (as defined in
- 19 IC 8-15-3-7), or project (as defined in IC 8-15.7-2-14) if the
- 20 claimed loss occurs at least twenty (20) years after the public
- 21 highway, toll road project, tollway, or project was designed or
- 22 substantially redesigned; except that this subdivision shall not be
- 23 construed to relieve a responsible governmental entity from the
- 24 continuing duty to provide and maintain public highways in a
- 25 reasonably safe condition.
- 26 (19) Development, adoption, implementation, operation,
- 27 maintenance, or use of an enhanced emergency communication
- 28 system.
- 29 (20) Injury to a student or a student's property by an employee of
- 30 a school corporation if the employee is acting reasonably under a
- 31 discipline policy adopted under ~~IC 20-33-8-7(b)~~; **IC 20-33-8-12.**
- 32 ~~(21) An error resulting from or caused by a failure to recognize~~
- 33 ~~the year 1999, 2000, or a subsequent year, including an incorrect~~
- 34 ~~date or incorrect mechanical or electronic interpretation of a date;~~
- 35 ~~that is produced; calculated; or generated by:~~
- 36 ~~(A) a computer;~~
- 37 ~~(B) an information system; or~~
- 38 ~~(C) equipment using microchips;~~
- 39 ~~that is owned or operated by a governmental entity. However, this~~
- 40 ~~subdivision does not apply to acts or omissions amounting to~~
- 41 ~~gross negligence, willful or wanton misconduct, or intentional~~
- 42 ~~misconduct. For purposes of this subdivision, evidence of gross~~

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1 negligence may be established by a party by showing failure of a  
2 governmental entity to undertake an effort to review, analyze,  
3 remediate, and test its electronic information systems or by  
4 showing failure of a governmental entity to abate, upon notice, an  
5 electronic information system error that caused damage or loss.  
6 However, this subdivision expires June 30, 2003.

7 ~~(22)~~ (21) An act or omission performed in good faith under the  
8 apparent authority of a court order described in IC 35-46-1-15.1  
9 that is invalid, including an arrest or imprisonment related to the  
10 enforcement of the court order, if the governmental entity or  
11 employee would not have been liable had the court order been  
12 valid.

13 ~~(23)~~ (22) An act taken to investigate or remediate hazardous  
14 substances, petroleum, or other pollutants associated with a  
15 brownfield (as defined in IC 13-11-2-19.3) unless:

- 16 (A) the loss is a result of reckless conduct; or
- 17 (B) the governmental entity was responsible for the initial  
18 placement of the hazardous substances, petroleum, or other  
19 pollutants on the brownfield.

20 SECTION 16. IC 34-30-2-84.7 IS ADDED TO THE INDIANA  
21 CODE AS A NEW SECTION TO READ AS FOLLOWS  
22 [EFFECTIVE JULY 1, 2009]: **Sec. 84.7. IC 20-33-8-8 (Concerning**  
23 **school corporation personnel who take reasonable actions**  
24 **concerning school discipline).**

25 SECTION 17. THE FOLLOWING ARE REPEALED [EFFECTIVE  
26 JULY 1, 2009]: IC 20-28-1-8; IC 20-28-5-9.

27 SECTION 18. **An emergency is declared for this act.**

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## COMMITTEE REPORT

Mr. Speaker: Your Committee on Education, to which was referred House Bill 1462, 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:

Page 3, between lines 18 and 19, begin a new paragraph and insert:

"SECTION 2. IC 20-24-8-5, AS AMENDED BY P.L.2-2006, SECTION 111, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 5. The following statutes and rules and guidelines adopted under the following statutes apply to a charter school:

- (1) IC 5-11-1-9 (required audits by the state board of accounts).
- (2) IC 20-39-1-1 (unified accounting system).
- (3) IC 20-35 (special education).
- (4) IC 20-26-5-10 and ~~IC 20-28-5-9~~ **IC 20-28-5-9.3** (criminal history).
- (5) IC 20-26-5-6 (subject to laws requiring regulation by state agencies).
- (6) IC 20-28-7-14 (void teacher contract when two (2) contracts are signed).
- (7) IC 20-28-10-12 (nondiscrimination for teacher marital status).
- (8) IC 20-28-10-14 (teacher freedom of association).
- (9) IC 20-28-10-17 (school counselor immunity).
- (10) For conversion charter schools only, IC 20-28-6, IC 20-28-7, IC 20-28-8, IC 20-28-9, and IC 20-28-10.
- (11) IC 20-33-2 (compulsory school attendance).
- (12) IC 20-33-3 (limitations on employment of children).
- (13) IC 20-33-8-19, IC 20-33-8-21, and IC 20-33-8-22 (student due process and judicial review).
- (14) IC 20-33-8-16 (firearms and deadly weapons).
- (15) IC 20-34-3 (health and safety measures).
- (16) IC 20-33-9 (reporting of student violations of law).
- (17) IC 20-30-3-2 and IC 20-30-3-4 (patriotic commemorative observances).
- (18) IC 20-31-3, IC 20-32-4, IC 20-32-5, IC 20-32-6, IC 20-32-8, or any other statute, rule, or guideline related to standardized testing (assessment programs, including remediation under the assessment programs).
- (19) IC 20-33-7 (parental access to education records).
- (20) IC 20-31 (accountability for school performance and improvement)."

Page 4, between lines 2 and 3, begin a new paragraph and insert:

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"SECTION 6. IC 20-28-4-11, AS ADDED BY P.L.150-2006, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 11. (a) This section applies only to:

- (1) a school corporation; or
- (2) a subject area;

that is designated by the state board as having an insufficient supply of licensed teachers.

(b) The governing body of a school corporation or the appointing authority of an accredited nonpublic school may employ a program participant if the program participant is hired to teach in a subject area or a school corporation to which this section applies.

(c) Before employing a program participant under subsection (b), the superintendent of the school corporation must make a determination that one (1) of the following conditions exists:

- (1) There is no fully certified and highly qualified teacher available for the position.
- (2) The program participant is the best qualified candidate for the position.

(d) A program participant who is employed under this section is eligible to receive a transition to teaching permit. The transition to teaching permit is valid for three (3) years, and may not be renewed. ~~IC 20-28-5-9~~ IC 20-28-5-9.3 applies to a program participant who applies for a transition to teaching permit.

(e) A program participant who is employed under this section:

- (1) shall enter into either:
  - (A) a regular teacher's contract under IC 20-28-6-5; or
  - (B) a temporary teacher's contract under IC 20-28-6-6, if replacing a teacher on a leave of absence;
- (2) is eligible to participate in a mentor teacher program; and
- (3) satisfies the field or classroom experience component of the program under section 4(3) of this chapter.

(f) The state board:

- (1) shall review; and
- (2) may renew;

the designation of a school corporation or a subject area as having an insufficient supply of licensed teachers not more than two (2) years following the initial designation under subsection (a)."

Page 4, delete line 18.

Page 4, line 24, delete "." and insert ", or when the governing body or equivalent authority for a nonpublic school takes any final action in relation to an employee who engaged in any offense listed in subsection (c)."

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Page 5, delete lines 16 through 42, begin a new paragraph and insert:

**"(e) The department shall develop a data base of information on school corporation employees who have been reported to the department under this section.**

SECTION 7. IC 20-28-5-9.3 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 9.3. Before employing a potential employee to fill any position in a school corporation, the superintendent must conduct an expanded criminal history check as described under IC 20-28-1-6.2."**

Page 6, delete lines 1 through 9, begin a new paragraph and insert:

"SECTION 8. IC 20-33-8-9, AS ADDED BY P.L.1-2005, SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 9. (a) This section applies to an individual who:

- (1) is a teacher or other school staff member; and
- (2) has students under the individual's charge.

(b) An individual may take any action that is reasonably necessary to carry out or to prevent an interference with an educational function that the individual supervises.

(c) Subject to rules of the governing body and the administrative staff, an individual may remove a student for a period that does not exceed five (5) school days from an educational function supervised by the individual or another individual who is a teacher or other school staff member.

**(d) If an individual removes a student from class for violent or disruptive behavior, or an ongoing pattern of classroom procedure violations under subsection (c), the principal may place the student into another appropriate classroom or placement, or into inschool suspension. The principal may not return the student to that teacher's class until the principal has met with the:**

- (1) student;**
- (2) student's teacher; and**
- (3) student's parent;**

**to determine an appropriate behavior plan for the student. If the meeting under this section does not take place within a reasonable period of time, the student may be moved to another classroom at the principal's discretion.**

**(e) A school counselor may act on behalf of the student's parent to develop an appropriate behavior plan if the parent does not participate in the meeting under subsection (d)."**

Page 7, between lines 11 and 12, begin a new paragraph and insert:

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"SECTION 10. IC 20-28-5-9 IS REPEALED [EFFECTIVE JULY 1, 2009]."

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1462 as introduced.)

PORTER, Chair

Committee Vote: yeas 12, nays 0.

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Ways and Means, to which was referred House Bill 1462, 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:

Page 4, line 14, after "6.2." insert "(a)".

Page 4, line 17, delete "a:" and insert "**a national criminal history background check (as defined in IC 10-13-3-12); and**

**(2) a check of:**

**(A) sex offender registries in all fifty (50) states; or**

**(B) the National Sex Offender Registry maintained by the United States Department of Justice.**

**(b) An online check of the registries referred to in subsection (a)(2)(A) or the registry referred to in subsection (a)(2)(B) may be used to satisfy the requirements of subsection (a)(2)."**

Page 4, delete lines 18 through 37.

Page 7, between lines 13 and 14, begin a new paragraph and insert:  
"SECTION 7. IC 20-28-5-15, AS ADDED BY P.L.75-2008, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 15. (a) Notwithstanding section 3(b)(6) of this chapter, the department shall grant an initial practitioner's license in a specific subject area to an applicant who:

(1) has earned a postgraduate degree from a regionally accredited postsecondary educational institution in the subject area in which the applicant seeks to be licensed;

(2) has at least one (1) academic year of experience teaching students in a middle school, high school, or college classroom setting; and

(3) complies with sections 4, ~~9~~, **9.3**, and 12 of this chapter.

(b) An individual who receives an initial practitioner's license under

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this section may teach in the specific subject for which the individual is licensed only in:

- (1) high school; or
- (2) middle school;

if the subject area is designated by the state board as having an insufficient supply of licensed teachers.

(c) After receiving an initial practitioner's license under this section, an applicant who seeks to renew the applicant's initial practitioner's license or obtain a proficient practitioner's license must:

- (1) demonstrate that the applicant has:
  - (A) participated in cultural competency professional development activities;
  - (B) obtained training and information from a special education teacher concerning exceptional learners; and
  - (C) received:
    - (i) training or certification that complies; or
    - (ii) an exemption from compliance;
 with the standards set forth in section 3(c) of this chapter; and
- (2) meet the same requirements as other candidates."

Page 8, line 8, delete "is immune" and insert "**has qualified immunity**".

Page 8, line 23, delete "is immune" and insert "**has qualified immunity**".

Page 8, line 36, delete "is immune" and insert "**has qualified immunity**".

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1462 as printed February 6, 2009.)

CRAWFORD, Chair

Committee Vote: yeas 22, nays 0.

HOUSE MOTION

Mr. Speaker: I move that House Bill 1462 be amended to read as follows:

Page 7, between lines 13 and 14, begin a new paragraph and insert:  
"SECTION 1. IC 20-28-5-15, AS ADDED BY P.L.75-2008, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 15. (a) Notwithstanding section 3(b)(6) of this

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chapter, the department shall grant an initial practitioner's license in a specific subject area to an applicant who:

- (1) has earned a postgraduate degree from a regionally accredited postsecondary educational institution in the subject area in which the applicant seeks to be licensed;
- (2) has at least one (1) academic year of experience teaching students in a middle school, high school, or college classroom setting; and
- (3) complies with sections 4, 9, 9.3, and 12 of this chapter.

(b) An individual who receives an initial practitioner's license under this section may teach in the specific subject for which the individual is licensed only in:

- (1) high school; or
- (2) middle school;

if the subject area is designated by the state board as having an insufficient supply of licensed teachers.

(c) After receiving an initial practitioner's license under this section, an applicant who seeks to renew the applicant's initial practitioner's license or obtain a proficient practitioner's license must:

- (1) demonstrate that the applicant has:
  - (A) participated in cultural competency professional development activities;
  - (B) obtained training and information from a special education teacher concerning exceptional learners; and
  - (C) received:
    - (i) training or certification that complies; or
    - (ii) an exemption from compliance;
 with the standards set forth in section 3(c) of this chapter; and
- (2) meet the same requirements as other candidates."

Page 8, line 8, delete "is immune" and insert "**has qualified immunity**".

Page 8, line 23, delete "is immune" and insert "**has qualified immunity**".

Page 8, line 36, delete "is immune" and insert "**has qualified immunity**".

Renumber all SECTIONS consecutively.

(Reference is to HB 1462 as printed February 6, 2009.)

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HOUSE MOTION

Mr. Speaker: I move that House Bill 1462 be amended to read as follows:

Page 4, line 14, delete "JANUARY 1, 2010]:" and insert "JULY 1, 2009]:".

(Reference is to HB 1462 as printed February 18, 2009.)

KERSEY

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HOUSE MOTION

Mr. Speaker: I move that House Bill 1462 be amended to read as follows:

Page 3, line 18, after "experience." insert "**However, the department may charge the student a fee for responding to a request for the release of a limited criminal history record.**".

(Reference is to HB 1462 as printed February 18, 2009.)

PORTER

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COMMITTEE REPORT

Madam President: The Senate Committee on Education and Career Development, to which was referred House Bill No. 1462, 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, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 4-6-2-1.5, AS AMENDED BY P.L.78-2005, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1.5. (a) Whenever any state governmental official or employee, whether elected or appointed, is made a party to a suit, and the attorney general determines that said suit has arisen out of an act which such official or employee in good faith believed to be within the scope of the official's or employee's duties as prescribed by statute or duly adopted regulation, the attorney general shall defend such person throughout such action.



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(b) Whenever a teacher (as defined in IC 20-18-2-22) is made a party to a civil suit, and the attorney general determines that the suit has arisen out of an act that the teacher in good faith believed was within the scope of the teacher's duties in enforcing discipline policies developed under IC 20-33-8-12, the attorney general shall defend the teacher throughout the action.

**(c) Not later than August 15 of each year:**

**(1) the attorney general shall draft; and**

**(2) the state superintendent of public instruction shall disseminate in:**

**(A) written;**

**(B) electronic; or**

**(C) other;**

**form;**

**a notice to each teacher concerning the teacher's qualified immunity under IC 20-33-8-8(b)(3) and rights under this section.**

~~(d)~~ (d) Whenever a school corporation (as defined in IC 20-26-2-4) is made a party to a civil suit and the attorney general determines that the suit has arisen out of an act authorized under IC 20-30-5-0.5 or IC 20-30-5-4.5, the attorney general shall defend the school corporation throughout the action.

~~(e)~~ (e) A determination by the attorney general under subsection (a), (b), or (c) shall not be admitted as evidence in the trial of any such civil action for damages.

~~(f)~~ (f) Nothing in this chapter shall be construed to deprive any such person of the person's right to select counsel of the person's own choice at the person's own expense."

Page 3, delete lines 21 through 42, begin a new paragraph and insert:

"SECTION 3. IC 13-19-5-3, AS AMENDED BY P.L.221-2007, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 3. (a) The authority shall do the following under this chapter:

- (1) Be responsible for the management of all aspects of the program.
- (2) Prepare and provide program information.
- (3) Negotiate the negotiable aspects of each financial assistance agreement and submit the agreement to the budget agency for approval.
- (4) Sign each financial assistance agreement.
- (5) Review each proposed project and financial assistance agreement to determine if the project meets the credit, economic,

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or fiscal criteria established by guidelines of the authority.

(6) Periodically inspect or cause to be inspected projects to determine compliance with this chapter.

(7) Conduct or cause to be conducted an evaluation concerning the financial ability of a political subdivision to:

(A) pay a loan or other financial assistance and other obligations evidencing loans or other financial assistance, if required to be paid; and

(B) otherwise comply with terms of the financial assistance agreement.

(8) Evaluate or cause to be evaluated the technical aspects of the political subdivision's:

(A) environmental assessment of potential brownfield properties;

(B) proposed remediation; and

(C) remediation activities conducted on brownfield properties.

(9) Inspect or cause to be inspected remediation activities conducted under this chapter.

(10) Act as a liaison to the United States Environmental Protection Agency regarding the program.

(11) Be a point of contact for political subdivisions concerning questions about the program.

(12) Enter into memoranda of understanding, as necessary, with the department and the budget agency concerning the administration and management of the fund and the program.

(b) The authority may do the following under this chapter:

(1) Undertake activities to make private environmental insurance products available to encourage and facilitate the cleanup and redevelopment of brownfield properties.

(2) Enter into agreements with political subdivisions to manage any of the following conducted on brownfield properties:

(A) Environmental assessment activities.

(B) Environmental remediation activities.

(c) The authority may:

(1) negotiate with;

(2) select; and

(3) contract with;

one (1) or more insurers to provide insurance products as described in subsection (b)(1).

(d) Notwithstanding IC 13-23, IC 13-24-1, and IC 13-25-4, the authority is not liable for any contamination addressed by the authority under an agreement under subsection (b)(2) unless existing

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contamination on the brownfield is exacerbated due to gross negligence or intentional misconduct by the authority.

(e) For purposes of subsection (d), reckless, willful, or wanton misconduct constitutes gross negligence.

(f) The authority is entitled to the same governmental immunity afforded a political subdivision under ~~IC 34-13-3-3(23)~~ **IC 34-13-3-3(22)** for any act taken to investigate or remediate hazardous substances, petroleum, or other pollutants associated with a brownfield under an agreement under subsection (b)(2).

SECTION 4. IC 20-19-3-9 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 9. The department shall establish and maintain a searchable data base of information concerning employees and former employees of a school corporation who have been reported to the department under IC 20-28-5-8. The department shall make the data base available to the public.**

SECTION 5. IC 20-26-5-10, AS ADDED BY P.L.1-2005, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 10. (a) A school corporation, including a school township and a charter school, shall adopt a policy concerning criminal history information for individuals who:**

- (1) apply for:
  - (A) employment with the school corporation; or
  - (B) employment with an entity with which the school corporation contracts for services;
- (2) seek to enter into a contract to provide services to the school corporation; or
- (3) are employed by an entity that seeks to enter into a contract to provide services to the school corporation;

if the individuals are likely to have direct, ongoing contact with children within the scope of the individuals' employment.

(b) A school corporation, including a school township **and a charter school**, shall administer a policy adopted under this section uniformly for all individuals to whom the policy applies. A policy adopted under this section ~~may~~ **must** require ~~any of the following; that the school corporation conduct an expanded criminal history check~~

- (1) ~~The school corporation, including a school township, may request limited criminal history information concerning each applicant for noncertificated employment or certificated employment from a local or state law enforcement agency before or not later than three (3) months after the applicant's employment by the school corporation.~~

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(2) Each individual hired for noncertificated employment or certificated employment may be required to provide a written consent for the school corporation to request ~~under IC 10-13-3 limited criminal history information or a national criminal history background~~ **an expanded criminal history** check concerning the individual before or not later than three (3) months after the individual's employment by the school corporation. The school corporation may require the individual to provide a set of fingerprints and pay any fees required for a ~~national criminal history background~~ **the expanded criminal history** check.

(3) Each individual hired for noncertificated employment may be required at the time the individual is hired to submit a certified copy of the individual's limited criminal history (as defined in IC 10-13-3-11) to the school corporation.

(4) Each individual hired for noncertificated employment may be required at the time the individual is hired to:

(A) submit a request to the Indiana central repository for limited criminal history information under IC 10-13-3;

(B) obtain a copy of the individual's limited criminal history; and

(C) submit to the school corporation the individual's limited criminal history and a document verifying a disposition (as defined in IC 10-13-3-7) that does not appear on the limited criminal history.

(5) Each applicant for noncertificated employment or certificated employment may be required at the time the individual applies to answer questions concerning the individual's ~~limited~~ **expanded criminal history check**. The failure to answer honestly questions asked under this ~~subdivision~~ **subsection** is grounds for termination of the employee's employment.

(6) Each individual that:

(A) seeks to enter into a contract to provide services to a school corporation; or

(B) is employed by an entity that seeks to enter into a contract with a school corporation;

may be required at the time the contract is formed to comply with the procedures described in subdivisions (2), (4), and (5). An individual who is employed by an entity that seeks to enter into a contract with a school corporation to provide student services in which the entity's employees have direct contact with students in a school based program may be required to provide the consent described in subdivision (2) or the information described in

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subdivisions (4) and (5) to either the individual's employer or the school corporation. Failure to comply with subdivisions (2); (4); and (5); as required by the school corporation; is grounds for termination of the contract. An entity that enters into a contract with a school corporation to provide student services in which the entity's employees have direct contact with students in a school based program is allowed to obtain limited criminal history information or a national criminal history background check regarding the entity's applicants or employees in the same manner that a school corporation may obtain the information.

(c) If an individual is required to obtain a limited criminal history under this section, the individual is responsible. **The applicant is responsible for all costs associated with obtaining the limited expanded criminal history check. An applicant may not be required by a school corporation to obtain an expanded criminal history check more than one (1) time during a five (5) year period.**

(d) (c) Information obtained under this section must be used in accordance with ~~IC 10-13-3-29~~ law."

Page 4, delete lines 1 through 13.

Page 4, line 16, delete "(a)".

Page 4, delete lines 18 through 26, begin a new line block indented and insert:

"(1) a:

(A) search of the records maintained by all counties in Indiana in which the individual who is the subject of the background check resided;

(B) search of the records maintained by all counties or similar governmental units in another state, if the individual who is the subject of the background check resided in another state; and

(C) check of:

(i) sex offender registries in all fifty (50) states; or

(ii) the national sex offender registry maintained by the United States Department of Justice; or

(2) a:

(A) national criminal history background check (as defined in IC 10-13-3-12); and

(B) check of:

(i) sex offender registries in all fifty (50) states; or

(ii) the national sex offender registry maintained by the United States Department of Justice."

Page 4, delete lines 27 through 42.

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Page 5, delete lines 1 through 21.

Page 5, line 24, delete "2009]:Sec." and insert "2009]: Sec."

Page 6, delete lines 39 through 42.

Page 7, delete lines 1 through 34, begin a new paragraph and insert:

"SECTION 10. IC 20-33-8-8, AS ADDED BY P.L.1-2005, SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 8. (a) Student supervision and the desirable behavior of students in carrying out school purposes is the responsibility of:

- (1) a school corporation; and
- (2) the students of a school corporation.

(b) In all matters relating to the discipline and conduct of students, school corporation personnel:

- (1) stand in the relation of parents to the students of the school corporation; ~~and~~
- (2) have the right to take any disciplinary action necessary to promote student conduct that conforms with an orderly and effective educational system, subject to this chapter; **and**
- (3) **have qualified immunity with respect to a disciplinary action taken to promote student conduct under subdivision (2) if the action is taken in good faith and is reasonable.**

(c) Students must:

- (1) follow responsible directions of school personnel in all educational settings; and
- (2) refrain from disruptive behavior that interferes with the educational environment."

Page 8, delete lines 6 through 42, begin a new paragraph and insert:

**"(d) If an individual removes a student from a class under subsection (c), the principal may place the student in another appropriate class or placement or into inschool suspension. The principal may not return the student to the class from which the student was removed until the principal has met with the student, the student's teacher, and the student's parents to determine an appropriate behavior plan for the student. If the student's parents do not meet with the principal and the student's teacher within a reasonable amount of time, the student may be moved to another class at the principal's discretion.**

SECTION 11. IC 34-6-2-38, AS AMENDED BY P.L.1-2007, SECTION 223, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 38. (a) "Employee" and "public employee", for purposes of section 91 of this chapter, IC 34-13-2, IC 34-13-3, IC 34-13-4, and IC 34-30-14, mean a person presently or

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formerly acting on behalf of a governmental entity, whether temporarily or permanently or with or without compensation, including members of boards, committees, commissions, authorities, and other instrumentalities of governmental entities, volunteer firefighters (as defined in IC 36-8-12-2), and elected public officials.

(b) The term also includes attorneys at law whether employed by the governmental entity as employees or independent contractors and physicians licensed under IC 25-22.5 and optometrists who provide medical or optical care to confined offenders (as defined in IC 11-8-1) within the course of their employment by or contractual relationship with the department of correction. However, the term does not include:

- (1) an independent contractor (other than an attorney at law, a physician, or an optometrist described in this section);
- (2) an agent or employee of an independent contractor;
- (3) a person appointed by the governor to an honorary advisory or honorary military position; or
- (4) a physician licensed under IC 25-22.5 with regard to a claim against the physician for an act or omission occurring or allegedly occurring in the physician's capacity as an employee of a hospital.

~~(c)~~ A physician licensed under IC 25-22.5 who is an employee of a governmental entity (as defined in section 49 of this chapter) shall be considered a public employee for purposes of IC 34-13-3-3(21).

~~(d)~~ (c) For purposes of IC 34-13-3 and IC 34-13-4, the term includes a person that engages in an act or omission before July 1, 2004, in the person's capacity as:

- (1) a contractor under IC 6-1.1-4-32 (repealed);
- (2) an employee acting within the scope of the employee's duties for a contractor under IC 6-1.1-4-32 (repealed);
- (3) a subcontractor of the contractor under IC 6-1.1-4-32 (repealed) that is acting within the scope of the subcontractor's duties; or
- (4) an employee of a subcontractor described in subdivision (3) that is acting within the scope of the employee's duties.

SECTION 12. IC 34-13-3-3, AS AMENDED BY P.L.47-2006, SECTION 48, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 3. A governmental entity or an employee acting within the scope of the employee's employment is not liable if a loss results from the following:

- (1) The natural condition of unimproved property.
- (2) The condition of a reservoir, dam, canal, conduit, drain, or similar structure when used by a person for a purpose that is not foreseeable.

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(3) The temporary condition of a public thoroughfare or extreme sport area that results from weather.

(4) The condition of an unpaved road, trail, or footpath, the purpose of which is to provide access to a recreation or scenic area.

(5) The design, construction, control, operation, or normal condition of an extreme sport area, if all entrances to the extreme sport area are marked with:

(A) a set of rules governing the use of the extreme sport area;

(B) a warning concerning the hazards and dangers associated with the use of the extreme sport area; and

(C) a statement that the extreme sport area may be used only by persons operating extreme sport equipment.

This subdivision shall not be construed to relieve a governmental entity from liability for the continuing duty to maintain extreme sports areas in a reasonably safe condition.

(6) The initiation of a judicial or an administrative proceeding.

(7) The performance of a discretionary function; however, the provision of medical or optical care as provided in IC 34-6-2-38 shall be considered as a ministerial act.

(8) The adoption and enforcement of or failure to adopt or enforce a law (including rules and regulations), unless the act of enforcement constitutes false arrest or false imprisonment.

(9) An act or omission performed in good faith and without malice under the apparent authority of a statute which is invalid if the employee would not have been liable had the statute been valid.

(10) The act or omission of anyone other than the governmental entity or the governmental entity's employee.

(11) The issuance, denial, suspension, or revocation of, or failure or refusal to issue, deny, suspend, or revoke any permit, license, certificate, approval, order, or similar authorization, where the authority is discretionary under the law.

(12) Failure to make an inspection, or making an inadequate or negligent inspection, of any property, other than the property of a governmental entity, to determine whether the property complied with or violates any law or contains a hazard to health or safety.

(13) Entry upon any property where the entry is expressly or impliedly authorized by law.

(14) Misrepresentation if unintentional.

(15) Theft by another person of money in the employee's official

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custody, unless the loss was sustained because of the employee's own negligent or wrongful act or omission.

(16) Injury to the property of a person under the jurisdiction and control of the department of correction if the person has not exhausted the administrative remedies and procedures provided by section 7 of this chapter.

(17) Injury to the person or property of a person under supervision of a governmental entity and who is:

(A) on probation; or

(B) assigned to an alcohol and drug services program under IC 12-23, a minimum security release program under IC 11-10-8, a pretrial conditional release program under IC 35-33-8, or a community corrections program under IC 11-12.

(18) Design of a highway (as defined in IC 9-13-2-73), toll road project (as defined in IC 8-15-2-4(4)), tollway (as defined in IC 8-15-3-7), or project (as defined in IC 8-15.7-2-14) if the claimed loss occurs at least twenty (20) years after the public highway, toll road project, tollway, or project was designed or substantially redesigned; except that this subdivision shall not be construed to relieve a responsible governmental entity from the continuing duty to provide and maintain public highways in a reasonably safe condition.

(19) Development, adoption, implementation, operation, maintenance, or use of an enhanced emergency communication system.

(20) Injury to a student or a student's property by an employee of a school corporation if the employee is acting reasonably under a discipline policy adopted under ~~IC 20-33-8-7(b)~~ **IC 20-33-8-12**.

~~(21) An error resulting from or caused by a failure to recognize the year 1999; 2000; or a subsequent year; including an incorrect date or incorrect mechanical or electronic interpretation of a date; that is produced; calculated; or generated by:~~

~~(A) a computer;~~

~~(B) an information system; or~~

~~(C) equipment using microchips;~~

~~that is owned or operated by a governmental entity. However, this subdivision does not apply to acts or omissions amounting to gross negligence; willful or wanton misconduct; or intentional misconduct. For purposes of this subdivision, evidence of gross negligence may be established by a party by showing failure of a governmental entity to undertake an effort to review, analyze,~~

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remediate, and test its electronic information systems or by showing failure of a governmental entity to abate, upon notice, an electronic information system error that caused damage or loss. However, this subdivision expires June 30, 2003.

~~(22)~~ (21) An act or omission performed in good faith under the apparent authority of a court order described in IC 35-46-1-15.1 that is invalid, including an arrest or imprisonment related to the enforcement of the court order, if the governmental entity or employee would not have been liable had the court order been valid.

~~(23)~~ (22) An act taken to investigate or remediate hazardous substances, petroleum, or other pollutants associated with a brownfield (as defined in IC 13-11-2-19.3) unless:

- (A) the loss is a result of reckless conduct; or
- (B) the governmental entity was responsible for the initial placement of the hazardous substances, petroleum, or other pollutants on the brownfield.

SECTION 13. IC 34-30-2-84.7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 84.7. IC 20-33-8-8 (Concerning school corporation personnel who take reasonable actions concerning school discipline).**".

Page 9, delete lines 1 through 26.

Re-number all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1462 as reprinted February 21, 2009.)

LUBBERS, Chairperson

Committee Vote: Yeas 10, Nays 0.

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SENATE MOTION

Madam President: I move that Engrossed House Bill 1462 be amended to read as follows:

Page 2, line 15, strike "(c)" and insert "(d)".

Page 5, line 41, delete "of a school corporation".

Page 6, between lines 1 and 2, begin a new paragraph and insert:

"SECTION 6. IC 20-24-8-5, AS AMENDED BY P.L.2-2006, SECTION 111, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 5. The following statutes and rules

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and guidelines adopted under the following statutes apply to a charter school:

- (1) IC 5-11-1-9 (required audits by the state board of accounts).
- (2) IC 20-39-1-1 (unified accounting system).
- (3) IC 20-35 (special education).
- (4) IC 20-26-5-10 ~~and IC 20-28-5-9~~ (criminal history).
- (5) IC 20-26-5-6 (subject to laws requiring regulation by state agencies).
- (6) IC 20-28-7-14 (void teacher contract when two (2) contracts are signed).
- (7) IC 20-28-10-12 (nondiscrimination for teacher marital status).
- (8) IC 20-28-10-14 (teacher freedom of association).
- (9) IC 20-28-10-17 (school counselor immunity).
- (10) For conversion charter schools only, IC 20-28-6, IC 20-28-7, IC 20-28-8, IC 20-28-9, and IC 20-28-10.
- (11) IC 20-33-2 (compulsory school attendance).
- (12) IC 20-33-3 (limitations on employment of children).
- (13) IC 20-33-8-19, IC 20-33-8-21, and IC 20-33-8-22 (student due process and judicial review).
- (14) IC 20-33-8-16 (firearms and deadly weapons).
- (15) IC 20-34-3 (health and safety measures).
- (16) IC 20-33-9 (reporting of student violations of law).
- (17) IC 20-30-3-2 and IC 20-30-3-4 (patriotic commemorative observances).
- (18) IC 20-31-3, IC 20-32-4, IC 20-32-5, IC 20-32-6, IC 20-32-8, or any other statute, rule, or guideline related to standardized testing (assessment programs, including remediation under the assessment programs).
- (19) IC 20-33-7 (parental access to education records).
- (20) IC 20-31 (accountability for school performance and improvement).

SECTION 7. IC 20-26-1-1, AS ADDED BY P.L.1-2005, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: (a) Sec. 1. IC 20-26-1 through IC 20-26-5 and IC 20-26-7 apply to all school corporations.

**(b) Notwithstanding subsection (a), IC 20-26-5-10 applies to:**

- (1) a school corporation;**
- (2) a charter school; and**
- (3) an accredited nonpublic school.**

SECTION 8. IC 20-26-2-1.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 1.5. "Expanded criminal history check" means a**

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**criminal history background check of an individual that includes:****(1) a:**

**(A) search of the records maintained by all counties in Indiana in which the individual who is the subject of the background check resided;**

**(B) search of the records maintained by all counties or similar governmental units in another state, if the individual who is the subject of the background check resided in another state; and**

**(C) check of:**

**(i) sex offender registries in all fifty (50) states; or**

**(ii) the national sex offender registry maintained by the United States Department of Justice; or**

**(2) a:**

**(A) national criminal history background check (as defined in IC 10-13-3-12); and**

**(B) check of:**

**(i) sex offender registries in all fifty (50) states; or**

**(ii) the national sex offender registry maintained by the United States Department of Justice."**

Page 6, line 4, after "including a" strike "school".

Page 6, line 5, strike "township".

Page 6, line 5, delete "and a".

Page 6, line 5, delete "," and insert "**and an accredited nonpublic school,**".

Page 6, line 17, strike "school township".

Page 6, line 17, delete "and a".

Page 6, line 18, delete "," and insert "**and an accredited nonpublic school,**".

Page 6, line 21, after "corporation" insert ", **charter school, or accredited nonpublic school**".

Page 6, line 27, delete "." and insert ", **charter school, or accredited nonpublic school.**".

Page 6, line 30, after "corporation" insert ", **charter school, or accredited nonpublic school**".

Page 6, line 35, after "corporation" insert ", **charter school, or accredited nonpublic school**".

Page 7, line 42, after "corporation" insert ", **charter school, or accredited nonpublic school**".

Page 8, delete lines 4 through 26, begin a new paragraph and insert:

"SECTION 10. IC 20-28-4-11, AS ADDED BY P.L.150-2006, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

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JULY 1, 2009]: Sec. 11. (a) This section applies only to:

- (1) a school corporation; or
- (2) a subject area;

that is designated by the state board as having an insufficient supply of licensed teachers.

(b) The governing body of a school corporation or the appointing authority of an accredited nonpublic school may employ a program participant if the program participant is hired to teach in a subject area or a school corporation to which this section applies.

(c) Before employing a program participant under subsection (b), the superintendent of the school corporation must make a determination that one (1) of the following conditions exists:

- (1) There is no fully certified and highly qualified teacher available for the position.
- (2) The program participant is the best qualified candidate for the position.

(d) A program participant who is employed under this section is eligible to receive a transition to teaching permit. The transition to teaching permit is valid for three (3) years, and may not be renewed. ~~IC 20-28-5-9 applies to a program participant who applies for a transition to teaching permit.~~

(e) A program participant who is employed under this section:

- (1) shall enter into either:
  - (A) a regular teacher's contract under IC 20-28-6-5; or
  - (B) a temporary teacher's contract under IC 20-28-6-6, if replacing a teacher on a leave of absence;
- (2) is eligible to participate in a mentor teacher program; and
- (3) satisfies the field or classroom experience component of the program under section 4(3) of this chapter.

(f) The state board:

- (1) shall review; and
- (2) may renew;

the designation of a school corporation or a subject area as having an insufficient supply of licensed teachers not more than two (2) years following the initial designation under subsection (a).".

Page 10, between lines 1 and 2, begin a new paragraph and insert:

"SECTION 13. IC 20-28-5-15, AS ADDED BY P.L.75-2008, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 15. (a) Notwithstanding section 3(b)(6) of this chapter, the department shall grant an initial practitioner's license in a specific subject area to an applicant who:

- (1) has earned a postgraduate degree from a regionally accredited

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postsecondary educational institution in the subject area in which the applicant seeks to be licensed;

(2) has at least one (1) academic year of experience teaching students in a middle school, high school, or college classroom setting; and

(3) complies with sections 4 ~~9~~; and 12 of this chapter.

(b) An individual who receives an initial practitioner's license under this section may teach in the specific subject for which the individual is licensed only in:

(1) high school; or

(2) middle school;

if the subject area is designated by the state board as having an insufficient supply of licensed teachers.

(c) After receiving an initial practitioner's license under this section, an applicant who seeks to renew the applicant's initial practitioner's license or obtain a proficient practitioner's license must:

(1) demonstrate that the applicant has:

(A) participated in cultural competency professional development activities;

(B) obtained training and information from a special education teacher concerning exceptional learners; and

(C) received:

(i) training or certification that complies; or

(ii) an exemption from compliance;

with the standards set forth in section 3(c) of this chapter; and

(2) meet the same requirements as other candidates."

Page 14, between lines 30 and 31, begin a new paragraph and insert: "SECTION 19. THE FOLLOWING ARE REPEALED [EFFECTIVE JULY 1, 2009]: IC 20-28-1-8; IC 20-28-5-9."

Re-number all SECTIONS consecutively.

(Reference is to EHB 1462 as printed March 20, 2009.)

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