



Reprinted
February 24, 2006

ENGROSSED
SENATE BILL No. 47

DIGEST OF SB 47 (Updated February 23, 2006 5:33 pm - DI 107)

Citations Affected: IC 10-13; IC 12-17.2.

Synopsis: Criminal background checks. Exempts a council of the Girl Scouts, a council of the Boy Scouts, a court appointed special advocate program, a guardian ad litem program, a volunteer advocate for seniors program, a church (including a child care ministry), or a religious organization from the fee for conducting a criminal background check on a prospective or current employee, or a prospective or current volunteer.

Effective: July 1, 2006.

Hershman, Craycraft
(HOUSE SPONSORS — MCCLAIN, THOMAS)

January 9, 2006, read first time and referred to Committee on Corrections, Criminal, and Civil Matters.

January 10, 2006, reported favorably — Do Pass.

January 17, 2006, read second time, ordered engrossed. Engrossed.

January 19, 2006, read third time, passed. Yeas 48, nays 1.

HOUSE ACTION

February 2, 2006, read first time and referred to Committee on Judiciary.

February 16, 2006, amended, reported — Do Pass.

February 23, 2006, read second time, amended, ordered engrossed.

C
O
P
Y

ES 47—LS 6224/DI 106+



Second Regular Session 114th General Assembly (2006)

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 2005 Regular Session of the General Assembly.

ENGROSSED
SENATE BILL No. 47

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

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

- 1 SECTION 1. IC 10-13-3-36, AS AMENDED BY P.L.177-2005,
2 SECTION 30, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2006]: Sec. 36. (a) The department may not charge a fee for
4 responding to a request for the release of a limited criminal history
5 record if the request is made by a nonprofit organization:
6 (1) that has been in existence for at least ten (10) years; and
7 (2) that:
8 (A) has a primary purpose of providing an individual
9 relationship for a child with an adult volunteer if the request
10 is made as part of a background investigation of a prospective
11 adult volunteer for the organization;
12 (B) is a home health agency licensed under IC 16-27-1;
13 (C) is a community mental retardation and other
14 developmental disabilities center (as defined in IC 12-7-2-39);
15 (D) is a supervised group living facility licensed under
16 IC 12-28-5;
17 (E) is an area agency on aging designated under IC 12-10-1;

ES 47—LS 6224/DI 106+



C
O
P
Y

- 1 (F) is a community action agency (as defined in
- 2 IC 12-14-23-2);
- 3 (G) is the owner or operator of a hospice program licensed
- 4 under IC 16-25-3; or
- 5 (H) is a community mental health center (as defined in
- 6 IC 12-7-2-38).

7 (b) Except as provided in subsection (d), the department may not
 8 charge a fee for responding to a request for the release of a limited
 9 criminal history record made by the division of family and children or
 10 a county office of family and children if the request is made as part of
 11 a background investigation of an applicant for a license under
 12 IC 12-17.2 or IC 12-17.4.

13 (c) The department may not charge a fee for responding to a request
 14 for the release of a limited criminal history if the request is made by a
 15 school corporation, special education cooperative, or nonpublic school
 16 (as defined in IC 20-18-2-12) as part of a background investigation of
 17 **an a prospective or current** employee or **a prospective or current**
 18 adult volunteer for the school corporation, special education
 19 cooperative, or nonpublic school.

20 (d) As used in this subsection, "state agency" means an authority, a
 21 board, a branch, a commission, a committee, a department, a division,
 22 or another instrumentality of state government, including the executive
 23 and judicial branches of state government, the principal secretary of the
 24 senate, the principal clerk of the house of representatives, the executive
 25 director of the legislative services agency, a state elected official's
 26 office, or a body corporate and politic, but does not include a state
 27 educational institution (as defined in IC 20-12-0.5-1). The department
 28 may not charge a fee for responding to a request for the release of a
 29 limited criminal history if the request is made:

- 30 (1) by a state agency; and
- 31 (2) through the computer gateway that is administered by the
- 32 office of technology established by IC 4-13.1-2-1.

33 (e) The department may not charge a fee for responding to a request
 34 for the release of a limited criminal history record made by the ~~health~~
 35 ~~professions bureau~~ **Indiana professional licensing agency** established
 36 by IC 25-1-5-3 if the request is:

- 37 (1) made through the computer gateway that is administered by
- 38 the office of technology; and
- 39 (2) part of a background investigation of a practitioner or an
- 40 individual who has applied for a license issued by a board (as
- 41 defined in IC 25-1-9-1).

42 **(f) The department may not charge a church or religious society**

C
O
P
Y



1 a fee for responding to a request for the release of a limited
2 criminal history record if:

- 3 (1) the church or religious society is a religious organization
- 4 exempt from federal income taxation under Section 501 of the
- 5 Internal Revenue Code;
- 6 (2) the request is made as part of a background investigation
- 7 of a prospective or current employee or a prospective or
- 8 current adult volunteer; and
- 9 (3) the employee or volunteer works in a nonprofit program
- 10 or ministry of the church or religious society, including a child
- 11 care ministry registered under IC 12-17.2-6.

12 (g) The department may not charge:

- 13 (1) a council of the Girls Scouts of the U.S.A.;
- 14 (2) a council of the Boy Scouts of America;
- 15 (3) a court appointed special advocate or guardian ad litem
- 16 program; or
- 17 (4) a volunteer advocate for seniors program;

18 a fee for responding to a request for the release of a limited
19 criminal history check of a prospective or current employee, or a
20 prospective or current volunteer.

21 SECTION 2. IC 12-17.2-3.5-12 IS AMENDED TO READ AS
22 FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 12. (a) **Except as**
23 **provided in subsection (f)**, a provider shall, at no expense to the state,
24 maintain and make available to the division upon request a copy of a
25 limited criminal history for:

- 26 (1) the provider, if the provider is an individual;
 - 27 (2) if the provider operates a child care program in the provider's
 - 28 home, any individual who resides with the provider and who is:
 - 29 (A) at least eighteen (18) years of age; or
 - 30 (B) less than eighteen (18) years of age but has previously
 - 31 been waived from juvenile court to adult court; and
 - 32 (3) any individual who:
 - 33 (A) is employed; or
 - 34 (B) volunteers;
- 35 as a caregiver at the facility where the provider operates a child
36 care program.

37 A provider shall apply for a limited criminal history for an individual
38 described in subdivision (3) before the individual is employed or
39 allowed to volunteer as a caregiver.

40 (b) In addition to the requirement under subsection (a), a provider
41 shall report to the division any:

- 42 (1) police investigations;

C
o
p
y



1 (2) arrests; and
2 (3) criminal convictions;
3 not listed on a limited criminal history obtained under subsection (a)
4 regarding any of the persons listed in subsection (a).

5 (c) A provider that meets the other eligibility requirements of this
6 chapter is temporarily eligible to receive voucher payments until the
7 provider receives the limited criminal history required under subsection
8 (a) from the state police department if:

9 (1) the provider:
10 (A) has applied for the limited criminal history required under
11 subsection (a); and

12 (B) obtains a local criminal history for the individuals
13 described in subsection (a) from each individual's local law
14 enforcement agency before the individual is employed or
15 allowed to volunteer as a caregiver; and

16 (2) the local criminal history does not reveal that an individual
17 has been convicted of a:

18 (A) felony;

19 (B) misdemeanor related to the health or safety of a child;

20 (C) misdemeanor for operating a child care center without a
21 license under IC 12-17.2-4-35; or

22 (D) misdemeanor for operating a child care home without a
23 license under IC 12-17.2-5-35.

24 (d) A provider is ineligible to receive a voucher payment if an
25 individual for whom a limited criminal history is required under this
26 section has been convicted of a:

27 (1) felony;

28 (2) misdemeanor related to the health or safety of a child;

29 (3) misdemeanor for operating a child care center without a
30 license under IC 12-17.2-4-35; or

31 (4) misdemeanor for operating a child care home without a
32 license under IC 12-17.2-5-35;

33 until the individual is dismissed from employment or volunteer service
34 at the facility where the provider operates a child care program or no
35 longer resides with the provider.

36 (e) A provider shall maintain a written policy requiring an
37 individual for whom a limited criminal history is required under this
38 section to report any criminal convictions of the individual to the
39 provider.

40 (f) **The state police department may not charge a child care**
41 **ministry registered under IC 12-17.2-6 any fees or costs for**
42 **responding to a request for a release of a limited criminal history**

C
o
p
y



1 **record of a prospective or current employee, or a prospective or**
2 **current volunteer, as described in IC 10-13-3-36(f).**

**C
o
p
y**



COMMITTEE REPORT

Madam President: The Senate Committee on Corrections, Criminal, and Civil Matters, to which was referred Senate Bill No. 47, 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 47 as introduced.)

LONG, Chairperson

Committee Vote: Yeas 11, Nays 0.

SENATE MOTION

Madam President: I move that Senator Craycraft be added as coauthor of Engrossed Senate Bill 47.

HERSHMAN

COMMITTEE REPORT

Mr. Speaker: Your Committee on Judiciary, to which was referred Senate Bill 47, 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, line 17, strike "an" and insert "**a prospective or current**".

Page 2, line 17, after "or" and insert "**a prospective or current**".

Page 3, line 6, delete "an" and insert "**a prospective or current**".

Page 3, line 6, after "or" insert "**a prospective or current**".

Page 3, after line 8, begin a new paragraph and insert:

"(g) The department may not charge:

(1) a council of the Girls Scouts of the U.S.A.; or

(2) a council of the Boy Scouts of America;

a fee for responding to a request for the release of a limited criminal history check of a prospective or current employee, or a

C
O
P
Y



prospective or current volunteer."

and when so amended that said bill do pass.

(Reference is to SB 47 as printed January 11, 2006.)

FOLEY, Chair

Committee Vote: yeas 9, nays 0.

HOUSE MOTION

Mr. Speaker: I move that Engrossed Senate Bill 47 be amended to read as follows:

Page 3, line 10, delete "society" and insert "**society, including a child care ministry registered under IC 12-17.2-6**".

Page 3, after line 16, begin a new paragraph and insert:

"SECTION 2. IC 12-17.2-3.5-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 12. (a) **Except as provided in subsection (f)**, a provider shall, at no expense to the state, maintain and make available to the division upon request a copy of a limited criminal history for:

- (1) the provider, if the provider is an individual;
- (2) if the provider operates a child care program in the provider's home, any individual who resides with the provider and who is:
 - (A) at least eighteen (18) years of age; or
 - (B) less than eighteen (18) years of age but has previously been waived from juvenile court to adult court; and
- (3) any individual who:
 - (A) is employed; or
 - (B) volunteers;

as a caregiver at the facility where the provider operates a child care program.

A provider shall apply for a limited criminal history for an individual described in subdivision (3) before the individual is employed or allowed to volunteer as a caregiver.

(b) In addition to the requirement under subsection (a), a provider shall report to the division any:

- (1) police investigations;
- (2) arrests; and
- (3) criminal convictions;

not listed on a limited criminal history obtained under subsection (a) regarding any of the persons listed in subsection (a).

ES 47—LS 6224/DI 106+



C
O
P
Y

(c) A provider that meets the other eligibility requirements of this chapter is temporarily eligible to receive voucher payments until the provider receives the limited criminal history required under subsection (a) from the state police department if:

(1) the provider:

(A) has applied for the limited criminal history required under subsection (a); and

(B) obtains a local criminal history for the individuals described in subsection (a) from each individual's local law enforcement agency before the individual is employed or allowed to volunteer as a caregiver; and

(2) the local criminal history does not reveal that an individual has been convicted of a:

(A) felony;

(B) misdemeanor related to the health or safety of a child;

(C) misdemeanor for operating a child care center without a license under IC 12-17.2-4-35; or

(D) misdemeanor for operating a child care home without a license under IC 12-17.2-5-35.

(d) A provider is ineligible to receive a voucher payment if an individual for whom a limited criminal history is required under this section has been convicted of a:

(1) felony;

(2) misdemeanor related to the health or safety of a child;

(3) misdemeanor for operating a child care center without a license under IC 12-17.2-4-35; or

(4) misdemeanor for operating a child care home without a license under IC 12-17.2-5-35;

until the individual is dismissed from employment or volunteer service at the facility where the provider operates a child care program or no longer resides with the provider.

(e) A provider shall maintain a written policy requiring an individual for whom a limited criminal history is required under this section to report any criminal convictions of the individual to the provider.

(f) The state police department may not charge a child care ministry registered under IC 12-17.2-6 any fees or costs for responding to a request for a release of a limited criminal history record of a prospective or current employee, or a prospective or current volunteer, as described in IC 10-13-3-36(f)."

C
O
P
Y



Renumber all SECTIONS consecutively.

(Reference is to ESB 47 as printed February 17, 2006.)

MCCLAIN

HOUSE MOTION

Mr. Speaker: I move that Engrossed Senate Bill 47 be amended to read as follows:

Page 3, line 12, delete "or".

Page 3, between lines 13 and 14, begin a new line block indented and insert:

"(3) a court appointed special advocate or guardian ad litem program; or

(4) a volunteer advocate for seniors program;"

(Reference is to ESB 47 as printed February 17, 2006.)

AVERY

C
O
P
Y

