

# 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:**

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

- 1 (B) Printing.
- 2 (C) Machine tabulating.
- 3 (D) Mailing services.
- 4 (E) Centrally available supplemental personnel and other
- 5 essential supporting services.
- 6 (F) Information services.
- 7 (G) Telecommunication services.

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

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

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

- 25 (A) Per diem.
- 26 (B) For expenses necessarily and actually incurred.
- 27 (C) Any combination of the methods in clauses (A) and (B).

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

31 (8) Administer IC 4-13.6.

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

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

- 37 (A) not needed for public use; or
- 38 (B) for the purpose of providing services to the state or

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

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

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

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

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

25 (A) inspect;

26 (B) regulate their operation; and

27 (C) recommend improvements to those plants to promote  
 28 economical and efficient operation.

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

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

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

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

1 to act in the capacity of ombudsmen by the department of  
2 correction ombudsman bureau.

3 Sec. 2. As used in this chapter, "ombudsman" means an  
4 employee of the bureau or an individual approved by the bureau  
5 to investigate and resolve complaints that the department of  
6 correction endangered the health and safety of any person, or that  
7 the department of correction violated specific laws, rules, or  
8 written policies.

9 Sec. 3. The department of correction ombudsman bureau is  
10 established as a separate bureau within the department of  
11 administration.

12 Sec. 4. (a) The governor shall appoint a director of the bureau.  
13 The governor shall appoint a successor director within thirty (30)  
14 days of a vacancy in the position of the director. The director  
15 serves at the pleasure of the governor.

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

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

23 (1) violated a specific law, rule, or department written policy;  
24 or

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

26 (b) At the conclusion of an investigation of a complaint, the  
27 ombudsman shall report the ombudsman's findings to the  
28 complainant.

29 (c) If the ombudsman does not investigate a complaint, the  
30 ombudsman shall notify the complainant of the decision not to  
31 investigate and the reasons for the decision.

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

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

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

37 (b) A state or local government agency or entity that has records  
38 that are relevant to a complaint or an investigation conducted by

1 the ombudsman shall provide the ombudsman with access to the  
2 records.

3 (c) A person is immune from:

4 (1) civil or criminal liability; and

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

7 for the release or disclosure of records to the ombudsman under  
8 this chapter.

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

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

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

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

16 (A) the complainant's written consent; or

17 (B) a court order.

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

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

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

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

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

27 (1) The governor.

28 (2) The legislative council.

29 (3) The department.

30 (4) The department of correction.

31 Sec. 11. A person who:

32 (1) intentionally interferes with or prevents the completion of  
33 the work of the ombudsman;

34 (2) knowingly offers compensation to the ombudsman in an  
35 effort to affect the outcome of an investigation or a potential  
36 investigation;

37 (3) knowingly or intentionally retaliates against an offender  
38 or another person who provides information to the

1           **ombudsman; or**  
 2           **(4) makes threats because of an investigation or potential**  
 3           **investigation against the ombudsman, a person who has filed**  
 4           **a complaint, or a person who provides information to the**  
 5           **ombudsman;**

6           **commits a Class A misdemeanor.**

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

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

- 14           (1) Medical, psychiatric, or psychological data or opinion which  
 15           might adversely affect that person's emotional well-being.  
 16           (2) Information relating to a pending investigation of alleged  
 17           criminal activity or other misconduct.  
 18           (3) Information which, if disclosed, might result in physical harm  
 19           to that person or other persons.  
 20           (4) Sources of information obtained only upon a promise of  
 21           confidentiality.  
 22           (5) Information required by law or promulgated rule to be  
 23           maintained as confidential.

24          (b) The department may deny the person about whom the  
 25          information pertains and other persons access to information classified  
 26          as confidential under subsection (a). However, confidential information  
 27          shall be disclosed:

- 28           (1) upon the order of a court;  
 29           (2) to employees of the department who need the information in  
 30           the performance of their lawful duties;  
 31           (3) to other agencies in accord with IC 4-1-6-2(m) and  
 32           IC 4-1-6-8.5;  
 33           (4) to the governor or ~~his~~ **the governor's** designee;  
 34           (5) for research purposes in accord with IC 4-1-6-8.6(b); ~~or~~  
 35           **(6) to the department of correction ombudsman bureau in**  
 36           **accordance with IC 4-13-1.2; or**  
 37           **(7) if the commissioner determines there exists a compelling**  
 38           **public interest as defined in IC 4-1-6-1, for disclosure which**

1 overrides the interest to be served by nondisclosure.

2 (c) The department shall disclose information classified as  
3 confidential under subsection (a)(1) to a physician, psychiatrist, or  
4 psychologist designated in writing by the person about whom the  
5 information pertains.

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

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

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

15 **Sec. 2. As used in this chapter, "ombudsman" means an**  
16 **employee of the bureau or an individual approved by the bureau**  
17 **to investigate and resolve complaints regarding the health and**  
18 **safety of any person, and violations by the department of specific**  
19 **laws, rules, or written policies.**

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

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

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

25 **Sec. 4. The department shall provide and maintain office space**  
26 **for the bureau.**

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

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

36 SECTION 7. [EFFECTIVE JULY 1, 2001] **(a) There is**  
37 **appropriated to the department of correction ombudsman bureau**  
38 **established by IC 4-13-1.2-3, as added by this act, from the state**

- 1       **general fund:**
- 2             **(1) two hundred thousand dollars (\$200,000) for the period**
- 3             **beginning July 1, 2001, and ending June 30, 2002; and**
- 4             **(2) two hundred thousand dollars (\$200,000) for the period**
- 5             **beginning July 1, 2002, and ending June 30, 2003.**
- 6       **(b) This SECTION expires July 1, 2003.**  
      (Reference is to SB 373 as introduced.)

**and when so amended that said bill do pass.**

Committee Vote: Yeas 6, Nays 3.

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**Long**

**Chairperson**