

**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.

CONFERENCE COMMITTEE REPORT

MADAM PRESIDENT:

Your Conference Committee appointed to confer with a like committee from the House 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

1 IC 16-25-3; or
 2 (H) is a community mental health center (as defined in
 3 IC 12-7-2-38).

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

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

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

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

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

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

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

42 **(1) the church or religious society is a religious organization**
 43 **exempt from federal income taxation under Section 501 of the**
 44 **Internal Revenue Code;**

45 **(2) the request is made as part of a background investigation**
 46 **of a prospective or current employee or a prospective or**
 47 **current adult volunteer; and**

48 **(3) the employee or volunteer works in a nonprofit program or**
 49 **ministry of the church or religious society, including a child**

1 **care ministry registered under IC 12-17.2-6.**

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

- 7 (1) the provider, if the provider is an individual;
 8 (2) if the provider operates a child care program in the provider's
 9 home, any individual who resides with the provider and who is:
 10 (A) at least eighteen (18) years of age; or
 11 (B) less than eighteen (18) years of age but has previously been
 12 waived from juvenile court to adult court; and
 13 (3) any individual who:
 14 (A) is employed; or
 15 (B) volunteers;
 16 as a caregiver at the facility where the provider operates a child care
 17 program.

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

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

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

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

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

- 32 (1) the provider:
 33 (A) has applied for the limited criminal history required under
 34 subsection (a); and
 35 (B) obtains a local criminal history for the individuals described
 36 in subsection (a) from each individual's local law enforcement
 37 agency before the individual is employed or allowed to volunteer
 38 as a caregiver; and
 39 (2) the local criminal history does not reveal that an individual has
 40 been convicted of a:
 41 (A) felony;
 42 (B) misdemeanor related to the health or safety of a child;
 43 (C) misdemeanor for operating a child care center without a
 44 license under IC 12-17.2-4-35; or
 45 (D) misdemeanor for operating a child care home without a
 46 license under IC 12-17.2-5-35.

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

- 1 (1) felony;
2 (2) misdemeanor related to the health or safety of a child;
3 (3) misdemeanor for operating a child care center without a license
4 under IC 12-17.2-4-35; or
5 (4) misdemeanor for operating a child care home without a license
6 under IC 12-17.2-5-35;

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

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

13 **(f) The state police department may not charge a church or**
14 **religious society any fees or costs for responding to a request for**
15 **a release of a limited criminal history record of a prospective or**
16 **current employee or a prospective or current volunteer of a child**
17 **care ministry registered under IC 12-17.2-6 if the conditions set**
18 **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