



Adopted	Rejected
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COMMITTEE REPORT

YES:	7
NO:	0

MR. SPEAKER:

*Your Committee on Education, to which was referred Senate Bill 115, 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:*

- 1 Page 17, after line 7, begin a new paragraph and insert:
- 2 "SECTION 9. IC 35-38-9-6, AS AMENDED BY P.L.219-2019,
- 3 SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 4 JULY 1, 2022]: Sec. 6. (a) If the court orders conviction records,
- 5 including any records relating to the conviction and any records
- 6 concerning a collateral action, expunged under sections 2 through 3 of
- 7 this chapter, the court shall do the following with respect to the specific
- 8 records expunged by the court:
- 9 (1) Order:
- 10 (A) the department of correction;
- 11 (B) the bureau of motor vehicles; and
- 12 (C) each:
- 13 (i) law enforcement agency; and

- 1 (ii) other person;
- 2 who incarcerated, prosecuted, provided treatment for, or
- 3 provided other services for the person under an order of the
- 4 court;
- 5 to prohibit the release of the person's records or information in the
- 6 person's records to anyone without a court order, other than a law
- 7 enforcement officer acting in the course of the officer's official
- 8 duty.
- 9 (2) Order the central repository for criminal history information
- 10 maintained by the state police department to seal the person's
- 11 expunged conviction records, including information related to:
- 12 (A) an arrest or offense:
- 13 (i) in which no conviction was entered; and
- 14 (ii) that was committed as part of the same episode of
- 15 criminal conduct as the case ordered expunged; and
- 16 (B) any other references to any matters related to the case
- 17 ordered expunged, including in a collateral action.
- 18 This subdivision does not require the state police department to
- 19 seal any record the state police department does not have legal
- 20 authority to seal.
- 21 (3) Records sealed under subdivision (2) may be disclosed only
- 22 to:
- 23 (A) a prosecuting attorney, if:
- 24 (i) authorized by a court order; and
- 25 (ii) needed to carry out the official duties of the prosecuting
- 26 attorney;
- 27 (B) a defense attorney, if:
- 28 (i) authorized by a court order; and
- 29 (ii) needed to carry out the professional duties of the defense
- 30 attorney;
- 31 (C) a probation department, if:
- 32 (i) authorized by a court order; and
- 33 (ii) necessary to prepare a presentence report;
- 34 (D) the Federal Bureau of Investigation and the Department of
- 35 Homeland Security, if disclosure is required to comply with an
- 36 agreement relating to the sharing of criminal history
- 37 information;
- 38 (E) the:

- 1 (i) supreme court;
- 2 (ii) members of the state board of law examiners;
- 3 (iii) executive director of the state board of law examiners;
- 4 and
- 5 (iv) employees of the state board of law examiners, in
- 6 accordance with rules adopted by the state board of law
- 7 examiners;

8 for the purpose of determining whether an applicant possesses
 9 the necessary good moral character for admission to the bar;

10 (F) a person required to access expunged records to comply
 11 with the Secure and Fair Enforcement for Mortgage Licensing
 12 Act (12 U.S.C. 5101 et seq.) or regulations adopted under the
 13 Secure and Fair Enforcement for Mortgage Licensing Act; ~~and~~

14 (G) the bureau of motor vehicles, the Federal Motor Carrier
 15 Administration, and the Commercial Drivers License
 16 Information System (CDLIS), if disclosure is required to
 17 comply with federal law relating to reporting a conviction for
 18 a violation of a traffic control law; **and**

19 **(H) a school (as defined in IC 22-4-2-37), for the purpose of**
 20 **determining whether to:**

21 **(i) employ a person seeking employment, including**
 22 **volunteer employment, with the school or to continue a**
 23 **person's employment, including volunteer employment,**
 24 **at the school; or**

25 **(ii) grant access or admission to the school to an**
 26 **applicant contractor or a contractor if the applicant or**
 27 **contractor is likely to have contact with a student**
 28 **enrolled in the school, regardless of the student's age.**

29 (4) Notify the clerk of the supreme court to seal any records in the
 30 clerk's possession that relate to the conviction, including any
 31 records concerning a collateral action.

32 A probation department may provide an unredacted version of a
 33 presentence report disclosed under subdivision (3)(C) to any person
 34 authorized by law to receive a presentence report.

35 (b) Except as provided in subsection (c), if a petition to expunge
 36 conviction records, including any records relating to the conviction and
 37 any records concerning a collateral action, is granted under sections 2
 38 through 3 of this chapter, the records of:

- 1 (1) the sentencing court;
- 2 (2) a court that conducted a collateral action;
- 3 (3) a juvenile court;
- 4 (4) a court of appeals; and
- 5 (5) the supreme court;

6 concerning the person shall be permanently sealed. However, a petition
7 for expungement granted under sections 2 through 3 of this chapter
8 does not affect an existing or pending driver's license suspension.

9 (c) If a petition to expunge conviction records, including any records
10 relating to the conviction and any records concerning a collateral
11 action, is granted under sections 2 through 3 of this chapter with
12 respect to the records of a person who is named as an appellant or an
13 appellee in an opinion or memorandum decision by the supreme court
14 or the court of appeals, or who is identified in a collateral action, the
15 court shall:

- 16 (1) redact the opinion or memorandum decision as it appears on
17 the computer gateway administered by the office of technology so
18 that it does not include the petitioner's name (in the same manner
19 that opinions involving juveniles are redacted); and
- 20 (2) provide a redacted copy of the opinion to any publisher or
21 organization to whom the opinion or memorandum decision is
22 provided after the date of the order of expungement.

23 The supreme court and court of appeals are not required to destroy or
24 otherwise dispose of any existing copy of an opinion or memorandum
25 decision that includes the petitioner's name.

26 (d) Notwithstanding subsection (b), a prosecuting attorney may
27 submit a written application to a court that granted an expungement
28 petition under this chapter to gain access to any records that were
29 permanently sealed under subsection (b), if the records are relevant in
30 a new prosecution of the person. If a prosecuting attorney who submits
31 a written application under this subsection shows that the records are
32 relevant for a new prosecution of the person, the court that granted the
33 expungement petition shall:

- 34 (1) order the records to be unsealed; and
- 35 (2) allow the prosecuting attorney who submitted the written
36 application to have access to the records.

37 If a court orders records to be unsealed under this subsection, the court
38 shall order the records to be permanently resealed at the earliest

1 possible time after the reasons for unsealing the records cease to exist.
2 However, if the records are admitted as evidence against the person in
3 a new prosecution that results in the person's conviction, or are used to
4 enhance a sentence imposed on the person in a new prosecution, the
5 court is not required to reseal the records.

6 (e) If a person whose conviction records, including any records
7 relating to the conviction and any records concerning a collateral
8 action, are expunged under sections 2 through 5 of this chapter is
9 required to register as a sex offender based on the commission of a
10 felony which has been expunged:

11 (1) the expungement does not affect the operation of the sex
12 offender registry web site, any person's ability to access the
13 person's records, records required to be maintained concerning
14 sex or violent offenders, or any registration requirement imposed
15 on the person; and

16 (2) the expunged conviction records must be clearly marked as
17 expunged on the sex offender registry web site.

18 (f) Expungement of a crime of domestic violence under section 2 of
19 this chapter does not restore a person's right to possess a firearm. The
20 right of a person convicted of a crime of domestic violence to possess
21 a firearm may be restored only in accordance with IC 35-47-4-7.

22 (g) If a court issues an order granting a petition for expungement
23 under sections 2 through 3 of this chapter, the court shall also order any
24 related records described in section 1(f) of this chapter sealed or
25 redacted in the manner described in section 1 of this chapter, unless the
26 records described in section 1(f) of this chapter have been ordered
27 sealed and redacted under this section.

28 (h) If the court issues an order granting a petition for expungement
29 under sections 2 through 3 of this chapter, the court shall include in its
30 order the information described in section 8(b) of this chapter."

(Reference is to SB 115 as reprinted February 1, 2022.)

and when so amended that said bill do pass.

Representative Behning

