
HOUSE BILL No. 1153

DIGEST OF INTRODUCED BILL

Citations Affected: IC 11-11-3-9; IC 34-6-2-89; IC 34-58.

Synopsis: Inmate complaints or petitions and visitation. Allows the department of correction to restrict a person less than 18 years of age from visiting an offender convicted of a sex offense if the victim was less than 18 years of age. Requires a court to screen an offender's complaints and petitions and dismiss a claim that is frivolous, seeks monetary relief from a defendant who is immune from such relief, or is not a claim upon which relief may be granted. Prohibits an offender who has had three claims dismissed after court screening from filing an action unless a court determines that the offender is in immediate danger of serious bodily injury.

Effective: July 1, 2004.

Foley

January 13, 2004, read first time and referred to Committee on Courts and Criminal Code.

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Second Regular Session 113th General Assembly (2004)

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 2003 Regular Session of the General Assembly.

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HOUSE BILL No. 1153



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

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

1 SECTION 1. IC 11-11-3-9 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 9. (a) A person may be
3 prohibited from visiting a confined person, or the visit may be
4 restricted to an extent greater than allowed under section 8 of this
5 chapter, if the department has reasonable grounds to believe that the
6 visit would threaten the security of the facility or program or the safety
7 of individuals.

8 (b) The department may restrict any person less than eighteen
9 (18) years of age from visiting an offender, if:

- 10 (1) the offender has been:
11 (A) convicted of a sex offense under IC 35-42-4; or
12 (B) adjudicated delinquent as a result of an act that would
13 be considered a sex offense under IC 35-42-4 if committed
14 by an adult; and

15 (2) the victim of the sex offense was less than eighteen (18)
16 years of age at the time of the offense.

17 (c) If the department prohibits or restricts visitation between a



1 confined person and another person under this section, it shall notify
 2 the confined person of that prohibition or restriction. The notice must
 3 be in writing and include the reason for the action, the name of the
 4 person who made the decision, and the fact that the action may be
 5 challenged through the grievance procedure.

6 **(d) The department shall establish written criteria for**
 7 **implementing this section.**

8 SECTION 2. IC 34-6-2-89 IS AMENDED TO READ AS
 9 FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 89. **(a)** "Offender", for
 10 purposes of IC 34-13-3-7, means a person who is committed to the
 11 department of correction or was committed to the department of
 12 correction.

13 **(b) "Offender", for purposes of IC 34-58, means a person who**
 14 **is committed to the department of correction or incarcerated in a**
 15 **jail.**

16 SECTION 3. IC 34-58 IS ADDED TO THE INDIANA CODE AS
 17 A NEW ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1,
 18 2004]:

19 **ARTICLE 58. SCREENING OF OFFENDER LITIGATION**

20 **Chapter 1. Screening Procedure**

21 **Sec. 1. Upon receipt of a complaint or petition filed by an**
 22 **offender, the court shall docket the case and take no further action**
 23 **until the court has conducted the review required by section 2 of**
 24 **this chapter.**

25 **Sec. 2. (a) A court shall review a complaint or petition filed by**
 26 **an offender and shall determine if a claim may proceed. A claim**
 27 **may not proceed if the court determines that the claim:**

- 28 (1) is frivolous;
 29 (2) is not a claim upon which relief may be granted; or
 30 (3) seeks monetary relief from a defendant who is immune
 31 from such relief.

32 **(b) A claim is frivolous under subsection (a)(1) if the claim:**

- 33 (1) is made primarily to harass a person; or
 34 (2) lacks an arguable basis either in:
 35 (A) law; or
 36 (B) fact.

37 **Sec. 3. If a court determines that a claim may not proceed under**
 38 **section 2 of this chapter, the court shall enter an order:**

- 39 (1) explaining why a claim may not proceed; and
 40 (2) stating whether there are any remaining claims in the
 41 complaint or petition that may proceed.

42 **Sec. 4. The clerk of the court shall send an order entered under**

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1 **section 3 of this chapter to:**
 2 **(1) the offender;**
 3 **(2) each defendant or respondent in the action;**
 4 **(3) the department of correction, if the offender is**
 5 **incarcerated by the department of correction;**
 6 **(4) the sheriff of the county in which the inmate is**
 7 **incarcerated, if the inmate is incarcerated in a county or city**
 8 **jail; and**
 9 **(5) the attorney general.**

10 **Chapter 2. Abusive Litigation**
 11 **Sec. 1. If an offender has filed at least three (3) civil actions that**
 12 **a court has determined under IC 34-58-1-2 to contain a claim that:**
 13 **(1) is frivolous;**
 14 **(2) is not a claim upon which relief may be granted; or**
 15 **(3) seeks monetary relief from a defendant who is immune**
 16 **from such relief;**
 17 **the offender may not file a new complaint or petition unless a court**
 18 **determines the offender is in immediate danger of serious bodily**
 19 **injury (as defined in IC 35-41-1-25).**
 20 **SECTION 4. [EFFECTIVE JULY 1, 2004] IC 34-58, as added by**
 21 **this act, applies to a cause of action filed after June 30, 2004.**

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