



January 24, 2017

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## HOUSE BILL No. 1079

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DIGEST OF HB 1079 (Updated January 24, 2017 10:44 am - DI 116)

**Citations Affected:** IC 20-26; IC 20-28; IC 31-33; IC 34-30; IC 35-31.5; IC 35-38.

**Synopsis:** School safety. Provides that, if an applicant is hired: (1) after the beginning of the school year and starts work during the same school year; or (2) within 30 days before the beginning of the school year; the school corporation, charter school, or nonpublic school must conduct the expanded criminal history check before or not later than one month after the applicant's employment by the school corporation, charter school, or nonpublic school. Requires a school corporation, charter school, or nonpublic school to adopt a policy to conduct an expanded child protection index check in each state in which information is available concerning each applicant for noncertificated employment or certificated employment before or not later than three months after the applicant's employment by the school corporation, charter school, or nonpublic school. Provides that a school corporation, charter school, or nonpublic school shall conduct an expanded criminal history check and expanded child protection index check on each employee every five years. Provides that a school corporation, charter school, or nonpublic school may implement the requirement for updated background checks for current employees over a five year period. Requires a school corporation, charter school, or nonpublic school with at least one employee to adopt a policy requiring the school employer to contact references and, if applicable, the most recent employer of a prospective employee, before the school corporation or charter school may hire the prospective employee. Requires the

(Continued next page)

**Effective:** July 1, 2017.

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### Thompson

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January 5, 2017, read first time and referred to Committee on Education.  
January 24, 2017, amended, reported — Do Pass.

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HB 1079—LS 7129/DI 116



## Digest Continued

department of child services to notify a school corporation, charter school, or nonpublic school that employs one or more employees if a report of child abuse or neglect is substantiated against an employee or volunteer of the school corporation, charter school, or nonpublic school. Provides that the department of education may reinstate a license that has been revoked if the person's conviction record has been expunged. Provides that a school corporation, charter school, or nonpublic school may agree to pay costs associated with obtaining a background check. Provides that an employee may not be required to pay costs associated with a background check more than one time during a five year period. Provides that upon request by a school or school corporation, the state police, or a consumer reporting agency conducting an expanded child protection index check, the department of child services shall verify the accuracy of a substantiated report of child abuse or neglect listed in the child protection index. Provides that the department of child services shall give written notice of a substantiated report of child abuse or neglect to a school. Provides that the department of child services or an employee of the department of child services is immune from civil liability for providing notice to schools of substantiated reports of child abuse or neglect. Provides that the immunity does not apply to acts or admissions amounting to gross negligence or willful or wanton misconduct. Requires a court to: (1) recommend revocation of a defendant's teaching license (license) if the defendant holds a license and is convicted of certain felonies or the defendant is convicted of certain crimes and the victim is a child less than 18 years of age; and (2) deliver any order recommending revocation of the defendant's license to the department of education (department). Requires the department to revoke the license upon receipt of the order. Allows the department to reinstate a license if a person has been pardoned or the person's conviction has been reversed, vacated, or set aside on appeal.

**HB 1079—LS 7129/DI 116**



January 24, 2017

First Regular Session of the 120th General Assembly (2017)

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 2016 Regular Session of the General Assembly.

## HOUSE BILL No. 1079

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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 20-26-1-1, AS AMENDED BY P.L.121-2009,  
2 SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
3 JULY 1, 2017]: Sec. 1. (a) IC 20-26-1 through IC 20-26-5 and  
4 IC 20-26-7 apply to all school corporations.  
5 (b) Notwithstanding subsection (a), IC 20-26-5-10 applies to a:  
6 (1) ~~a~~ school corporation;  
7 (2) ~~a~~ charter school; and  
8 (3) ~~an accredited~~ nonpublic school **that employs one (1) or more**  
9 **employees.**  
10 SECTION 2. IC 20-26-5-10, AS AMENDED BY P.L.106-2016,  
11 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
12 JULY 1, 2017]: Sec. 10. (a) This section applies to a:  
13 (1) school corporation;  
14 (2) charter school; or  
15 (3) ~~a~~ nonpublic school that employs one (1) or more employees.  
16 (b) A school corporation, including a charter school and a nonpublic  
17 school, shall adopt a policy concerning criminal history information for

HB 1079—LS 7129/DI 116



- 1 individuals who:
- 2 (1) apply for:
- 3 (A) employment with the school corporation, charter school,
- 4 or nonpublic school; or
- 5 (B) employment with an entity with which the school
- 6 corporation, charter school, or nonpublic school contracts for
- 7 services;
- 8 (2) seek to enter into a contract to provide services to the school
- 9 corporation, charter school, or nonpublic school; or
- 10 (3) are employed by an entity that seeks to enter into a contract to
- 11 provide services to the school corporation, charter school, or
- 12 nonpublic school;

13 if the individuals are likely to have direct, ongoing contact with

14 children within the scope of the individuals' employment.

15 (c) A school corporation, including a charter school and a nonpublic

16 school, shall administer a policy adopted under this section uniformly

17 for all individuals to whom the policy applies.

18 **(d) Except as otherwise provided in this subsection, a policy**

19 **adopted under this section must require that the school corporation,**

20 **charter school, or nonpublic school conduct an expanded criminal**

21 **history check and an expanded child protection index check concerning**

22 **each applicant for noncertificated employment or certificated**

23 **employment before or not later than three (3) months after the**

24 **applicant's employment by the school corporation, charter school, or**

25 **nonpublic school. However, if an applicant is hired:**

- 26 **(1) after the beginning of the school year and starts work**
- 27 **during the same school year; or**
- 28 **(2) within thirty (30) days before the beginning of the school**
- 29 **year;**

30 **the school corporation, charter school, or nonpublic school must**

31 **conduct the expanded criminal history check before or not later**

32 **than one (1) month after the applicant's employment by the school**

33 **corporation, charter school, or nonpublic school.**

34 **(e) A policy adopted under this section must require that the**

35 **school corporation, charter school, or nonpublic school conduct an**

36 **expanded child protection index check concerning each applicant**

37 **for noncertificated employment or certificated employment before**

38 **or not later than three (3) months after the applicant's employment**

39 **by the school corporation, charter school, or nonpublic school. An**

40 **expanded child protection index check made under this section**

41 **must include inquiries to each state required under IC 20-26-2-1.3**

42 **in which information necessary to complete the expanded child**



1 **protection index check is available.**

2 (f) Each individual hired for noncertificated employment or  
3 certificated employment may be required to provide a written consent  
4 for the school corporation, charter school, or nonpublic school to  
5 request an expanded criminal history check and an expanded child  
6 protection index check concerning the individual before ~~or not later~~  
7 ~~than three (3) months~~ after the individual's employment by the school  
8 corporation or school.

9 (g) **A policy adopted under this section must state that the school**  
10 **corporation, charter school, or nonpublic school requires an**  
11 **expanded criminal history check and an expanded child protection**  
12 **index check concerning an employee of the school corporation,**  
13 **charter school, or nonpublic school who is likely to have direct,**  
14 **ongoing contact with children within the scope of the employee's**  
15 **employment. The checks must be conducted every five (5) years.**

16 (h) **In implementing subsection (g), and subject to subsection**  
17 **(k), a school corporation, charter school, or nonpublic school may**  
18 **update the background checks required under subsection (e) for**  
19 **employees who:**

20 (1) **are employed by the school corporation, charter school, or**  
21 **nonpublic school as of July 1, 2017; and**

22 (2) **are likely to have direct, ongoing contact with children**  
23 **within the scope of the employee's employment;**

24 **over a period not to exceed five (5) years by annually conducting**  
25 **updated expanded criminal history checks and expanded child**  
26 **protection index checks for at least one-fifth (1/5) of the total**  
27 **number of employees of the school corporation, charter school, or**  
28 **nonpublic school.**

29 (i) **The school corporation, charter school, or nonpublic school may**  
30 **require the individual to provide a set of fingerprints and pay any fees**  
31 **required for the expanded criminal history check and expanded child**  
32 **protection index check. Each applicant for noncertificated employment**  
33 **or certificated employment or an employee described in subsection**  
34 **(g) may be required at the time the individual applies any time to**  
35 **answer questions concerning the individual's expanded criminal history**  
36 **check and expanded child protection index check. The failure to**  
37 **answer honestly questions asked under this subsection is grounds for**  
38 **termination of the employee's employment or to deny an applicant's**  
39 **employment.**

40 (j) **The applicant or an employee described in subsection (g) is**  
41 **responsible for all costs associated with obtaining the expanded**  
42 **criminal history check and expanded child protection index check**



1 **unless the school corporation, charter school, or nonpublic school**  
 2 **has otherwise agreed to pay the costs.**

3 (k) An applicant **or employee** may not be required by a school  
 4 corporation, charter school, or nonpublic school to **obtain pay costs**  
 5 **associated with obtaining** an expanded criminal history check or an  
 6 expanded child protection index check more than one (1) time during  
 7 a five (5) year period.

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

10 (m) **A school corporation, charter school, or nonpublic school**  
 11 **shall adopt a policy requiring the school employer to contact**  
 12 **employment references and, if applicable, the most recent**  
 13 **employer provided by a prospective employee, before the school**  
 14 **employer may hire the prospective employee.**

15 SECTION 3. IC 20-28-5-8, AS AMENDED BY P.L.13-2016,  
 16 SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 17 JULY 1, 2017]: Sec. 8. (a) This section applies when a prosecuting  
 18 attorney knows that a licensed employee of a ~~public school~~ **school**  
 19 **corporation, charter school, or a nonpublic school** has been convicted  
 20 of an offense listed in subsection (c). The prosecuting attorney shall  
 21 immediately give written notice of the conviction to the following:

22 (1) The state superintendent.

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

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

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

38 (c) **Except as provided in section 8.5 of this chapter,** the  
 39 department, after holding a hearing on the matter, shall permanently  
 40 revoke the license of a person who is known by the department to have  
 41 been convicted of any of the following felonies:

42 (1) Kidnapping (IC 35-42-3-2).



- 1 (2) Criminal confinement (IC 35-42-3-3).
- 2 (3) Rape (IC 35-42-4-1).
- 3 (4) Criminal deviate conduct (IC 35-42-4-2) (before its repeal).
- 4 (5) Child molesting (IC 35-42-4-3).
- 5 (6) Child exploitation (IC 35-42-4-4(b) or IC 35-42-4-4(c)).
- 6 (7) Vicarious sexual gratification (IC 35-42-4-5).
- 7 (8) Child solicitation (IC 35-42-4-6).
- 8 (9) Child seduction (IC 35-42-4-7).
- 9 (10) Sexual misconduct with a minor (IC 35-42-4-9).
- 10 (11) Incest (IC 35-46-1-3).
- 11 (12) Dealing in or manufacturing cocaine or a narcotic drug
- 12 (IC 35-48-4-1).
- 13 (13) Dealing in methamphetamine (IC 35-48-4-1.1).
- 14 (14) Dealing in a schedule I, II, or III controlled substance
- 15 (IC 35-48-4-2).
- 16 (15) Dealing in a schedule IV controlled substance
- 17 (IC 35-48-4-3).
- 18 (16) Dealing in a schedule V controlled substance (IC 35-48-4-4).
- 19 (17) Dealing in a counterfeit substance (IC 35-48-4-5).
- 20 (18) Dealing in marijuana, hash oil, hashish, or salvia as a felony
- 21 (IC 35-48-4-10).
- 22 (19) Dealing in a synthetic drug or synthetic drug lookalike
- 23 substance (IC 35-48-4-10.5, or IC 35-48-4-10(b) before its
- 24 amendment in 2013).
- 25 (20) Possession of child pornography (IC 35-42-4-4(d) or
- 26 IC 35-42-4-4(e)).
- 27 (21) Homicide (IC 35-42-1).
- 28 (22) Voluntary manslaughter (IC 35-42-1-3).
- 29 (23) Reckless homicide (IC 35-42-1-5).
- 30 (24) Battery as any of the following:
- 31 (A) A Class A felony (for a crime committed before July 1,
- 32 2014) or a Level 2 felony (for a crime committed after June
- 33 30, 2014).
- 34 (B) A Class B felony (for a crime committed before July 1,
- 35 2014) or a Level 3 felony (for a crime committed after June
- 36 30, 2014).
- 37 (C) A Class C felony (for a crime committed before July 1,
- 38 2014) or a Level 5 felony (for a crime committed after June
- 39 30, 2014).
- 40 (25) Aggravated battery (IC 35-42-2-1.5).
- 41 (26) Robbery (IC 35-42-5-1).
- 42 (27) Carjacking (IC 35-42-5-2) (before its repeal).



1 (28) Arson as a Class A felony or Class B felony (for a crime  
2 committed before July 1, 2014) or as a Level 2, Level 3, or Level  
3 4 felony (for a crime committed after June 30, 2014)  
4 (IC 35-43-1-1(a)).

5 (29) Burglary as a Class A felony or Class B felony (for a crime  
6 committed before July 1, 2014) or as a Level 1, Level 2, Level 3,  
7 or Level 4 felony (for a crime committed after June 30, 2014)  
8 (IC 35-43-2-1).

9 (30) Attempt under IC 35-41-5-1 to commit an offense listed in  
10 this subsection.

11 (31) Conspiracy under IC 35-41-5-2 to commit an offense listed  
12 in this subsection.

13 (d) The department, after holding a hearing on the matter, shall  
14 permanently revoke the license of a person who is known by the  
15 department to have been convicted of a federal offense or an offense in  
16 another state that is comparable to a felony listed in subsection (c).

17 **(e) Subject to section 8.5 of this chapter, upon receipt of a court  
18 order under IC 35-38-1-33 recommending revocation of a person's  
19 license, the department shall revoke the person's license.**

20 **(f) Upon receipt of a court order under IC 35-38-1-33  
21 recommending that a person's license be revoked, the department  
22 shall revoke the person's license.**

23 ~~(e)~~ **(g)** A license may be suspended by the state superintendent as  
24 specified in IC 20-28-7.5.

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

28 SECTION 4. IC 20-28-5-8.5 IS ADDED TO THE INDIANA CODE  
29 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
30 1, 2017]: **Sec. 8.5. The department may, after holding a hearing on  
31 the matter, reinstate the license of a person that has been revoked  
32 under section 8 of this chapter if one (1) or more of the following  
33 occurs with respect to the conviction giving rise to the revocation:**

- 34 **(1) The person has been pardoned.**  
35 **(2) The person's conviction record has been expunged.**  
36 **(3) The person's conviction has been reversed, vacated, or set  
37 aside on appeal.**

38 SECTION 5. IC 31-33-8-12.5 IS ADDED TO THE INDIANA  
39 CODE AS A NEW SECTION TO READ AS FOLLOWS  
40 [EFFECTIVE JULY 1, 2017]: **Sec. 12.5. (a) This section applies if:**

- 41 **(1) a report of child abuse or neglect is substantiated after an  
42 assessment is conducted under section 7 of this chapter; and**





- 1           (2) the perpetrator of the child abuse or neglect is an  
2           employee or volunteer of a:
- 3           (A) school corporation;  
4           (B) charter school; or  
5           (C) nonpublic school that employs one (1) or more  
6           employees.
- 7           (b) The department shall give written notice of a substantiated  
8           report of child abuse or neglect described in subsection (a) to the  
9           following:
- 10           (1) Except as provided in subdivision (2), the superintendent  
11           of the school corporation that employs the employee or for  
12           which the individual volunteers, or the equivalent authority  
13           if the individual is employed by or volunteers for a charter  
14           school or nonpublic school.
- 15           (2) The presiding officer of the governing body of the school  
16           corporation that employs the employee, if the perpetrator of  
17           the child abuse or neglect is the superintendent of the school  
18           corporation.
- 19           (c) The notice provided under subsection (b) must be limited to  
20           the following:
- 21           (1) The name of the perpetrator of the child abuse or neglect  
22           who is an employee or volunteer of an entity described in  
23           subsection (a)(2).
- 24           (2) The nature of the substantiated report of child abuse or  
25           neglect, without providing identifying information about the  
26           victim or victims.
- 27           (3) The date the report of child abuse or neglect was  
28           substantiated.
- 29           (d) If a substantiated report described in subsection (a) is  
30           expunged, the department shall provide notice of the expungement  
31           as described in subsection (b).
- 32           (e) The department or an employee of the department is  
33           immune from civil liability for acting in compliance with this  
34           section. This subsection does not apply to acts or admissions  
35           amounting to gross negligence or willful or wanton misconduct.
- 36           SECTION 6. IC 31-33-26-19 IS ADDED TO THE INDIANA  
37           CODE AS A NEW SECTION TO READ AS FOLLOWS  
38           [EFFECTIVE JULY 1, 2017]: **Sec. 19. Upon request by:**
- 39           (1) a school or school corporation;  
40           (2) the state police; or  
41           (3) a consumer reporting agency regulated under 15 U.S.C.  
42           1681 et. seq.;



1 **conducting an expanded child protection index check under**  
 2 **IC 20-26-5-10, the department shall verify the accuracy of a**  
 3 **substantiated report of child abuse or neglect listed in the child**  
 4 **protection index established under section 2 of this chapter for an**  
 5 **individual who is the subject of the expanded child protection index**  
 6 **search.**

7 SECTION 7. IC 34-30-2-134.1 IS ADDED TO THE INDIANA  
 8 CODE AS A **NEW** SECTION TO READ AS FOLLOWS  
 9 [EFFECTIVE JULY 1, 2017]: **Sec. 134.1. IC 31-33-8-12.5**  
 10 **(Concerning the provision of notice of substantiated reports of**  
 11 **child abuse or neglect to schools).**

12 SECTION 8. IC 35-31.5-2-38, AS ADDED BY P.L.126-2012,  
 13 SECTION 45, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 14 JULY 1, 2017]: Sec. 38. "Child", for purposes of **IC 35-38-1-33**,  
 15 IC 35-47-10, and IC 35-44.1-5-5, has the meaning set forth in  
 16 IC 35-47-10-3.

17 SECTION 9. IC 35-38-1-9, AS AMENDED BY P.L.179-2015,  
 18 SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 19 JULY 1, 2017]: Sec. 9. (a) As used in this chapter, "recommendation"  
 20 has the meaning set forth in IC 35-31.5-2-272, and "victim" has the  
 21 meaning set forth in IC 35-31.5-2-348.

22 (b) The presentence investigation consists of the gathering of  
 23 information with respect to:

- 24 (1) the circumstances attending the commission of the offense;
- 25 (2) the convicted person's history of delinquency or criminality,  
 26 social history, employment history, family situation, economic  
 27 status, education, and personal habits;
- 28 (3) the impact of the crime upon the victim; and
- 29 (4) whether the convicted person is:

- 30 (A) licensed or certified in a profession regulated by IC 25; **or**
- 31 (B) **licensed under IC 20-28-5.**

32 (c) The presentence investigation may include any matter that the  
 33 probation officer conducting the investigation believes is relevant to  
 34 the question of sentence, and must include:

- 35 (1) any matters the court directs to be included;
- 36 (2) any written statements submitted to the prosecuting attorney  
 37 by a victim under IC 35-35-3;
- 38 (3) any written statements submitted to the probation officer by a  
 39 victim; and
- 40 (4) preparation of the victim impact statement required under  
 41 section 8.5 of this chapter.

42 (d) If there are no written statements submitted to the probation



1 officer, the probation officer shall certify to the court:

2 (1) that the probation officer has attempted to contact the victim;  
3 and

4 (2) that if the probation officer has contacted the victim, the  
5 probation officer has offered to accept the written statements of  
6 the victim or to reduce the victim's oral statements to writing,  
7 concerning the sentence, including the acceptance of any  
8 recommendation.

9 (e) A presentence investigation report prepared by a probation  
10 officer must include the information and comply with any other  
11 requirements established in the rules adopted under IC 11-13-1-8.

12 (f) The probation officer shall consult with a community corrections  
13 program officer or employee (if there is a community corrections  
14 program in the county) regarding services and programs available to  
15 the defendant while preparing the presentence investigation report.

16 SECTION 10. IC 35-38-1-33 IS ADDED TO THE INDIANA  
17 CODE AS A NEW SECTION TO READ AS FOLLOWS  
18 [EFFECTIVE JULY 1, 2017]: **Sec. 33. (a) At the time of sentencing,**  
19 **the court shall determine the following:**

20 **(1) Whether the defendant holds a license under IC 20-28-5.**

21 **(2) Whether the defendant is convicted of:**

22 **(A) a felony under IC 20-28-5;**

23 **(B) a crime under:**

24 **(i) IC 35-42;**

25 **(ii) IC 35-45-4-1 (public indecency);**

26 **(iii) IC 35-45-4-3 (patronizing a prostitute);**

27 **(iv) IC 35-45-4-4 (promoting prostitution); or**

28 **(v) IC 35-46-1-3 (incest);**

29 **(C) an attempt under IC 35-41-5-1 to commit an offense**  
30 **listed in clause (B); or**

31 **(D) conspiracy under IC 35-41-5-2 to commit an offense**  
32 **listed in clause (B).**

33 **(3) Whether the victim of the crime is a child.**

34 **(b) If the court determines under subsection (a) that:**

35 **(1) the defendant:**

36 **(A) holds a license under IC 20-28-5; and**

37 **(B) is convicted of a crime listed in subsection (a)(2); and**

38 **(C) committed the crime against a child; or**

39 **(2) the defendant:**

40 **(A) holds a license under IC 20-28-5; and**

41 **(B) is convicted of a felony listed in IC 20-28-5-8(c);**

42 **the court shall issue an order recommending that the defendant's**



1 license under IC 20-28-5 be revoked.  
2 (c) The court shall deliver any order recommending revocation  
3 of the defendant's license under this section to the department of  
4 education.



## COMMITTEE REPORT

Mr. Speaker: Your Committee on Education, to which was referred House Bill 1079, 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 1, delete lines 1 through 17, begin a new paragraph and insert:

"SECTION 1. IC 20-26-1-1, AS AMENDED BY P.L.121-2009, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 1. (a) IC 20-26-1 through IC 20-26-5 and IC 20-26-7 apply to all school corporations.

(b) Notwithstanding subsection (a), IC 20-26-5-10 applies to **a**:

- (1) ~~a~~ school corporation;
- (2) ~~a~~ charter school; and
- (3) ~~an accredited~~ nonpublic school **that employs one (1) or more employees.**

SECTION 2. IC 20-26-5-10, AS AMENDED BY P.L.106-2016, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 10. (a) This section applies to a:

- (1) school corporation;
- (2) charter school; or
- (3) ~~a~~ nonpublic school that employs one (1) or more employees.

(b) A school corporation, including a charter school and a nonpublic school, shall adopt a policy concerning criminal history information for individuals who:

- (1) apply for:
  - (A) employment with the school corporation, charter school, or nonpublic school; or
  - (B) employment with an entity with which the school corporation, charter school, or nonpublic school contracts for services;
- (2) seek to enter into a contract to provide services to the school corporation, charter school, or nonpublic school; or
- (3) are employed by an entity that seeks to enter into a contract to provide services to the school corporation, charter school, or nonpublic school;

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

(c) A school corporation, including a charter school and a nonpublic school, shall administer a policy adopted under this section uniformly for all individuals to whom the policy applies.

**(d) Except as otherwise provided in this subsection, a policy**



adopted under this section must require that the school corporation, charter school, or nonpublic school conduct an expanded criminal history check ~~and an expanded child protection index check~~ concerning each applicant for noncertificated employment or certificated employment before ~~or not later than three (3) months~~ after the applicant's employment by the school corporation, charter school, or nonpublic school. **However, if an applicant is hired:**

- (1) after the beginning of the school year and starts work during the same school year; or**
- (2) within thirty (30) days before the beginning of the school year;**

**the school corporation, charter school, or nonpublic school must conduct the expanded criminal history check before or not later than one (1) month after the applicant's employment by the school corporation, charter school, or nonpublic school.**

**(e) A policy adopted under this section must require that the school corporation, charter school, or nonpublic school conduct an expanded child protection index check concerning each applicant for noncertificated employment or certificated employment before or not later than three (3) months after the applicant's employment by the school corporation, charter school, or nonpublic school. An expanded child protection index check made under this section must include inquiries to each state required under IC 20-26-2-1.3 in which information necessary to complete the expanded child protection index check is available.**

**(f) Each individual hired for noncertificated employment or certificated employment may be required to provide a written consent for the school corporation, charter school, or nonpublic school to request an expanded criminal history check and an expanded child protection index check concerning the individual before ~~or not later than three (3) months~~ after the individual's employment by the school corporation or school.**

**(g) A policy adopted under this section must state that the school corporation, charter school, or nonpublic school requires an expanded criminal history check and an expanded child protection index check concerning an employee of the school corporation, charter school, or nonpublic school who is likely to have direct, ongoing contact with children within the scope of the employee's employment. The checks must be conducted every five (5) years.**

**(h) In implementing subsection (g), and subject to subsection (k), a school corporation, charter school, or nonpublic school may update the background checks required under subsection (e) for**



employees who:

**(1) are employed by the school corporation, charter school, or nonpublic school as of July 1, 2017; and**

**(2) are likely to have direct, ongoing contact with children within the scope of the employee's employment;**

**over a period not to exceed five (5) years by annually conducting updated expanded criminal history checks and expanded child protection index checks for at least one-fifth (1/5) of the total number of employees of the school corporation, charter school, or nonpublic school.**

**(i)** The school corporation, charter school, or nonpublic school may require the individual to provide a set of fingerprints and pay any fees required for the expanded criminal history check and expanded child protection index check. Each applicant for noncertificated employment or certificated employment **or an employee described in subsection (g)** may be required ~~at the time the individual applies~~ **any time** to answer questions concerning the individual's expanded criminal history check and expanded child protection index check. The failure to answer honestly questions asked under this subsection is grounds for termination of the employee's employment **or to deny an applicant's employment.**

**(j)** The applicant **or an employee described in subsection (g)** is responsible for all costs associated with obtaining the expanded criminal history check and expanded child protection index check **unless the school corporation, charter school, or nonpublic school has otherwise agreed to pay the costs.**

**(k)** An applicant **or employee** may not be required by a school corporation, charter school, or nonpublic school to ~~obtain pay costs associated with obtaining~~ an expanded criminal history check or an expanded child protection index check more than one (1) time during a five (5) year period.

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

**(m) A school corporation, charter school, or nonpublic school shall adopt a policy requiring the school employer to contact employment references and, if applicable, the most recent employer provided by a prospective employee, before the school employer may hire the prospective employee."**

Delete page 2.

Page 3, delete lines 1 through 33.

Page 3, line 37, strike "public school" and insert "school corporation, charter school,".



Page 3, line 37, after "or" strike "a".

Page 6, between lines 11 and 12, begin a new line block indented and insert:

**"(2) The person's conviction record has been expunged."**

Page 6, line 12, delete "(2)" and insert "(3)".

Page 6, line 25, delete "immediately".

Page 7, between lines 7 and 8, begin a new paragraph and insert:

**"(e) The department or an employee of the department is immune from civil liability for acting in compliance with this section. This subsection does not apply to acts or admissions amounting to gross negligence or willful or wanton misconduct.**

SECTION 6. IC 31-33-26-19 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: **Sec. 19. Upon request by:**

**(1) a school or school corporation;**

**(2) the state police; or**

**(3) a consumer reporting agency regulated under 15 U.S.C. 1681 et. seq.;**

**conducting an expanded child protection index check under IC 20-26-5-10, the department shall verify the accuracy of a substantiated report of child abuse or neglect listed in the child protection index established under section 2 of this chapter for an individual who is the subject of the expanded child protection index search.**

SECTION 10. IC 34-30-2-134.1 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: **Sec. 134.1. IC 31-33-8-12.5 (Concerning the provision of notice of substantiated reports of child abuse or neglect to schools)."**

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1079 as introduced.)

BEHNING

Committee Vote: yeas 13, nays 0.

