

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.

SENATE ENROLLED ACT No. 373

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:

SECTION 1. IC 4-13-1-4, AS AMENDED BY SEA 153-2001, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 4. The department shall, subject to this chapter, do the following:

- (1) Execute and administer all appropriations as provided by law, and execute and administer all provisions of law that impose duties and functions upon the executive department of government, including executive investigation of state agencies supported by appropriations and the assembly of all required data and information for the use of the executive department and the legislative department.
- (2) Supervise and regulate the making of contracts by state agencies.
- (3) Perform the property management functions required by IC 4-20.5-6.
- (4) Assign office space and storage space for state agencies in the manner provided by IC 4-20.5-5.
- (5) Maintain and operate the following for state agencies:
 - (A) Central duplicating.
 - (B) Printing.
 - (C) Machine tabulating.
 - (D) Mailing services.

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

(F) Information services.

(G) Telecommunication services.

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

(6) Control and supervise the acquisition, operation, maintenance, and replacement of state owned vehicles by all state agencies. The department may establish and operate, in the interest of economy and efficiency, a motor vehicle pool, and may finance the pool by a rotary fund. The budget agency shall determine the amount to be deposited in the rotary fund.

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

(A) Per diem.

(B) For expenses necessarily and actually incurred.

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

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

(8) Administer IC 4-13.6.

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

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

(A) not needed for public use; or

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

the rental of which is not otherwise provided for or prohibited by law. Property may not be rented out under this subdivision for a term exceeding ten (10) years at a time. However, if property is rented out for a term of more than four (4) years, the commissioner must make a written determination stating the reasons that it is in the best interests of the state to rent property

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for the longer term. This subdivision does not include the power to grant or issue permits or leases to explore for or take coal, sand, gravel, stone, gas, oil, or other minerals or substances from or under the bed of any of the navigable waters of the state or other lands owned by the state.

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

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

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

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

(A) inspect;

(B) regulate their operation; and

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

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

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

Chapter 1.2. Department of Correction Ombudsman Bureau

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

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

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



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

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

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

- (1) violated a specific law, rule, or department written policy;**
- or**
- (2) endangered the health or safety of any person.**

However, the ombudsman shall not investigate a complaint from an employee of the department of correction that relates to the employee's employment relationship with the department of correction.

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

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

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

- (1) appropriate access to the records of an offender who files a complaint under this chapter; and**
- (2) immediate access to any correctional facility administered or supervised by the department of correction.**

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

(c) A person is immune from:

- (1) civil or criminal liability; and**
- (2) actions taken under a professional disciplinary procedure dealing with an employee of the department of correction;**

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

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

- (1) Establish procedures to receive and investigate complaints.**
- (2) Establish access controls for all information maintained by**



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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 administration shall provide and maintain office space for the bureau.

SECTION 3. IC 11-8-2-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 3. (a) The board shall:

- (1) adopt rules for the conduct of its own business;
- (2) approve or disapprove, before adoption, any rule to be adopted by the department under IC 4-22-2;
- (3) approve or disapprove, before implementation, any resolution, or directive, or other statement of the department, relating

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including the commissioner, regardless of its name or designation, that relates to departmental organization or policy, including general internal organization, policies, standards, or procedures applicable to one (1) or more facilities, programs, or categories of persons under the jurisdiction of the department, employees, or contractors; and

(4) keep records of all its official actions and make them accessible according to law.

(b) The board may:

(1) appoint temporary advisory committees for any purpose;

(2) visit and inspect, without notice, any facility or program of the department, either individually or collectively, to examine the affairs and condition of the department; and

(3) exercise any other power reasonably necessary in discharging its duties and powers.

(c) The board has no direct administrative or executive powers other than those granted by this section.

(d) For purposes of IC 4-22-2, the term "rule" as used in subsection (a)(1) relates solely to internal policy, organization, and procedure not having the force of law.

(e) This section shall be liberally construed for conduct of the board after June 30, 2001, to implement the intent of the general assembly, as first stated in the commentary to the proposed final draft of the correctional code published by the correctional code commission in October 1977, to place policy authority in a seven (7) member board of correction rather than a single department head.

SECTION 4. 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 might adversely affect that person's emotional well-being.

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

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

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

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

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

- (1) upon the order of a court;
- (2) to employees of the department who need the information in the performance of their lawful duties;
- (3) to other agencies in accord with IC 4-1-6-2(m) and IC 4-1-6-8.5;
- (4) to the governor or ~~his~~ **the governor's** designee;
- (5) for research purposes in accord with IC 4-1-6-8.6(b); ~~or~~
- (6) **to the department of correction ombudsman bureau in accord with IC 11-11-1.5; or**
- (7) if the commissioner determines there exists a compelling public interest as defined in IC 4-1-6-1, for disclosure which overrides the interest to be served by nondisclosure.

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

SECTION 5. IC 11-11-1.5 IS ADDED TO THE INDIANA CODE AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]:

Chapter 1.5. Department of Correction Ombudsman Bureau

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

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

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

- (1) appropriate access to the records of an offender who files a complaint under this chapter; and
- (2) immediate access to any correctional facility administered or supervised by the department of correction.

Sec. 4. The Indiana department of administration shall provide and maintain office space for the bureau.

Sec. 5. An ombudsman shall not investigate a complaint from an



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employee of the department that relates to the employee's employment relationship with the department.

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

SECTION 7. IC 34-30-2-39.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: **Sec. 39.5. IC 4-13-1.2-9 (Concerning the department of correction ombudsman).**

SECTION 8. [EFFECTIVE JULY 1, 2001] (a) A bylaw adopted by the board of correction before October 1, 1980, (the date on which the enactment of IC 11-8-2-3 became effective) is void.

(b) IC 11-8-2-3, as amended by this act, applies only to resolutions, directives, and other statements of the department of correction, including the commissioner, adopted or amended after June 30, 2001. However, the board of correction may review and make recommendations for change for any resolution, directive, or other statement of the department of correction, including the commissioner, relating to departmental organization or policy.

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President of the Senate

President Pro Tempore

Speaker of the House of Representatives

Approved: _____

Governor of the State of Indiana

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