

# SENATE BILL No. 22

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 35-38-9-10.

**Synopsis:** Expungement and law enforcement employment. Provides that if a person whose records have been expunged seeks employment with a law enforcement agency, the law enforcement agency may: (1) inquire about the person's expunged records; and (2) refuse to employ the person.

**Effective:** July 1, 2020.

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## Boots

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January 6, 2020, read first time and referred to Committee on Corrections and Criminal Law.

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Second Regular Session of the 121st General Assembly (2020)

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 2019 Regular Session of the General Assembly.

## SENATE BILL No. 22

A BILL FOR AN ACT to amend the Indiana Code concerning criminal law and procedure.

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

1 SECTION 1. IC 35-38-9-10, AS AMENDED BY P.L.219-2019,  
2 SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
3 JULY 1, 2020]: Sec. 10. (a) This section does not apply to a person to  
4 whom sealed records may be disclosed under section 6(a)(3) of this  
5 chapter. **With respect to a person seeking employment with a law  
6 enforcement agency, including volunteer employment, subsections  
7 (b), (d), (e), and (f) do not apply to the law enforcement agency.**  
8 (b) It is unlawful discrimination for any person to:  
9 (1) suspend;  
10 (2) expel;  
11 (3) refuse to employ;  
12 (4) refuse to admit;  
13 (5) refuse to grant or renew a license, permit, or certificate  
14 necessary to engage in any activity, occupation, or profession; or  
15 (6) otherwise discriminate against;  
16 any person because of a conviction or arrest record expunged or sealed  
17 under this chapter.



1 (c) Except as provided in section 6(f) of this chapter, the civil rights  
2 of a person whose conviction has been expunged shall be fully restored,  
3 including the right to vote, to hold public office, to be a proper person  
4 under IC 35-47-1-7(2), and to serve as a juror.

5 (d) In any application for employment, a license, or other right or  
6 privilege, a person may be questioned about a previous criminal record  
7 only in terms that exclude expunged convictions or arrests, such as:  
8 "Have you ever been arrested for or convicted of a crime that has not  
9 been expunged by a court?"

10 (e) A person whose record is expunged shall be treated as if the  
11 person had never been convicted of the offense. However, upon a  
12 subsequent arrest or conviction for an unrelated offense, the prior  
13 expunged conviction:

14 (1) may be considered by the court in determining the sentence  
15 imposed for the new offense;

16 (2) is a prior unrelated conviction for purposes of:

17 (A) a habitual offender enhancement; and

18 (B) enhancing the new offense based on a prior conviction;  
19 and

20 (3) may be admitted as evidence in the proceeding for a new  
21 offense as if the conviction had not been expunged.

22 (f) Any person that discriminates against a person as described in  
23 subsection (b) commits a Class C infraction and may be held in  
24 contempt by the court issuing the order of expungement or by any other  
25 court of general jurisdiction. Any person may file a written motion of  
26 contempt to bring an alleged violation of this section to the attention of  
27 a court. In addition, the person is entitled to injunctive relief.

28 (g) In any judicial or administrative proceeding alleging negligence  
29 or other fault, an order of expungement may be introduced as evidence  
30 of the person's exercise of due care in hiring, retaining, licensing,  
31 certifying, admitting to a school or program, or otherwise transacting  
32 business or engaging in activity with the person to whom the order of  
33 expungement was issued.

34 (h) A conviction, including any records relating to the conviction  
35 and any records concerning a collateral action, that has been expunged  
36 under this chapter is not admissible as evidence in an action for  
37 negligent hiring, admission, or licensure against a person or entity who  
38 relied on the order.

39 (i) An expungement case, and all documents filed in the case,  
40 becomes confidential when the court issues the order granting the  
41 petition. However, until the court issues the order granting the petition,  
42 documents filed in the case are not confidential, and any hearing held



1 in the case shall be open.

