



Reprinted
April 9, 1999

ENGROSSED SENATE BILL No. 203

DIGEST OF SB 203 (Updated April 8, 1999 8:09 pm - DI 76)

Citations Affected: IC 31-33; noncode.

Synopsis: Juvenile and restorative justice study commission. Requests the legislative council to consider establishing an 13 member juvenile and restorative justice study commission. Requires the commission to study issues concerning juvenile law and the concept of restorative justice. Provides that the commission operates under the policies and procedures of the legislative council. Requires that all photographs, x-rays, and medical reports relating to a child abuse or neglect investigation must be sent to the law enforcement agency that investigates the alleged child abuse or neglect.

Effective: July 1, 1999.

**Merritt, Long, Lawson C, Meeks R,
Riegsecker**

(HOUSE SPONSORS — VILLALPANDO, DVORAK, FOLEY, YOUNG D)

January 6, 1999, read first time and referred to Committee on Rules and Legislative Procedure.

February 25, 1999, amended, reported favorably — Do Pass.

March 2, 1999, read second time, ordered engrossed.

March 3, 1999, engrossed.

March 4, 1999, read third time, passed. Yeas 47, nays 0.

HOUSE ACTION

March 8, 1999, read first time and referred to Committee on Rules and Legislative Procedures.

April 5, 1999, amended, reported — Do Pass.

April 8, 1999, read second time, amended, ordered engrossed.

ES 203—LS 6405/DI 76+



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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 SENATE BILL No. 203

A BILL FOR AN ACT concerning family law and juvenile law.

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

- 1 SECTION 1. IC 31-33-2-4 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 4. The local child
3 protection service shall give notice of the existence and location of
4 photographs, x-rays, and physical medical examination reports to:
5 (1) the prosecuting attorney; and
6 (2) the appropriate law enforcement agency, **if the law**
7 **enforcement agency has not already received the items**
8 **described in this section under IC 31-33-10-3.**
9 SECTION 2. IC 31-33-2-5 IS AMENDED TO READ AS
10 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 5. Photographs, x-rays,
11 or physical medical examination reports shall be made available to:
12 **(1) the law enforcement agency having jurisdiction;**
13 ~~(2)~~ **(2)** the county office of family and children;
14 ~~(3)~~ **(3)** the prosecuting attorney;
15 ~~(4)~~ **(4)** the guardian ad litem; or
16 ~~(5)~~ **(5)** the court appointed special advocate appointed by the
17 juvenile court;

ES 203—LS 6405/DI 76+



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1 for use in any judicial proceeding relating to the subject matter of a
 2 report made under this article and, to the extent permissible under the
 3 Indiana Rules of Trial Procedure, to the adverse party in any
 4 proceeding arising under this article.

5 SECTION 3. IC 31-33-10-3 IS AMENDED TO READ AS
 6 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 3. All photographs
 7 taken and a summary of x-rays and other medical care shall be sent to
 8 the local child protection service **and, upon request, to a law**
 9 **enforcement agency that investigates the alleged child abuse or**
 10 **neglect** at the time the written report is sent or as soon thereafter as
 11 possible. The local child protection service shall give notice of the
 12 existence of photographs, x-rays, and physical medical examination
 13 reports in accordance with IC 31-33-2-4.

14 SECTION 4. [EFFECTIVE JULY 1, 1999] (a) **The legislative**
 15 **council shall determine whether to establish the juvenile and**
 16 **restorative justice study commission (referred to in this SECTION**
 17 **as "the commission").**

18 (b) **As used in this SECTION, "restorative justice" means**
 19 **community-based criminal justice that:**

20 (1) **requires an offender to acknowledge the offender's**
 21 **wrongdoing and make reparations to the victim and the**
 22 **community; and**

23 (2) **maximizes the input and participation of the offender,**
 24 **victim, and members of the community in an effort to:**

25 (A) **prevent crime; and**

26 (B) **restore the victim and the community after a crime has**
 27 **occurred to a condition as close as possible to the condition**
 28 **of the victim and the community before the crime**
 29 **occurred.**

30 (c) **The commission, if established, must consist of thirteen (13)**
 31 **members, appointed as follows:**

32 (1) **Four (4) members of the senate, not more than two (2) of**
 33 **whom may be of the same political party, to be appointed by**
 34 **the president pro tempore of the senate.**

35 (2) **Four (4) members of the house of representatives, not**
 36 **more than two (2) of whom may be of the same political party,**
 37 **to be appointed by the speaker of the house of representatives.**

38 (3) **Two (2) judges having jurisdiction over juvenile cases, not**
 39 **more than one (1) of whom may be of the same political party,**
 40 **to be appointed by the chief justice of the supreme court.**

41 (4) **One (1) prosecuting attorney appointed by the chairman**
 42 **of the board of directors of the prosecuting attorneys council**



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- 1 **of Indiana.**
- 2 **(5) One (1) public defender appointed by the chairman of the**
- 3 **board of directors of the public defenders council.**
- 4 **(6) One (1) probation officer appointed by the chairman of the**
- 5 **board of directors of the Indiana judicial conference.**
- 6 **(d) The commission, if established, shall study issues of concern**
- 7 **relating to the juvenile laws and make recommendations for their**
- 8 **revision and improvement. The commission's focus must include**
- 9 **the following:**
- 10 **(1) Modifying the juvenile code to effectively address the**
- 11 **rising juvenile crime rate.**
- 12 **(2) Examining the delivery of juvenile services to delinquent,**
- 13 **abused, neglected, and mentally ill children.**
- 14 **(e) In addition to the issues described in subsection (d), the**
- 15 **commission shall examine the concept of restorative justice and, if**
- 16 **appropriate, make recommendations to the general assembly to**
- 17 **develop and implement restorative justice programs in Indiana.**
- 18 **(f) In forming its recommendations under subsection (e), the**
- 19 **commission shall consider the following matters to the extent that**
- 20 **time permits:**
- 21 **(1) Whether implementation of restorative justice principles**
- 22 **within Indiana's criminal justice system would be**
- 23 **appropriate.**
- 24 **(2) Whether restorative justice would significantly change the**
- 25 **experience of victims and members of the community with**
- 26 **respect to the criminal justice system.**
- 27 **(3) Whether the current philosophy and focus of the criminal**
- 28 **justice system:**
- 29 **(A) conform to Article 1, Section 18 of the Constitution of**
- 30 **the State of Indiana; and**
- 31 **(B) address the needs of the community.**
- 32 **(4) Whether restorative justice is a more effective way of**
- 33 **making offenders accountable to the victim and community as**
- 34 **compared to the current criminal justice system.**
- 35 **(5) Whether there is a role for punishment in a restorative**
- 36 **justice or any other community-based justice model.**
- 37 **(6) Whether restorative justice interventions serve as a**
- 38 **deterrent to crime.**
- 39 **(7) What the experiences of other states have been after**
- 40 **adopting restorative justice principles as a guide for their**
- 41 **departments of correction, probation services, and**
- 42 **community corrections programs.**

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1 (8) Whether there is support in Indiana communities or state
2 agencies for implementing restorative justice principles.

3 (9) What the philosophy of restorative justice means and how
4 it differs from other criminal justice philosophies.

5 (10) Whether empirical data shows that restorative justice
6 programs work.

7 (11) What types of offenders may be appropriate candidates
8 for restorative justice programs.

9 (g) To implement its duties under this SECTION, the
10 commission, if established, shall do the following:

11 (1) Conduct meetings to hear the concerns of citizens of
12 Indiana and obtain advice from interested professionals.

13 (2) Issue a final report of its findings and recommendations to
14 the chief justice of the supreme court, the governor, the
15 legislative council, and the general assembly not later than
16 November 1, 2000.

17 (h) Each member of the commission who is a state employee but
18 who is not a member of the general assembly is entitled to
19 reimbursement for traveling expenses under IC 4-13-1-4 and other
20 expenses actually incurred in connection with the member's duties
21 as provided in the state policies and procedures established by the
22 Indiana department of administration and approved by the budget
23 agency.

24 (i) Each member of the commission who is a member of the
25 general assembly is entitled to receive the same per diem, mileage,
26 and travel allowance paid to members of the general assembly
27 serving on interim study committees established by the legislative
28 council.

29 (j) Six (6) members of the commission constitute a quorum. The
30 affirmative votes of a majority of the voting members appointed to
31 the commission are required for the commission to take action on
32 any measure, including final reports.

33 (k) The legislative services agency shall provide staff support for
34 the commission.

35 (l) The commission is under the jurisdiction of the legislative
36 council and shall operate under policies and procedures established
37 by the legislative council.

38 (m) This SECTION expires December 1, 2000.



SENATE MOTION

Mr. President: I move that Senator Long be added as coauthor of Senate Bill 203.

MERRITT

SENATE MOTION

Mr. President: I move that Senators Lawson C and Meeks R be added as coauthors of Senate Bill 203.

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COMMITTEE REPORT

Mr. President: The Senate Committee on Rules and Legislative Procedure, to which was referred Senate Bill No. 203, 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 1, line 2, after "juvenile" insert "**and restorative**".

Page 1, between lines 4 and 5, begin a new paragraph and insert:

"(b) As used in this SECTION, "restorative justice" means community-based criminal justice that:

- (1) requires an offender to acknowledge the offender's wrongdoing and make reparations to the victim and the community; and**
- (2) maximizes the input and participation of the offender, victim, and members of the community in an effort to:**
 - (A) prevent crime; and**
 - (B) restore the victim and the community after a crime has occurred to a condition as close as possible to the condition of the victim and the community before the crime occurred."**

Page 1, line 5, delete "(b)" and insert "(c)".

Page 1, line 5, delete "fifteen (15)" and insert "**eleven (11)**".

Page 2, delete lines 1 through 5.

Page 2, line 6, delete "(c)" and insert "**(d)**".

Page 2, between lines 13 and 14, begin a new paragraph and insert:

"(e) In addition to the issues described in subsection (d), the commission shall examine the concept of restorative justice and, if appropriate, make recommendations to the general assembly to develop and implement restorative justice programs in Indiana.

(f) In forming its recommendations under subsection (e), the commission shall consider the following matters to the extent that time permits:

- (1) Whether implementation of restorative justice principles within Indiana's criminal justice system would be appropriate.**
- (2) Whether restorative justice would significantly change the experience of victims and members of the community with respect to the criminal justice system.**
- (3) Whether the current philosophy and focus of the criminal justice system:**
 - (A) conform to Article 1, Section 18 of the Constitution of the State of Indiana; and**



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(B) address the needs of the community.

(4) Whether restorative justice is a more effective way of making offenders accountable to the victim and community as compared to the current criminal justice system.

(5) Whether there is a role for punishment in a restorative justice or any other community based justice model.

(6) Whether restorative justice interventions serve as a deterrent to crime.

(7) What the experiences of other states have been after adopting restorative justice principles as a guide for their departments of correction, probation services, and community corrections programs.

(8) Whether there is support in Indiana communities or state agencies for implementing restorative justice principles.

(9) What the philosophy of restorative justice means and how it differs from other criminal justice philosophies.

(10) Whether empirical data shows that restorative justice programs work.

(11) What types of offenders may be appropriate candidates for restorative justice programs."

Page 2, line 14, delete "(d)" and insert "(g)".

Page 2, line 21, delete "1999." and insert "2000."

Page 2, delete lines 22 through 29.

Page 2, line 30, delete "(f)" and insert "(h)".

Page 2, line 37, delete "(g)" and insert "(i)".

Page 2, line 42, delete "(h) Eight (8)" and insert "(j) Six (6)".

Page 3, line 4, delete "(i)" and insert "(k)".

Page 3, line 6, delete "(j)" and insert "(l)".

Page 3, line 9, delete "(k)" and insert "(m)".

Page 3, line 9, delete "1999." and insert "2000."

and when so amended that said bill do pass.

(Reference is to SB 203 as introduced.)

GARTON, Chairperson

Committee Vote: Yeas 7, Nays 0.

ES 203—LS 6405/DI 76+



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SENATE MOTION

Mr. President: I move that Senator Riegsecker be added as coauthor of Senate Bill 203.

MERRITT

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Rules and Legislative Procedures, to which was referred Senate Bill 203, 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 17, delete "eleven (11)" and insert "**thirteen (13)**".

Page 2, between lines 12 and 13, begin a new line block indented and insert:

"(5) One (1) public defender appointed by the chairman of the board of directors of the public defenders council.

(6) One (1) probation officer appointed by the chairman of the board of directors of the Indiana judicial conference."

and when so amended that said bill do pass.

(Reference is to SB 203 as printed February 26, 1999.)

MOSES, Chair

Committee Vote: yeas 10, nays 0.

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HOUSE MOTION

Mr. Speaker: I move that Engrossed Senate Bill 203 be amended to read as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 31-33-2-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 4. The local child protection service shall give notice of the existence and location of photographs, x-rays, and physical medical examination reports to:

- (1) the prosecuting attorney; and
- (2) the appropriate law enforcement agency, **if the law enforcement agency has not already received the items described in this section under IC 31-33-10-3.**

SECTION 2. IC 31-33-2-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 5. Photographs, x-rays, or physical medical examination reports shall be made available to:

- (1) the law enforcement agency having jurisdiction;**
- (+) **(2) the county office of family and children;**
- (-) **(3) the prosecuting attorney;**
- (-) **(4) the guardian ad litem; or**
- (+) **(5) the court appointed special advocate appointed by the juvenile court;**

for use in any judicial proceeding relating to the subject matter of a report made under this article and, to the extent permissible under the Indiana Rules of Trial Procedure, to the adverse party in any proceeding arising under this article.

SECTION 3. IC 31-33-10-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 3. All photographs taken and a summary of x-rays and other medical care shall be sent to the local child protection service **and, upon request, to a law enforcement agency that investigates the alleged child abuse or neglect** at the time the written report is sent or as soon thereafter as possible. The local child protection service shall give notice of the existence of photographs, x-rays, and physical medical examination reports in accordance with IC 31-33-2-4."

Re-number all SECTIONS consecutively.

(Reference is to ESB 203 as printed April 6, 1999.)

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