



Reprinted
February 4, 2002

SENATE BILL No. 207

DIGEST OF SB 207 (Updated February 1, 2002 12:44 PM - DI 51)

Citations Affected: IC 5-2; IC 20-5; IC 20-6.1; IC 34-30; IC 35-42.

Synopsis: School employees and children. Enables school corporations to obtain limited and national criminal history checks for all employees rather than only for new employees. Makes conforming changes in the policies that schools may adopt concerning criminal history checks. Enables the professional standards board to suspend a teacher's license for certain noncriminal behaviors. Requires certain officials to report when a teacher is arrested for or convicted of certain crimes or is dismissed or resigns because of certain behaviors. Provides civil immunity for making these reports. Provides uniformity in the grounds for which licenses may be revoked and the contracts of permanent and semipermanent teachers may be canceled concerning sexual misconduct with a minor. Enables teachers charged with certain crimes to be suspended without salary.

Effective: July 1, 2002.

Clark, Lubbers, Waterman, Howard

January 7, 2002, read first time and referred to Committee on Corrections, Criminal and Civil Procedures.
January 24, 2002, amended, reported favorably — Do Pass.
February 1, 2002, read second time, amended, ordered engrossed.

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SB 207—LS 6724/DI 22+



Reprinted
February 4, 2002

Second Regular Session 112th General Assembly (2002)

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 2001 General Assembly.

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SENATE BILL No. 207

A BILL FOR AN ACT to amend the Indiana Code concerning education and criminal history information.

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

- 1 SECTION 1. IC 5-2-5-5, AS AMENDED BY P.L.272-2001,
2 SECTION 2, AND AS AMENDED BY P.L.228-2001, SECTION 2, IS
3 AMENDED AND CORRECTED TO READ AS FOLLOWS
4 [EFFECTIVE JULY 1, 2002]: Sec. 5. (a) Except as provided in
5 subsection (b), on request, law enforcement agencies shall release or
6 allow inspection of a limited criminal history to noncriminal justice
7 organizations or individuals only if the subject of the request:
8 (1) has applied for employment with a noncriminal justice
9 organization or individual;
10 (2) has applied for a license and criminal history data as required
11 by law to be provided in connection with the license;
12 (3) is a candidate for public office or a public official;
13 (4) is in the process of being apprehended by a law enforcement
14 agency;
15 (5) is placed under arrest for the alleged commission of a crime;
16 (6) has charged that his rights have been abused repeatedly by
17 criminal justice agencies;

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1 (7) is the subject of judicial decision or determination with
 2 respect to the setting of bond, plea bargaining, sentencing, or
 3 probation;

4 (8) has volunteered services that involve contact with, care of, or
 5 supervision over a child who is being placed, matched, or
 6 monitored by a social services agency or a nonprofit corporation;

7 **(9) is employed by a public school (as defined in**
 8 **IC 20-10.1-1-2) or nonpublic school (as defined in**
 9 **IC 20-10.1-1-3) or by an entity that seeks to enter into a**
 10 **contract with a public or nonpublic school if the subject of the**
 11 **request is expected to have direct, ongoing contact with school**
 12 **children within the scope of the individual's employment;**

13 **(10)** has volunteered services at a public school (as defined in
 14 IC 20-10.1-1-2) or non-public school (as defined in
 15 IC 20-10.1-1-3) that involve contact with, care of, or supervision
 16 over a student enrolled in the school;

17 ~~(10)~~ **(11)** is being investigated for welfare fraud by an investigator
 18 of the division of family and children or a county office of family
 19 and children;

20 ~~(11)~~ **(12)** is being sought by the parent locator service of the child
 21 support bureau of the division of family and children; or

22 ~~(12)~~ **(13)** has been convicted of any of the following:

23 (A) Rape (IC 35-42-4-1), if the victim is less than eighteen
 24 (18) years of age.

25 (B) Criminal deviate conduct (IC 35-42-4-2), if the victim is
 26 less than eighteen (18) years of age.

27 (C) Child molesting (IC 35-42-4-3).

28 (D) Child exploitation (IC 35-42-4-4(b)).

29 (E) Possession of child pornography (IC 35-42-4-4(c)).

30 (F) Vicarious sexual gratification (IC 35-42-4-5).

31 (G) Child solicitation (IC 35-42-4-6).

32 (H) Child seduction (IC 35-42-4-7).

33 (I) *Sexual misconduct with a minor as a Class A or B felony*
 34 *(IC 35-42-4-9).*

35 (J) Incest (IC 35-46-1-3), if the victim is less than eighteen
 36 (18) years of age.

37 However, limited criminal history information obtained from the
 38 National Crime Information Center may not be released under this
 39 section except to the extent permitted by the Attorney General of the
 40 United States.

41 (b) A law enforcement agency shall allow inspection of a limited
 42 criminal history by and release a limited criminal history to the

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1 following noncriminal justice organizations:

- 2 (1) Federally chartered or insured banking institutions.
 3 (2) Officials of state and local government for *any of the purpose*
 4 *of following purposes:*
 5 (A) Employment ~~and~~ with a state or local governmental
 6 entity.
 7 (B) Licensing.
 8 (3) Segments of the securities industry identified under 15 U.S.C.
 9 78q(f)(2).

10 (c) Any person who uses limited criminal history for any purpose
 11 not specified under this section commits a Class A misdemeanor.

12 SECTION 2. IC 5-2-5-13, AS AMENDED BY P.L.272-2001,
 13 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 14 JULY 1, 2002]: Sec. 13. (a) The department may not charge a fee for
 15 responding to a request for the release of a limited criminal history
 16 record if the request is made by a nonprofit organization: ~~that:~~

- 17 (1) **that** has been in existence for at least ten (10) years; and
 18 (2) ~~either:~~ **that:**
 19 (A) has a primary purpose of providing an individual
 20 relationship for a child with an adult volunteer if the request
 21 is made as part of a background investigation of a prospective
 22 adult volunteer for the organization; ~~or~~
 23 (B) is a home health agency licensed under IC 16-27-1;
 24 **(C) is a community mental retardation and other**
 25 **developmental disabilities center (as defined in**
 26 **IC 12-7-2-39); or**
 27 **(D) is a supervised group living facility licensed under**
 28 **IC 12-28-5.**

29 (b) The department may not charge a fee for responding to a request
 30 for the release of a limited criminal history record made by the division
 31 of family and children or a county office of family and children if the
 32 request is made as part of a background investigation of an applicant
 33 for a license under IC 12-17.2 or IC 12-17.4.

34 (c) The department may not charge a fee for responding to a request
 35 for the release of a limited criminal history if the request is made by a
 36 school corporation, special education cooperative, or non-public school
 37 (as defined in IC 20-10.1-1-3) as part of a background investigation of
 38 an employee or adult volunteer for the school corporation, special
 39 education cooperative, or non-public school.

40 SECTION 3. IC 5-2-5-15, AS ADDED BY P.L.272-2001,
 41 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 42 JULY 1, 2002]: Sec. 15. (a) The department is designated as the

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1 authorized agency to receive requests for, process, and disseminate the
 2 results of national criminal history background checks that comply with
 3 this section and 42 U.S.C. 5119a.

4 (b) A qualified entity may contact the department to request a
 5 national criminal history background check on any of the following
 6 persons:

7 (1) A person who seeks to be or is employed with the qualified
 8 entity. **Unless the qualified entity is a school corporation**
 9 **making a request under IC 20-5-2-7**, a request under this
 10 subdivision must be made not later than three (3) months after the
 11 person is initially employed by the qualified entity.

12 (2) A person who seeks to volunteer or is a volunteer with the
 13 qualified entity. A request under this subdivision must be made
 14 not later than three (3) months after the person initially volunteers
 15 with the qualified entity.

16 (c) A qualified entity must submit a request under subsection (b) in
 17 the form required by the department and provide a set of the person's
 18 fingerprints and any required fees with the request.

19 (d) If a qualified entity makes a request in conformity with
 20 subsection (b), the department shall submit the set of fingerprints
 21 provided with the request to the Federal Bureau of Investigation for a
 22 national criminal history background check for convictions described
 23 in IC 20-5-2-8. The department shall respond to the request in
 24 conformity with:

- 25 (1) the requirements of 42 U.S.C. 5119a; and
 26 (2) the regulations prescribed by the United States attorney
 27 general under 42 U.S.C. 5119a.

28 (e) This subsection applies to a qualified entity that:

- 29 (1) is not a school corporation or a special education cooperative;
 30 or
 31 (2) is a school corporation or a special education cooperative and
 32 seeks a national criminal history background check for a
 33 volunteer.

34 After receiving the results of a national criminal history background
 35 check from the Federal Bureau of Investigation, the department shall
 36 make a determination whether the applicant has been convicted of an
 37 offense described in IC 20-5-2-8 and convey the determination to the
 38 requesting qualified entity.

39 (f) This subsection applies to a qualified entity that:

- 40 (1) is a school corporation or a special education cooperative; and
 41 (2) seeks a national criminal history background check for the
 42 purposes determining whether to employ or continue the

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1 employment of a certificated employee or a noncertificated
 2 employee of a school corporation or an equivalent position with
 3 a special education cooperative.

4 After receiving the results of a national criminal history background
 5 check from the Federal Bureau of Investigation, the department may
 6 exchange identification records concerning convictions for offenses
 7 described in IC 20-5-2-8 with the school corporation or special
 8 education cooperative solely for purposes of making an employment
 9 determination. The exchange may be made only for the official use of
 10 the officials with authority to make the employment determination. The
 11 exchange is subject to the restrictions on dissemination imposed under
 12 P.L.92-544, (86 Stat. 1115) (1972).

13 SECTION 4. IC 20-5-2-7, AS AMENDED BY P.L.272-2001,
 14 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 15 JULY 1, 2002]: Sec. 7. (a) A school corporation, including a school
 16 township, shall adopt a policy concerning criminal history information
 17 for individuals who:

18 (1) ~~apply~~ **are noncertificated or certificated employees of the**
 19 **school corporation;**

20 (2) **are applicants** for:

21 (A) **noncertificated or certificated** employment with the
 22 school corporation; or

23 (B) employment with an entity with which the school
 24 corporation contracts for services;

25 ~~(2)~~ (3) seek to enter into a contract to provide services to the
 26 school corporation; or

27 ~~(3)~~ (4) are employed by an entity that seeks to enter into a
 28 contract to provide services to the school corporation;

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

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

35 (1) The school corporation, including a school township, may
 36 request limited criminal history information concerning each
 37 applicant **or individual who is hired** for noncertificated
 38 employment or certificated employment from a local or state law
 39 enforcement agency. ~~before or not later than three (3) months~~
 40 ~~after the applicant's employment by the school corporation.~~

41 (2) Each individual hired for noncertificated employment or
 42 certificated employment may be required to provide a written

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1 consent for the school corporation to request under IC 5-2-5:

2 (A) limited criminal history information; or

3 (B) a national criminal history background check;

4 concerning the individual. ~~before or not later than three (3)~~
5 ~~months after the individual's employment by the school~~
6 ~~corporation.~~ The school corporation may require the individual to
7 provide a set of fingerprints and pay any fees required for a
8 national criminal history background check.

9 (3) Each individual hired for noncertificated employment may be
10 required ~~at the time the individual is hired~~ to submit a certified
11 copy of the individual's limited criminal history (as defined in
12 IC 5-2-5-1(1)) to the school corporation.

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

15 (A) submit a request to the Indiana central repository for
16 limited criminal history information under IC 5-2-5;

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

19 (C) submit to the school corporation the individual's limited
20 criminal history and a document verifying a disposition (as
21 defined in IC 5-2-5-1(6)) that does not appear on the limited
22 criminal history.

23 (5) Each applicant **or individual who is hired** for noncertificated
24 employment or certificated employment may be required ~~at the~~
25 ~~time the individual applies~~ to answer questions concerning the
26 individual's limited criminal history. The failure **of an employee**
27 to answer honestly questions asked under this subdivision is
28 grounds for termination of the employee's employment.

29 (6) Each individual that:

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

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

34 may be required at the time the contract is formed to comply with
35 the procedures described in ~~subdivision (4)(A) and (4)(B).~~ **The**
36 **subdivisions (2), (4), and (5). An individual who is employed**
37 **by an entity that seeks to enter into a contract with a school**
38 **corporation may be required to provide the consent described**
39 **in subdivision (2) or the information described in subdivisions**
40 **(4) and (5) to either the individual's employer or the school**
41 **corporation.** ~~school corporation either may require that the~~
42 ~~individual or the contractor comply with the procedures described~~

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1 in subdivision (4), ~~(C)~~ or (5). Failure to comply with subdivisions
2 (2), (4), and (5), as required by the school corporation, is grounds
3 for termination of the contract.

4 (c) **This subsection applies only to an individual who is applicant**
5 **for employment or who has been employed for less than three (3)**
6 **months.** If an individual is required to obtain a limited criminal history
7 under this section, the individual is responsible for all costs associated
8 with obtaining the limited criminal history.

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

11 SECTION 5. IC 20-6.1-3-7, AS AMENDED BY P.L.37-2000,
12 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
13 JULY 1, 2002]: Sec. 7. (a) On the written recommendation of the state
14 superintendent, the board may revoke or suspend a license for:

- 15 (1) immorality;
16 (2) misconduct in office;
17 (3) incompetency; or
18 (4) willful neglect of duty.

19 However, for each revocation or suspension, the board shall comply
20 with IC 4-21.5-3.

21 (b) **This subsection applies when a law enforcement agency has**
22 **actual knowledge that an employee of a school corporation or a**
23 **nonpublic school who instructs or supervises children has been**
24 **arrested for a felony.**

25 **The chief executive officer or equivalent authority of the law**
26 **enforcement agency shall immediately give written notice of the**
27 **arrest to the superintendent of the school corporation or equivalent**
28 **authority for the nonpublic school that employs the person who**
29 **was arrested.**

30 (c) **This subsection applies when a prosecuting attorney has**
31 **actual knowledge that an employee of a school corporation or a**
32 **nonpublic school who instructs or supervises children has been**
33 **convicted of a:**

- 34 (1) felony;
35 (2) Class A misdemeanor described in IC 35; or
36 (3) violation of IC 9-30-5-1 (operating while intoxicated) as a
37 Class A misdemeanor.

38 **The prosecuting attorney shall immediately give written notice of**
39 **the conviction to the superintendent of the school corporation or**
40 **equivalent authority for the nonpublic school that employs the**
41 **person who was convicted.**

42 (d) The superintendent of a school corporation or equivalent

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1 authority for an accredited nonpublic school shall immediately notify
 2 **in writing** the state superintendent when the person ~~knows~~ **has actual**
 3 **knowledge** that a current or former licensed employee of the school
 4 corporation or accredited nonpublic school has:

5 **(1) been arrested for a felony or** convicted of an offense listed
 6 in subsection (c);

7 **(2) been discharged from employment for any of the reasons**
 8 **listed in subsection (a); or**

9 **(3) resigned to avoid discharge from employment for any of**
 10 **the reasons listed in subsection (a).**

11 ~~(c)~~ **(e)** The board, after holding a hearing on the matter, shall
 12 permanently revoke the license of a person who is known by the board
 13 to have been convicted of any of the following offenses:

14 **(1) Kidnapping (IC 35-42-3-2), if the victim is less than**
 15 **eighteen (18) years of age.**

16 **(2) Criminal confinement (IC 35-42-3-3), if the victim is less**
 17 **than eighteen (18) years of age.**

18 **(3) Rape (IC 35-42-4-1), if the victim is less than eighteen (18)**
 19 **years of age.**

20 ~~(2)~~ **(4) Criminal deviate conduct (IC 35-42-4-2), if the victim is**
 21 **less than eighteen (18) years of age.**

22 ~~(3)~~ **(5) Child molesting (IC 35-42-4-3).**

23 ~~(4)~~ **(6) Child exploitation (IC 35-42-4-4(b)).**

24 ~~(5)~~ **(7) Vicarious sexual gratification (IC 35-42-4-5).**

25 ~~(6)~~ **(8) Child solicitation (IC 35-42-4-6).**

26 ~~(7)~~ **(9) Child seduction (IC 35-42-4-7).**

27 ~~(8)~~ **(10) Sexual misconduct with a minor (IC 35-42-4-9).**

28 ~~(9)~~ **(11) Incest (IC 35-46-1-3), if the victim is less than eighteen**
 29 **(18) years of age.**

30 **(12) Dealing in a controlled substance (IC 35-48-4-1 through**
 31 **IC 35-48-4-5).**

32 ~~(d)~~ **(f)** A license may be suspended by the state superintendent as
 33 specified in IC 20-6.1-4-13.

34 **(g) A person who makes a report required under this section is**
 35 **immune from civil liability for the report and the consequences**
 36 **proximately caused by the report, unless it is proven by a**
 37 **preponderance of the evidence that the information reported was**
 38 **known by the reporter to be false at the time the report was made.**

39 SECTION 6. IC 20-6.1-4-10, AS AMENDED BY P.L.228-2001,
 40 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 41 JULY 1, 2002]: Sec. 10. (a) An indefinite contract with a permanent
 42 teacher may be canceled in the manner specified in section 11 of this

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chapter ~~for only~~ **for any one (1) of** the following grounds:

- (1) Immorality.
- (2) Insubordination, which means a willful refusal to obey the state school laws or reasonable rules prescribed for the government of the school corporation.
- (3) Neglect of duty.
- (4) Incompetency.
- (5) Justifiable decrease in the number of teaching positions.
- (6) A conviction for **one (1) of the following:**
 - (A) **Kidnapping (IC 35-42-3-2), if the victim is less than eighteen (18) years of age.**
 - (B) **Criminal confinement (IC 35-42-3-3), if the victim is less than eighteen (18) years of age.**
 - (C) Rape (IC 35-42-4-1), if the victim is less than eighteen (18) years of age.
 - ~~(B)~~ (D) Criminal deviate conduct (IC 35-42-4-2), if the victim is less than eighteen (18) years of age.
 - ~~(E)~~ (E) Child molesting (IC 35-42-4-3).
 - ~~(D)~~ (F) Child exploitation (IC 35-42-4-4(b)).
 - ~~(E)~~ (G) Vicarious sexual gratification (IC 35-42-4-5).
 - ~~(F)~~ (H) Child solicitation (IC 35-42-4-6).
 - ~~(G)~~ (I) Child seduction (IC 35-42-4-7).
 - ~~(H)~~ (J) Sexual misconduct with a minor ~~as a Class A or B felony (IC 35-42-4-9).~~ ~~or~~
 - ~~(I)~~ (K) Incest (IC 35-46-1-3), if the victim is less than eighteen (18) years of age. ~~or~~
 - (L) **Dealing in a controlled substance (IC 35-48-4-1 through IC 35-48-4-5).**
- (7) Other good and just cause.

When the cause of cancellation is ground (1), (2), or (6), the cancellation is effective immediately. When the cause of cancellation is ground (3), (4), (5), or (7), the cancellation is effective at the end of the school term following the cancellation.

(b) An indefinite contract may not be canceled for political or personal reasons.

SECTION 7. IC 20-6.1-4-10.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 10.5. (a) An indefinite contract with a semipermanent teacher may be canceled in the manner specified in section 11 of this chapter only for **one (1) of** the following grounds:

- (1) Immorality.
- (2) Insubordination, which means a willful refusal to obey the

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1 state school laws or reasonable rules prescribed for the
2 government of the school corporation.

3 (3) Neglect of duty.

4 (4) Substantial inability to perform teaching duties.

5 (5) Justifiable decrease in the number of teaching positions.

6 (6) Good and just cause.

7 (7) The cancellation is in the best interest of the school
8 corporation.

9 (8) A conviction for **one (1) of the following:**

10 (A) **Kidnapping (IC 35-42-3-2), if the victim is less than**
11 **eighteen (18) years of age.**

12 (B) **Criminal confinement (IC 35-42-3-3), if the victim is**
13 **less than eighteen (18) years of age.**

14 (C) Rape (IC 35-42-4-1), if the victim is less than eighteen
15 (18) years of age.

16 ~~(B)~~ (D) Criminal deviate conduct (IC 35-42-4-2), if the victim
17 is less than eighteen (18) years of age.

18 ~~(E)~~ (E) Child molesting (IC 35-42-4-3).

19 ~~(D)~~ (F) Child exploitation (IC 35-42-4-4(b)).

20 ~~(E)~~ (G) Vicarious sexual gratification (IC 35-42-4-5).

21 ~~(F)~~ (H) Child solicitation (IC 35-42-4-6).

22 ~~(G)~~ (I) Child seduction (IC 35-42-4-7). ~~or~~

23 ~~(H)~~ (J) **Sexual misconduct with a minor (IC 35-42-4-9).**

24 (K) Incest (IC 35-46-1-3), if the victim is less than eighteen
25 (18) years of age.

26 (L) **Dealing in a controlled substance (IC 35-48-4-1**
27 **through IC 35-48-4-5).**

28 (b) An indefinite contract with a semipermanent teacher may not be
29 canceled for political or personal reasons.

30 (c) Before the cancellation of a semipermanent teacher's indefinite
31 contract, the principal of the school at which the teacher teaches shall
32 provide the teacher with a written evaluation of the teacher's
33 performance before January 1 of each year. Upon the request of a
34 semipermanent teacher, delivered in writing to the principal within
35 thirty (30) days after the teacher receives the evaluation required by
36 this section, the principal shall provide the teacher with an additional
37 written evaluation.

38 SECTION 8. IC 20-6.1-4-11 IS AMENDED TO READ AS
39 FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 11. (a) An indefinite
40 contract with a permanent or semi-permanent teacher may be canceled
41 only in the following manner:

42 (1) The teacher shall be notified in writing of the date, time, and

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1 place for the consideration by the school corporation of the
 2 cancellation of the contract; this notification must occur not more
 3 than forty (40) days nor less than thirty (30) days before the
 4 consideration.

5 (2) The teacher shall be furnished, within five (5) days after a
 6 written request, a written statement of the reasons for the
 7 consideration.

8 (3) The teacher may file a written request for a hearing within
 9 fifteen (15) days after receipt of the notice of this consideration.

10 (4) When the request for a hearing is filed, the teacher shall be
 11 given a hearing before the governing body on a day no earlier
 12 than five (5) days after filing;

13 (5) The teacher shall be given not less than five (5) days notice of
 14 the time and place of the hearing.

15 (6) At the hearing, the teacher is entitled:

16 (A) to a full statement of the reasons for the proposed
 17 cancellation of the contract; and

18 (B) to be heard, to present the testimony of witnesses and other
 19 evidence bearing on the reasons for the proposed cancellation
 20 of the contract.

21 (7) A contract may not be canceled until:

22 (A) the date set for consideration of the cancellation of the
 23 contract;

24 (B) after a hearing is held, if a hearing is requested by the
 25 teacher; and

26 (C) the superintendent has given **his the superintendent's**
 27 recommendations on the contract; on five (5) days written
 28 notice to **him the superintendent** by the **governing body of**
 29 **the school corporation**, the superintendent shall present **his the**
 30 **superintendent's** recommendation on each contract, except on
 31 a superintendent's contract.

32 (8) Pending a decision on the cancellation of a teacher's contract,
 33 the teacher may be suspended from duty. ~~and~~

34 (9) After complying with section 10 of this chapter in the case of
 35 permanent teachers, or section 10.5 of this chapter in the case of
 36 semi-permanent teachers, and this section, the governing body of
 37 the school corporation may cancel an indefinite contract with a
 38 teacher by a majority vote evidenced by a signed statement in the
 39 minutes of the board; the decision of the governing board is final.

40 The vote to cancel a contract described in subdivision (9) must be
 41 taken by the governing body on the date and at the time and place
 42 specified in subdivision (1).

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1 (b) If a permanent or semi-permanent teacher is suspended under
 2 subsection (a)(8) and except as provided in IC 20-6.1-5-11, the
 3 governing body may not (while the teacher is suspended) withhold
 4 from the teacher salary payments or other employment related benefits
 5 that before the suspension the teacher was entitled to receive.

6 (c) **Notwithstanding subsection (b), a permanent or**
 7 **semipermanent teacher may be suspended under subsection (a)(8)**
 8 **without salary payments if the teacher is charged with an offense**
 9 **listed in section 10(6) or 10.5(8) of this chapter. If a teacher who is**
 10 **suspended without salary payments returns to work, the governing**
 11 **body shall restore to the teacher all salary that was withheld**
 12 **during the period of suspension.**

13 (d) The governing body may appoint an agent (who is not an
 14 employee of the school corporation, but who may be a member of the
 15 governing body or an attorney retained to administer the hearing
 16 proceedings under this section) for the purpose of issuing subpoenas
 17 for the attendance of witnesses for either party at the hearing. A
 18 subpoena issued under this section shall be:

19 (1) served by the party who seeks to compel the attendance of a
 20 witness; and

21 (2) upon application to the court by the party, enforced in the
 22 manner provided by law for the service and enforcement of
 23 subpoenas in a civil action.

24 SECTION 9. IC 34-30-2-84.5 IS ADDED TO THE INDIANA
 25 CODE AS A NEW SECTION TO READ AS FOLLOWS
 26 [EFFECTIVE JULY 1, 2002]: **Sec. 84.5. IC 20-6.1-3-7 (Concerning**
 27 **a person who makes a report concerning a teacher).**

28 SECTION 10. IC 35-42-4-7, AS AMENDED BY P.L.228-2001,
 29 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 30 JULY 1, 2002]: Sec. 7. (a) As used in this section, "adoptive parent"
 31 has the meaning set forth in IC 31-9-2-6.

32 (b) As used in this section, "adoptive grandparent" means the parent
 33 of an adoptive parent.

34 (c) As used in this section, "child care worker" means a person who:

35 (1) provides care, supervision, or instruction to a child within the
 36 scope of the person's employment in a ~~public or private school~~ or
 37 shelter care facility; **or**

38 (2) **is employed by a:**

39 (A) **school corporation; or**

40 (B) **nonpublic school;**

41 **attended by a child who is the victim of a crime under this**
 42 **chapter.**

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1 (d) As used in this section, "custodian" means any person who
 2 resides with a child and is responsible for the child's welfare.
 3 (e) **As used in this section, "nonpublic school" has the meaning**
 4 **set forth in IC 20-10.1-1-3.**
 5 (f) **As used in this section, "school corporation" has the meaning**
 6 **set forth in IC 20-10.1-1-1.**
 7 (g) As used in this section, "stepparent" means an individual who is
 8 married to a child's custodial or noncustodial parent and is not the
 9 child's adoptive parent.
 10 (h) If a person who is:
 11 (1) at least eighteen (18) years of age; and
 12 (2) the:
 13 (A) guardian, adoptive parent, adoptive grandparent,
 14 custodian, or stepparent of; or
 15 (B) child care worker for;
 16 a child at least sixteen (16) years of age but less than eighteen
 17 (18) years of age;
 18 engages **with the child** in sexual intercourse, ~~or~~ deviate sexual conduct
 19 (as defined in IC 35-41-1-9), ~~with the child,~~ **or any fondling or**
 20 **touching with the intent to arouse or satisfy the sexual desires of**
 21 **either the child or the adult,** the person commits child seduction, a
 22 Class D felony.

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SENATE MOTION

Mr. President: I move that Senator Waterman be added as coauthor of Senate Bill 207.

CLARK

SENATE MOTION

Mr. President: I move that Senator Howard be added as coauthor of Senate Bill 207.

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COMMITTEE REPORT

Mr. President: The Senate Committee on Corrections, Criminal and Civil Procedures, to which was referred Senate Bill No. 207, 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 5-2-5-5, AS AMENDED BY P.L.272-2001, SECTION 2, AND AS AMENDED BY P.L.228-2001, SECTION 2, IS AMENDED AND CORRECTED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 5. (a) Except as provided in subsection (b), on request, law enforcement agencies shall release or allow inspection of a limited criminal history to noncriminal justice organizations or individuals only if the subject of the request:

- (1) has applied for employment with a noncriminal justice organization or individual;
- (2) has applied for a license and criminal history data as required by law to be provided in connection with the license;
- (3) is a candidate for public office or a public official;
- (4) is in the process of being apprehended by a law enforcement agency;
- (5) is placed under arrest for the alleged commission of a crime;
- (6) has charged that his rights have been abused repeatedly by criminal justice agencies;
- (7) is the subject of judicial decision or determination with respect to the setting of bond, plea bargaining, sentencing, or probation;
- (8) has volunteered services that involve contact with, care of, or supervision over a child who is being placed, matched, or monitored by a social services agency or a nonprofit corporation;
- (9) is employed by a public school (as defined in IC 20-10.1-1-2) or nonpublic school (as defined in IC 20-10.1-1-3) or by an entity that seeks to enter into a contract with a public or nonpublic school if the subject of the request is expected to have direct, ongoing contact with school children within the scope of the individual's employment;**
- (10) has volunteered services at a public school (as defined in IC 20-10.1-1-2) or non-public school (as defined in IC 20-10.1-1-3) that involve contact with, care of, or supervision over a student enrolled in the school;
- ~~(11)~~ **(11) is being investigated for welfare fraud by an investigator**

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of the division of family and children or a county office of family and children;

~~(11)~~ (12) is being sought by the parent locator service of the child support bureau of the division of family and children; or

~~(12)~~ (13) has been convicted of any of the following:

- (A) Rape (IC 35-42-4-1), if the victim is less than eighteen (18) years of age.
- (B) Criminal deviate conduct (IC 35-42-4-2), if the victim is less than eighteen (18) years of age.
- (C) Child molesting (IC 35-42-4-3).
- (D) Child exploitation (IC 35-42-4-4(b)).
- (E) Possession of child pornography (IC 35-42-4-4(c)).
- (F) Vicarious sexual gratification (IC 35-42-4-5).
- (G) Child solicitation (IC 35-42-4-6).
- (H) Child seduction (IC 35-42-4-7).
- (I) *Sexual misconduct with a minor as a Class A or B felony (IC 35-42-4-9).*
- (J) Incest (IC 35-46-1-3), if the victim is less than eighteen (18) years of age.

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

(b) A law enforcement agency shall allow inspection of a limited criminal history by and release a limited criminal history to the following noncriminal justice organizations:

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

(c) Any person who uses limited criminal history for any purpose not specified under this section commits a Class A misdemeanor."

Page 4, line 21, strike "subdivision (4)(A) and (4)(B). The" and insert "**subdivisions (2), (4), and (5). An individual who is employed by an entity that seeks to enter into a contract with a school corporation may be required to provide the consent described in subdivision (2) or the information described in subdivisions (4) and (5) to either the individual's employer or the school corporation.**".



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- Page 4, strike lines 22 through 23.
- Page 4, line 24, strike "(4)(C) or (5).".
- Page 4, line 24, after "subdivisions" insert **"(2),"**.
- Page 4, line 24, after "(4)" insert ",".
- Page 5, line 1, delete "knows" and insert **"has actual knowledge"**.
- Page 5, line 1, delete "a licensed" and insert **"an"**.
- Page 5, line 1, after "or" delete "an" and insert **"a"**.
- Page 5, line 2, delete "accredited".
- Page 5, line 2, after "school" insert **"who instructs or supervises children"**.
- Page 5, line 2, after "for a" insert ":".
- Page 5, line 2, delete "felony or a", begin a new line block indented and insert:
- "(1) felony;**
(2) Class A misdemeanor described in IC 35; or
(3) violation of IC 9-30-5-1 (operating while intoxicated) as a
Class A misdemeanor."
- Page 5, line 3, delete "misdemeanor".
- Page 5, line 3, beginning with "The" begin a new line blocked left.
- Page 5, line 4, after "give" insert **"written"**.
- Page 5, line 6, delete "accredited".
- Page 5, line 8, delete "knows" and insert **"has actual knowledge"**.
- Page 5, line 9, delete "a licensed" and insert **"an"**.
- Page 5, line 9, delete "an accredited" and insert **"a"**.
- Page 5, line 10, after "school" insert **"who instructs or supervises children"**.
- Page 5, line 10, after "of a" insert ":".
- Page 5, line 10, delete "felony or a misdemeanor.", begin a new line block indented and insert:
- "(1) felony;**
(2) Class A misdemeanor described in IC 35; or
(3) violation of IC 9-30-5-1 (operating while intoxicated) as a
Class A misdemeanor."
- Page 5, line 11, after "give" insert **"written"**.
- Page 5, line 13, delete "accredited".
- Page 5, line 16, after "notify" insert **"in writing"**.
- Page 5, line 17, strike "knows" and insert **"has actual knowledge"**.
- Page 5, line 20, reset in roman "an offense listed in subsection".
- Page 5, line 20, after "subsection" insert **"(b) or"**.
- Page 5, line 21, delete "(c). A felony or a misdemeanor;" and insert "(c);".
- Page 5, line 29, after "(1)" insert **"Kidnapping (IC 35-42-3-2), if**

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the victim is less than eighteen (18) years of age.

(2) Criminal confinement (IC 35-42-3-3), if the victim is less than eighteen (18) years of age.

(3)".

Page 5, line 31, strike "(2)" and insert "(4)".

Page 5, line 33, strike "(3)" and insert "(5)".

Page 5, line 34, strike "(4)" and insert "(6)".

Page 5, line 35, strike "(5)" and insert "(7)".

Page 5, line 36, strike "(6)" and insert "(8)".

Page 5, line 37, strike "(7)" and insert "(9)".

Page 5, line 38, strike "(8)" and insert "(10)".

Page 5, line 39, strike "(9)" and insert "(11)".

Page 5, between lines 40 and 41, begin a new line block indented and insert:

"(12) Dealing in a controlled substance (IC 35-48-4-1 through IC 35-48-4-5)."

Page 6, line 10, strike "only".

Page 6, line 10, after "only for" insert "any".

Page 6, line 19, after "(A)" insert "**Kidnapping (IC 35-42-3-2), if the victim is less than eighteen (18) years of age.**

(B) Criminal confinement (IC 35-42-3-3), if the victim is less than eighteen (18) years of age.

(C)".

Page 6, line 21, strike "(B)" and insert "(D)".

Page 6, line 23, strike "(C)" and insert "(E)".

Page 6, line 24, strike "(D)" and insert "(F)".

Page 6, line 25, strike "(E)" and insert "(G)".

Page 6, line 26, strike "(F)" and insert "(H)".

Page 6, line 27, strike "(G)" and insert "(I)".

Page 6, line 28, strike "(H)" and insert "(J)".

Page 6, line 30, strike "(I)" and insert "(K)".

Page 6, between lines 31 and 32, begin a new line double block indented and insert:

"(L) Dealing in a controlled substance (IC 35-48-4-1 through IC 35-48-4-5)."

Page 7, line 13, after "(A)" insert "**Kidnapping (IC 35-42-3-2), if the victim is less than eighteen (18) years of age.**

(B) Criminal confinement (IC 35-42-3-3), if the victim is less than eighteen (18) years of age.

(C)".

Page 7, line 15, strike "(B)" and insert "(D)".

Page 7, line 17, strike "(C)" and insert "(E)".

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Page 7, line 18, strike "(D)" and insert "(F)".

Page 7, line 19, strike "(E)" and insert "(G)".

Page 7, line 20, strike "(F)" and insert "(H)".

Page 7, line 21, strike "(G)" and insert "(I)".

Page 7, line 22, strike "(H)" and insert "(J)".

Page 7, line 23, delete "(I)" and insert "(K)".

Page 7, between lines 24 and 25, begin a new line double block indented and insert:

"(L) Dealing in a controlled substance (IC 35-48-4-1 through IC 35-48-4-5)."

Page 9, delete lines 21 through 42.

Page 10, delete line 1.

Re-number all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 207 as introduced.)

LONG, Chairperson

Committee Vote: Yeas 8, Nays 0.

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SENATE MOTION

Mr. President: I move that Senate Bill 207 be amended to read as follows:

Delete the title and insert the following:

A BILL FOR AN ACT to amend the Indiana Code concerning education and criminal history information.

Page 3, between lines 11 and 12, begin a new paragraph and insert:

"SECTION 2. IC 5-2-5-13, AS AMENDED BY P.L.272-2001, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 13. (a) The department may not charge a fee for responding to a request for the release of a limited criminal history record if the request is made by a nonprofit organization: ~~that~~:

(1) **that** has been in existence for at least ten (10) years; and

(2) ~~either:~~ **that**:

(A) has a primary purpose of providing an individual relationship for a child with an adult volunteer if the request is made as part of a background investigation of a prospective adult volunteer for the organization; ~~or~~

(B) is a home health agency licensed under IC 16-27-1;

(C) is a community mental retardation and other developmental disabilities center (as defined in IC 12-7-2-39); or

(D) is a supervised group living facility licensed under IC 12-28-5.

(b) The department may not charge a fee for responding to a request for the release of a limited criminal history record made by the division of family and children or a county office of family and children if the request is made as part of a background investigation of an applicant for a license under IC 12-17.2 or IC 12-17.4.

(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 non-public school (as defined in IC 20-10.1-1-3) as part of a background investigation of an employee or adult volunteer for the school corporation, special education cooperative, or non-public school."

Re-number all SECTIONS consecutively.

(Reference is to SB 207 as printed January 25, 2002.)

HERSHMAN

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SENATE MOTION

Mr. President: I move that Senate Bill 207 be amended to read as follows:

Page 6, line 18, after "(c)" insert "**This subsection applies only to an individual who is applicant for employment or who has been employed for less than three (3) months.**".

Page 6, line 36, delete ":".

Page 6, line 37, delete "(1)".

Page 6, line 37, delete ";" and insert ".".

Page 6, run in lines 36 and 37.

Page 6, delete lines 38 through 40.

Page 7, line 21, after "arrested" insert "**for a felony**".

Page 7, line 22, delete "(b) or".

(Reference is to SB 207 as printed January 25, 2002.)

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