



February 11, 2003

HOUSE BILL No. 1253

DIGEST OF HB 1253 (Updated February 5, 2003 2:55 PM - DI 105)

Citations Affected: IC 5-2; IC 35-38; noncode.

Synopsis: Criminal records of juveniles. Provides for the sealing of criminal history data concerning an act committed by a person before the person became 18 years of age ten years after the person was last convicted of an offense (if the person was waived from juvenile court) or adjudicated a delinquent child. Specifies that this provision does not apply to a person who: (1) commits a sex offense, certain violent offenses, drug offenses, arson, or murder; (2) is in a penal facility when the person is at least 22 years of age; (3) is arrested for a felony after the person becomes 18 years of age; or (4) has been convicted of a felony within ten years of the person being adjudicated a delinquent child.

Effective: July 1, 2003.

Smith V, Brown C

January 13, 2003, read first time and referred to Committee on Courts and Criminal Code.
February 10, 2003, amended, reported — Do Pass.

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HB 1253—LS 6285/DI 106+



February 11, 2003

First Regular Session 113th General Assembly (2003)

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 2002 Regular or Special Session of the General Assembly.

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HOUSE BILL No. 1253

A BILL FOR AN ACT to amend the Indiana Code concerning courts and court officers.

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

- 1 SECTION 1. IC 5-2-5-16 IS ADDED TO THE INDIANA CODE
2 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
3 1, 2003]: **Sec. 16. (a) This section does not apply to the following**
4 **persons:**
5 (1) **An offender (as defined in IC 5-2-12-4) subject to sex**
6 **offender registration.**
7 (2) **A person convicted of murder.**
8 (3) **A person who is in a penal facility ten (10) years after the**
9 **person was last adjudicated a delinquent child.**
10 (4) **A person who has a juvenile adjudication or a conviction**
11 **for arson.**
12 (5) **A person who has a juvenile adjudication or a conviction**
13 **for cruelty to an animal.**
14 (6) **A person convicted of a dealing offense under IC 35-48-4**
15 **if the person has a prior, unrelated juvenile adjudication or**
16 **conviction for a dealing offense under IC 35-48-4.**
17 (b) **Subject to this section, if:**

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1 (1) the department, a criminal justice agency, or a juvenile
 2 justice agency possesses criminal history information relating
 3 to an act that a person committed or allegedly committed
 4 before the person became eighteen (18) years of age;
 5 (2) the:
 6 (A) department; or
 7 (B) criminal justice agency, after checking with the
 8 department;
 9 does not find that the person was arrested for a felony that the
 10 person committed after the person became eighteen (18) years
 11 of age; and
 12 (3) the person has not been convicted of a felony during the
 13 ten (10) years since the person was last convicted of an offense
 14 (if the person was waived from juvenile court under
 15 IC 31-30-3) or adjudicated a delinquent child;
 16 the department, criminal justice agency, or juvenile justice agency
 17 shall, if the person satisfies the requirements under subsection (c),
 18 seal the person's criminal history data ten (10) years after the
 19 person was last convicted of an offense (if the person was waived
 20 from juvenile court under IC 31-30-3) or adjudicated a delinquent
 21 child.
 22 (c) A person who seeks the sealing of criminal history
 23 information under this section must file a petition with the
 24 department, criminal justice agency, and juvenile justice agency:
 25 (1) establishing that the person satisfies the requirements of
 26 subsection (b); and
 27 (2) requesting the sealing of the criminal history information.
 28 The criminal history information must be sealed if the department,
 29 criminal justice agency, and juvenile justice agency determine that
 30 the petitioner has satisfied the requirements under subsection (b).
 31 (d) Except as provided under subsection (d), the department,
 32 criminal justice agency, or juvenile justice agency may not release
 33 sealed criminal history data to, or allow inspection of sealed
 34 criminal history data by, any agency or person other than the
 35 person who is the subject of the criminal history data.
 36 (e) A court may order the release or inspection of sealed
 37 criminal history data only if:
 38 (1) the person who is the subject of the sealed criminal history
 39 data challenges its existence during a court proceeding; or
 40 (2) the person who is the subject of the sealed criminal history
 41 is arrested in the United States or in another country for an
 42 act that:

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- 1 (A) the person committed after the person became eighteen
 2 (18) years of age; and
 3 (B) is a felony in Indiana or the equivalent of a felony in
 4 Indiana.

5 **Criminal history data ordered released under subdivision (1) is**
 6 **unsealed only to the extent reasonably necessary to refute the claim**
 7 **under subdivision (1) that the sealed criminal history data does not**
 8 **exist. Criminal history data ordered released under subdivision (2)**
 9 **may be released or inspected as if the criminal history data had**
 10 **never been sealed.**

11 SECTION 2. IC 35-38-4-7 IS ADDED TO THE INDIANA CODE
 12 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 13 1, 2003]: Sec. 7. (a) This section does not apply to the following:

- 14 (1) An offender (as defined in IC 5-2-12-4) subject to sex
 15 offender registration.
 16 (2) A person convicted of murder.
 17 (3) A person who is in a penal facility ten (10) years after the
 18 person was last adjudicated a delinquent child.
 19 (4) A person who has a juvenile adjudication or a conviction
 20 for arson.
 21 (5) A person who has a juvenile adjudication or a conviction
 22 for cruelty to an animal.
 23 (6) A person convicted of a dealing offense under IC 35-48-4
 24 if the person has a prior, unrelated juvenile adjudication or
 25 conviction for a dealing offense under IC 35-48-4.

26 (b) Subject to this section, if a court:

- 27 (1) possesses criminal history data (as defined in IC 5-2-5-1)
 28 or other records relating to a criminal act that a person
 29 committed or allegedly committed before the person became
 30 eighteen (18) years of age;
 31 (2) after checking with the state police department, does not
 32 find that the person was arrested for a felony that the person
 33 committed or allegedly committed after the person became
 34 eighteen (18) years of age; and
 35 (3) finds that the person has not been convicted of a felony
 36 during the ten (10) years since the person was last convicted
 37 of an offense (if the person was waived from juvenile court
 38 under IC 31-30-3) or adjudicated a delinquent child;

39 the court shall, if the person satisfies the requirements under
 40 subsection (c), seal the person's criminal history data (as defined
 41 in IC 5-2-5-1) or other related court records ten (10) years after the
 42 person was last convicted of an offense (if the person was waived

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1 from juvenile court under IC 31-30-3) or adjudicated a delinquent
2 child.

3 (c) A person who seeks the sealing of criminal history
4 information under this section must file a petition with the court:

5 (1) establishing that the person satisfies the requirements of
6 subsection (b); and

7 (2) requesting the sealing of the criminal history information.

8 The criminal history information must be sealed if the court
9 determines that the petitioner has satisfied the requirements under
10 subsection (b).

11 (d) Except as provided in subsection (d), the court may not
12 release sealed criminal history data (as defined in IC 5-2-5-1) or
13 related court records to, or allow inspection of sealed criminal
14 history data (as defined in IC 5-2-5-1) or related court records by,
15 any agency or person other than the person who is the subject of
16 the criminal history data (as defined in IC 5-2-5-1) or related court
17 records.

18 (e) A court may order the release or inspection of sealed
19 criminal history data (as defined in IC 5-2-5-1) or related court
20 records only if:

21 (1) the person who is the subject of the sealed criminal history
22 data challenges its existence during a court proceeding; or

23 (2) the person who is the subject of the sealed criminal history
24 is arrested in the United States or in another country for an
25 act that:

26 (A) the person committed after the person became eighteen
27 (18) years of age; and

28 (B) is a felony in Indiana or the equivalent of a felony in
29 Indiana.

30 Criminal history data ordered released under subdivision (1) is
31 unsealed only to the extent reasonably necessary to refute the claim
32 under subdivision (1) that the sealed criminal history data does not
33 exist. Criminal history data ordered released under subdivision (2)
34 may be released or inspected as if the criminal history data had
35 never been sealed.

36 SECTION 3. [EFFECTIVE JULY 1, 2003] IC 5-2-5-16 and
37 IC 35-38-4-7, both as added by this act, apply only to a person who:

38 (1) was last convicted of an offense (if the person was waived
39 from juvenile court under IC 31-30-3) or adjudicated a
40 delinquent child after June 30, 1993; or

41 (2) was last convicted of an offense (if the person was waived
42 from juvenile court under IC 31-30-3) or adjudicated a

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1 **delinquent child before July 1, 1993, and petitions a court, the**
2 **state police department, a juvenile justice agency, or a**
3 **criminal justice agency that possesses criminal justice**
4 **information to seal the person's criminal history information**
5 **after June 30, 2003.**

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Courts and Criminal Code, to which was referred House Bill 1253, 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 1, between lines 9 and 10, begin a new line block indented and insert:

"(4) A person who has a juvenile adjudication or a conviction for arson.

(5) A person who has a juvenile adjudication or a conviction for cruelty to an animal.

(6) A person convicted of a dealing offense under IC 35-48-4 if the person has a prior, unrelated juvenile adjudication or conviction for a dealing offense under IC 35-48-4."

Page 2, line 6, after "last" insert "**convicted of an offense (if the person was waived from juvenile court under IC 31-30-3) or**".

Page 2, line 9, after "shall" insert "**, if the person satisfies the requirements under subsection (c),**".

Page 2, line 10, after "last" insert "**convicted of an offense (if the person was waived from juvenile court under IC 31-30-3) or**".

Page 2, between lines 10 and 11, begin a new paragraph and insert:

"(c) A person who seeks the sealing of criminal history information under this section must file a petition with the department, criminal justice agency, and juvenile justice agency:

(1) establishing that the person satisfies the requirements of subsection (b); and

(2) requesting the sealing of the criminal history information.

The criminal history information must be sealed if the department, criminal justice agency, and juvenile justice agency determine that the petitioner has satisfied the requirements under subsection (b)."

Page 2, line 11, delete "(c)" and insert "**(d)**".

Page 2, line 16, delete "(d)" and insert "**(e)**".

Page 2, between lines 40 and 41, begin a new line block indented and insert:

"(4) A person who has a juvenile adjudication or a conviction for arson.

(5) A person who has a juvenile adjudication or a conviction for cruelty to an animal.

(6) A person convicted of a dealing offense under IC 35-48-4 if the person has a prior, unrelated juvenile adjudication or conviction for a dealing offense under IC 35-48-4."

Page 3, line 9, after "last" insert "**convicted of an offense (if the**

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person was waived from juvenile court under IC 31-30-3) or".

Page 3, line 11, after "shall" insert ", if the person satisfies the requirements under subsection (c),".

Page 3, line 13, after "last" insert "**convicted of an offense (if the person was waived from juvenile court under IC 31-30-3) or".**

Page 3, between lines 13 and 14, begin a new paragraph and insert:

"(c) A person who seeks the sealing of criminal history information under this section must file a petition with the court:

(1) establishing that the person satisfies the requirements of subsection (b); and

(2) requesting the sealing of the criminal history information.

The criminal history information must be sealed if the court determines that the petitioner has satisfied the requirements under subsection (b)."

Page 3, line 14, delete "(c)" and insert "(d)".

Page 3, line, 21, delete "(d)" and insert "(e)".

Page 3, line 41, after "last" insert "**convicted of an offense (if the person was waived from juvenile court under IC 31-30-3) or".**

Page 4, line 1, after "last" insert "**convicted of an offense (if the person was waived from juvenile court under IC 31-30-3) or".**

and when so amended that said bill do pass.

(Reference is to HB 1253 as introduced.)

WEINZAPFEL, Chair

Committee Vote: yeas 10, nays 1.

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