



April 6, 1999

**ENGROSSED
HOUSE BILL No. 1582**

DIGEST OF HB 1582 (Updated April 5, 1999 10:30 am - DI 76)

Citations Affected: IC 11-11.

Synopsis: Inmate correspondence. Allows the department of correction to read, censor, copy, or otherwise interfere with correspondence sent to or from an inmate if: (1) the inmate has been convicted of a crime that involved the use of correspondence to engage in an illegal activity or the inmate has been found guilty after a hearing conducted by the department of using correspondence to commit misconduct; or (2) the
(Continued next page)

Effective: July 1, 1999.

Porter

(SENATE SPONSORS — HOWARD, MEEKS C)

January 21, 1999, read first time and referred to Committee on Courts and Criminal Code.
March 1, 1999, amended, reported — Do Pass.
March 4, 1999, read second time, ordered engrossed. Engrossed.
March 8, 1999, read third time, passed. Yeas 95, nays 0.

SENATE ACTION

March 11, 1999, read first time and referred to Committee on Corrections, Criminal and Civil Procedures.
April 5, 1999, amended, reported favorably — Do Pass.

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EH 1582—LS 7938/DI 69+



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department receives a written request from supervising authority of a federal or state law enforcement agency stating that the agency has reasonable grounds to believe that a crime is being committed or has been committed by the inmate and the department should monitor the inmate's correspondence. Specifies that the department does not have to notify the inmate that it is monitoring the inmate's correspondence if the monitoring is done at the written request of a federal or state law enforcement agency. Requires the department of correction to establish policies to ensure that the contents of any monitored correspondence shall be shared only with necessary department staff. Provides, however, that if the department believes that any correspondence contains evidence of criminal activity, the correspondence, or a copy, may be shared with appropriate federal or state law enforcement officials.

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April 6, 1999

First Regular Session 111th General Assembly (1999)

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 1998 General Assembly.

ENGROSSED HOUSE BILL No. 1582

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 11-11-3-4 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 4. (a) The department
3 may open correspondence that is sent to or from a confined person to
4 inspect for and remove contraband or prohibited property and to permit
5 removal of funds for crediting to the confined person's account. The
6 correspondence may not be read, censored, copied, or otherwise
7 interfered with in regard to its prompt delivery unless **it is not clearly**
8 **marked as correspondence that is privileged by other law and:**
9 (1) the department has reasonable grounds to believe that the
10 correspondence:
11 (A) poses an immediate danger to the safety of an individual
12 or a serious threat to the security of the facility or program; or
13 (B) is prohibited under section 2(b) of this chapter; ~~or~~
14 (2) the correspondence contains contraband or prohibited
15 property;

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1 **(3) the confined person has been:**

2 **(A) convicted of a crime that involved the use of**
3 **correspondence to engage in an illegal activity; or**

4 **(B) found guilty after a hearing conducted by the**
5 **department of using correspondence to commit**
6 **misconduct; or**

7 **(4) the department receives a written request from a**
8 **supervising authority of any a federal or state law**
9 **enforcement agency stating that the agency has reasonable**
10 **grounds to believe that a crime is being committed or has**
11 **been committed by the confined person and that the**
12 **department should monitor the confined person's**
13 **correspondence.**

14 (b) The department may adopt procedures to inspect correspondence
15 to or from an offender to determine whether the correspondence
16 contains contraband or prohibited property under subsection (a). The
17 department shall inform the offender whenever the department removes
18 the offender's funds under subsection (a), including the dollar amount.

19 (c) For purposes of this section, disagreement with the sender's or
20 receiver's apparent moral, political, ethical, ethnic, or religious values
21 or attitudes, veracity, or choice of words may not be used as a reason
22 for censoring, copying, delaying, or disallowing the delivery of a
23 personal communication.

24 (d) **This subsection does not apply to correspondence monitored**
25 **under subsection (a)(4).** If the department delays, censors, copies, or
26 withholds correspondence, it shall promptly notify the person. The
27 notice must be in writing and specify the reason for the action, the
28 name of the sender, the date of any postmark, the date the
29 correspondence was received or deposited at the facility or program,
30 the proposed disposition to be made of the correspondence, the name
31 of the person who made the decision, and the fact that the department's
32 action may be challenged through the grievance procedure.

33 (e) The department shall maintain a record of each decision to
34 withhold, copy, delay, or otherwise interfere with the prompt
35 transmission of correspondence. This record must indicate the
36 information set forth in the notice prescribed in subsection (d). **The**
37 **department shall establish policies to ensure that the contents of**
38 **any monitored correspondence shall be shared only with necessary**
39 **department staff. However, if the department believes that any**
40 **correspondence contains evidence of criminal activity, that**
41 **correspondence, or a copy, may be shared with appropriate federal**
42 **or state law enforcement officials.**



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COMMITTEE REPORT

Mr. Speaker: Your Committee on Courts and Criminal Code, to which was referred House Bill 1582, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, line 7, delete ":" and insert **"it is not clearly marked as correspondence that is privileged by other law and:"**.

Page 2, line 4, after "from" insert **"a supervising authority of any"**.

Page 2, line 5, delete "to" and insert **"stating that the agency has reasonable grounds to believe that the department should"**.

Page 2, line 29, after "." insert **"The department shall establish policies to ensure that the contents of any monitored correspondence shall be shared only with necessary department staff. However, if the department believes that any correspondence contains evidence of criminal activity, that correspondence, or a copy, may be shared with appropriate federal or state law enforcement officials."**

and when so amended that said bill do pass.

(Reference is to HB 1582 as introduced.)

DVORAK, Chair

Committee Vote: yeas 12, nays 0.

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SENATE MOTION

Mr. President: I move that Senator Meeks C be added as cosponsor of Engrossed House Bill 1582.

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COMMITTEE REPORT

Mr. President: The Senate Committee on Corrections, Criminal and Civil Procedures, to which was referred House Bill No. 1582, 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:

Page 2, line 10, after "believe" insert "**that a crime is being committed or has been committed by the confined person and**".

and when so amended that said bill do pass.

(Reference is to HB 1582 as printed March 2, 1999.)

MEEKS R, Chairperson

Committee Vote: Yeas 6, Nays 0.

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