

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.

HOUSE ENROLLED ACT No. 1582

AN ACT to amend the Indiana Code concerning corrections.

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

SECTION 1. IC 11-11-3-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 4. (a) The department may open correspondence that is sent to or from a confined person to inspect for and remove contraband or prohibited property and to permit removal of funds for crediting to the confined person's account. The correspondence may not be read, censored, copied, or otherwise interfered with in regard to its prompt delivery unless **it is not clearly marked as correspondence that is privileged by other law and:**

- (1) the department has reasonable grounds to believe that the correspondence:
 - (A) poses an immediate danger to the safety of an individual or a serious threat to the security of the facility or program; or
 - (B) is prohibited under section 2(b) of this chapter; ~~or~~
- (2) the correspondence contains contraband or prohibited property;
- (3) **the confined person has been:**
 - (A) **convicted of a crime that involved the use of correspondence to engage in an illegal activity; or**
 - (B) **found guilty after a hearing conducted by the department of using correspondence to commit**

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misconduct; or

(4) the department receives a written request from a supervising authority of any 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 confined person and that the department should monitor the confined person's correspondence.

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

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

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

(e) The department shall maintain a record of each decision to withhold, copy, delay, or otherwise interfere with the prompt transmission of correspondence. This record must indicate the information set forth in the notice prescribed in subsection (d). **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.**

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