



March 19, 2013

**ENGROSSED
SENATE BILL No. 160**

DIGEST OF SB 160 (Updated March 14, 2013 2:38 pm - DI 116)

Citations Affected: IC 20-26.

Synopsis: School employee background checks. Requires a school corporation, a charter school, or an accredited nonpublic school to either: (1) conduct an expanded criminal history check; or (2) enter into a contract with a consumer reporting agency to conduct a background check; concerning each applicant for noncertificated employment or certificated employment before or not later than three months after the applicant's employment by the school corporation, charter school, or accredited nonpublic school. Provides that an "expanded criminal history check" requires a national criminal history background check. Provides that the state police department shall release the results of an expanded criminal history check to an inquiring school.

Effective: July 1, 2013.

**Wyss, Arnold, Randolph, Glick,
Young R Michael, Zakas, Kruse,
Miller Patricia, Grooms, Stoops**
(HOUSE SPONSORS — RHOADS, GIAQUINTA)

January 7, 2013, read first time and referred to Committee on Corrections & Criminal Law.
January 15, 2013, reported favorably — Do Pass.
January 22, 2013, read second time, ordered engrossed.
January 23, 2013, engrossed.
January 24, 2013, read third time, passed. Yeas 47, nays 0.
HOUSE ACTION
February 26, 2013, read first time and referred to Committee on Education.
March 18, 2013, amended, reported — Do Pass.

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March 19, 2013

First Regular Session 118th General Assembly (2013)

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 2012 Regular Session of the General Assembly.

ENGROSSED SENATE BILL No. 160

A BILL FOR AN ACT to amend the Indiana Code concerning education.

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

SECTION 1. IC 20-26-2-1.5, AS ADDED BY P.L.121-2009, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 1.5. "Expanded criminal history check" means a criminal history background check of an individual that includes

(+) 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

(-) a:

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1 ~~(A)~~ **(1)** national criminal history background check (as defined in
2 IC 10-13-3-12); and

3 ~~(B)~~ **(2)** check of:

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

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

7 SECTION 2. IC 20-26-5-10, AS AMENDED BY P.L.121-2009,
8 SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
9 JULY 1, 2013]: Sec. 10. (a) A school corporation, including a charter
10 school and an accredited nonpublic school, shall adopt a policy
11 concerning criminal history information for individuals who:

12 (1) apply for:

13 (A) employment with the school corporation; or

14 (B) employment with an entity with which the school
15 corporation contracts for services;

16 (2) seek to enter into a contract to provide services to the school
17 corporation; or

18 (3) are employed by an entity that seeks to enter into a contract to
19 provide services to the school corporation;

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

22 (b) A school corporation, including a charter school and an
23 accredited nonpublic school, shall administer a policy adopted under
24 this section uniformly for all individuals to whom the policy applies. A
25 policy adopted under this section must require that the school
26 corporation, charter school, or accredited nonpublic school **either:**

27 **(1) conduct an expanded criminal history check; or**

28 **(2) enter into a contract with a consumer reporting agency**
29 **regulated under 15 U.S.C. 1681 et seq. to conduct a**
30 **background check;**

31 concerning each applicant for noncertificated employment or
32 certificated employment before or not later than three (3) months after
33 the applicant's employment by the school corporation, charter school,
34 or accredited nonpublic school. Each individual hired for
35 noncertificated employment or certificated employment may be
36 required to provide a written consent for the school corporation, charter
37 school, or accredited nonpublic school to request an expanded criminal
38 history check **or background check** concerning the individual before
39 or not later than three (3) months after the individual's employment by
40 the school corporation. The school corporation, charter school, or
41 accredited nonpublic school may require the individual to provide a set
42 of fingerprints and pay any fees required for the expanded criminal

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1 history check **or background check**. Each applicant for noncertificated
2 employment or certificated employment may be required at the time the
3 individual applies to answer questions concerning the individual's
4 expanded criminal history check **or background check**. The failure to
5 answer honestly questions asked under this subsection is grounds for
6 termination of the employee's employment. The applicant is
7 responsible for all costs associated with obtaining the expanded
8 criminal history check **or background check**. An applicant may not be
9 required by a school corporation, charter school, or accredited
10 nonpublic school to obtain an expanded criminal history check **or**
11 **background check** more than one (1) time during a five (5) year
12 period.

13 **(c) The state police department shall release the results of an**
14 **expanded criminal history check conducted under this section to**
15 **the inquiring public school.**

16 ~~(c)~~ **(d)** Information obtained under this section must be used in
17 accordance with law.

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COMMITTEE REPORT

Madam President: The Senate Committee on Corrections and Criminal Law, to which was referred Senate Bill No. 160, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill DO PASS.

(Reference is made to Senate Bill 160 as introduced.)

YOUNG R MICHAEL, Chairperson

Committee Vote: Yeas 9, Nays 0.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Education, to which was referred Senate Bill 160, 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 2, after line 6, begin a new paragraph and insert:

"SECTION 2. IC 20-26-5-10, AS AMENDED BY P.L.121-2009, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2013]: Sec. 10. (a) A school corporation, including a 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 charter school and an accredited nonpublic school, shall administer a policy adopted under this section uniformly for all individuals to whom the policy applies. A policy adopted under this section must require that the school corporation, charter school, or accredited nonpublic school **either:**

- (1) conduct an expanded criminal history check; or
- (2) **enter into a contract with a consumer reporting agency regulated under 15 U.S.C. 1681 et seq. to conduct a**

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background check;

concerning each applicant for noncertificated employment or certificated employment before or not later than three (3) months after the applicant's employment by the school corporation, charter school, or accredited nonpublic school. Each individual hired for noncertificated employment or certificated employment may be required to provide a written consent for the school corporation, charter school, or accredited nonpublic school to request an expanded criminal history check **or background check** concerning the individual before or not later than three (3) months after the individual's employment by the school corporation. The school corporation, charter school, or accredited nonpublic school may require the individual to provide a set of fingerprints and pay any fees required for the expanded criminal history check **or background check**. Each applicant for noncertificated employment or certificated employment may be required at the time the individual applies to answer questions concerning the individual's expanded criminal history check **or background check**. The failure to answer honestly questions asked under this subsection is grounds for termination of the employee's employment. The applicant is responsible for all costs associated with obtaining the expanded criminal history check **or background check**. An applicant may not be required by a school corporation, charter school, or accredited nonpublic school to obtain an expanded criminal history check **or background check** more than one (1) time during a five (5) year period.

(c) The state police department shall release the results of an expanded criminal history check conducted under this section to the inquiring public school.

~~(e)~~ **(d)** Information obtained under this section must be used in accordance with law."

and when so amended that said bill do pass.

(Reference is to SB 160 as printed January 16, 2013.)

BEHNING, Chair

Committee Vote: yeas 11, nays 0.

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