



February 21, 2022

ENGROSSED SENATE BILL No. 115

DIGEST OF SB 115 (Updated February 21, 2022 10:53 am - DI 147)

Citations Affected: IC 20-23; IC 20-24.2; IC 20-26; IC 20-28;
IC 33-24; IC 35-38.

Synopsis: School employee misconduct. Provides that a policy adopted by a school corporation, charter school, or nonpublic school with at least one employee addressing expanded criminal history checks or expanded child protection index checks (background checks) must prohibit the hiring of, continuing the employment of, contracting with, or continuing to contract with a person who has been convicted of an offense requiring license revocation, unless the conviction has been reversed, vacated, or set aside on appeal. (Current law provides that such a policy addressing background checks must prohibit the hiring of a person who has been convicted of an offense requiring license revocation, unless the conviction has been reversed, vacated, or set aside on appeal.) Provides that: (1) a school corporation; (2) a charter school; or (3) an entity: (A) with which a school corporation or charter school contracts for services; and (B) that has employees who are likely to have direct, ongoing contact with children within the scope
(Continued next page)

Effective: July 1, 2022.

Freeman, Bohacek, Crider, Houchin
(HOUSE SPONSOR — YOUNG J)

January 4, 2022, read first time and referred to Committee on Education and Career Development.

January 27, 2022, amended, reported favorably — Do Pass.

January 31, 2022, read second time, amended, ordered engrossed.

February 1, 2022, engrossed. Read third time, passed. Yeas 48, nays 0.

HOUSE ACTION

February 7, 2022, read first time and referred to Committee on Education.

February 21, 2022, amended, reported — Do Pass.

ES 115—LS 6409/DI 116



Digest Continued

of the employees' employment; shall consider whether information obtained from the background checks concerning an individual's conviction for certain offenses constitutes grounds to not employ, not contract with, or to terminate the employment of or contract with the individual. Provides that, in the event that an entity obtains information that an individual employed by the entity who works at a particular school corporation or charter school has been convicted of certain offenses, the entity shall immediately notify the school corporation or charter school of the employee's conviction. Provides that sealed records may be disclosed to a school for the purpose of determining whether to: (1) employ a person seeking employment, including volunteer employment, with the school, or to continue a person's employment, including volunteer employment, at the school; or (2) grant access or admission to the school to an applicant contractor or a contractor if the applicant or contractor is likely to have contact with a student enrolled in the school, regardless of the student's age. Makes changes to the list of offenses for which the department of education shall permanently revoke a teacher's license. Makes conforming changes.

ES 115—LS 6409/DI 116



February 21, 2022

Second Regular Session of the 122nd General Assembly (2022)

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 2021 Regular Session of the General Assembly.

ENGROSSED SENATE BILL No. 115

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

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

- 1 SECTION 1. IC 20-23-18-3, AS AMENDED BY P.L.147-2020,
2 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2022]: Sec. 3. (a) Except as provided in subsection (c), the
4 Muncie Community school corporation is subject to all applicable
5 federal and state laws.
6 (b) If a provision of this chapter conflicts with any other law,
7 including IC 20-23-4, the provision in this chapter controls.
8 (c) Notwithstanding subsection (a), to provide all administrative and
9 academic flexibility to implement innovative strategies, the Muncie
10 Community school corporation is subject only to the following IC 20
11 and IC 22 provisions:
12 (1) IC 20-26-5-10 (criminal history).
13 (2) IC 20-28-5-8 (conviction of certain felonies **or**
14 **misdemeanors**; notice and hearing; permanent revocation of
15 license; data base of school employees who have been reported).
16 (3) IC 20-28-10-17 (school counselor immunity).
17 (4) IC 20-29 (collective bargaining) to the extent required by

ES 115—LS 6409/DI 116



- 1 subsection (e).
 2 (5) IC 20-30-3-2 and IC 20-30-3-4 (patriotic commemorative
 3 observances).
 4 (6) The following:
 5 (A) IC 20-30-5-0.5 (display of the United States flag; Pledge
 6 of Allegiance).
 7 (B) IC 20-30-5-1, IC 20-30-5-2, and IC 20-30-5-3 (the
 8 constitutions of Indiana and the United States; writings,
 9 documents, and records of American history or heritage).
 10 (C) IC 20-30-5-4 (system of government; American history).
 11 (D) IC 20-30-5-5 (morals instruction).
 12 (E) IC 20-30-5-6 (good citizenship instruction).
 13 (7) IC 20-32-4, concerning graduation requirements.
 14 (8) IC 20-32-5.1, concerning the Indiana's Learning Evaluation
 15 Assessment Readiness Network (ILEARN) program.
 16 (9) IC 20-32-8.5 (IRead3).
 17 (10) IC 20-33-2 (compulsory school attendance).
 18 (11) IC 20-33-8-16 (firearms and deadly weapons).
 19 (12) IC 20-33-8-19, IC 20-33-8-21, and IC 20-33-8-22 (student
 20 due process and judicial review).
 21 (13) IC 20-33-7 (parental access to education records).
 22 (14) IC 20-33-9 (reporting of student violations of law).
 23 (15) IC 20-34-3 (health and safety measures).
 24 (16) IC 20-35 (concerning special education).
 25 (17) IC 20-39 (accounting and financial reporting procedures).
 26 (18) IC 20-40 (government funds and accounts).
 27 (19) IC 20-41 (extracurricular funds and accounts).
 28 (20) IC 20-42 (fiduciary funds and accounts).
 29 (21) IC 20-42.5 (allocation of expenditures to student instruction
 30 and learning).
 31 (22) IC 20-43 (state tuition support).
 32 (23) IC 20-44 (property tax levies).
 33 (24) IC 20-46 (levies other than general fund levies).
 34 (25) IC 20-47 (related entities; holding companies; lease
 35 agreements).
 36 (26) IC 20-48 (borrowing and bonds).
 37 (27) IC 20-49 (state management of common school funds; state
 38 advances and loans).
 39 (28) IC 20-50 (concerning homeless children and foster care
 40 children).
 41 (29) IC 22-2-18, before its expiration on June 30, 2021 (limitation
 42 on employment of minors).



1 (d) The Muncie Community school corporation is subject to
2 required audits by the state board of accounts under IC 5-11-1-9.

3 (e) Except to the extent required under a collective bargaining
4 agreement entered into before July 1, 2018, the Muncie Community
5 school corporation is not subject to IC 20-29 unless the school
6 corporation voluntarily recognizes an exclusive representative under
7 IC 20-29-5-2. If the school corporation voluntarily recognizes an
8 exclusive representative under IC 20-29-5-2, the school corporation
9 may authorize a school within the corporation to opt out of bargaining
10 allowable subjects or discussing discussion items by specifying the
11 excluded items on the notice required under IC 20-29-5-2(b). The
12 notice must be provided to the education employment relations board
13 at the time the notice is posted.

14 SECTION 2. IC 20-24.2-4-3, AS AMENDED BY P.L.242-2017,
15 SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
16 JULY 1, 2022]: Sec. 3. (a) Except as specifically provided in this
17 article and section 4 of this chapter, the following provisions of this
18 title and a rule or guideline adopted by the state board under one (1) of
19 the following provisions of this title do not apply to a qualified district
20 or qualified high school:

21 (1) Provisions that do not apply to school corporations in general.

22 (2) IC 20-20 (programs administered by the state), except for
23 IC 20-20-1 (educational service centers) and IC 20-20-8 (school
24 corporation annual performance report).

25 (3) IC 20-28 (school teachers), except for IC 20-28-3-4 (teacher
26 continuing education), IC 20-28-4-8 (hiring of transition to
27 teaching participants; restrictions), IC 20-28-4-11 (transition to
28 teaching participants; school corporation or subject area;
29 transition to teaching permit), IC 20-28-5-8 (conviction of certain
30 felonies **or misdemeanors**; notice and hearing; permanent
31 revocation of license; data base of school employees who have
32 been reported), IC 20-28-6 (teacher contracts), IC 20-28-7.5
33 (cancellation of teacher contracts), IC 20-28-8 (contracts with
34 school administrators), IC 20-28-9 (teacher salary and related
35 payments), IC 20-28-10 (conditions of employment), and
36 IC 20-28-11.5 (staff performance evaluations).

37 (4) IC 20-30 (curriculum), except for IC 20-30-3-2 and
38 IC 20-30-3-4 (patriotic commemorative observances),
39 IC 20-30-5-13 (human sexuality instructional requirements), and
40 IC 20-30-5-19 (personal financial responsibility instruction).

41 (5) IC 20-32 (student standards, assessments, and performance),
42 except for IC 20-32-4 (graduation requirements), IC 20-32-5



1 (Indiana statewide testing for educational progress for a school
 2 year ending before July 1, 2018), IC 20-32-5.1 (statewide
 3 assessment program for a school year beginning after June 30,
 4 2018), and IC 20-32-8 (remediation).
 5 (6) IC 20-37 (career and technical education).
 6 (b) Notwithstanding any other law, a school corporation may not
 7 receive a decrease in state funding based upon the school corporation's
 8 status as a qualified district or the status of a high school within the
 9 school corporation as a qualified high school, or because of the
 10 implementation of a waiver of a statute or rule that is allowed to be
 11 waived by a qualified district or qualified high school.
 12 SECTION 3. IC 20-24.2-4-4, AS AMENDED BY P.L.140-2018,
 13 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 14 JULY 1, 2022]: Sec. 4. The following provisions of this title and rules
 15 and guidelines adopted under the following provisions of this title
 16 apply to a qualified district or qualified high school:
 17 IC 20-20-1 (educational service centers).
 18 IC 20-20-8 (school corporation annual performance report).
 19 IC 20-23 (organization of school corporations).
 20 IC 20-26 (school corporation general administrative provisions).
 21 IC 20-27 (school transportation).
 22 IC 20-28-3-4 (teacher continuing education).
 23 IC 20-28-4-8 (hiring of transition to teaching participants;
 24 restrictions).
 25 IC 20-28-4-11 (transition to teaching participants; school
 26 corporation or subject area; transition to teaching permit).
 27 IC 20-28-5-8 (conviction of certain felonies **or misdemeanors**;
 28 notice and hearing; permanent revocation of license; data base of
 29 school employees who have been reported).
 30 IC 20-28-6 (teacher contracts).
 31 IC 20-28-7.5 (cancellation of teacher contracts).
 32 IC 20-28-8 (contracts with school administrators).
 33 IC 20-28-9 (teacher salary and related payments).
 34 IC 20-28-10 (conditions of employment).
 35 IC 20-28-11.5 (staff performance evaluations).
 36 IC 20-29 (collective bargaining for teachers).
 37 IC 20-30-3-2 and IC 20-30-3-4 (patriotic commemorative
 38 observances).
 39 IC 20-30-5-13 (human sexuality instructional requirements).
 40 IC 20-30-5-19 (personal financial responsibility instruction).
 41 IC 20-31 (accountability for school performance and
 42 improvement).



- 1 IC 20-32-4, IC 20-32-5 (for a school year beginning before July
 2 1, 2018), IC 20-32-5.1 (for a school year ending after June 30,
 3 2018), and IC 20-32-8 (accreditation, assessment, and
 4 remediation), or any other statute, rule, or guideline related to
 5 standardized assessments.
 6 IC 20-33 (students: general provisions).
 7 IC 20-34-3 (health and safety measures).
 8 IC 20-35 (special education).
 9 IC 20-36 (high ability students).
 10 IC 20-39 (accounting and financial reporting procedures).
 11 IC 20-40 (government funds and accounts).
 12 IC 20-41 (extracurricular funds and accounts).
 13 IC 20-42.5 (allocation of expenditures to student instruction and
 14 learning).
 15 IC 20-43 (state tuition support).
 16 IC 20-44 (property tax levies).
 17 IC 20-46 (levies other than general fund levies).
 18 IC 20-47 (related entities; holding companies; lease agreements).
 19 IC 20-48 (borrowing and bonds).
 20 IC 20-49 (state management of common school funds; state
 21 advances and loans).
 22 IC 20-50 (homeless children and foster care children).
 23 SECTION 4. IC 20-26-5-10, AS AMENDED BY P.L.167-2018,
 24 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 25 JULY 1, 2022]: Sec. 10. (a) This section applies to a:
 26 (1) school corporation;
 27 (2) charter school; or
 28 (3) nonpublic school that employs one (1) or more employees.
 29 (b) A school corporation, a charter school, and a nonpublic school
 30 shall adopt a policy concerning criminal history information for
 31 individuals who:
 32 (1) apply for:
 33 (A) employment with the school corporation, charter school,
 34 or nonpublic school; or
 35 (B) employment with an entity with which the school
 36 corporation, charter school, or nonpublic school contracts for
 37 services;
 38 (2) seek to enter into a contract to provide services to the school
 39 corporation, charter school, or nonpublic school; or
 40 (3) are employed by an entity that seeks to enter into a contract to
 41 provide services to the school corporation, charter school, or
 42 nonpublic school;



1 if the individuals are likely to have direct, ongoing contact with
2 children within the scope of the individuals' employment.

3 (c) Except as provided in subsections (f) and (g), a school
4 corporation, a charter school, and a nonpublic school shall administer
5 a policy adopted under this section uniformly for all individuals to
6 whom the policy applies.

7 (d) A policy adopted under this section must require that the school
8 corporation, charter school, or nonpublic school conduct an expanded
9 criminal history check concerning each applicant for employment who
10 is likely to have direct, ongoing contact with children within the scope
11 of the individual's employment before or not later than thirty (30) days
12 after the start date of the applicant's employment by the school
13 corporation, charter school, or nonpublic school.

14 (e) A policy adopted under this section:

15 (1) must require that the school corporation, charter school, or
16 nonpublic school conduct an Indiana expanded child protection
17 index check; and

18 (2) may require that the school corporation, charter school, or
19 nonpublic school conduct an expanded child protection index
20 check in other states;

21 concerning each applicant for employment who is likely to have direct,
22 ongoing contact with children within the scope of the individual's
23 employment. An Indiana expanded child protection index check must
24 be completed before or not later than sixty (60) days after the start date
25 of the applicant's employment by the school corporation, charter
26 school, or nonpublic school.

27 (f) A policy adopted under this section must state that the school
28 corporation, charter school, or nonpublic school requires an expanded
29 criminal history check concerning an employee of the school
30 corporation, charter school, or nonpublic school who is likely to have
31 direct, ongoing contact with children within the scope of the
32 employee's employment. The checks must be conducted every five (5)
33 years. A school corporation, charter school, or nonpublic school may
34 adopt a policy to require an employee to obtain an expanded child
35 protection index check every five (5) years.

36 (g) In implementing subsection (f), and subject to subsection (j), a
37 school corporation, charter school, or nonpublic school may update the
38 checks required under subsection (f) for employees who are employed
39 by the school corporation, charter school, or nonpublic school as of
40 July 1, 2017, over a period not to exceed five (5) years by annually
41 conducting updated expanded criminal history checks and expanded
42 child protection index checks for at least one-fifth (1/5) of the number



1 of employees who are employed by the school corporation, charter
2 school, or nonpublic school on July 1, 2017.

3 (h) An applicant or employee may be required to provide a written
4 consent for the school corporation, charter school, or nonpublic school
5 to request an expanded criminal history check and an expanded child
6 protection index check concerning the individual before the
7 individual's employment by the school corporation, charter school, or
8 nonpublic school. The school corporation, charter school, or nonpublic
9 school may require the individual to provide a set of fingerprints and
10 pay any fees required for the expanded criminal history check and
11 expanded child protection index check. Each applicant for employment
12 or employee described in subsection (f) may be required:

13 (1) at the time the individual applies or updates an expanded
14 criminal history check under subsection (f); or

15 (2) while an expanded criminal history check or expanded child
16 protection index check is being conducted;

17 to answer questions concerning the individual's expanded criminal
18 history check and expanded child protection index check. The failure
19 to answer honestly questions asked under this subsection is grounds for
20 termination of the employee's employment.

21 (i) An applicant is responsible for all costs associated with obtaining
22 the expanded criminal history check and expanded child protection
23 index check unless the school corporation, charter school, or nonpublic
24 school agrees to pay the costs. A school corporation, charter school, or
25 nonpublic school may agree to pay the costs associated with obtaining
26 an expanded criminal history background check for an employee. An
27 employee of a school corporation, charter school, or nonpublic school
28 may not be required to pay the costs of an expanded child protection
29 index check.

30 (j) An applicant or employee may not be required by a school
31 corporation, charter school, or nonpublic school to obtain an expanded
32 criminal history check more than one (1) time during a five (5) year
33 period. However, a school corporation, charter school, or nonpublic
34 school may obtain an expanded criminal history check or an expanded
35 child protection index check at any time if the school corporation,
36 charter school, or nonpublic school has reason to believe that the
37 applicant or employee:

38 (1) is the subject of a substantiated report of child abuse or
39 neglect; or

40 (2) has been charged with or convicted of a crime listed in section
41 11(b) of this chapter **or IC 20-28-5-8(c)**.

42 (k) As used in this subsection, "offense requiring license revocation"



1 means an offense listed in IC 20-28-5-8(c). A policy adopted under this
 2 section must prohibit a school corporation, charter school, or nonpublic
 3 school from:

- 4 (1) hiring;
- 5 (2) continuing the employment of;
- 6 (3) contracting with; or
- 7 (4) continuing to contract with;

8 a person who has been convicted of an offense requiring license
 9 revocation, unless the conviction has been reversed, vacated, or set
 10 aside on appeal.

11 (l) Information obtained under this section must be used in
 12 accordance with law.

13 SECTION 5. IC 20-26-5-11, AS AMENDED BY P.L.142-2020,
 14 SECTION 21, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 15 JULY 1, 2022]: Sec. 11. (a) This section applies to:

- 16 (1) a school corporation;
- 17 (2) a charter school; and
- 18 (3) an entity:
 - 19 (A) with which the school corporation contracts for services;
 - 20 and
 - 21 (B) that has employees who are likely to have direct, ongoing
 - 22 contact with children within the scope of the employees'
 - 23 employment.

24 (b) **Subject to section 10(k) of this chapter and subsection (f), a**
 25 **school corporation, charter school, or entity may use shall consider**
 26 **whether** information obtained under section 10 of this chapter
 27 concerning an individual's conviction for one (1) of the following
 28 offenses **as constitutes** grounds to not employ, **or to not** contract with,
 29 **or to terminate the employment of or contract with** the individual:

- 30 (1) Murder (IC 35-42-1-1).
- 31 (2) Causing suicide (IC 35-42-1-2).
- 32 (3) Assisting suicide (IC 35-42-1-2.5).
- 33 (4) Voluntary manslaughter (IC 35-42-1-3).
- 34 (5) Reckless homicide (IC 35-42-1-5).
- 35 (6) Battery (IC 35-42-2-1) unless ten (10) years have elapsed from
- 36 the date the individual was discharged from probation,
- 37 imprisonment, or parole, whichever is later.
- 38 (7) Aggravated battery (IC 35-42-2-1.5).
- 39 (8) Kidnapping (IC 35-42-3-2).
- 40 (9) Criminal confinement (IC 35-42-3-3).
- 41 (10) A sex offense under IC 35-42-4 (**including criminal deviate**
 42 **conduct (IC 35-42-4-2) (before its repeal)).**



- 1 (11) Carjacking (IC 35-42-5-2) (repealed).
- 2 (12) Arson (IC 35-43-1-1), unless ten (10) years have elapsed
- 3 from the date the individual was discharged from probation,
- 4 imprisonment, or parole, whichever is later.
- 5 (13) Incest (IC 35-46-1-3).
- 6 (14) Neglect of a dependent as a Class B felony (for a crime
- 7 committed before July 1, 2014) or a Level 1 felony or Level 3
- 8 felony (for a crime committed after June 30, 2014)
- 9 (IC 35-46-1-4(b)(2)), unless ten (10) years have elapsed from the
- 10 date the individual was discharged from probation, imprisonment,
- 11 or parole, whichever is later.
- 12 (15) Child selling (IC 35-46-1-4(d)).
- 13 (16) Contributing to the delinquency of a minor (IC 35-46-1-8),
- 14 unless ten (10) years have elapsed from the date the individual
- 15 was discharged from probation, imprisonment, or parole,
- 16 whichever is later.
- 17 (17) An offense involving a weapon under IC 35-47 or
- 18 IC 35-47.5, unless ten (10) years have elapsed from the date the
- 19 individual was discharged from probation, imprisonment, or
- 20 parole, whichever is later.
- 21 (18) An offense relating to controlled substances under
- 22 IC 35-48-4, unless ten (10) years have elapsed from the date the
- 23 individual was discharged from probation, imprisonment, or
- 24 parole, whichever is later.
- 25 (19) An offense relating to material or a performance that is
- 26 harmful to minors or obscene under IC 35-49-3, unless ten (10)
- 27 years have elapsed from the date the individual was discharged
- 28 from probation, imprisonment, or parole, whichever is later.
- 29 (20) An offense relating to operating a motor vehicle while
- 30 intoxicated under IC 9-30-5, unless five (5) years have elapsed
- 31 from the date the individual was discharged from probation,
- 32 imprisonment, or parole, whichever is later.
- 33 (21) Domestic battery (IC 35-42-2-1.3), unless ten (10) years have
- 34 elapsed from the date the individual was discharged from
- 35 probation, imprisonment, or parole, whichever is latest.
- 36 **(22) Public indecency (IC 35-45-4-1) committed:**
- 37 **(A) after June 30, 2003; or**
- 38 **(B) before July 1, 2003, if the person committed the offense**
- 39 **by, in a public place:**
- 40 **(i) engaging in sexual intercourse or other sexual conduct**
- 41 **(as defined in IC 35-31.5-2-221.5);**
- 42 **(ii) appearing in a state of nudity with the intent to**



1 **arouse the sexual desires of the person or another**
 2 **person, or being at least eighteen (18) years of age, with**
 3 **the intent to be seen by a child less than sixteen (16)**
 4 **years of age; or**
 5 **(iii) fondling the person's genitals or the genitals of**
 6 **another person.**

7 **In the event that an entity described in subsection (a)(3) obtains**
 8 **information that an individual employed by the entity who works**
 9 **at a particular school corporation or charter school has been**
 10 **convicted of an offense described in this subsection, the entity shall**
 11 **immediately notify the school corporation or charter school of the**
 12 **employee's conviction.**

13 (c) An individual employed by a school corporation, charter school,
 14 or entity described in subsection (a) shall notify the governing body of
 15 the school corporation, if during the course of the individual's
 16 employment, the individual is convicted in Indiana or another
 17 jurisdiction of an offense described in subsection (b).

18 (d) A school corporation, charter school, or entity may use
 19 information obtained under section 10 of this chapter concerning an
 20 individual being the subject of a substantiated report of child abuse or
 21 neglect as grounds to not employ or contract with the individual.

22 (e) An individual employed by a school corporation, charter school,
 23 or entity described in subsection (a) shall notify the governing body of
 24 the school corporation, if during the course of the individual's
 25 employment, the individual is the subject of a substantiated report of
 26 child abuse or neglect.

27 **(f) A school corporation, charter school, or entity is not required**
 28 **to consider whether information concerning an individual's**
 29 **conviction constitutes grounds to:**

30 **(1) not employ;**

31 **(2) not contract with; or**

32 **(3) terminate the employment of or contract with;**

33 **an individual under subsection (b) if the individual's conviction is**
 34 **reversed, vacated, or set aside.**

35 **(g) Nothing in this section prohibits a school corporation,**
 36 **charter school, or entity from establishing procedures to verify the**
 37 **accuracy of the information obtained under section 10 of this**
 38 **chapter concerning an individual's conviction.**

39 SECTION 6. IC 20-26-20-5, AS ADDED BY P.L.86-2020,
 40 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 41 JULY 1, 2022]: Sec. 5. (a) A public school shall conduct an expanded
 42 criminal history check of a representative of an organization before the



1 representative may provide information to students at a public school
 2 as described in section 4 of this chapter. The representative may be
 3 required to provide a written consent for the public school to conduct
 4 the expanded criminal history check. The representative of the
 5 organization is responsible for all costs associated with obtaining the
 6 expanded criminal history check.

7 (b) A public school may refuse to allow a representative to provide
 8 information as described in section 4 of this chapter if the
 9 representative has been convicted of a felony **or misdemeanor** listed
 10 in IC 20-28-5-8(c) or IC 20-28-5-8(d).

11 SECTION 7. IC 20-28-5-8, AS AMENDED BY P.L.174-2021,
 12 SECTION 19, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 13 JULY 1, 2022]: Sec. 8. (a) This section applies when a prosecuting
 14 attorney knows that a licensed employee of a public school or a
 15 nonpublic school has been convicted of an offense listed in subsection
 16 (c). The prosecuting attorney shall immediately give written notice of
 17 the conviction to the following:

18 (1) The secretary of education.

19 (2) Except as provided in subdivision (3), the superintendent of
 20 the school corporation that employs the licensed employee or the
 21 equivalent authority if a nonpublic school employs the licensed
 22 employee.

23 (3) The presiding officer of the governing body of the school
 24 corporation that employs the licensed employee, if the convicted
 25 licensed employee is the superintendent of the school corporation.

26 (b) The superintendent of a school corporation, presiding officer of
 27 the governing body, or equivalent authority for a nonpublic school shall
 28 immediately notify the secretary of education when the individual
 29 knows that a current or former licensed employee of the public school
 30 or nonpublic school has been convicted of an offense listed in
 31 subsection (c), or when the governing body or equivalent authority for
 32 a nonpublic school takes any final action in relation to an employee
 33 who engaged in any offense listed in subsection (c).

34 (c) Except as provided in section 8.5 of this chapter, the department
 35 shall permanently revoke the license of a person who is known by the
 36 department to have been convicted of any of the following:

37 (1) **The following felonies:**

38 (A) **A sex crime under IC 35-42-4 (including criminal**
 39 **deviate conduct (IC 35-42-4-2) (before its repeal)).**

40 (+) **(B) Kidnapping (IC 35-42-3-2).**

41 (-) **(C) Criminal confinement (IC 35-42-3-3).**

42 (-) **Rape (IC 35-42-4-1).**



- 1 (4) Criminal deviate conduct (IC 35-42-4-2) (before its
2 repeal):
- 3 (5) Child molesting (IC 35-42-4-3):
- 4 (6) An offense under IC 35-42-4-4(b) or IC 35-42-4-4(c):
- 5 (7) Vicarious sexual gratification (IC 35-42-4-5):
- 6 (8) Child solicitation (IC 35-42-4-6):
- 7 (9) Child seduction (IC 35-42-4-7):
- 8 (10) Sexual misconduct with a minor (IC 35-42-4-9):
- 9 (11) **(D)** Incest (IC 35-46-1-3).
- 10 (12) **(E)** Dealing in or manufacturing cocaine or a narcotic
11 drug (IC 35-48-4-1).
- 12 (13) **(F)** Dealing in methamphetamine (IC 35-48-4-1.1).
- 13 (14) **(G)** Manufacturing methamphetamine (IC 35-48-4-1.2).
- 14 (15) **(H)** Dealing in a schedule I, II, or III controlled substance
15 (IC 35-48-4-2).
- 16 (16) **(I)** Dealing in a schedule IV controlled substance
17 (IC 35-48-4-3).
- 18 (17) **(J)** Dealing in a schedule V controlled substance
19 (IC 35-48-4-4).
- 20 (18) **(K)** Dealing in a counterfeit substance (IC 35-48-4-5).
- 21 (19) **(L)** Dealing in marijuana, hash oil, hashish, or salvia as
22 a felony (IC 35-48-4-10).
- 23 (20) **(M)** An offense under IC 35-48-4 involving the
24 manufacture or sale of a synthetic drug (as defined in
25 IC 35-31.5-2-321), a synthetic drug lookalike substance (as
26 defined in IC 35-31.5-2-321.5 (before its repeal on July 1,
27 2019)) under IC 35-48-4-10.5 (before its repeal on July 1,
28 2019), a controlled substance analog (as defined in
29 IC 35-48-1-9.3), or a substance represented to be a controlled
30 substance (as described in IC 35-48-4-4.6).
- 31 (21) Possession of child pornography (IC 35-42-4-4(d) or
32 IC 35-42-4-4(e)):
- 33 (22) **(N)** Homicide (IC 35-42-1).
- 34 (23) **(O)** Voluntary manslaughter (IC 35-42-1-3).
- 35 (24) **(P)** Reckless homicide (IC 35-42-1-5).
- 36 (25) **(Q)** Battery as any of the following:
- 37 (A) **(i)** A Class A felony (for a crime committed before July
38 1, 2014) or a Level 2 felony (for a crime committed after
39 June 30, 2014).
- 40 (B) **(ii)** A Class B felony (for a crime committed before July
41 1, 2014) or a Level 3 felony (for a crime committed after
42 June 30, 2014).



- 1 ~~(C)~~ **(iii)** A Class C felony (for a crime committed before July
- 2 1, 2014) or a Level 5 felony (for a crime committed after
- 3 June 30, 2014).
- 4 ~~(26)~~ **(R)** Aggravated battery (IC 35-42-2-1.5).
- 5 ~~(27)~~ **(S)** Robbery (IC 35-42-5-1).
- 6 ~~(28)~~ **(T)** Carjacking (IC 35-42-5-2) (before its repeal).
- 7 ~~(29)~~ **(U)** Arson as a Class A felony or Class B felony (for a
- 8 crime committed before July 1, 2014) or as a Level 2, Level 3,
- 9 or Level 4 felony (for a crime committed after June 30, 2014)
- 10 (IC 35-43-1-1(a)).
- 11 ~~(30)~~ **(V)** Burglary as a Class A felony or Class B felony (for a
- 12 crime committed before July 1, 2014) or as a Level 1, Level 2,
- 13 Level 3, or Level 4 felony (for a crime committed after June
- 14 30, 2014) (IC 35-43-2-1).
- 15 ~~(31)~~ **(W)** Human trafficking (IC 35-42-3.5).
- 16 ~~(32)~~ **(X)** Dealing in a controlled substance resulting in death
- 17 (IC 35-42-1-1.5).
- 18 ~~(33)~~ **(Y)** Attempt under IC 35-41-5-1 to commit an offense
- 19 listed in this subsection.
- 20 ~~(34)~~ **(Z)** Conspiracy under IC 35-41-5-2 to commit an offense
- 21 listed in this subsection.
- 22 **(2) Public indecency (IC 35-45-4-1) committed:**
- 23 **(A) after June 30, 2003; or**
- 24 **(B) before July 1, 2003, if the person committed the offense**
- 25 **by, in a public place:**
- 26 **(i) engaging in sexual intercourse or other sexual conduct**
- 27 **(as defined in IC 35-31.5-2-221.5);**
- 28 **(ii) appearing in a state of nudity with the intent to**
- 29 **arouse the sexual desires of the person or another**
- 30 **person, or being at least eighteen (18) years of age, with**
- 31 **the intent to be seen by a child less than sixteen (16)**
- 32 **years of age; or**
- 33 **(iii) fondling the person's genitals or the genitals of**
- 34 **another person.**
- 35 (d) The department shall permanently revoke the license of a person
- 36 who is known by the department to have been convicted of a federal
- 37 offense or an offense in another state that is comparable to a felony or
- 38 **misdemeanor** listed in subsection (c).
- 39 (e) A license may be suspended by the secretary of education as
- 40 specified in IC 20-28-7.5.
- 41 (f) The department shall develop a data base of information on
- 42 school corporation employees who have been reported to the



1 department under this section.
2 (g) Upon receipt of information from the office of judicial
3 administration in accordance with IC 33-24-6-3 concerning persons
4 convicted of an offense listed in subsection (c), the department shall:
5 (1) cross check the information received from the office of
6 judicial administration with information concerning licensed
7 teachers (as defined in IC 20-18-2-22(b)) maintained by the
8 department; and
9 (2) if a licensed teacher (as defined in IC 20-18-2-22(b)) has been
10 convicted of an offense described in subsection (c), revoke the
11 licensed teacher's license.
12 SECTION 8. IC 33-24-6-3, AS AMENDED BY P.L.115-2021,
13 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
14 JULY 1, 2022]: Sec. 3. (a) The office of judicial administration shall
15 do the following:
16 (1) Examine the administrative and business methods and systems
17 employed in the offices of the clerks of court and other offices
18 related to and serving the courts and make recommendations for
19 necessary improvement.
20 (2) Collect and compile statistical data and other information on
21 the judicial work of the courts in Indiana. All justices of the
22 supreme court, judges of the court of appeals, judges of all trial
23 courts, and any city or town courts, whether having general or
24 special jurisdiction, court clerks, court reporters, and other
25 officers and employees of the courts shall, upon notice by the
26 chief administrative officer and in compliance with procedures
27 prescribed by the chief administrative officer, furnish the chief
28 administrative officer the information as is requested concerning
29 the nature and volume of judicial business. The information must
30 include the following:
31 (A) The volume, condition, and type of business conducted by
32 the courts.
33 (B) The methods of procedure in the courts.
34 (C) The work accomplished by the courts.
35 (D) The receipt and expenditure of public money by and for
36 the operation of the courts.
37 (E) The methods of disposition or termination of cases.
38 (3) Prepare and publish reports, not less than one (1) or more than
39 two (2) times per year, on the nature and volume of judicial work
40 performed by the courts as determined by the information
41 required in subdivision (2).
42 (4) Serve the judicial nominating commission and the judicial



1 qualifications commission in the performance by the commissions
2 of their statutory and constitutional functions.

3 (5) Administer the civil legal aid fund as required by IC 33-24-12.

4 (6) Administer the court technology fund established by section
5 12 of this chapter.

6 (7) By December 31, 2013, develop and implement a standard
7 protocol for sending and receiving court data:

8 (A) between the protective order registry, established by
9 IC 5-2-9-5.5, and county court case management systems;

10 (B) at the option of the county prosecuting attorney, for:

11 (i) a prosecuting attorney's case management system;

12 (ii) a county court case management system; and

13 (iii) a county court case management system developed and
14 operated by the office of judicial administration;

15 to interface with the electronic traffic tickets, as defined by
16 IC 9-30-3-2.5; and

17 (C) between county court case management systems and the
18 case management system developed and operated by the office
19 of judicial administration.

20 The standard protocol developed and implemented under this
21 subdivision shall permit private sector vendors, including vendors
22 providing service to a local system and vendors accessing the
23 system for information, to send and receive court information on
24 an equitable basis and at an equitable cost.

25 (8) Establish and administer an electronic system for receiving
26 information that relates to certain individuals who may be
27 prohibited from possessing a firearm for the purpose of:

28 (A) transmitting this information to the Federal Bureau of
29 Investigation for inclusion in the NICS; and

30 (B) beginning July 1, 2021, compiling and publishing certain
31 statistics related to the confiscation and retention of firearms
32 as described under section 14 of this chapter.

33 (9) Establish and administer an electronic system for receiving
34 drug related felony conviction information from courts. The office
35 of judicial administration shall notify NPLeX of each drug related
36 felony entered after June 30, 2012, and do the following:

37 (A) Provide NPLeX with the following information:

38 (i) The convicted individual's full name.

39 (ii) The convicted individual's date of birth.

40 (iii) The convicted individual's driver's license number, state
41 personal identification number, or other unique number, if
42 available.



- 1 (iv) The date the individual was convicted of the felony.
 2 Upon receipt of the information from the office of judicial
 3 administration, a stop sale alert must be generated through
 4 NPLEx for each individual reported under this clause.
 5 (B) Notify NPLEx if the felony of an individual reported under
 6 clause (A) has been:
 7 (i) set aside;
 8 (ii) reversed;
 9 (iii) expunged; or
 10 (iv) vacated.
 11 Upon receipt of information under this clause, NPLEx shall
 12 remove the stop sale alert issued under clause (A) for the
 13 individual.
 14 (10) After July 1, 2018, establish and administer an electronic
 15 system for receiving from courts felony **or misdemeanor**
 16 conviction information for each felony **or misdemeanor**
 17 described in IC 20-28-5-8(c). The office of judicial administration
 18 shall notify the department of education at least one (1) time each
 19 week of each felony **or misdemeanor** described in
 20 IC 20-28-5-8(c) entered after July 1, 2018, and do the following:
 21 (A) Provide the department of education with the following
 22 information:
 23 (i) The convicted individual's full name.
 24 (ii) The convicted individual's date of birth.
 25 (iii) The convicted individual's driver's license number, state
 26 personal identification number, or other unique number, if
 27 available.
 28 (iv) The date the individual was convicted of the felony **or**
 29 **misdemeanor**.
 30 (B) Notify the department of education if the felony **or**
 31 **misdemeanor** of an individual reported under clause (A) has
 32 been:
 33 (i) set aside;
 34 (ii) reversed; or
 35 (iii) vacated.
 36 (11) Perform legal and administrative duties for the justices as
 37 determined by the justices.
 38 (12) Provide staff support for the judicial conference of Indiana
 39 established in IC 33-38-9.
 40 (13) Work with the United States Department of Veterans Affairs
 41 to identify and address the needs of veterans in the court system.
 42 (14) If necessary for purposes of IC 35-47-16-1, issue a retired



1 judicial officer an identification card identifying the retired
2 judicial officer as a retired judicial officer.

3 (b) All forms to be used in gathering data must be approved by the
4 supreme court and shall be distributed to all judges and clerks before
5 the start of each period for which reports are required.

6 (c) The office of judicial administration may adopt rules to
7 implement this section.

8 SECTION 9. IC 35-38-9-6, AS AMENDED BY P.L.219-2019,
9 SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
10 JULY 1, 2022]: Sec. 6. (a) If the court orders conviction records,
11 including any records relating to the conviction and any records
12 concerning a collateral action, expunged under sections 2 through 3 of
13 this chapter, the court shall do the following with respect to the specific
14 records expunged by the court:

15 (1) Order:

16 (A) the department of correction;

17 (B) the bureau of motor vehicles; and

18 (C) each:

19 (i) law enforcement agency; and

20 (ii) other person;

21 who incarcerated, prosecuted, provided treatment for, or
22 provided other services for the person under an order of the
23 court;

24 to prohibit the release of the person's records or information in the
25 person's records to anyone without a court order, other than a law
26 enforcement officer acting in the course of the officer's official
27 duty.

28 (2) Order the central repository for criminal history information
29 maintained by the state police department to seal the person's
30 expunged conviction records, including information related to:

31 (A) an arrest or offense:

32 (i) in which no conviction was entered; and

33 (ii) that was committed as part of the same episode of
34 criminal conduct as the case ordered expunged; and

35 (B) any other references to any matters related to the case
36 ordered expunged, including in a collateral action.

37 This subdivision does not require the state police department to
38 seal any record the state police department does not have legal
39 authority to seal.

40 (3) Records sealed under subdivision (2) may be disclosed only
41 to:

42 (A) a prosecuting attorney, if:



- 1 (i) authorized by a court order; and
- 2 (ii) needed to carry out the official duties of the prosecuting
- 3 attorney;
- 4 (B) a defense attorney, if:
- 5 (i) authorized by a court order; and
- 6 (ii) needed to carry out the professional duties of the defense
- 7 attorney;
- 8 (C) a probation department, if:
- 9 (i) authorized by a court order; and
- 10 (ii) necessary to prepare a presentence report;
- 11 (D) the Federal Bureau of Investigation and the Department of
- 12 Homeland Security, if disclosure is required to comply with an
- 13 agreement relating to the sharing of criminal history
- 14 information;
- 15 (E) the:
- 16 (i) supreme court;
- 17 (ii) members of the state board of law examiners;
- 18 (iii) executive director of the state board of law examiners;
- 19 and
- 20 (iv) employees of the state board of law examiners, in
- 21 accordance with rules adopted by the state board of law
- 22 examiners;
- 23 for the purpose of determining whether an applicant possesses
- 24 the necessary good moral character for admission to the bar;
- 25 (F) a person required to access expunged records to comply
- 26 with the Secure and Fair Enforcement for Mortgage Licensing
- 27 Act (12 U.S.C. 5101 et seq.) or regulations adopted under the
- 28 Secure and Fair Enforcement for Mortgage Licensing Act; ~~and~~
- 29 (G) the bureau of motor vehicles, the Federal Motor Carrier
- 30 Administration, and the Commercial Drivers License
- 31 Information System (CDLIS), if disclosure is required to
- 32 comply with federal law relating to reporting a conviction for
- 33 a violation of a traffic control law; **and**
- 34 **(H) a school (as defined in IC 22-4-2-37), for the purpose of**
- 35 **determining whether to:**
- 36 **(i) employ a person seeking employment, including**
- 37 **volunteer employment, with the school or to continue a**
- 38 **person's employment, including volunteer employment,**
- 39 **at the school; or**
- 40 **(ii) grant access or admission to the school to an**
- 41 **applicant contractor or a contractor if the applicant or**
- 42 **contractor is likely to have contact with a student**



- 1 **enrolled in the school, regardless of the student's age.**
 2 (4) Notify the clerk of the supreme court to seal any records in the
 3 clerk's possession that relate to the conviction, including any
 4 records concerning a collateral action.
 5 A probation department may provide an unredacted version of a
 6 presentence report disclosed under subdivision (3)(C) to any person
 7 authorized by law to receive a presentence report.
 8 (b) Except as provided in subsection (c), if a petition to expunge
 9 conviction records, including any records relating to the conviction and
 10 any records concerning a collateral action, is granted under sections 2
 11 through 3 of this chapter, the records of:
 12 (1) the sentencing court;
 13 (2) a court that conducted a collateral action;
 14 (3) a juvenile court;
 15 (4) a court of appeals; and
 16 (5) the supreme court;
 17 concerning the person shall be permanently sealed. However, a petition
 18 for expungement granted under sections 2 through 3 of this chapter
 19 does not affect an existing or pending driver's license suspension.
 20 (c) If a petition to expunge conviction records, including any records
 21 relating to the conviction and any records concerning a collateral
 22 action, is granted under sections 2 through 3 of this chapter with
 23 respect to the records of a person who is named as an appellant or an
 24 appellee in an opinion or memorandum decision by the supreme court
 25 or the court of appeals, or who is identified in a collateral action, the
 26 court shall:
 27 (1) redact the opinion or memorandum decision as it appears on
 28 the computer gateway administered by the office of technology so
 29 that it does not include the petitioner's name (in the same manner
 30 that opinions involving juveniles are redacted); and
 31 (2) provide a redacted copy of the opinion to any publisher or
 32 organization to whom the opinion or memorandum decision is
 33 provided after the date of the order of expungement.
 34 The supreme court and court of appeals are not required to destroy or
 35 otherwise dispose of any existing copy of an opinion or memorandum
 36 decision that includes the petitioner's name.
 37 (d) Notwithstanding subsection (b), a prosecuting attorney may
 38 submit a written application to a court that granted an expungement
 39 petition under this chapter to gain access to any records that were
 40 permanently sealed under subsection (b), if the records are relevant in
 41 a new prosecution of the person. If a prosecuting attorney who submits
 42 a written application under this subsection shows that the records are



1 relevant for a new prosecution of the person, the court that granted the
2 expungement petition shall:

- 3 (1) order the records to be unsealed; and
- 4 (2) allow the prosecuting attorney who submitted the written
5 application to have access to the records.

6 If a court orders records to be unsealed under this subsection, the court
7 shall order the records to be permanently resealed at the earliest
8 possible time after the reasons for unsealing the records cease to exist.
9 However, if the records are admitted as evidence against the person in
10 a new prosecution that results in the person's conviction, or are used to
11 enhance a sentence imposed on the person in a new prosecution, the
12 court is not required to reseat the records.

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

- 18 (1) the expungement does not affect the operation of the sex
19 offender registry web site, any person's ability to access the
20 person's records, records required to be maintained concerning
21 sex or violent offenders, or any registration requirement imposed
22 on the person; and
- 23 (2) the expunged conviction records must be clearly marked as
24 expunged on the sex offender registry web site.

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

29 (g) If a court issues an order granting a petition for expungement
30 under sections 2 through 3 of this chapter, the court shall also order any
31 related records described in section 1(f) of this chapter sealed or
32 redacted in the manner described in section 1 of this chapter, unless the
33 records described in section 1(f) of this chapter have been ordered
34 sealed and redacted under this section.

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



COMMITTEE REPORT

Madam President: The Senate Committee on Education and Career Development, to which was referred Senate Bill No. 115, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 8, line 20, delete "A" and insert "**Subject to subsection (f), a**".

Page 8, line 23, delete "continue employment,".

Page 8, line 23, strike "or" and insert "**to not**".

Page 8, line 23, delete "with" and insert "**with, or to terminate the employment of or contract with**".

Page 10, between lines 8 and 9, begin a new paragraph and insert:

"(f) A school corporation, charter school, or entity is not required to use information concerning an individual's conviction as grounds to:

(1) not employ;

(2) not contract with; or

(3) terminate the employment of or contract with;

an individual under subsection (b) if the individual's conviction is reversed, vacated, or set aside.

(g) Nothing in this section prohibits a school corporation, charter school, or entity from establishing procedures to verify the accuracy of the information obtained under section 10 of this chapter concerning an individual's conviction."

and when so amended that said bill do pass.

(Reference is to SB 115 as introduced.)

RAATZ, Chairperson

Committee Vote: Yeas 12, Nays 0.

 SENATE MOTION

Madam President: I move that Senate Bill 115 be amended to read as follows:

Page 8, line 3, delete "from hiring a person or continuing employment of a person" and insert "from:

(1) hiring;

(2) continuing the employment of;

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- (3) contracting with; or**
(4) continuing to contract with;

a person".

Page 8, delete lines 9 through 42, begin a new paragraph and insert:
 "SECTION 5. IC 20-26-5-11, AS AMENDED BY P.L.142-2020,
 SECTION 21, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 JULY 1, 2022]: Sec. 11. (a) This section applies to:

- (1) a school corporation;
- (2) a charter school; and
- (3) an entity:
 - (A) with which the school corporation contracts for services;
and
 - (B) that has employees who are likely to have direct, ongoing
contact with children within the scope of the employees'
employment.

(b) **Subject to section 10(k) of this chapter and subsection (f)**, a school corporation, charter school, or entity ~~may use~~ **shall consider whether** information obtained under section 10 of this chapter concerning an individual's conviction for one (1) of the following offenses **as constitutes** grounds to not employ, **or to not** contract with, **or to terminate the employment of or contract with** the individual:

- (1) Murder (IC 35-42-1-1).
- (2) Causing suicide (IC 35-42-1-2).
- (3) Assisting suicide (IC 35-42-1-2.5).
- (4) Voluntary manslaughter (IC 35-42-1-3).
- (5) Reckless homicide (IC 35-42-1-5).
- (6) Battery (IC 35-42-2-1) unless ten (10) years have elapsed from the date the individual was discharged from probation, imprisonment, or parole, whichever is later.
- (7) Aggravated battery (IC 35-42-2-1.5).
- (8) Kidnapping (IC 35-42-3-2).
- (9) Criminal confinement (IC 35-42-3-3).
- (10) A sex offense under IC 35-42-4 (**including criminal deviate conduct (IC 35-42-4-2) (before its repeal)**).
- (11) Carjacking (IC 35-42-5-2) (repealed).
- (12) Arson (IC 35-43-1-1), unless ten (10) years have elapsed from the date the individual was discharged from probation, imprisonment, or parole, whichever is later.
- (13) Incest (IC 35-46-1-3).
- (14) Neglect of a dependent as a Class B felony (for a crime committed before July 1, 2014) or a Level 1 felony or Level 3 felony (for a crime committed after June 30, 2014) (IC



35-46-1-4(b)(2)), unless ten (10) years have elapsed from the date the individual was discharged from probation, imprisonment, or parole, whichever is later.

(15) Child selling (IC 35-46-1-4(d)).

(16) Contributing to the delinquency of a minor (IC 35-46-1-8), unless ten (10) years have elapsed from the date the individual was discharged from probation, imprisonment, or parole, whichever is later.

(17) An offense involving a weapon under IC 35-47 or IC 35-47.5, unless ten (10) years have elapsed from the date the individual was discharged from probation, imprisonment, or parole, whichever is later.

(18) An offense relating to controlled substances under IC 35-48-4, unless ten (10) years have elapsed from the date the individual was discharged from probation, imprisonment, or parole, whichever is later.

(19) An offense relating to material or a performance that is harmful to minors or obscene under IC 35-49-3, unless ten (10) years have elapsed from the date the individual was discharged from probation, imprisonment, or parole, whichever is later.

(20) An offense relating to operating a motor vehicle while intoxicated under IC 9-30-5, unless five (5) years have elapsed from the date the individual was discharged from probation, imprisonment, or parole, whichever is later.

(21) Domestic battery (IC 35-42-2-1.3), unless ten (10) years have elapsed from the date the individual was discharged from probation, imprisonment, or parole, whichever is latest.

(22) Public indecency (IC 35-45-4-1) committed:

(A) after June 30, 2003; or

(B) before July 1, 2003, if the person committed the offense by, in a public place:

(i) engaging in sexual intercourse or other sexual conduct (as defined in IC 35-31.5-2-221.5);

(ii) appearing in a state of nudity with the intent to arouse the sexual desires of the person or another person, or being at least eighteen (18) years of age, with the intent to be seen by a child less than sixteen (16) years of age; or

(iii) fondling the person's genitals or the genitals of another person.

In the event that an entity described in subsection (a)(3) obtains information that an individual employed by the entity who works



at a particular school corporation or charter school has been convicted of an offense described in this subsection, the entity shall immediately notify the school corporation or charter school of the employee's conviction.

(c) An individual employed by a school corporation, charter school, or entity described in subsection (a) shall notify the governing body of the school corporation, if during the course of the individual's employment, the individual is convicted in Indiana or another jurisdiction of an offense described in subsection (b).

(d) A school corporation, charter school, or entity may use information obtained under section 10 of this chapter concerning an individual being the subject of a substantiated report of child abuse or neglect as grounds to not employ or contract with the individual.

(e) An individual employed by a school corporation, charter school, or entity described in subsection (a) shall notify the governing body of the school corporation, if during the course of the individual's employment, the individual is the subject of a substantiated report of child abuse or neglect.

(f) A school corporation, charter school, or entity is not required to consider whether information concerning an individual's conviction constitutes grounds to:

- (1) not employ;**
- (2) not contract with; or**
- (3) terminate the employment of or contract with;**

an individual under subsection (b) if the individual's conviction is reversed, vacated, or set aside.

(g) Nothing in this section prohibits a school corporation, charter school, or entity from establishing procedures to verify the accuracy of the information obtained under section 10 of this chapter concerning an individual's conviction."

Delete page 9.

Page 10, delete lines 1 through 21.

Page 10, delete lines 36 through 42, begin a new paragraph and insert:

"SECTION 7. IC 20-28-5-8, AS AMENDED BY P.L.174-2021, SECTION 19, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2022]: Sec. 8. (a) This section applies when a prosecuting attorney knows that a licensed employee of a public school or a nonpublic school has been convicted of an offense listed in subsection (c). The prosecuting attorney shall immediately give written notice of the conviction to the following:

- (1) The secretary of education.



(2) Except as provided in subdivision (3), the superintendent of the school corporation that employs the licensed employee or the equivalent authority if a nonpublic school employs the licensed employee.

(3) The presiding officer of the governing body of the school corporation that employs the licensed employee, if the convicted licensed employee is the superintendent of the school corporation.

(b) The superintendent of a school corporation, presiding officer of the governing body, or equivalent authority for a nonpublic school shall immediately notify the secretary of education when the individual knows that a current or former licensed employee of the public school or nonpublic school has been convicted of an offense listed in subsection (c), or when the governing body or equivalent authority for a nonpublic school takes any final action in relation to an employee who engaged in any offense listed in subsection (c).

(c) Except as provided in section 8.5 of this chapter, the department shall permanently revoke the license of a person who is known by the department to have been convicted of any of the following:

(1) The following felonies:

(A) A sex crime under IC 35-42-4 (including criminal deviate conduct (IC 35-42-4-2) (before its repeal)).

~~(1)~~ **(B) Kidnapping (IC 35-42-3-2).**

~~(2)~~ **(C) Criminal confinement (IC 35-42-3-3).**

~~(3)~~ **Rape (IC 35-42-4-1).**

~~(4)~~ **Criminal deviate conduct (IC 35-42-4-2) (before its repeal).**

~~(5)~~ **Child molesting (IC 35-42-4-3).**

~~(6)~~ **An offense under IC 35-42-4-4(b) or IC 35-42-4-4(c).**

~~(7)~~ **Vicarious sexual gratification (IC 35-42-4-5).**

~~(8)~~ **Child solicitation (IC 35-42-4-6).**

~~(9)~~ **Child seduction (IC 35-42-4-7).**

~~(10)~~ **Sexual misconduct with a minor (IC 35-42-4-9).**

~~(11)~~ **(D) Incest (IC 35-46-1-3).**

~~(12)~~ **(E) Dealing in or manufacturing cocaine or a narcotic drug (IC 35-48-4-1).**

~~(13)~~ **(F) Dealing in methamphetamine (IC 35-48-4-1.1).**

~~(14)~~ **(G) Manufacturing methamphetamine (IC 35-48-4-1.2).**

~~(15)~~ **(H) Dealing in a schedule I, II, or III controlled substance (IC 35-48-4-2).**

~~(16)~~ **(I) Dealing in a schedule IV controlled substance (IC 35-48-4-3).**

~~(17)~~ **(J) Dealing in a schedule V controlled substance (IC**



- 35-48-4-4).
- ~~(18)~~ **(K)** Dealing in a counterfeit substance (IC 35-48-4-5).
- ~~(19)~~ **(L)** Dealing in marijuana, hash oil, hashish, or salvia as a felony (IC 35-48-4-10).
- ~~(20)~~ **(M)** An offense under IC 35-48-4 involving the manufacture or sale of a synthetic drug (as defined in IC 35-31.5-2-321), a synthetic drug lookalike substance (as defined in IC 35-31.5-2-321.5 (before its repeal on July 1, 2019)) under IC 35-48-4-10.5 (before its repeal on July 1, 2019), a controlled substance analog (as defined in IC 35-48-1-9.3), or a substance represented to be a controlled substance (as described in IC 35-48-4-4.6).
- ~~(21)~~ **Possession of child pornography** (~~IC 35-42-4-4(d)~~ or ~~IC 35-42-4-4(e)~~).
- ~~(22)~~ **(N)** Homicide (IC 35-42-1).
- ~~(23)~~ **(O)** Voluntary manslaughter (IC 35-42-1-3).
- ~~(24)~~ **(P)** Reckless homicide (IC 35-42-1-5).
- ~~(25)~~ **(Q)** Battery as any of the following:
- ~~(A)~~ **(i)** A Class A felony (for a crime committed before July 1, 2014) or a Level 2 felony (for a crime committed after June 30, 2014).
- ~~(B)~~ **(ii)** A Class B felony (for a crime committed before July 1, 2014) or a Level 3 felony (for a crime committed after June 30, 2014).
- ~~(C)~~ **(iii)** A Class C felony (for a crime committed before July 1, 2014) or a Level 5 felony (for a crime committed after June 30, 2014).
- ~~(26)~~ **(R)** Aggravated battery (IC 35-42-2-1.5).
- ~~(27)~~ **(S)** Robbery (IC 35-42-5-1).
- ~~(28)~~ **(T)** Carjacking (IC 35-42-5-2) (before its repeal).
- ~~(29)~~ **(U)** Arson as a Class A felony or Class B felony (for a crime committed before July 1, 2014) or as a Level 2, Level 3, or Level 4 felony (for a crime committed after June 30, 2014) (IC 35-43-1-1(a)).
- ~~(30)~~ **(V)** Burglary as a Class A felony or Class B felony (for a crime committed before July 1, 2014) or as a Level 1, Level 2, Level 3, or Level 4 felony (for a crime committed after June 30, 2014) (IC 35-43-2-1).
- ~~(31)~~ **(W)** Human trafficking (IC 35-42-3.5).
- ~~(32)~~ **(X)** Dealing in a controlled substance resulting in death (IC 35-42-1-1.5).
- ~~(33)~~ **(Y)** Attempt under IC 35-41-5-1 to commit an offense



listed in this subsection.

~~(34)~~ **(Z)** Conspiracy under IC 35-41-5-2 to commit an offense listed in this subsection.

(2) Public indecency (IC 35-45-4-1) committed:

(A) after June 30, 2003; or

(B) before July 1, 2003, if the person committed the offense by, in a public place:

(i) engaging in sexual intercourse or other sexual conduct (as defined in IC 35-31.5-2-221.5);

(ii) appearing in a state of nudity with the intent to arouse the sexual desires of the person or another person, or being at least eighteen (18) years of age, with the intent to be seen by a child less than sixteen (16) years of age; or

(iii) fondling the person's genitals or the genitals of another person.

(d) The department shall permanently revoke the license of a person who is known by the department to have been convicted of a federal offense or an offense in another state that is comparable to a felony **or misdemeanor** listed in subsection (c).

(e) A license may be suspended by the secretary of education as specified in IC 20-28-7.5.

(f) The department shall develop a data base of information on school corporation employees who have been reported to the department under this section.

(g) Upon receipt of information from the office of judicial administration in accordance with IC 33-24-6-3 concerning persons convicted of an offense listed in subsection (c), the department shall:

(1) cross check the information received from the office of judicial administration with information concerning licensed teachers (as defined in IC 20-18-2-22(b)) maintained by the department; and

(2) if a licensed teacher (as defined in IC 20-18-2-22(b)) has been convicted of an offense described in subsection (c), revoke the licensed teacher's license."

Delete pages 11 through 12.

Page 13, delete lines 1 through 23.

Renumber all SECTIONS consecutively.

(Reference is to SB 115 as printed January 28, 2022.)

FREEMAN



COMMITTEE REPORT

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:

Page 17, after line 7, begin a new paragraph and insert:

"SECTION 9. IC 35-38-9-6, AS AMENDED BY P.L.219-2019, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2022]: Sec. 6. (a) If the court orders conviction records, including any records relating to the conviction and any records concerning a collateral action, expunged under sections 2 through 3 of this chapter, the court shall do the following with respect to the specific records expunged by the court:

(1) Order:

- (A) the department of correction;
- (B) the bureau of motor vehicles; and
- (C) each:
 - (i) law enforcement agency; and
 - (ii) other person;

who incarcerated, prosecuted, provided treatment for, or provided other services for the person under an order of the court;

to prohibit the release of the person's records or information in the person's records to anyone without a court order, other than a law enforcement officer acting in the course of the officer's official duty.

(2) Order the central repository for criminal history information maintained by the state police department to seal the person's expunged conviction records, including information related to:

- (A) an arrest or offense:
 - (i) in which no conviction was entered; and
 - (ii) that was committed as part of the same episode of criminal conduct as the case ordered expunged; and
- (B) any other references to any matters related to the case ordered expunged, including in a collateral action.

This subdivision does not require the state police department to seal any record the state police department does not have legal authority to seal.

(3) Records sealed under subdivision (2) may be disclosed only to:

- (A) a prosecuting attorney, if:



- (i) authorized by a court order; and
 - (ii) needed to carry out the official duties of the prosecuting attorney;
 - (B) a defense attorney, if:
 - (i) authorized by a court order; and
 - (ii) needed to carry out the professional duties of the defense attorney;
 - (C) a probation department, if:
 - (i) authorized by a court order; and
 - (ii) necessary to prepare a presentence report;
 - (D) the Federal Bureau of Investigation and the Department of Homeland Security, if disclosure is required to comply with an agreement relating to the sharing of criminal history information;
 - (E) the:
 - (i) supreme court;
 - (ii) members of the state board of law examiners;
 - (iii) executive director of the state board of law examiners; and
 - (iv) employees of the state board of law examiners, in accordance with rules adopted by the state board of law examiners;
- for the purpose of determining whether an applicant possesses the necessary good moral character for admission to the bar;
- (F) a person required to access expunged records to comply with the Secure and Fair Enforcement for Mortgage Licensing Act (12 U.S.C. 5101 et seq.) or regulations adopted under the Secure and Fair Enforcement for Mortgage Licensing Act; ~~and~~
- (G) the bureau of motor vehicles, the Federal Motor Carrier Administration, and the Commercial Drivers License Information System (CDLIS), if disclosure is required to comply with federal law relating to reporting a conviction for a violation of a traffic control law; ~~and~~
- (H) a school (as defined in IC 22-4-2-37), for the purpose of determining whether to:**
- (i) employ a person seeking employment, including volunteer employment, with the school or to continue a person's employment, including volunteer employment, at the school; or**
 - (ii) grant access or admission to the school to an applicant contractor or a contractor if the applicant or contractor is likely to have contact with a student**



enrolled in the school, regardless of the student's age.

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

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

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

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

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

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

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

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

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



relevant for a new prosecution of the person, the court that granted the expungement petition shall:

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

If a court orders records to be unsealed under this subsection, the court shall order the records to be permanently resealed at the earliest possible time after the reasons for unsealing the records cease to exist. However, if the records are admitted as evidence against the person in a new prosecution that results in the person's conviction, or are used to enhance a sentence imposed on the person in a new prosecution, the court is not required to reseat the records.

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

- (1) the expungement does not affect the operation of the sex offender registry web site, any person's ability to access the person's records, records required to be maintained concerning sex or violent offenders, or any registration requirement imposed on the person; and
- (2) the expunged conviction records must be clearly marked as expunged on the sex offender registry web site.

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

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

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

and when so amended that said bill do pass.



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

BEHNING

Committee Vote: yeas 7, nays 0.

