



January 29, 2002

HOUSE BILL No. 1302

DIGEST OF HB 1302 (Updated January 25, 2002 4:20 PM - DI 94)

Citations Affected: IC 36-8.

Synopsis: County police officer suspensions. Reduces the maximum period from 15 days to five days that a sheriff may temporarily suspend a county police officer with or without pay without a hearing before the sheriff's merit board.

Effective: July 1, 2002.

Kuzman, Alderman

January 15, 2002, read first time and referred to Committee on Local Government.
January 28, 2002, reported — Do Pass.

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HB 1302—LS 6316/DI 87+



January 29, 2002

Second Regular Session 112th General Assembly (2002)

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 2001 General Assembly.

HOUSE BILL No. 1302

A BILL FOR AN ACT to amend the Indiana Code concerning local government.

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

1 SECTION 1. IC 36-8-10-11 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 11. (a) The sheriff may
3 dismiss, demote, or temporarily suspend a county police officer for
4 cause after preferring charges in writing and after a fair public hearing
5 before the board, which is reviewable in the circuit court. Written
6 notice of the charges and hearing must be delivered by certified mail
7 to the officer to be disciplined at least fourteen (14) days before the
8 date set for the hearing. The officer may be represented by counsel. The
9 board shall make specific findings of fact in writing to support its
10 decision.

11 (b) The sheriff may temporarily suspend an officer with or without
12 pay for a period not exceeding ~~fifteen (15)~~ **five (5)** days, without a
13 hearing before the board, after preferring charges of misconduct in
14 writing delivered to the officer.

15 (c) A county police officer may not be dismissed, demoted, or
16 temporarily suspended because of political affiliation nor after the
17 officer's probationary period, except as provided in this section. An

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1 officer may:

- 2 (1) be a candidate for elective office and serve in that office if
3 elected;
4 (2) be appointed to an office and serve in that office if appointed;
5 and
6 (3) except when in uniform or on duty, solicit votes or campaign
7 funds for the officer or others.

8 (d) The board has subpoena powers enforceable by the circuit court
9 for hearings under this section. An officer on probation may be
10 dismissed by the sheriff without a right to a hearing.

11 (e) An appeal under subsection (a) must be taken by filing in court,
12 within thirty (30) days after the date the decision is rendered, a verified
13 complaint stating in a concise manner the general nature of the charges
14 against the officer, the decision of the board, and a demand for the
15 relief asserted by the officer. A bond must also be filed that guarantees
16 the appeal will be prosecuted to a final determination and that the
17 plaintiff will pay all costs only if the court finds that the board's
18 decision should be affirmed. The bond must be approved as bonds for
19 costs are approved in other cases. The county must be named as the
20 sole defendant, and the plaintiff shall have a summons issued as in
21 other cases against the county. Neither the board nor the members of
22 it may be made parties defendant to the complaint, but all are bound by
23 service upon the county and the judgment rendered by the court.

24 (f) All appeals shall be tried by the court. The appeal shall be heard
25 de novo only upon any new issues related to the charges upon which
26 the decision of the board was made. Within ten (10) days after the
27 service of summons, the board shall file in court a complete written
28 transcript of all papers, entries, and other parts of the record relating to
29 the particular case. Inspection of these documents by the person
30 affected, or by the person's agent, must be permitted by the board
31 before the appeal is filed, if requested. The court shall review the
32 record and decision of the board on appeal.

33 (g) The court shall make specific findings and state the conclusions
34 of law upon which its decision is made. If the court finds that the
35 decision of the board appealed from should in all things be affirmed,
36 its judgment should so state. If the court finds that the decision of the
37 board appealed from should not be affirmed in all things, then the court
38 shall make a general finding, setting out sufficient facts to show the
39 nature of the proceeding and the court's decision on it. The court shall
40 either:

- 41 (1) reverse the decision of the board; or
42 (2) order the decision of the board to be modified.



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1 (h) The final judgment of the court may be appealed by either party.
2 Upon the final disposition of the appeal by the courts, the clerk shall
3 certify and file a copy of the final judgment of the court to the board,
4 which shall conform its decisions and records to the order and
5 judgment of the court. If the decision is reversed or modified, then the
6 board shall pay to the party entitled to it any salary or wages withheld
7 from the party pending the appeal and to which the party is entitled
8 under the judgment of the court.
9 (i) Either party shall be allowed a change of venue from the court or
10 a change of judge in the same manner as such changes are allowed in
11 civil cases. The rules of trial procedure govern in all matters of
12 procedure upon the appeal that are not otherwise provided for by this
13 section.
14 (j) An appeal takes precedence over other pending litigation and
15 shall be tried and determined by the court as soon as practical.

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Local Government, to which was referred House Bill 1302, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

STEVENSON, Chair

Committee Vote: yeas 10, nays 2.

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