

Adopted	Rejected
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COMMITTEE REPORT

YES:	13
NO:	1

MR. SPEAKER:

*Your Committee on Education, to which was referred Senate Bill 207, 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:*

- 1 Page 2, line 7, delete "a public school (as defined in".
- 2 Page 2, delete line 8.
- 3 Page 2, line 9, delete "IC 20-10.2-1-3) or by".
- 4 Page 2, line 10, after "public" insert "**school (as defined in**
- 5 **IC 20-10.1-1-2)**".
- 6 Page 2, line 10, after "nonpublic school" insert "**(as defined in**
- 7 **IC 20-10.1-1-3)**".
- 8 Page 3, between lines 11 and 12, begin a new paragraph and insert:
- 9 "SECTION 2. IC 5-2-5-7 IS AMENDED TO READ AS FOLLOWS
- 10 [EFFECTIVE JULY 1, 2002]: Sec. 7. (a) Except as provided in
- 11 subsection (c), on request for release or inspection of a limited criminal
- 12 history, law enforcement agencies may and the department shall do the
- 13 following:
- 14 (1) Require a form, provided by them, to be completed. This **form**
- 15 **information** shall be maintained for a period of two (2) years and
- 16 shall be available to the record subject upon request.

1 (2) Collect a three dollar (\$3) fee to defray the cost of processing
2 a request for inspection.

3 (3) Collect a seven dollar (\$7) fee to defray the cost of processing
4 a request for release. However, law enforcement agencies and the
5 department may not charge the fee for requests received from the
6 parent locator service of the child support bureau of the division
7 of family and children.

8 (b) Law enforcement agencies and the department shall edit
9 information so that the only information released or inspected is
10 information which:

- 11 (1) has been requested; and
- 12 (2) is limited criminal history information.

13 (c) The fee required under subsection (a) shall be waived if the
14 request is from the institute for conviction information that will be used
15 to establish or update the sex and violent offender registry under
16 IC 5-2-12."

17 Page 3, delete lines 40 through 42.

18 Delete page 4.

19 Page 5, delete lines 1 through 12.

20 Page 5, delete lines 18 through 42, begin a new line block indented
21 and insert:

- 22 "(1) apply for:
- 23 (A) employment with the school corporation; or
- 24 (B) employment with an entity with which the school
- 25 corporation contracts for services;
- 26 (2) seek to enter into a contract to provide services to the school
- 27 corporation; or
- 28 (3) are employed by an entity that seeks to enter into a contract to
- 29 provide services to the school corporation;

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

32 (b) A school corporation, including a school township, shall
33 administer a policy adopted under this section uniformly for all
34 individuals to whom the policy applies. A policy adopted under this
35 section may require any of the following:

- 36 (1) The school corporation, including a school township, may
- 37 request limited criminal history information concerning each
- 38 applicant for noncertificated employment or certificated

- 1 employment from a local or state law enforcement agency before
2 or not later than three (3) months after the applicant's employment
3 by the school corporation.
- 4 (2) Each individual hired for noncertificated employment or
5 certificated employment may be required to provide a written
6 consent for the school corporation to request under IC 5-2-5
7 limited criminal history information or a national criminal history
8 background check concerning the individual before or not later
9 than three (3) months after the individual's employment by the
10 school corporation. The school corporation may require the
11 individual to provide a set of fingerprints and pay any fees
12 required for a national criminal history background check.
- 13 (3) Each individual hired for noncertificated employment may be
14 required at the time the individual is hired to submit a certified
15 copy of the individual's limited criminal history (as defined in
16 IC 5-2-5-1(1)) to the school corporation.
- 17 (4) Each individual hired for noncertificated employment may be
18 required at the time the individual is hired to:
- 19 (A) submit a request to the Indiana central repository for
20 limited criminal history information under IC 5-2-5;
21 (B) obtain a copy of the individual's limited criminal history;
22 and
23 (C) submit to the school corporation the individual's limited
24 criminal history and a document verifying a disposition (as
25 defined in IC 5-2-5-1(6)) that does not appear on the limited
26 criminal history.
- 27 (5) Each applicant for noncertificated employment or certificated
28 employment may be required at the time the individual applies to
29 answer questions concerning the individual's limited criminal
30 history. The failure to answer honestly questions asked under this
31 subdivision is grounds for termination of the employee's
32 employment.
- 33 (6) Each individual that:
- 34 (A) seeks to enter into a contract to provide services to a
35 school corporation; or
36 (B) is employed by an entity that seeks to enter into a contract
37 with a school corporation;
38 may be required at the time the contract is formed to comply with

1 the procedures described in ~~subdivision (4)(A) and (4)(B)~~. The
 2 school corporation either may require that the individual or the
 3 contractor comply with the procedures described in subdivision
 4 ~~(4)(C) or (5)~~; **subdivisions (2), (4), and (5)**. **An individual who**
 5 **is employed by an entity that seeks to enter into a contract**
 6 **with a school corporation may be required to provide the**
 7 **consent described in subdivision (2) or the information**
 8 **described in subdivisions (4) and (5) to either the individual's**
 9 **employer or the school corporation.** Failure to comply with
 10 subdivisions (2), (4), and (5), as required by the school
 11 corporation, is grounds for termination of the contract.

12 (c) If an individual is required to obtain a limited criminal history
 13 under this section, the individual is responsible for all costs associated
 14 with obtaining the limited criminal history.

15 (d) Information obtained under this section must be used in
 16 accordance with IC 5-2-5-6 or **IC 5-2-5-15**".

17 Delete page 6.

18 Page 7, delete lines 1 through 10.

19 Page 7, delete lines 21 through 41, begin a new paragraph and
 20 insert:

21 **"(b) This subsection applies when a prosecuting attorney knows**
 22 **that a licensed employee of a public school (as defined in**
 23 **IC 20-10.1-1-2) or an accredited nonpublic school has been**
 24 **convicted of an offense listed in subsection (d). The prosecuting**
 25 **attorney shall immediately give written notice of the conviction to**
 26 **the following:**

27 **(1) The state superintendent.**

28 **(2) Except as provided in subdivision (3), the superintendent**
 29 **of the school corporation that employs the licensed employee**
 30 **or the equivalent authority for an accredited nonpublic**
 31 **school.**

32 **(3) The presiding officer of the governing body of the school**
 33 **corporation that employs the licensed employee, if the**
 34 **convicted licensed employee is the superintendent of the**
 35 **school corporation."**

36 Page 7, line 42, delete "(d)" and insert "(c)".

37 Page 7, line 42, after "corporation" insert "**presiding officer of the**
 38 **governing body,**".

- 1 Page 8, delete lines 2 through 10, begin a new line blocked left and
 2 insert: "the state superintendent when the person knows that a current
 3 or former licensed employee of the **public** school ~~corporation~~ or
 4 accredited nonpublic school has been convicted of an offense listed in
 5 subsection ~~(c)~~: **(d)**".
- 6 Page 8, line 11, delete "(e)" and insert "**(d)**".
- 7 Page 8, line 32, delete "(f)" and insert "**(e)**".
- 8 Page 8, delete lines 34 through 38.
- 9 Page 9, line 1, delete "any".
- 10 Page 9, line 1, after "(1)" insert "**or more**".
- 11 Page 9, line 39, strike "only".
- 12 Page 9, line 39, after "(1)" insert "**or more**".
- 13 Page 10, delete lines 38 through 42, begin a new paragraph and
 14 insert:
- 15 "SECTION 7. IC 20-8.1-5.1-7.8 IS ADDED TO THE INDIANA
 16 CODE AS A **NEW SECTION TO READ AS FOLLOWS**
 17 [EFFECTIVE JULY 1, 2002]: **Sec. 7.8. Before a person may initiate**
 18 **action to suspend or expel a student under this chapter, the person**
 19 **must consult the following:**
- 20 (1) **A teacher, if any, who is involved in the matter giving rise**
 21 **to possible disciplinary action against the student.**
- 22 (2) **A classroom teacher of the student.**
- 23 SECTION 8. IC 20-8.1-5.1-18 IS AMENDED TO READ AS
 24 FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 18. (a) This section
 25 applies to a person who:
- 26 (1) is a member of the administrative staff, a teacher, or other
 27 school staff member; and
- 28 (2) has students under the person's charge.
- 29 (b) A person may take disciplinary action in addition to suspension
 30 and expulsion that is necessary to ensure a safe, orderly, and effective
 31 educational environment. **However, if the person who wishes to take**
 32 **disciplinary action under this section is not a teacher of the**
 33 **student, before the person may take disciplinary action under this**
 34 **section, the person must consult the following:**
- 35 (1) **A teacher, if any, who is involved in the matter giving rise**
 36 **to possible disciplinary action against the student.**
- 37 (2) **A classroom teacher of the student.**
- 38 (c) Disciplinary action under this section may include the following:

- 1 (1) Counseling with a student or group of students.
 2 (2) Conferences with a parent or group of parents.
 3 (3) Assigning additional work.
 4 (4) Rearranging class schedules.
 5 (5) Requiring a student to remain in school after regular school
 6 hours to do additional school work or for counseling.
 7 (6) Restricting extracurricular activities.
 8 (7) Removal of a student by a teacher from that teacher's class for
 9 a period not to exceed:
 10 (A) five (5) class periods for middle, junior high, or high
 11 school students; or
 12 (B) one (1) school day for elementary school students;
 13 if the student is assigned regular or additional school work to
 14 complete in another school setting.
 15 (8) Assignment by the principal of:
 16 (A) a special course of study;
 17 (B) an alternative educational program; or
 18 (C) an alternative school.
 19 (9) Assignment by the principal of the school where the recipient
 20 of the disciplinary action is enrolled of not more than one hundred
 21 twenty (120) hours of service with a nonprofit organization
 22 operating in or near the community where the school is located or
 23 where the student resides. The following apply to service assigned
 24 under this subdivision:
 25 (A) A principal may not assign a student under this
 26 subdivision unless the student's parent or guardian approves:
 27 (i) the nonprofit organization where the student is assigned;
 28 and
 29 (ii) the plan described in clause (B)(i).
 30 A student's parent or guardian may request or suggest that the
 31 principal assign the student under this subdivision.
 32 (B) The principal shall make arrangements for the student's
 33 service with the nonprofit organization. Arrangements must
 34 include the following:
 35 (i) A plan for the service that the student is expected to
 36 perform.
 37 (ii) A description of the obligations of the nonprofit
 38 organization to the student, the student's parents, and the

- 1 school corporation where the student is enrolled.
- 2 (iii) Monitoring of the student's performance of service by
- 3 the principal or the principal's designee.
- 4 (iv) Periodic reports from the nonprofit organization to the
- 5 principal and the student's parent or guardian of the student's
- 6 performance of the service.
- 7 (C) The nonprofit organization must obtain liability insurance
- 8 in the amount and of the type specified by the school
- 9 corporation where the student is enrolled that is sufficient to
- 10 cover liabilities that may be incurred by a student who
- 11 performs service under this subdivision.
- 12 (D) Assignment of service under this subdivision suspends the
- 13 implementation of a student's suspension or expulsion. A
- 14 student's completion of service assigned under this subdivision
- 15 to the satisfaction of the principal and the nonprofit
- 16 organization terminates the student's suspension or expulsion.
- 17 (10) Removal of a student from school sponsored transportation.
- 18 (11) Referral to the juvenile court having jurisdiction over the
- 19 student.
- 20 ~~(c)~~ (d) As used in this subsection, "physical assault" means the
- 21 knowing or intentional touching of another person in a rude, insolent,
- 22 or angry manner. When a student physically assaults a person having
- 23 authority over the student, the principal of the school where the student
- 24 is enrolled shall make a referral of the student to the juvenile court
- 25 having jurisdiction over the student. However, a student with
- 26 disabilities (as defined in IC 20-1-6.1-7) who physically assaults a
- 27 person having authority over the student is subject to procedural
- 28 safeguards under 20 U.S.C. 1415.
- 29 SECTION 9. IC 34-13-2-3 IS AMENDED TO READ AS
- 30 FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 3. (a) A judgment
- 31 rendered with respect to or a settlement made by a governmental entity
- 32 bars an action by the claimant against an employee whose conduct gave
- 33 rise to the claim resulting in that judgment or settlement.
- 34 (b) The governmental entity shall pay any judgment, compromise,
- 35 or settlement of a claim or suit against an employee when ~~(1)~~ the act or
- 36 omission causing the loss is within the scope of the employee's
- 37 employment. ~~and~~
- 38 ~~(2) the:~~

1 (A) governor, in the case of a claim or suit against a state
2 employee; or

3 (B) the governing body of the political subdivision, in the case
4 of a claim or suit against an employee of a political
5 subdivision;

6 determines that paying the judgment, compromise, or settlement
7 is in the best interest of the governmental entity.

8 (c) The governmental entity shall pay all costs and fees incurred by
9 or on behalf of an employee in defense of a claim or suit for a loss
10 occurring because of acts or omissions within the scope of the
11 employee's employment, regardless of whether the employee can or
12 cannot be held personally liable for the loss.

13 (d) This chapter shall not be construed as:

14 (1) a waiver of the eleventh amendment to the Constitution of the
15 United States;

16 (2) consent by the state of Indiana or its employees to be sued in
17 any federal court; or

18 (3) consent to be sued in any state court beyond the boundaries of
19 Indiana.

20 SECTION 10. IC 34-13-3-5, AS AMENDED BY P.L.192-2001,
21 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
22 JULY 1, 2002]: Sec. 5. (a) Civil actions relating to acts taken by a
23 board, a committee, a commission, an authority, or another
24 instrumentality of a governmental entity may be brought only against
25 the board, the committee, the commission, the authority, or the other
26 instrumentality of a governmental entity. A member of a board, a
27 committee, a commission, an authority, or another instrumentality of
28 a governmental entity may not be named as a party in a civil suit that
29 concerns the acts taken by a board, a committee, a commission, an
30 authority, or another instrumentality of a governmental entity where the
31 member was acting within the scope of the member's employment. For
32 the purposes of this subsection, a member of a board, a committee, a
33 commission, an authority, or another instrumentality of a governmental
34 entity is acting within the scope of the member's employment when the
35 member acts as a member of the board, committee, commission,
36 authority, or other instrumentality.

37 (b) A judgment rendered with respect to or a settlement made by a
38 governmental entity bars an action by the claimant against an

1 employee, including a member of a board, a committee, a commission,
 2 an authority, or another instrumentality of a governmental entity, whose
 3 conduct gave rise to the claim resulting in that judgment or settlement.
 4 A lawsuit alleging that an employee acted within the scope of the
 5 employee's employment must be exclusive to the complaint and bars an
 6 action by the claimant against the employee personally. However, if the
 7 governmental entity answers that the employee acted outside the scope
 8 of the employee's employment, the plaintiff may amend the complaint
 9 and sue the employee personally. An amendment to the complaint by
 10 the plaintiff under this subsection must be filed not later than one
 11 hundred eighty (180) days from the date the answer was filed and may
 12 be filed notwithstanding the fact that the statute of limitations has run.

13 (c) A lawsuit filed against an employee personally must allege that
 14 an act or omission of the employee that causes a loss is:

- 15 (1) criminal;
- 16 (2) clearly outside the scope of the employee's employment;
- 17 (3) malicious;
- 18 (4) willful and wanton; or
- 19 (5) calculated to benefit the employee personally.

20 The complaint must contain a reasonable factual basis supporting the
 21 allegations.

22 (d) Subject to the provisions of sections 4, 14, 15, and 16 of this
 23 chapter, the governmental entity shall pay any judgment, compromise,
 24 or settlement of a claim or suit against an employee when

25 ~~(1) the act or omission causing the loss is within the scope of the~~
 26 ~~employee's employment, regardless of whether the employee can~~
 27 ~~or cannot be held personally liable for the loss. and~~

28 ~~(2) the:~~

29 ~~(A) governor in the case of a claim or suit against a state~~
 30 ~~employee; or~~

31 ~~(B) governing body of the political subdivision, in the case of~~
 32 ~~a claim or suit against an employee of a political subdivision;~~
 33 ~~determines that paying the judgment, compromise, or settlement~~
 34 ~~is in the best interest of the governmental entity.~~

35 (e) The governmental entity shall provide counsel for and pay all
 36 costs and fees incurred by or on behalf of an employee in defense of a
 37 claim or suit for a loss occurring because of acts or omissions within
 38 the scope of the employee's employment, regardless of whether the

- 1 employee can or cannot be held personally liable for the loss.
- 2 (f) This chapter shall not be construed as:
- 3 (1) a waiver of the eleventh amendment to the Constitution of the
- 4 United States;
- 5 (2) consent by the state of Indiana or its employees to be sued in
- 6 any federal court; or
- 7 (3) consent to be sued in any state court beyond the boundaries of
- 8 Indiana."
- 9 Delete page 11.
- 10 Page 12, delete lines 1 through 23.
- 11 Renumber all SECTIONS consecutively.
(Reference is to SB 207 as reprinted February 4, 2002.)

and when so amended that said bill do pass.

Representative Porter