



February 23, 2001

SENATE BILL No. 373

DIGEST OF SB 373 (Updated February 22, 2001 10:16 AM - DI 106)

Citations Affected: IC 4-13; IC 11-8; IC 11-11; IC 34-30; noncode.

Synopsis: Department of correction ombudsman. Creates the department of correction ombudsman bureau in the department of administration. Provides that the department of administration shall determine salaries and other personnel matters of the department of correction ombudsman bureau. Establishes the bureau for persons who allege that their health or safety has been endangered by the department of correction, or that the department of correction has violated a law, rule, or written policy. Provides that the ombudsman and a person who provides records to the ombudsman are immune from civil liability. Makes certain actions that impede the ombudsman's investigation a Class B misdemeanor. Appropriates \$200,000 to the bureau for both the 2001-2002 and 2002-2003 state fiscal years.

Effective: July 1, 2001.

Ford

January 17, 2001, read first time and referred to Committee on Corrections, Criminal and Civil Procedures.
February 22, 2001, amended, reported favorably — Do Pass.

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SB 373—LS 8056/DI 77+



February 23, 2001

First Regular Session 112th General Assembly (2001)

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 2000 General Assembly.

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SENATE BILL No. 373

A BILL FOR AN ACT to amend the Indiana Code concerning corrections and to make an appropriation.

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

- 1 SECTION 1. IC 4-13-1-4, AS AMENDED BY P.L.267-1999,
2 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2001]: Sec. 4. The department shall, subject to this chapter,
4 do the following:
5 (1) Execute and administer all appropriations as provided by law,
6 and execute and administer all provisions of law that impose
7 duties and functions upon the executive department of
8 government, including executive investigation of state agencies
9 supported by appropriations and the assembly of all required data
10 and information for the use of the executive department and the
11 legislative department.
12 (2) Supervise and regulate the making of contracts by state
13 agencies.
14 (3) Perform the property management functions required by
15 IC 4-20.5-6.
16 (4) Assign office space and storage space for state agencies in the
17 manner provided by IC 4-20.5-5.

SB 373—LS 8056/DI 77+



1 (5) Maintain and operate the following for state agencies:

2 (A) Central duplicating.

3 (B) Printing.

4 (C) Machine tabulating.

5 (D) Mailing services.

6 (E) Centrally available supplemental personnel and other
7 essential supporting services.

8 (F) Information services.

9 (G) Telecommunication services.

10 The department may require state agencies to use these general
11 services in the interests of economy and efficiency. The general
12 services rotary fund, the telephone rotary fund, and the data
13 processing rotary fund are established through which these
14 services may be rendered to state agencies. The budget agency
15 shall determine the amount for each rotary fund.

16 (6) Control and supervise the acquisition, operation, maintenance,
17 and replacement of state owned vehicles by all state agencies. The
18 department may establish and operate, in the interest of economy
19 and efficiency, a motor vehicle pool, and may finance the pool by
20 a rotary fund of not to exceed two hundred fifty thousand dollars
21 (\$250,000).

22 (7) Promulgate and enforce rules relative to the travel of officers
23 and employees of all state agencies when engaged in the
24 performance of state business. These rules may allow
25 reimbursement for travel expenses by any of the following
26 methods:

27 (A) Per diem.

28 (B) For expenses necessarily and actually incurred.

29 (C) Any combination of the methods in clauses (A) and (B).

30 The rules must require the approval of the travel by the
31 commissioner and the head of the officer's or employee's
32 department prior to payment.

33 (8) Administer IC 4-13.6.

34 (9) Prescribe the amount and form of certified checks, deposits,
35 or bonds to be submitted in connection with bids and contracts
36 when not otherwise provided for by law.

37 (10) Rent out, with the approval of the governor, any state
38 property, real or personal:

39 (A) not needed for public use; or

40 (B) for the purpose of providing services to the state or
41 employees of the state;

42 the rental of which is not otherwise provided for or prohibited by

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1 law. Property may not be rented out under this subdivision for a
 2 term exceeding ten (10) years at a time. However, if property is
 3 rented out for a term of more than four (4) years, the
 4 commissioner must make a written determination stating the
 5 reasons that it is in the best interests of the state to rent property
 6 for the longer term. This subdivision does not include the power
 7 to grant or issue permits or leases to explore for or take coal, sand,
 8 gravel, stone, gas, oil, or other minerals or substances from or
 9 under the bed of any of the navigable waters of the state or other
 10 lands owned by the state.

11 (11) Have charge of all central storerooms, supply rooms, and
 12 warehouses established and operated by the state and serving
 13 more than one (1) agency.

14 (12) Enter into contracts and issue orders for printing as provided
 15 by IC 4-13-4.1.

16 (13) Sell or dispose of surplus property under IC 5-22-22, or if
 17 advantageous, to exchange or trade in the surplus property toward
 18 the purchase of other supplies, materials, or equipment, and to
 19 make proper adjustments in the accounts and inventory pertaining
 20 to the state agencies concerned.

21 (14) With respect to power, heating, and lighting plants owned,
 22 operated, or maintained by any state agency:

23 (A) inspect;

24 (B) regulate their operation; and

25 (C) recommend improvements to those plants to promote
 26 economical and efficient operation.

27 **(15) Administer, determine salaries, and determine other**
 28 **personnel matters of the department of correction**
 29 **ombudsman bureau established by IC 4-13-1.2-3.**

30 SECTION 2. IC 4-13-1.2 IS ADDED TO THE INDIANA CODE
 31 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
 32 JULY 1, 2001]:

33 **Chapter 1.2. Department of Correction Ombudsman Bureau**

34 **Sec. 1. As used in this chapter, "bureau" refers to the**
 35 **department of correction ombudsman bureau established by**
 36 **section 3 of this chapter. The term includes individuals approved**
 37 **to act in the capacity of ombudsmen by the department of**
 38 **correction ombudsman bureau.**

39 **Sec. 2. As used in this chapter, "ombudsman" means an**
 40 **employee of the bureau or an individual approved by the bureau**
 41 **to investigate and resolve complaints that the department of**
 42 **correction endangered the health and safety of any person, or that**

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1 the department of correction violated specific laws, rules, or
2 written policies.

3 Sec. 3. The department of correction ombudsman bureau is
4 established as a separate bureau within the department of
5 administration.

6 Sec. 4. (a) The governor shall appoint a director of the bureau.
7 The governor shall appoint a successor director within thirty (30)
8 days of a vacancy in the position of the director. The director
9 serves at the pleasure of the governor.

10 (b) The director may employ technical experts and other
11 employees to carry out the purposes of this chapter. However, the
12 director may not hire an individual to serve as an ombudsman who
13 has been employed by the department of correction during the
14 preceding year.

15 Sec. 5. (a) The ombudsman shall receive, investigate, and
16 attempt to resolve complaints that the department of correction:

17 (1) violated a specific law, rule, or department written policy;
18 or

19 (2) endangered the health or safety of any person.

20 (b) At the conclusion of an investigation of a complaint, the
21 ombudsman shall report the ombudsman's findings to the
22 complainant.

23 (c) If the ombudsman does not investigate a complaint, the
24 ombudsman shall notify the complainant of the decision not to
25 investigate and the reasons for the decision.

26 Sec. 6. (a) An ombudsman shall be given:

27 (1) appropriate access to the records of an offender who files
28 a complaint under this chapter; and

29 (2) immediate access to any correctional facility administered
30 or supervised by the department of correction.

31 (b) A state or local government agency or entity that has records
32 that are relevant to a complaint or an investigation conducted by
33 the ombudsman shall provide the ombudsman with access to the
34 records.

35 (c) A person is immune from:

36 (1) civil or criminal liability; and

37 (2) actions taken under a professional disciplinary procedure
38 dealing with an employee of the department of correction;

39 for the release or disclosure of records to the ombudsman under
40 this chapter.

41 Sec. 7. (a) The ombudsman shall do the following:

42 (1) Establish procedures to receive and investigate complaints.

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(2) Establish access controls for all information maintained by the bureau.

(3) Except as is necessary to investigate and resolve a complaint, ensure that the identity of a complainant will not be disclosed without:

- (A) the complainant's written consent; or
- (B) a court order.

(b) The correspondence and communication between the ombudsman and any person is a privileged communication.

Sec. 8. The bureau may adopt rules under IC 4-22-2 necessary to carry out this chapter.

Sec. 9. The ombudsman is not civilly liable for the good faith performance of official duties.

Sec. 10. (a) The director of the bureau shall prepare a report each year on the operations of the bureau.

(b) A copy of the report shall be provided to the following:

- (1) The governor.
- (2) The legislative council.
- (3) The department.
- (4) The department of correction.

Sec. 11. A person who:

- (1) intentionally interferes with or prevents the completion of the work of the ombudsman;
- (2) knowingly offers compensation to the ombudsman in an effort to affect the outcome of an investigation or a potential investigation;
- (3) knowingly or intentionally retaliates against an offender or another person who provides information to the ombudsman; or
- (4) makes threats because of an investigation or potential investigation against the ombudsman, a person who has filed a complaint, or a person who provides information to the ombudsman;

commits a Class A misdemeanor.

Sec. 12. The department of correction shall provide and maintain office space for the bureau.

SECTION 3. IC 11-8-5-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 2. (a) The department may, under IC 4-22-2, classify as confidential the following personal information maintained on a person who has been committed to the department or who has received correctional services from the department:

- (1) Medical, psychiatric, or psychological data or opinion which

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1 might adversely affect that person's emotional well-being.

2 (2) Information relating to a pending investigation of alleged
3 criminal activity or other misconduct.

4 (3) Information which, if disclosed, might result in physical harm
5 to that person or other persons.

6 (4) Sources of information obtained only upon a promise of
7 confidentiality.

8 (5) Information required by law or promulgated rule to be
9 maintained as confidential.

10 (b) The department may deny the person about whom the
11 information pertains and other persons access to information classified
12 as confidential under subsection (a). However, confidential information
13 shall be disclosed:

14 (1) upon the order of a court;

15 (2) to employees of the department who need the information in
16 the performance of their lawful duties;

17 (3) to other agencies in accord with IC 4-1-6-2(m) and
18 IC 4-1-6-8.5;

19 (4) to the governor or ~~his~~ **the governor's** designee;

20 (5) for research purposes in accord with IC 4-1-6-8.6(b); ~~or~~

21 **(6) to the department of correction ombudsman bureau in**
22 **accordance with IC 4-13-1.2; or**

23 **(7) if the commissioner determines there exists a compelling**
24 **public interest as defined in IC 4-1-6-1, for disclosure which**
25 **overrides the interest to be served by nondisclosure.**

26 (c) The department shall disclose information classified as
27 confidential under subsection (a)(1) to a physician, psychiatrist, or
28 psychologist designated in writing by the person about whom the
29 information pertains.

30 SECTION 4. IC 11-11-1.5 IS ADDED TO THE INDIANA CODE
31 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
32 JULY 1, 2001]:

33 **Chapter 1.5. Department of Correction Ombudsman Bureau**

34 **Sec. 1. As used in this chapter, "bureau" refers to the**
35 **department of correction ombudsman bureau established within**
36 **the Indiana department of administration by IC 4-13-1.2-3. The**
37 **term includes individuals approved to act in the capacity of**
38 **ombudsmen by the department of correction ombudsman bureau.**

39 **Sec. 2. As used in this chapter, "ombudsman" means an**
40 **employee of the bureau or an individual approved by the bureau**
41 **to investigate and resolve complaints regarding the health and**
42 **safety of any person, and violations by the department of specific**

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1 laws, rules, or written policies.

2 **Sec. 3. The department shall provide an ombudsman with:**

3 **(1) appropriate access to the records of an offender who files**
 4 **a complaint under this chapter; and**

5 **(2) immediate access to any correctional facility administered**
 6 **or supervised by the department of correction.**

7 **Sec. 4. The department shall provide and maintain office space**
 8 **for the bureau.**

9 SECTION 5. IC 34-30-2-39.3 IS ADDED TO THE INDIANA
 10 CODE AS A NEW SECTION TO READ AS FOLLOWS
 11 [EFFECTIVE JULY 1, 2001]: **Sec. 39.3. IC 4-13-1.2-6 (Concerning**
 12 **a person who releases information to the department of correction**
 13 **ombudsman).**

14 SECTION 6. IC 34-30-2-39.5 IS ADDED TO THE INDIANA
 15 CODE AS A NEW SECTION TO READ AS FOLLOWS
 16 [EFFECTIVE JULY 1, 2001]: **Sec. 39.5. IC 4-13-1.2-9 (Concerning**
 17 **the department of correction ombudsman).**

18 SECTION 7. [EFFECTIVE JULY 1, 2001] **(a) There is**
 19 **appropriated to the department of correction ombudsman bureau**
 20 **established by IC 4-13-1.2-3, as added by this act, from the state**
 21 **general fund:**

22 **(1) two hundred thousand dollars (\$200,000) for the period**
 23 **beginning July 1, 2001, and ending June 30, 2002; and**

24 **(2) two hundred thousand dollars (\$200,000) for the period**
 25 **beginning July 1, 2002, and ending June 30, 2003.**

26 **(b) This SECTION expires July 1, 2003.**

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COMMITTEE REPORT

Mr. President: The Senate Committee on Corrections, Criminal and Civil Procedures, to which was referred Senate Bill No. 373, 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:

Delete everything after the enacting clause and insert the following:

(SEE TEXT OF BILL)

and when so amended that said bill do pass.

(Reference is to SB 373 as introduced.)

LONG, Chairperson

Committee Vote: Yeas 6, Nays 3.

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