

SENATE BILL No. 397

DIGEST OF INTRODUCED BILL

Citations Affected: IC 35-38-8.

Synopsis: Restricted access to driving records. Provides that a person who is convicted of certain traffic violations may petition a sentencing court to restrict access to the person's driving record in the same manner in which the court may restrict access to criminal records.

Effective: July 1, 2013.

Taylor

January 10, 2013, read first time and referred to Committee on Corrections & Criminal Law.

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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.

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SENATE BILL No. 397



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

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

1 SECTION 1. IC 35-38-8-0.5 IS ADDED TO THE INDIANA CODE
2 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
3 1, 2013]: **Sec. 0.5. As used in this chapter, "driving record" has the**
4 **meaning set forth in IC 9-13-2-48.5.**

5 SECTION 2. IC 35-38-8-3, AS ADDED BY P.L.194-2011,
6 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
7 JULY 1, 2013]: Sec. 3. Eight (8) years after the date a person
8 completes the person's sentence and satisfies any other obligations
9 imposed on the person as a part of the sentence, the person may
10 petition a sentencing court to **do the following:**

11 (1) Order the state police department to restrict access to the
12 records concerning the person's arrest and involvement in
13 criminal or juvenile court proceedings.

14 (2) **If the conviction or juvenile adjudication was for a traffic**
15 **violation under IC 9, order the bureau of motor vehicles to**
16 **restrict access to the part of the person's driving record**
17 **concerning the traffic violation.**



1 SECTION 3. IC 35-38-8-5, AS ADDED BY P.L.194-2011,
 2 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 3 JULY 1, 2013]: Sec. 5. If the court grants the petition of a person under
 4 this chapter, the court shall do the following:

5 (1) Order:

6 (A) the department of correction; ~~and~~

7 (B) each:

8 (i) law enforcement agency; and

9 (ii) other person;

10 who incarcerated, provided treatment for, or provided other
 11 services for the person under an order of the court; ~~and~~

12 **(C) if applicable, the bureau of motor vehicles;**

13 to prohibit the release of the person's records or information
 14 relating to the misdemeanor, nonviolent Class D felony, or
 15 juvenile adjudication described in section 2 of this chapter,
 16 **including the person's driving record**, in the person's records to
 17 a noncriminal justice agency without a court order.

18 (2) Order any:

19 (A) state;

20 (B) regional; or

21 (C) local;

22 central repository for criminal history information to prohibit the
 23 release of the person's records or information relating to the
 24 misdemeanor, nonviolent Class D felony, or juvenile adjudication
 25 described in section 2 of this chapter, in the person's records to a
 26 noncriminal justice agency without a court order.

27 SECTION 4. IC 35-38-8-6, AS ADDED BY P.L.194-2011,
 28 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 29 JULY 1, 2013]: Sec. 6. (a) If a person whose records are restricted
 30 under this chapter brings a civil action that might be defended with the
 31 contents of the records, the defendant is presumed to have a complete
 32 defense to the action.

33 (b) For the plaintiff to recover in an action described in subsection
 34 (a), the plaintiff must show that the contents of the restricted records
 35 would not exonerate the defendant.

36 (c) In an action described in subsection (a), the plaintiff may be
 37 required to state under oath whether:

38 (1) the plaintiff had:

39 **(A) records in the criminal justice system; and**

40 **(B) if applicable, a driving record with the bureau of motor
 41 vehicles; and**

42 (2) those records were restricted.

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1 (d) In an action described in subsection (a), if the plaintiff denies the
2 existence of the records, the defendant may prove the existence of the
3 records in any manner compatible with the law of evidence.

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