

HOUSE BILL No. 1846

DIGEST OF INTRODUCED BILL

Citations Affected: IC 35-33-1.5.

Synopsis: Arrests, searches, and seizures by federal employees. Provides that a federal employee who is not designated by state law to act as a state law enforcement officer may not make an arrest, a search, or a seizure in Indiana without the written permission of the sheriff or the designee of the sheriff who has jurisdiction in the county in which the arrest, search, or seizure will occur. Provides certain exceptions. Provides that if an arrest, a search, or a seizure is made without the sheriff's written permission, the federal employee must be prosecuted under Indiana law and charged with an offense appropriate to the circumstances. Provides that under the Tenth Amendment of the Constitution of the United States and Indiana's compact with the other states, the general assembly declares that any federal law that purports
(Continued next page)

Effective: July 1, 1999.

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January 26, 1999, read first time and referred to Committee on Courts and Criminal Code.

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Digest Continued

to provide federal employees with the authority of a sheriff in Indiana is not recognized by and is specifically rejected by Indiana and is invalid in Indiana.

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Introduced

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.

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HOUSE BILL No. 1846



A BILL FOR AN ACT to amend the Indiana Code concerning criminal law and procedure.

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

1 SECTION 1. IC 35-33-1.5 IS ADDED TO THE INDIANA CODE
 2 AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE
 3 JULY 1, 1999]:
 4 **Chapter 1.5. Arrests by Federal Employees**
 5 **Sec. 1. (a) Except as provided in subsection (b), a federal**
 6 **employee who is not designated by state law to act as a state law**
 7 **enforcement officer may not make an arrest, a search, or a seizure**
 8 **in Indiana unless before making the arrest, search, or seizure the**
 9 **federal employee obtains the written permission of the sheriff or**
 10 **the designee of the sheriff who has jurisdiction in the county in**
 11 **which the arrest, search, or seizure will occur.**
 12 **(b) A federal employee described in subsection (a) may make an**
 13 **arrest, a search, or a seizure without obtaining written permission**
 14 **under subsection (a) under any of the following conditions:**
 15 **(1) The federal employee has the permission required under**



1 section 2 of this chapter and the arrest, search, or seizure will
 2 take place on a federal enclave for which jurisdiction has been
 3 ceded to the United States under a state statute.

4 (2) The federal employee witnesses the commission of a crime,
 5 the nature of which requires an immediate arrest.

6 (3) The arrest, search, or seizure is made under the provisions
 7 of an applicable federal law.

8 (4) The intended subject of the arrest, search, or seizure is an
 9 employee of the sheriff's office or is an elected county or state
 10 official.

11 (5) The federal employee has the permission required under
 12 section 3 of this chapter and has probable cause to believe that
 13 the subject of the arrest, search, or seizure has close
 14 connections with the sheriff that are likely to result in the
 15 subject being informed of the impending arrest, search, or
 16 seizure.

17 (c) A sheriff or a designee of the sheriff may refuse to provide
 18 written permission under this section.

19 Sec. 2. (a) Before a federal employee may make an arrest, a
 20 search, or a seizure under section 1(b)(1) of this chapter, the
 21 federal employee must obtain the written permission of the
 22 attorney general of the state of Indiana unless the resulting delay
 23 to obtain the permission would probably cause:

24 (1) serious harm to an individual or to a community; or

25 (2) the subject of the arrest, search, or seizure to flee in order
 26 to avoid prosecution.

27 (b) The attorney general of the state of Indiana may refuse to
 28 provide written permission under this section.

29 Sec. 3. (a) Before a federal employee may make an arrest, a
 30 search, or a seizure under section 1(b)(5) of this chapter, the
 31 federal employee must obtain the written permission of the
 32 attorney general of the state of Indiana.

33 (b) A request for permission must include a written statement
 34 made under oath that describes the federal employee's probable
 35 cause to make the arrest, search, or seizure.

36 (c) The attorney general of the state of Indiana may refuse to
 37 provide written permission under this section.

38 Sec. 4. (a) A request for written permission to make an arrest,
 39 a search, or a seizure that is submitted to a sheriff or the designee
 40 of the sheriff or to the attorney general under this chapter must
 41 contain the following information:

42 (1) The name of the subject of the arrest, search, or seizure.



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- 1 (2) A clear statement describing the probable cause for the
2 arrest, search, or seizure, or a copy of the federal arrest,
3 search, or seizure warrant that contains a clear statement of
4 probable cause.
- 5 (3) A description of specific assets, if any, to be searched for
6 or seized.
- 7 (4) A statement of the date and time that the arrest, search, or
8 seizure is to occur.
- 9 (5) The address or location where the intended arrest, search,
10 or seizure will be attempted.
- 11 (b) The request may be in letter form, either typed or
12 handwritten, and must be countersigned with the original
13 signature of the sheriff or designee of the sheriff or of the attorney
14 general to constitute valid permission.
- 15 (c) Written permission is valid for forty-eight (48) hours after
16 it is signed.
- 17 (d) The sheriff or attorney general shall keep a copy of the
18 permission request on file.
- 19 Sec. 5. (a) An arrest, a search, or a seizure or an attempted
20 arrest, search, or seizure made in violation of this chapter is
21 unlawful, and the individuals involved must be prosecuted for:
- 22 (1) kidnapping or criminal confinement if an arrest or
23 attempted arrest occurred;
- 24 (2) trespass if a search or attempted search occurred;
- 25 (3) theft if a seizure or attempted seizure occurred;
- 26 (4) murder, voluntary manslaughter, or any other applicable
27 offense if loss of life occurred; and
- 28 (5) any other applicable criminal offenses.
- 29 (b) A prosecution under this section must be conducted by the
30 prosecuting attorney who has jurisdiction in the location where the
31 violation occurred.
- 32 (c) If the claim of a violation of this chapter has been made by
33 a sheriff or a designee of the sheriff and the prosecuting attorney
34 does not initiate a prosecution against the alleged violator, the
35 prosecuting attorney is subject to prosecution by the attorney
36 general of the state of Indiana for official misconduct under
37 IC 35-44-1. The attorney general of the state of Indiana has
38 jurisdiction to prosecute a prosecuting attorney under this
39 subsection.
- 40 Sec. 6. Under the Tenth Amendment of the Constitution of the
41 United States and Indiana's compact with the other states, the
42 general assembly declares that any federal law that purports to

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