



Reprinted
February 21, 2017

SENATE BILL No. 312

DIGEST OF SB 312 (Updated February 20, 2017 2:04 pm - DI 102)

Citations Affected: IC 22-2.

Synopsis: Use of criminal history information in hiring. Provides that a political subdivision may not prohibit an employer from obtaining or using criminal history information during the hiring process to the extent allowed by federal or state law, rules, or regulations. Provides that a political subdivision may not prohibit an employer, at the time an individual makes an initial application for employment, from making an inquiry regarding the individual's criminal history information or requiring the individual to disclose criminal history information. Provides that criminal history information concerning an employee or former employee may not be introduced against an employer, an employer's agents, or an employer's employees in a civil action based on the employee's or the former employee's conduct if: (1) the criminal history information does not bear a direct relationship to the facts underlying the civil action; (2) the records of the criminal case have been sealed; (3) the criminal conviction has been reversed, vacated, or expunged; (4) the employee or former employer has received a pardon for the criminal conviction; or (5) the arrest or charge did not result in a criminal conviction. Provides that this provision does not supersede any federal or state law requirement to conduct a criminal history information background investigation or consider criminal history information in hiring for particular types of employment.

Effective: July 1, 2017.

Boots

January 9, 2017, read first time and referred to Committee on Pensions and Labor.
February 16, 2017, reported favorably — Do Pass.
February 20, 2017, read second time, amended, ordered engrossed.

SB 312—LS 6726/DI 102



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First Regular Session 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.

SENATE BILL No. 312

A BILL FOR AN ACT to amend the Indiana Code concerning labor and safety.

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

- 1 SECTION 1. IC 22-2-17 IS ADDED TO THE INDIANA CODE AS
2 A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY
3 1, 2017]:
4 **Chapter 17. Use of Criminal History Information in**
5 **Employment Decisions**
6 **Sec. 1. As used in this chapter, "criminal history information"**
7 **has the meaning set forth in IC 5-2-4-1(1).**
8 **Sec. 2. As used in this chapter, "political subdivision" has the**
9 **meaning set forth in IC 36-1-2-13.**
10 **Sec. 3. Unless federal or state law provides otherwise, a political**
11 **subdivision may not prohibit an employer from:**
12 **(1) obtaining or using criminal history information during the**
13 **hiring process to the extent allowed by federal or state law,**
14 **rules, or regulations; or**
15 **(2) at the time an individual makes an initial application for**
16 **employment:**
17 **(A) making an inquiry regarding the individual's criminal**

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1 **history information; or**
2 **(B) requiring the individual to disclose the individual's**
3 **criminal history information.**
4 **Sec. 4. (a) Criminal history information for an employee or a**
5 **former employee may not be introduced as evidence against an**
6 **employer, an employer's agents, or an employer's employees in a**
7 **civil action that is based on the conduct of the employee or the**
8 **former employee if:**
9 **(1) the nature of the criminal history information of the**
10 **employee or former employee does not bear a direct**
11 **relationship to the facts underlying the civil action;**
12 **(2) before the acts giving rise to the civil action occurred:**
13 **(A) a court order sealed the record of the criminal case;**
14 **(B) the criminal conviction has been reversed or vacated;**
15 **(C) the employee or former employee received a pardon**
16 **for the criminal conviction; or**
17 **(D) the criminal conviction has been expunged under**
18 **IC 35-38-9; or**
19 **(3) the criminal history information concerns an arrest or a**
20 **charge that did not result in a criminal conviction.**
21 **(b) This section does not supersede any federal or state law**
22 **requirement to:**
23 **(1) conduct a criminal history information background**
24 **investigation; or**
25 **(2) consider criminal history information in hiring for**
26 **particular types of employment.**



COMMITTEE REPORT

Madam President: The Senate Committee on Pensions and Labor, to which was referred Senate Bill No. 312, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill DO PASS.

(Reference is to SB 312 as introduced.)

BOOTS, Chairperson

Committee Vote: Yeas 7, Nays 3

 SENATE MOTION

Madam President: I move that Senate Bill 312 be amended to read as follows:

Page 2, after line 3, begin a new paragraph and insert:

"Sec. 4. (a) Criminal history information for an employee or a former employee may not be introduced as evidence against an employer, an employer's agents, or an employer's employees in a civil action that is based on the conduct of the employee or the former employee if:

- (1) the nature of the criminal history information of the employee or former employee does not bear a direct relationship to the facts underlying the civil action;**
- (2) before the acts giving rise to the civil action occurred:**
 - (A) a court order sealed the record of the criminal case;**
 - (B) the criminal conviction has been reversed or vacated;**
 - (C) the employee or former employee received a pardon for the criminal conviction; or**
 - (D) the criminal conviction has been expunged under IC 35-38-9; or**
- (3) the criminal history information concerns an arrest or a charge that did not result in a criminal conviction.**

(b) This section does not supersede any federal or state law requirement to:



- (1) conduct a criminal history information background investigation; or**
- (2) consider criminal history information in hiring for particular types of employment."**

(Reference is to SB 312 as printed February 17, 2017.)

PERFECT

