

**CONFERENCE COMMITTEE REPORT
DIGEST FOR ESB 47**

Citations Affected: IC 10-13-3-36; IC 12-17.2-3.5-12.

Synopsis: Criminal background checks. Conference committee report for ESB 47. Exempts a tax-exempt church or religious organization from the fee for conducting a criminal background check on an prospective or current employee or a prospective or current volunteer who works in a nonprofit program or ministry (including a child care ministry). **(This conference committee report removes provisions exempting a council of the Girl Scouts, a council of the Boy Scouts, a court appointed special advocate program, a guardian ad litem program, and a volunteer advocate for senior program from the fee for conducting a criminal background check on an employee or a volunteer.)**

Effective: July 1, 2006.

Adopted

Rejected

CONFERENCE COMMITTEE REPORT

MR. SPEAKER:

Your Conference Committee appointed to confer with a like committee from the Senate upon Engrossed House Amendments to Engrossed Senate Bill No. 47 respectfully reports that said two committees have conferred and agreed as follows to wit:

that the Senate recede from its dissent from all House amendments and that the Senate now concur in all House amendments to the bill and that the bill be further amended as follows:

- 1 Delete everything after the enacting clause and insert the following:
2 SECTION 1. IC 10-13-3-36, AS AMENDED BY P.L.177-2005,
3 SECTION 30, IS AMENDED TO READ AS FOLLOWS
4 [EFFECTIVE JULY 1, 2006]: Sec. 36. (a) The department may not
5 charge a fee for responding to a request for the release of a limited
6 criminal history record if the request is made by a nonprofit
7 organization:
8 (1) that has been in existence for at least ten (10) years; and
9 (2) that:
10 (A) has a primary purpose of providing an individual relationship
11 for a child with an adult volunteer if the request is made as part
12 of a background investigation of a prospective adult volunteer for
13 the organization;
14 (B) is a home health agency licensed under IC 16-27-1;
15 (C) is a community mental retardation and other developmental
16 disabilities center (as defined in IC 12-7-2-39);
17 (D) is a supervised group living facility licensed under
18 IC 12-28-5;
19 (E) is an area agency on aging designated under IC 12-10-1;
20 (F) is a community action agency (as defined in IC 12-14-23-2);
21 (G) is the owner or operator of a hospice program licensed under
22 IC 16-25-3; or
23 (H) is a community mental health center (as defined in

1 IC 12-7-2-38).

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

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

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

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

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

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

37 **(f) The department may not charge a church or religious society**
38 **a fee for responding to a request for the release of a limited**
39 **criminal history record if:**

- 40 **(1) the church or religious society is a religious organization**
41 **exempt from federal income taxation under Section 501 of the**
42 **Internal Revenue Code;**
43 **(2) the request is made as part of a background investigation of**
44 **a prospective or current employee or a prospective or current**
45 **adult volunteer; and**
46 **(3) the employee or volunteer works in a nonprofit program or**
47 **ministry of the church or religious society, including a child**
48 **care ministry registered under IC 12-17.2-6.**

49 SECTION 2. IC 12-17.2-3.5-12 IS AMENDED TO READ AS
50 FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 12. (a) **Except as**
51 **provided in subsection (f)**, a provider shall, at no expense to the state,

- 1 maintain and make available to the division upon request a copy of a
 2 limited criminal history for:
- 3 (1) the provider, if the provider is an individual;
 - 4 (2) if the provider operates a child care program in the provider's
 5 home, any individual who resides with the provider and who is:
 - 6 (A) at least eighteen (18) years of age; or
 - 7 (B) less than eighteen (18) years of age but has previously been
 8 waived from juvenile court to adult court; and
 - 9 (3) any individual who:
 - 10 (A) is employed; or
 - 11 (B) volunteers;
 12 as a caregiver at the facility where the provider operates a child
 13 care program.
- 14 A provider shall apply for a limited criminal history for an individual
 15 described in subdivision (3) before the individual is employed or
 16 allowed to volunteer as a caregiver.
- 17 (b) In addition to the requirement under subsection (a), a provider
 18 shall report to the division any:
 - 19 (1) police investigations;
 - 20 (2) arrests; and
 - 21 (3) criminal convictions;
 22 not listed on a limited criminal history obtained under subsection (a)
 23 regarding any of the persons listed in subsection (a).
 - 24 (c) A provider that meets the other eligibility requirements of this
 25 chapter is temporarily eligible to receive voucher payments until the
 26 provider receives the limited criminal history required under subsection
 27 (a) from the state police department if:
 - 28 (1) the provider:
 - 29 (A) has applied for the limited criminal history required under
 30 subsection (a); and
 - 31 (B) obtains a local criminal history for the individuals described
 32 in subsection (a) from each individual's local law enforcement
 33 agency before the individual is employed or allowed to volunteer
 34 as a caregiver; and
 - 35 (2) the local criminal history does not reveal that an individual has
 36 been convicted of a:
 - 37 (A) felony;
 - 38 (B) misdemeanor related to the health or safety of a child;
 - 39 (C) misdemeanor for operating a child care center without a
 40 license under IC 12-17.2-4-35; or
 - 41 (D) misdemeanor for operating a child care home without a
 42 license under IC 12-17.2-5-35.
 - 43 (d) A provider is ineligible to receive a voucher payment if an
 44 individual for whom a limited criminal history is required under this
 45 section has been convicted of a:
 - 46 (1) felony;
 - 47 (2) misdemeanor related to the health or safety of a child;
 - 48 (3) misdemeanor for operating a child care center without a license
 49 under IC 12-17.2-4-35; or
 - 50 (4) misdemeanor for operating a child care home without a license
 51 under IC 12-17.2-5-35;

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

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

7 **(f) The state police department may not charge a church or**
8 **religious society any fees or costs for responding to a request for a**
9 **release of a limited criminal history record of a prospective or**
10 **current employee or a prospective or current volunteer of a child**
11 **care ministry registered under IC 12-17.2-6 if the conditions set**
12 **forth in IC 10-13-3-36(f) are met.**

(Reference is to ESB 47 as reprinted February 24, 2006.)

Conference Committee Report
on
Engrossed Senate Bill 47

Signed by:

Senator Hershman
Chairperson

Representative McClain

Senator Craycraft

Representative Kuzman

Senate Conferees

House Conferees