



March 17, 2017

ENGROSSED HOUSE BILL No. 1079

DIGEST OF HB 1079 (Updated March 15, 2017 6:55 pm - DI 125)

Citations Affected: IC 20-26; IC 20-28; IC 33-24; IC 35-38; IC 35-50.

Synopsis: School employment and teacher licensure. Amends the time period by which a school corporation, charter school, or nonpublic school must conduct expanded criminal history checks for applicants for noncertificated employment or certificated employment. Requires a school corporation, charter school, or nonpublic school to conduct an expanded child protection index check concerning each applicant for noncertificated employment or certificated employment before or not later than two months after the applicant's employment. Provides that a school corporation, charter school, or nonpublic school shall require 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. Provides that the employee is responsible for costs associated with obtaining the background checks unless the school corporation, charter school, or nonpublic school agrees to pay the costs.
(Continued next page)

Effective: July 1, 2017.

Thompson, Smith M, Austin

(SENATE SPONSORS — MERRITT, CRANE, KRUSE)

January 5, 2017, read first time and referred to Committee on Education.
January 24, 2017, amended, reported — Do Pass.
January 26, 2017, read second time, ordered engrossed. Engrossed.
January 30, 2017, read third time, passed. Yeas 99, nays 0.

SENATE ACTION

February 20, 2017, read first time and referred to Committee on Education and Career Development.
March 16, 2017, amended, reported favorably — Do Pass.

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Digest Continued

Makes an exception to the provision that an applicant or employee may not be required to obtain an expanded criminal history check or expanded child protection index check more than one time during a five year period. Requires each school corporation and charter school to adopt a policy requiring the school employer of the school corporation or charter school to contact references and, if applicable, the most recent employer provided by a prospective employee, before the school corporation or charter school may hire the prospective employee. Prohibits a school from hiring persons who have been convicted of certain crimes. Adds human trafficking to the list of offenses requiring license revocation. Permits the department of education (department) to reinstate the license of a person convicted of certain crimes if the conviction is reversed, vacated, or set aside on appeal. Requires the division of state court administration to weekly transmit a list of persons convicted of specified crimes to the department, and requires the department to: (1) compare this list with the department's list of licensed employees; and (2) institute revocation proceedings if a licensed employee has been convicted of a specified offense. Provides that a presentence investigation includes gathering information with respect to whether the convicted defendant holds a teaching license or is a teacher. Provides that a superintendent (in addition to a principal under current law) may initiate the cancellation of a teacher's contract by providing notice to the teacher of the superintendent's preliminary decision.

EH 1079—LS 7129/DI 116



March 17, 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.

ENGROSSED HOUSE BILL No. 1079

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

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

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

14 (c) **Except as provided in subsections (f) and (g),** a school
 15 corporation, ~~including~~ a charter school, and a nonpublic school shall
 16 administer a policy adopted under this section uniformly for all
 17 individuals to whom the policy applies. ~~A policy adopted under this~~
 18 ~~section must require that the school corporation, charter school, or~~
 19 ~~nonpublic school conduct an expanded criminal history check and an~~
 20 ~~expanded child protection index check concerning each applicant for~~
 21 ~~noncertificated employment or certificated employment before or not~~
 22 ~~later than three (3) months after the applicant's employment by the~~
 23 ~~school corporation, charter school, or nonpublic school.~~

24 (d) **A policy adopted under this section must require that the**
 25 **school corporation, charter school, or nonpublic school conduct an**
 26 **expanded criminal history check concerning each applicant for**
 27 **noncertificated employment or certificated employment:**

- 28 (1) **before the start date of the applicant's employment by the**
 29 **school corporation, charter school, or nonpublic school if the**
 30 **applicant is employed by the school corporation, charter**
 31 **school, or nonpublic school before July 15 for the school year**
 32 **beginning after June 30 of the same year or a subsequent**
 33 **school year; or**
 34 (2) **before or not later than thirty (30) days after the start date**
 35 **of the applicant's employment by the school corporation,**
 36 **charter school, or nonpublic school if the applicant is**
 37 **employed by the school corporation, charter school, or**
 38 **nonpublic school after July 14 for the school year beginning**
 39 **after June 30 of the same year.**

40 (e) **A policy adopted under this section must require that the**
 41 **school corporation, charter school, or nonpublic school conduct an**
 42 **expanded child protection index check concerning each applicant**



1 **for noncertificated employment or certificated employment before**
 2 **or not later than two (2) months after the applicant's employment**
 3 **by the school corporation, charter school, or nonpublic school.**

4 **(f) A policy adopted under this section must state that the school**
 5 **corporation, charter school, or nonpublic school requires an**
 6 **expanded criminal history check and an expanded child protection**
 7 **index check concerning an employee of the school corporation,**
 8 **charter school, or nonpublic school. The checks must be conducted**
 9 **every five (5) years.**

10 **(g) In implementing subsection (f), and subject to subsection (j),**
 11 **a school corporation, charter school, or nonpublic school may**
 12 **update the checks required under subsection (f) for employees who**
 13 **are employed by the school corporation, charter school, or**
 14 **nonpublic school as of July 1, 2017, over a period not to exceed five**
 15 **(5) years by annually conducting updated expanded criminal**
 16 **history checks and expanded child protection index checks for at**
 17 **least one-fifth (1/5) of the total number of employees of the school**
 18 **corporation, charter school, or nonpublic school.**

19 **(h) Each individual hired for noncertificated employment or**
 20 **certificated employment may be required to provide a written consent**
 21 **for the school corporation, charter school, or nonpublic school to**
 22 **request an expanded criminal history check and an expanded child**
 23 **protection index check concerning the individual before ~~or not later~~**
 24 **than ~~three (3) months~~ after the individual's employment by the school**
 25 **corporation, **charter school, or nonpublic school.** The school**
 26 **corporation, charter school, or nonpublic school may require the**
 27 **individual to provide a set of fingerprints and pay any fees required for**
 28 **the expanded criminal history check and expanded child protection**
 29 **index check. Each applicant for noncertificated employment or**
 30 **certificated employment **or an employee described in subsection (f)****
 31 **may be required:**

32 **(1) at the time the individual applies **or updates an expanded****
 33 **criminal history check and expanded child protection index**
 34 **check under subsection (f); or**

35 **(2) while an expanded criminal history check or expanded**
 36 **child protection index check is being conducted;**

37 to answer questions concerning the individual's expanded criminal
 38 history check and expanded child protection index check. The failure
 39 to answer honestly questions asked under this subsection is grounds for
 40 termination of the employee's employment.

41 **(i) The applicant **or employee described in subsection (f)** is**
 42 **responsible for all costs associated with obtaining the expanded**



1 criminal history check and expanded child protection index check
 2 **unless the school corporation, charter school, or nonpublic school**
 3 **agrees to pay the costs.**

4 (j) An applicant **or employee** may not be required by a school
 5 corporation, charter school, or nonpublic school to obtain an expanded
 6 criminal history check or an expanded child protection index check
 7 more than one (1) time during a five (5) year period. **However, a**
 8 **school corporation, charter school, or nonpublic school may obtain**
 9 **a check described in this subsection at any time if the school**
 10 **corporation, charter school, or nonpublic school has reason to**
 11 **believe that the applicant or employee:**

12 (1) **is the subject of a substantiated report of child abuse or**
 13 **neglect; or**

14 (2) **has been charged with or convicted of a crime listed in**
 15 **section 11(b) of this chapter.**

16 (k) **As used in this subsection, "offense requiring license**
 17 **revocation" means an offense listed in IC 20-28-5-8(c). A policy**
 18 **adopted under this section must prohibit a school corporation,**
 19 **charter school, or nonpublic school from hiring a person who has**
 20 **been convicted of an offense requiring license revocation, unless**
 21 **the conviction has been reversed, vacated, or set aside on appeal.**

22 (d) (l) Information obtained under this section must be used in
 23 accordance with law.

24 SECTION 3. IC 20-26-5-10.5 IS ADDED TO THE INDIANA
 25 CODE AS A NEW SECTION TO READ AS FOLLOWS
 26 [EFFECTIVE JULY 1, 2017]: **Sec. 10.5. Each school corporation and**
 27 **charter school shall adopt a policy requiring the school employer**
 28 **of the school corporation or charter school to contact employment**
 29 **references and, if applicable, the most recent employer provided by**
 30 **a prospective employee, before the school corporation or charter**
 31 **school may hire the prospective employee.**

32 SECTION 4. IC 20-28-5-8, AS AMENDED BY P.L.13-2016,
 33 SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 34 JULY 1, 2017]: Sec. 8. (a) This section applies when a prosecuting
 35 attorney knows that a licensed employee of a public school or a
 36 nonpublic school has been convicted of an offense listed in subsection
 37 (c). The prosecuting attorney shall immediately give written notice of
 38 the conviction to the following:

39 (1) The state superintendent.

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



- 1 employee.
- 2 (3) The presiding officer of the governing body of the school
- 3 corporation that employs the licensed employee, if the convicted
- 4 licensed employee is the superintendent of the school corporation.
- 5 (b) The superintendent of a school corporation, presiding officer of
- 6 the governing body, or equivalent authority for a nonpublic school shall
- 7 immediately notify the state superintendent when the individual knows
- 8 that a current or former licensed employee of the public school or
- 9 nonpublic school has been convicted of an offense listed in subsection
- 10 (c), or when the governing body or equivalent authority for a nonpublic
- 11 school takes any final action in relation to an employee who engaged
- 12 in any offense listed in subsection (c).
- 13 (c) **Except as provided in section 8.5 of this chapter**, the
- 14 department ~~after holding a hearing on the matter~~, shall permanently
- 15 revoke the license of a person who is known by the department to have
- 16 been convicted of any of the following felonies:
- 17 (1) Kidnapping (IC 35-42-3-2).
- 18 (2) Criminal confinement (IC 35-42-3-3).
- 19 (3) Rape (IC 35-42-4-1).
- 20 (4) Criminal deviate conduct (IC 35-42-4-2) (before its repeal).
- 21 (5) Child molesting (IC 35-42-4-3).
- 22 (6) Child exploitation (IC 35-42-4-4(b) or IC 35-42-4-4(c)).
- 23 (7) Vicarious sexual gratification (IC 35-42-4-5).
- 24 (8) Child solicitation (IC 35-42-4-6).
- 25 (9) Child seduction (IC 35-42-4-7).
- 26 (10) Sexual misconduct with a minor (IC 35-42-4-9).
- 27 (11) Incest (IC 35-46-1-3).
- 28 (12) Dealing in or manufacturing cocaine or a narcotic drug
- 29 (IC 35-48-4-1).
- 30 (13) Dealing in methamphetamine (IC 35-48-4-1.1).
- 31 (14) Dealing in a schedule I, II, or III controlled substance
- 32 (IC 35-48-4-2).
- 33 (15) Dealing in a schedule IV controlled substance
- 34 (IC 35-48-4-3).
- 35 (16) Dealing in a schedule V controlled substance (IC 35-48-4-4).
- 36 (17) Dealing in a counterfeit substance (IC 35-48-4-5).
- 37 (18) Dealing in marijuana, hash oil, hashish, or salvia as a felony
- 38 (IC 35-48-4-10).
- 39 (19) Dealing in a synthetic drug or synthetic drug lookalike
- 40 substance (IC 35-48-4-10.5, or IC 35-48-4-10(b) before its
- 41 amendment in 2013).
- 42 (20) Possession of child pornography (IC 35-42-4-4(d) or



- 1 IC 35-42-4-4(e).
- 2 (21) Homicide (IC 35-42-1).
- 3 (22) Voluntary manslaughter (IC 35-42-1-3).
- 4 (23) Reckless homicide (IC 35-42-1-5).
- 5 (24) Battery as any of the following:
- 6 (A) A Class A felony (for a crime committed before July 1,
- 7 2014) or a Level 2 felony (for a crime committed after June
- 8 30, 2014).
- 9 (B) A Class B felony (for a crime committed before July 1,
- 10 2014) or a Level 3 felony (for a crime committed after June
- 11 30, 2014).
- 12 (C) A Class C felony (for a crime committed before July 1,
- 13 2014) or a Level 5 felony (for a crime committed after June
- 14 30, 2014).
- 15 (25) Aggravated battery (IC 35-42-2-1.5).
- 16 (26) Robbery (IC 35-42-5-1).
- 17 (27) Carjacking (IC 35-42-5-2) (before its repeal).
- 18 (28) Arson as a Class A felony or Class B felony (for a crime
- 19 committed before July 1, 2014) or as a Level 2, Level 3, or Level
- 20 4 felony (for a crime committed after June 30, 2014)
- 21 (IC 35-43-1-1(a)).
- 22 (29) Burglary as a Class A felony or Class B felony (for a crime
- 23 committed before July 1, 2014) or as a Level 1, Level 2, Level 3,
- 24 or Level 4 felony (for a crime committed after June 30, 2014)
- 25 (IC 35-43-2-1).
- 26 **(30) Human trafficking (IC 35-42-3.5).**
- 27 ~~(30)~~ **(31)** Attempt under IC 35-41-5-1 to commit an offense listed
- 28 in this subsection.
- 29 ~~(31)~~ **(32)** Conspiracy under IC 35-41-5-2 to commit an offense
- 30 listed in this subsection.
- 31 (d) The department ~~after holding a hearing on the matter,~~ shall
- 32 permanently revoke the license of a person who is known by the
- 33 department to have been convicted of a federal offense or an offense in
- 34 another state that is comparable to a felony listed in subsection (c).
- 35 (e) A license may be suspended by the state superintendent as
- 36 specified in IC 20-28-7.5.
- 37 (f) The department shall develop a data base of information on
- 38 school corporation employees who have been reported to the
- 39 department under this section.
- 40 **(g) Upon receipt of information from the division of state court**
- 41 **administration in accordance with IC 33-24-6-3 concerning**
- 42 **persons convicted of an offense listed in subsection (c), the**



1 department shall:

- 2 (1) cross check the information received from the division of
 3 state court administration with information concerning
 4 licensed employees maintained by the department; and
 5 (2) if a licensed employee has been convicted of an offense
 6 described in subsection (c), institute revocation proceedings
 7 under subsection (c).

8 SECTION 5. IC 20-28-5-8.5 IS ADDED TO THE INDIANA CODE
 9 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 10 1, 2017]: **Sec. 8.5. The department may, after holding a hearing on
 11 the matter, reinstate the license of a person whose license has been
 12 revoked under section 8 of this chapter if the person's conviction
 13 has been reversed, vacated, or set aside on appeal.**

14 SECTION 6. IC 20-28-7.5-2, AS AMENDED BY P.L.179-2016,
 15 SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 16 JULY 1, 2017]: Sec. 2. (a) Before a teacher's contract is canceled, the
 17 teacher has the following rights:

18 (1) The principal **or superintendent** shall notify the teacher of
 19 the principal's **or superintendent's** preliminary decision. The
 20 notification must be:

21 (A) in writing; and

22 (B) delivered in person or mailed by registered or certified
 23 mail to the teacher at the teacher's last known address.

24 (2) The notice in subdivision (1) must include a written statement,
 25 subject to IC 5-14-3-4, giving the reasons for the preliminary
 26 decision.

27 (3) Notification due to a reduction in force must be delivered
 28 between May 1 and July 1.

29 (b) For a cancellation of a teacher's contract for a reason other than
 30 a reduction in force, the notice required under subsection (a)(1) must
 31 inform the teacher that, not later than five (5) days after the teacher's
 32 receipt of the notice, the teacher may request a private conference with
 33 the superintendent or the assistant superintendent. The superintendent
 34 or the assistant superintendent, as applicable, must set the requested
 35 meeting not later than ten (10) days after the request.

36 (c) At the conference between the superintendent or the assistant
 37 superintendent, as applicable, and the teacher, the teacher may be
 38 accompanied by a representative.

39 (d) After the conference between the superintendent or the assistant
 40 superintendent, as applicable, and the teacher, the superintendent or the
 41 assistant superintendent, whoever attended the conference, shall make
 42 a written recommendation to the governing body of the school



1 corporation regarding the cancellation of the teacher's contract.

2 (e) If the teacher does not request a conference under subsection (b),
3 the principal's **or superintendent's** preliminary decision is considered
4 final.

5 (f) If a probationary, professional, or established teacher files a
6 request with the governing body for an additional private conference
7 not later than five (5) days after the initial private conference with the
8 superintendent or the assistant superintendent, as applicable, the
9 teacher is entitled to an additional private conference with the
10 governing body before the governing body makes a final decision. The
11 final decision must be in writing and must be made not more than thirty
12 (30) days after the governing body receives the teacher's request for the
13 additional private conference. At the private conference the governing
14 body shall do the following:

15 (1) Allow the teacher to present evidence to refute the reason or
16 reasons for contract cancellation and supporting evidence
17 provided by the school corporation. Any evidence presented at the
18 private conference must have been exchanged by the parties at
19 least seven (7) days before the private conference.

20 (2) Consider whether a preponderance of the evidence supports
21 the cancellation of the teacher's contract.

22 SECTION 7. IC 33-24-6-3, AS AMENDED BY P.L.9-2016,
23 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
24 JULY 1, 2017]: Sec. 3. (a) The division of state court administration
25 shall do the following:

26 (1) Examine the administrative and business methods and systems
27 employed in the offices of the clerks of court and other offices
28 related to and serving the courts and make recommendations for
29 necessary improvement.

30 (2) Collect and compile statistical data and other information on
31 the judicial work of the courts in Indiana. All justices of the
32 supreme court, judges of the court of appeals, judges of all trial
33 courts, and any city or town courts, whether having general or
34 special jurisdiction, court clerks, court reporters, and other
35 officers and employees of the courts shall, upon notice by the
36 executive director and in compliance with procedures prescribed
37 by the executive director, furnish the executive director the
38 information as is requested concerning the nature and volume of
39 judicial business. The information must include the following:

40 (A) The volume, condition, and type of business conducted by
41 the courts.

42 (B) The methods of procedure in the courts.



- 1 (C) The work accomplished by the courts.
 2 (D) The receipt and expenditure of public money by and for
 3 the operation of the courts.
 4 (E) The methods of disposition or termination of cases.
 5 (3) Prepare and publish reports, not less than one (1) or more than
 6 two (2) times per year, on the nature and volume of judicial work
 7 performed by the courts as determined by the information
 8 required in subdivision (2).
 9 (4) Serve the judicial nominating commission and the judicial
 10 qualifications commission in the performance by the commissions
 11 of their statutory and constitutional functions.
 12 (5) Administer the civil legal aid fund as required by IC 33-24-12.
 13 (6) Administer the judicial technology and automation project
 14 fund established by section 12 of this chapter.
 15 (7) By December 31, 2013, develop and implement a standard
 16 protocol for sending and receiving court data:
 17 (A) between the protective order registry, established by
 18 IC 5-2-9-5.5, and county court case management systems;
 19 (B) at the option of the county prosecuting attorney, for:
 20 (i) a prosecuting attorney's case management system;
 21 (ii) a county court case management system; and
 22 (iii) a county court case management system developed and
 23 operated by the division of state court administration;
 24 to interface with the electronic traffic tickets, as defined by
 25 IC 9-30-3-2.5; and
 26 (C) between county court case management systems and the
 27 case management system developed and operated by the
 28 division of state court administration.
 29 The standard protocol developed and implemented under this
 30 subdivision shall permit private sector vendors, including vendors
 31 providing service to a local system and vendors accessing the
 32 system for information, to send and receive court information on
 33 an equitable basis and at an equitable cost.
 34 (8) Establish and administer an electronic system for receiving
 35 information that relates to certain individuals who may be
 36 prohibited from possessing a firearm and transmitting this
 37 information to the Federal Bureau of Investigation for inclusion
 38 in the NICS.
 39 (9) Establish and administer an electronic system for receiving
 40 felony conviction information for each felony described in
 41 IC 35-48-4-14.5(h)(1) from courts. The division shall notify
 42 NPLEx of each felony described in IC 35-48-4-14.5(h)(1) entered



- 1 after June 30, 2012, and do the following:
- 2 (A) Provide NPLEx with the following information:
- 3 (i) The convicted individual's full name.
- 4 (ii) The convicted individual's date of birth.
- 5 (iii) The convicted individual's driver's license number, state
- 6 personal identification number, or other unique number, if
- 7 available.
- 8 (iv) The date the individual was convicted of the felony.
- 9 Upon receipt of the information from the division, a stop sale
- 10 alert must be generated through NPLEx for each individual
- 11 reported under this clause.
- 12 (B) Notify NPLEx if the felony of an individual reported under
- 13 clause (A) has been:
- 14 (i) set aside;
- 15 (ii) reversed;
- 16 (iii) expunged; or
- 17 (iv) vacated.
- 18 Upon receipt of information under this clause, NPLEx shall
- 19 remove the stop sale alert issued under clause (A) for the
- 20 individual.
- 21 (10) Staff the judicial technology oversight committee established
- 22 by IC 33-23-17-2.
- 23 **(11) After December 31, 2017, establish and administer an**
- 24 **electronic system for receiving felony conviction information**
- 25 **for each felony described in IC 20-28-5-8(c) from courts. The**
- 26 **division shall notify the department of education at least one**
- 27 **(1) time each week of each felony described in IC 20-28-5-8(c)**
- 28 **entered after December 31, 2017, and do the following:**
- 29 **(A) Provide the department of education with the following**
- 30 **information:**
- 31 **(i) The convicted individual's full name.**
- 32 **(ii) The convicted individual's date of birth.**
- 33 **(iii) The convicted individual's driver's license number,**
- 34 **state personal identification number, or other unique**
- 35 **number, if available.**
- 36 **(iv) The date the individual was convicted of the felony.**
- 37 **(B) Notify the department of education if the felony of an**
- 38 **individual reported under clause (A) has been:**
- 39 **(i) set aside;**
- 40 **(ii) reversed;**
- 41 **(iii) expunged; or**
- 42 **(iv) vacated.**



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

4 (c) The division may adopt rules to implement this section.

5 SECTION 8. IC 35-38-1-9, AS AMENDED BY P.L.179-2015,
 6 SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 7 JULY 1, 2017]: Sec. 9. (a) As used in this chapter, "recommendation"
 8 has the meaning set forth in IC 35-31.5-2-272, and "victim" has the
 9 meaning set forth in IC 35-31.5-2-348.

10 (b) The presentence investigation consists of the gathering of
 11 information with respect to:

- 12 (1) the circumstances attending the commission of the offense;
- 13 (2) the convicted person's history of delinquency or criminality,
 14 social history, employment history, family situation, economic
 15 status, education, and personal habits;
- 16 (3) the impact of the crime upon the victim; and
- 17 (4) whether the convicted person is:

18 (A) licensed or certified in a profession regulated by IC 25;

19 (B) licensed under IC 20-28-5; or

20 (C) employed, or was previously employed, as a teacher in
 21 a school corporation, charter school, or nonpublic school.

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

- 25 (1) any matters the court directs to be included;
- 26 (2) any written statements submitted to the prosecuting attorney
 27 by a victim under IC 35-35-3;
- 28 (3) any written statements submitted to the probation officer by a
 29 victim; and
- 30 (4) preparation of the victim impact statement required under
 31 section 8.5 of this chapter.

32 (d) If there are no written statements submitted to the probation
 33 officer, the probation officer shall certify to the court:

- 34 (1) that the probation officer has attempted to contact the victim;
 35 and
- 36 (2) that if the probation officer has contacted the victim, the
 37 probation officer has offered to accept the written statements of
 38 the victim or to reduce the victim's oral statements to writing,
 39 concerning the sentence, including the acceptance of any
 40 recommendation.

41 (e) A presentence investigation report prepared by a probation
 42 officer must include the information and comply with any other



1 requirements established in the rules adopted under IC 11-13-1-8.

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

6 SECTION 9. IC 35-50-10-1, AS ADDED BY P.L.106-2016,
7 SECTION 25, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
8 JULY 1, 2017]: Sec. 1. (a) **As used in this section, "offense requiring
9 license revocation" means an offense listed in IC 20-28-5-8(c).**

10 (b) If an individual is **or was** a teacher in a **primary or secondary**
11 **school, school corporation, charter school, or nonpublic school**
12 **including a public or nonpublic school**, and is convicted of

- 13 (1) kidnapping (IC 35-42-3-2);
14 (2) criminal confinement (IC 35-42-3-3);
15 (3) rape (IC 35-42-4-1);
16 (4) criminal deviate conduct (IC 35-42-4-2) (before its repeal);
17 (5) child molesting (IC 35-42-4-3);
18 (6) child exploitation (IC 35-42-4-4(b));
19 (7) vicarious sexual gratification (IC 35-42-4-5);
20 (8) child solicitation (IC 35-42-4-6);
21 (9) child seduction (IC 35-42-4-7);
22 (10) sexual misconduct with a minor (IC 35-42-4-9);
23 (11) incest (IC 35-46-1-3);
24 (12) dealing in or manufacturing cocaine or a narcotic drug
25 (IC 35-48-4-1);
26 (13) dealing in methamphetamine (IC 35-48-4-1.1);
27 (14) dealing in a schedule I, II, or III controlled substance
28 (IC 35-48-4-2);
29 (15) dealing in a schedule IV controlled substance (IC 35-48-4-3);
30 (16) dealing in a schedule V controlled substance (IC 35-48-4-4);
31 (17) dealing in a counterfeit substance (IC 35-48-4-5);
32 (18) dealing in marijuana, hash oil, hashish, or salvia as a felony
33 (IC 35-48-4-10);
34 (19) dealing in a synthetic drug or synthetic drug lookalike
35 substance (IC 35-48-4-10.5; or IC 35-48-4-10(b) before its
36 amendment in 2013);
37 (20) possession of child pornography (IC 35-42-4-4(c));
38 (21) homicide (IC 35-42-1);
39 (22) voluntary manslaughter (IC 35-42-1-3);
40 (23) reckless homicide (IC 35-42-1-5);
41 (24) battery (IC 35-42-2-1) as:
42 (A) a Class A felony (for a crime committed before July 1;



- 1 2014) or a Level 2 felony (for a crime committed after June
2 30, 2014);
- 3 (B) a Class B felony (for a crime committed before July 1,
4 2014) or a Level 3 felony (for a crime committed after June
5 30, 2014); or
- 6 (C) a Class C felony (for a crime committed before July 1,
7 2014) or a Level 5 felony (for a crime committed after June
8 30, 2014);
- 9 (25) aggravated battery (IC 35-42-2-1.5);
- 10 (26) robbery (IC 35-42-5-1);
- 11 (27) carjacking (IC 35-42-5-2) (before its repeal);
- 12 (28) arson as a Class A felony or Class B felony (for a crime
13 committed before July 1, 2014) or as a Level 2, Level 3, or Level
14 4 felony (for a crime committed after June 30, 2014)
15 (IC 35-43-1-1(a));
- 16 (29) burglary as a Class A felony or Class B felony (for a crime
17 committed before July 1, 2014) or as a Level 1, Level 2, Level 3,
18 or Level 4 felony (for a crime committed after June 30, 2014)
19 (IC 35-43-2-1);
- 20 (30) attempt under IC 35-41-5-1 to commit an offense listed in
21 this subsection; or
- 22 (31) conspiracy under IC 35-41-5-2 to commit an offense listed
23 in this subsection;
- 24 **an offense requiring license revocation**, the judge who presided over
25 the trial or accepted a plea agreement shall give written notice of the
26 conviction to the state superintendent and the chief administrative
27 officer of the ~~primary or secondary school~~, including a ~~public or school~~
28 **corporation, charter school, or nonpublic school**, or, if the individual
29 is employed in a public school, the superintendent of the school district
30 in which the individual is employed.
- 31 ~~(b)~~ (c) Notice under subsection ~~(a)~~ (b) must occur not later than
32 seven (7) days after the date the judgment is entered.
- 33 ~~(c)~~ (d) The notification sent to a school or school district under
34 subsection ~~(a)~~ (b) must include only the felony for which the individual
35 was convicted.
- 36 ~~(d)~~ (e) If a judge later modifies the individual's sentence after giving
37 notice under this section, the judge shall notify the school or the school
38 district of the modification.
- 39 ~~(e)~~ (f) After receiving a notification under subsection ~~(a)~~; (b), the
40 superintendent shall initiate procedures to revoke the individual's
41 license to teach.



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.



COMMITTEE REPORT

Madam President: The Senate Committee on Education and Career Development, to which was referred House Bill No. 1079, 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 1, delete lines 1 through 17.

Delete pages 2 through 7.

Page 8, delete lines 1 through 16.

Page 8, between lines 16 and 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)~~ **Except as otherwise provided**, 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:~~

~~(1) a school corporation;~~

~~(2) a charter school; and~~

~~(3) an accredited nonpublic school.~~

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) **Except as provided in subsections (f) and (g)**, 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. 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.

(d) A policy adopted under this section must require that the school corporation, charter school, or nonpublic school conduct an expanded criminal history check concerning each applicant for noncertificated employment or certificated employment:

(1) before the start date of the applicant's employment by the school corporation, charter school, or nonpublic school if the applicant is employed by the school corporation, charter school, or nonpublic school before July 15 for the school year beginning after June 30 of the same year or a subsequent school year; or

(2) before or not later than thirty (30) days after the start date of the applicant's employment by the school corporation, charter school, or nonpublic school if the applicant is employed by the school corporation, charter school, or nonpublic school after July 14 for the school year beginning after June 30 of the same year.

(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 two (2) months after the applicant's employment by the school corporation, charter school, or nonpublic school.

(f) 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. The checks must be conducted every five (5) years.

(g) In implementing subsection (f), and subject to subsection (j), a school corporation, charter school, or nonpublic school may update the checks required under subsection (f) for employees who are employed by the school corporation, charter school, or nonpublic school as of July 1, 2017, 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.

(h) 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, **charter school, or nonpublic** school. 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 (f)** may be required:

(1) at the time the individual applies or updates an expanded criminal history check and expanded child protection index check under subsection (f); or

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

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.

(i) The applicant **or employee described in subsection (f)** 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 agrees to pay the costs.**

(j) An applicant **or employee** may not be required by a school corporation, charter school, or nonpublic school to obtain an expanded criminal history check or an expanded child protection index check more than one (1) time during a five (5) year period. **However, a school corporation, charter school, or nonpublic school may obtain a check described in this subsection at any time if the school corporation, charter school, or nonpublic school has reason to believe that the applicant or employee:**

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

(2) has been charged with or convicted of a crime listed in



section 11(b) of this chapter.

(k) As used in this subsection, "offense requiring license revocation" means an offense listed in IC 20-28-5-8(c). A policy adopted under this section must prohibit a school corporation, charter school, or nonpublic school from hiring a person who has been convicted of an offense requiring license revocation, unless the conviction has been reversed, vacated, or set aside on appeal.

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

SECTION 3. IC 20-26-5-10.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: **Sec. 10.5. Each school corporation and charter school shall adopt a policy requiring the school employer of the school corporation or charter school to contact employment references and, if applicable, the most recent employer provided by a prospective employee, before the school corporation or charter school may hire the prospective employee.**

SECTION 4. IC 20-28-5-8, AS AMENDED BY P.L.13-2016, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: 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 state superintendent.
- (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 state superintendent 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 ~~after holding a hearing on the matter,~~ shall permanently



revoke the license of a person who is known by the department to have been convicted of any of the following felonies:

- (1) Kidnapping (IC 35-42-3-2).
- (2) 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) Child exploitation (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) Incest (IC 35-46-1-3).
- (12) Dealing in or manufacturing cocaine or a narcotic drug (IC 35-48-4-1).
- (13) Dealing in methamphetamine (IC 35-48-4-1.1).
- (14) Dealing in a schedule I, II, or III controlled substance (IC 35-48-4-2).
- (15) Dealing in a schedule IV controlled substance (IC 35-48-4-3).
- (16) Dealing in a schedule V controlled substance (IC 35-48-4-4).
- (17) Dealing in a counterfeit substance (IC 35-48-4-5).
- (18) Dealing in marijuana, hash oil, hashish, or salvia as a felony (IC 35-48-4-10).
- (19) Dealing in a synthetic drug or synthetic drug lookalike substance (IC 35-48-4-10.5, or IC 35-48-4-10(b) before its amendment in 2013).
- (20) Possession of child pornography (IC 35-42-4-4(d) or IC 35-42-4-4(e)).
- (21) Homicide (IC 35-42-1).
- (22) Voluntary manslaughter (IC 35-42-1-3).
- (23) Reckless homicide (IC 35-42-1-5).
- (24) Battery as any of the following:
 - (A) 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) 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) 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).



(25) Aggravated battery (IC 35-42-2-1.5).

(26) Robbery (IC 35-42-5-1).

(27) Carjacking (IC 35-42-5-2) (before its repeal).

(28) 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)).

(29) 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).

(30) Human trafficking (IC 35-42-3.5).

~~(30)~~ **(31)** Attempt under IC 35-41-5-1 to commit an offense listed in this subsection.

~~(31)~~ **(32)** Conspiracy under IC 35-41-5-2 to commit an offense listed in this subsection.

(d) The department ~~after holding a hearing on the matter~~, 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 listed in subsection (c).

(e) A license may be suspended by the state superintendent 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 division of state court 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 division of state court administration with information concerning licensed employees maintained by the department; and

(2) if a licensed employee has been convicted of an offense described in subsection (c), institute revocation proceedings under subsection (c).

SECTION 5. IC 20-28-5-8.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: **Sec. 8.5. The department may, after holding a hearing on the matter, reinstate the license of a person whose license has been revoked under section 8 of this chapter if the person's conviction has been reversed, vacated, or set aside on appeal.**

SECTION 6. IC 20-28-7.5-2, AS AMENDED BY P.L.179-2016,



SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 2. (a) Before a teacher's contract is canceled, the teacher has the following rights:

(1) The principal **or superintendent** shall notify the teacher of the principal's **or superintendent's** preliminary decision. The notification must be:

(A) in writing; and

(B) delivered in person or mailed by registered or certified mail to the teacher at the teacher's last known address.

(2) The notice in subdivision (1) must include a written statement, subject to IC 5-14-3-4, giving the reasons for the preliminary decision.

(3) Notification due to a reduction in force must be delivered between May 1 and July 1.

(b) For a cancellation of a teacher's contract for a reason other than a reduction in force, the notice required under subsection (a)(1) must inform the teacher that, not later than five (5) days after the teacher's receipt of the notice, the teacher may request a private conference with the superintendent or the assistant superintendent. The superintendent or the assistant superintendent, as applicable, must set the requested meeting not later than ten (10) days after the request.

(c) At the conference between the superintendent or the assistant superintendent, as applicable, and the teacher, the teacher may be accompanied by a representative.

(d) After the conference between the superintendent or the assistant superintendent, as applicable, and the teacher, the superintendent or the assistant superintendent, whoever attended the conference, shall make a written recommendation to the governing body of the school corporation regarding the cancellation of the teacher's contract.

(e) If the teacher does not request a conference under subsection (b), the principal's **or superintendent's** preliminary decision is considered final.

(f) If a probationary, professional, or established teacher files a request with the governing body for an additional private conference not later than five (5) days after the initial private conference with the superintendent or the assistant superintendent, as applicable, the teacher is entitled to an additional private conference with the governing body before the governing body makes a final decision. The final decision must be in writing and must be made not more than thirty (30) days after the governing body receives the teacher's request for the additional private conference. At the private conference the governing body shall do the following:

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(1) Allow the teacher to present evidence to refute the reason or reasons for contract cancellation and supporting evidence provided by the school corporation. Any evidence presented at the private conference must have been exchanged by the parties at least seven (7) days before the private conference.

(2) Consider whether a preponderance of the evidence supports the cancellation of the teacher's contract.

SECTION 7. IC 33-24-6-3, AS AMENDED BY P.L.9-2016, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 3. (a) The division of state court administration shall do the following:

(1) Examine the administrative and business methods and systems employed in the offices of the clerks of court and other offices related to and serving the courts and make recommendations for necessary improvement.

(2) Collect and compile statistical data and other information on the judicial work of the courts in Indiana. All justices of the supreme court, judges of the court of appeals, judges of all trial courts, and any city or town courts, whether having general or special jurisdiction, court clerks, court reporters, and other officers and employees of the courts shall, upon notice by the executive director and in compliance with procedures prescribed by the executive director, furnish the executive director the information as is requested concerning the nature and volume of judicial business. The information must include the following:

(A) The volume, condition, and type of business conducted by the courts.

(B) The methods of procedure in the courts.

(C) The work accomplished by the courts.

(D) The receipt and expenditure of public money by and for the operation of the courts.

(E) The methods of disposition or termination of cases.

(3) Prepare and publish reports, not less than one (1) or more than two (2) times per year, on the nature and volume of judicial work performed by the courts as determined by the information required in subdivision (2).

(4) Serve the judicial nominating commission and the judicial qualifications commission in the performance by the commissions of their statutory and constitutional functions.

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

(6) Administer the judicial technology and automation project fund established by section 12 of this chapter.



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

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

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

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

(ii) a county court case management system; and

(iii) a county court case management system developed and operated by the division of state court administration;

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

(C) between county court case management systems and the case management system developed and operated by the division of state court administration.

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

(8) Establish and administer an electronic system for receiving information that relates to certain individuals who may be prohibited from possessing a firearm and transmitting this information to the Federal Bureau of Investigation for inclusion in the NICS.

(9) Establish and administer an electronic system for receiving felony conviction information for each felony described in IC 35-48-4-14.5(h)(1) from courts. The division shall notify NPLEx of each felony described in IC 35-48-4-14.5(h)(1) entered after June 30, 2012, and do the following:

(A) Provide NPLEx with the following information:

(i) The convicted individual's full name.

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

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

(iv) The date the individual was convicted of the felony.

Upon receipt of the information from the division, a stop sale alert must be generated through NPLEx for each individual reported under this clause.

(B) Notify NPLEx if the felony of an individual reported under clause (A) has been:

(i) set aside;



- (ii) reversed;
- (iii) expunged; or
- (iv) vacated.

Upon receipt of information under this clause, NPLeX shall remove the stop sale alert issued under clause (A) for the individual.

(10) Staff the judicial technology oversight committee established by IC 33-23-17-2.

(11) After December 31, 2017, establish and administer an electronic system for receiving felony conviction information for each felony described in IC 20-28-5-8(c) from courts. The division shall notify the department of education at least one (1) time each week of each felony described in IC 20-28-5-8(c) entered after December 31, 2017, and do the following:

(A) Provide the department of education with the following information:

- (i) The convicted individual's full name.**
- (ii) The convicted individual's date of birth.**
- (iii) The convicted individual's driver's license number, state personal identification number, or other unique number, if available.**
- (iv) The date the individual was convicted of the felony.**

(B) Notify the department of education if the felony of an individual reported under clause (A) has been:

- (i) set aside;**
- (ii) reversed;**
- (iii) expunged; or**
- (iv) vacated.**

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

(c) The division may adopt rules to implement this section."

Page 8, line 30, after ";" delete "or".

Page 8, line 31, delete "." and insert "; or".

Page 8, between lines 31 and 32, begin a new line double block indented and insert:

"(C) employed, or was previously employed, as a teacher in a school corporation, charter school, or nonpublic school."

Page 9, delete lines 16 through 42, begin a new paragraph and insert:

"SECTION 9. IC 35-50-10-1, AS ADDED BY P.L.106-2016, SECTION 25, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE



JULY 1, 2017]: Sec. 1. (a) As used in this section, "offense requiring license revocation" means an offense listed in IC 20-28-5-8(c).

(b) If an individual is or was a teacher in a primary or secondary school, school corporation, charter school, or nonpublic school including a public or nonpublic school; and is convicted of

- (1) kidnapping (IC 35-42-3-2);
- (2) 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) child exploitation (IC 35-42-4-4(b));
- (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) incest (IC 35-46-1-3);
- (12) dealing in or manufacturing cocaine or a narcotic drug (IC 35-48-4-1);
- (13) dealing in methamphetamine (IC 35-48-4-1.1);
- (14) dealing in a schedule I, II, or III controlled substance (IC 35-48-4-2);
- (15) dealing in a schedule IV controlled substance (IC 35-48-4-3);
- (16) dealing in a schedule V controlled substance (IC 35-48-4-4);
- (17) dealing in a counterfeit substance (IC 35-48-4-5);
- (18) dealing in marijuana, hash oil, hashish, or salvia as a felony (IC 35-48-4-10);
- (19) dealing in a synthetic drug or synthetic drug lookalike substance (IC 35-48-4-10.5; or IC 35-48-4-10(b) before its amendment in 2013);
- (20) possession of child pornography (IC 35-42-4-4(c));
- (21) homicide (IC 35-42-1);
- (22) voluntary manslaughter (IC 35-42-1-3);
- (23) reckless homicide (IC 35-42-1-5);
- (24) battery (IC 35-42-2-1) as:
 - (A) 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) 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); or
 - (C) 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);
 (25) aggravated battery (IC 35-42-2-1.5);
 (26) robbery (IC 35-42-5-1);
 (27) carjacking (IC 35-42-5-2) (before its repeal);
 (28) 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));
 (29) 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);
 (30) attempt under IC 35-41-5-1 to commit an offense listed in this subsection; or
 (31) conspiracy under IC 35-41-5-2 to commit an offense listed in this subsection;

an offense requiring license revocation, the judge who presided over the trial or accepted a plea agreement shall give written notice of the conviction to the state superintendent and the chief administrative officer of the ~~primary or secondary school, including a public or school corporation, charter school, or~~ nonpublic school, or, if the individual is employed in a public school, the superintendent of the school district in which the individual is employed.

~~(b)~~ (c) Notice under subsection ~~(a)~~ (b) must occur not later than seven (7) days after the date the judgment is entered.

~~(c)~~ (d) The notification sent to a school or school district under subsection ~~(a)~~ (b) must include only the felony for which the individual was convicted.

~~(d)~~ (e) If a judge later modifies the individual's sentence after giving notice under this section, the judge shall notify the school or the school district of the modification.

~~(e)~~ (f) After receiving a notification under subsection ~~(a)~~; (b), the superintendent shall initiate procedures to revoke the individual's license to teach."

Delete page 10.

Re-number all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1079 as printed January 24, 2017.)

KRUSE, Chairperson

Committee Vote: Yeas 9, Nays 0.

EH 1079—LS 7129/DI 116

