

# HOUSE BILL No. 2089

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 4-12-1-18.

**Synopsis:** Budget and personnel management. Expands the number of public employees in the executive department of state government who are merit employees. Provides for search committees to make hiring and promotion decisions for a state agency. Provides for oversight of the staffing levels, budgets, and organizational decisions of a state agency by an administrative oversight board. Makes the state and a state employee or agent who commits a civil rights violation liable for damages, including emotional distress, punitive damages, costs, and attorneys fees resulting from a violation of a person's civil rights. Makes other changes.

**Effective:** July 1, 1999.

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**Whetstone, Kruse**

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January 27, 1999, read first time and referred to Committee on Ways and Means.

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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.

## HOUSE BILL No. 2089



A BILL FOR AN ACT to amend the Indiana Code concerning state offices and administration.

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

1 SECTION 1. IC 4-12-1-18 IS ADDED TO THE INDIANA CODE  
2 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
3 1, 1999]: **Sec. 18. Before proposed budget requests are submitted**  
4 **by a state agency to the budget agency, the budget requests must**  
5 **be approved by the administrative oversight board established for**  
6 **the state agency.**

7 SECTION 2. IC 4-15-2-1 IS AMENDED TO READ AS FOLLOWS  
8 [EFFECTIVE JULY 1, 1999]: Sec. 1. (a) This chapter shall be known  
9 and may be cited as the "State Personnel Act".

10 (b) This chapter shall be liberally construed to effectuate its policies  
11 and purposes to increase governmental efficiency, to ensure the  
12 appointment of qualified persons to the state service solely on the basis  
13 of proved merit, to offer any person a fair and equal opportunity to  
14 enter the state service, and to afford the employees in state service an  
15 opportunity for public service and individual advancement according  
16 to fair standards of accomplishment based upon merit principles.

17 (c) To these ends there is by this chapter established a personnel



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1 system based on merit and scientific methods relating to the  
 2 appointment, compensation, promotion, transfer, lay off, removal, and  
 3 discipline of employees and to other incidents of state ~~employment~~  
 4 **service.**

5 SECTION 3. IC 4-15-2-3.9 IS ADDED TO THE INDIANA CODE  
 6 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
 7 1, 1999]: **Sec. 3.9. "Search committee" refers to a search committee**  
 8 **established for an appointing authority under IC 4-15-2-5.5.**

9 SECTION 4. IC 4-15-2-5.5 IS ADDED TO THE INDIANA CODE  
 10 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
 11 1, 1999]: **Sec. 5.5. (a) The director shall establish a search**  
 12 **committee for each appointing authority to fill vacancies, approve**  
 13 **reassignments, and make promotions in the classified service.**

14 **(b) A search committee consists of the following:**

15 **(1) One (1) employee of the appointing authority to be**  
 16 **appointed by the chief administrative officer of the appointing**  
 17 **authority.**

18 **(2) Five (5) persons, who are employed as faculty members at**  
 19 **a public or private institution of higher learning and have**  
 20 **expertise in the matters governed by the appointing authority,**  
 21 **to be appointed by the director. To the extent allowed by the**  
 22 **Constitution of the United States and the Constitution of the**  
 23 **State of Indiana, the appointments made under this**  
 24 **subdivision must reflect the ethnic diversity of Indiana and**  
 25 **include one (1) person who is a Caucasian American, one (1)**  
 26 **person who is an African American, one (1) person who is an**  
 27 **Asian-American, one (1) person who is a Hispanic American,**  
 28 **and one (1) person who is a Native American. The persons**  
 29 **appointed under this subdivision must be citizens of the**  
 30 **United States and residents of Indiana.**

31 **(c) A quorum consists of four (4) members. At least four (4)**  
 32 **members of the search committee must affirmatively vote in favor**  
 33 **of an action before the search committee may take the action.**

34 **(d) The director shall provide staff for the search committee.**

35 **(e) Each member of a search committee, who is not a state**  
 36 **employee, is entitled to the minimum salary per diem provided by**  
 37 **IC 4-10-11-2.1(b). Each member of the search committee is entitled**  
 38 **to reimbursement for traveling expenses and other expenses**  
 39 **actually incurred in connection with the member's duties, as**  
 40 **provided in the state travel policies and procedures established by**  
 41 **the department of administration and approved by the state budget**  
 42 **agency.**



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1 SECTION 5. IC 4-15-2-3.8 IS AMENDED TO READ AS  
 2 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 3.8. "State service"  
 3 means public service by:

- 4 (1) employees and officers, including the incumbent directors, of  
 5 the county offices of family and children; and  
 6 (2) employees and officers **of an appointing authority in the**  
 7 **executive department of state government. except**

8 **However, the term does not include elected officers,** members of  
 9 boards and commissions, or individuals hired for or appointed to after  
 10 June 30, 1982; positions as appointing authorities; deputies; assistants  
 11 reporting to appointing authorities; or supervisors of major units within  
 12 state agencies; irrespective of the title carried by those positions; of the  
 13 division of disability, aging, and rehabilitative services; Fort Wayne  
 14 State Developmental Center; Muscatatuck State Developmental Center;  
 15 New Castle State Developmental Center; Northern Indiana State  
 16 Developmental Center; division of mental health; Larue D. Carter  
 17 Memorial Hospital; Evansville State Psychiatric Treatment Center for  
 18 Children; Central State Hospital; Evansville State Hospital; Logansport  
 19 State Hospital; Madison State Hospital; Richmond State Hospital; state  
 20 department of health; Indiana School for the Blind; Indiana School for  
 21 the Deaf; Indiana Veterans' Home; Indiana Soldiers' and Sailors'  
 22 Children's Home; Silvercrest Children's Development Center;  
 23 department of correction; Westville Correctional Facility; Plainfield  
 24 Juvenile Correctional Facility; Putnamville Correctional Facility;  
 25 Indianapolis Juvenile Correctional Facility; Indiana State Prison;  
 26 Indiana Women's Prison; Pendleton Correctional Facility; Reception  
 27 and Diagnostic Center; Rockville Correctional Facility; Youth  
 28 Rehabilitation Facility; Plainfield Correctional Facility; department of  
 29 fire and building services; state emergency management agency  
 30 (excluding a county emergency management organization and any  
 31 other local emergency management organization created under  
 32 IC 10-4-1); civil rights commission; criminal justice planning agency;  
 33 department of workforce development; Indiana historical bureau;  
 34 Indiana state library; division of family and children; Indiana state  
 35 board of animal health; Federal Surplus Property Warehouse; Indiana  
 36 education employment relations board; public employees' retirement  
 37 fund; teachers' retirement fund; department of labor; Indiana protection  
 38 and advocacy services commission; commission on public records;  
 39 Indiana horse racing commission; and state personnel department: **in**  
 40 **the office of the governor, the lieutenant governor, the secretary of**  
 41 **state, the auditor of state, or the treasurer of state.**

42 SECTION 6. IC 4-15-2-7 IS AMENDED TO READ AS FOLLOWS



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1 [EFFECTIVE JULY 1, 1999]: Sec. 7. (a) The state service is divided  
2 into the unclassified service and the classified service as follows:

3 (1) The unclassified part of the state service consists of ~~the~~  
4 ~~following:~~

5 ~~(A) all inmate help in all state penal, charitable, correctional,~~  
6 ~~and benevolent institutions.~~

7 ~~(B) One (1) confidential secretary for each chief~~  
8 ~~administrative officer in each of the state agencies covered by~~  
9 ~~the definition of state service.~~

10 ~~(C) The unemployment insurance review board of the~~  
11 ~~department of workforce development.~~

12 (2) The classified part of the state service includes all civil offices  
13 and positions in the state service ~~on May 1, 1941;~~ other than those  
14 in the unclassified service.

15 (b) This section shall not be construed to include in the state service  
16 any person or persons who are excluded from the definition of state  
17 service.

18 SECTION 7. IC 4-15-2-17 IS AMENDED TO READ AS  
19 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 17. (a) The director  
20 shall give adequate public notice of each entrance test, except as  
21 otherwise provided in section 26 of this chapter.

22 (b) The director ~~may also~~ **shall** advertise tests in professional and  
23 trade publications, post notices of the tests in schools and colleges, and  
24 employ any other methods of publicizing tests which he considers  
25 appropriate.

26 (c) This section ~~does not apply~~ **applies** to noncompetitive qualifying  
27 promotional examinations.

28 SECTION 8. IC 4-15-2-19 IS AMENDED TO READ AS  
29 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 19. (a) Whenever an  
30 appointing authority proposes to fill a vacancy in the classified service,  
31 he shall:

32 **(1) publish under IC 5-3-1-6 a notice of the vacancy in a**  
33 **newspaper under IC 5-3-1-6; and**

34 **(2) submit to the director a statement showing the position to be**  
35 **filled, the duties of the position, and the necessary and desirable**  
36 **qualifications of the person to be appointed to the position, and**  
37 **shall request the director to certify the names of persons eligible**  
38 **for appointment to the position.**

39 The director shall then certify to the **search committee for the**  
40 **appointing authority the list of names of seven (7) all persons eligible**  
41 **for the position. and if more than one (1) vacancy is to be filled, the**  
42 **names of two (2) additional persons eligible for each additional**

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1 vacancy. Each time that the director determines that:

2 (1) the appointing authority has made all reasonable efforts and  
3 has been unable to contact a person certified on the list; or

4 (2) a person certified on the list is not available or not suitable for  
5 employment; under rules adopted by the director;

6 the director shall certify the name of an additional person to the  
7 appointing authority:

8 (b) The names certified shall be the highest ranking eligible persons  
9 willing to accept employment. Names shall be certified from each list  
10 in the order of their rank on that list. **The search committee for the**  
11 **appointing authority shall select a person on the list to fill the**  
12 **vacancy.** The search committee for the appointing authority may  
13 **shall** exercise his its discretion **competitive selection process** in  
14 appointing ~~any~~ of the **best qualified** persons whose ~~name was~~ **names**  
15 **were** certified under this section.

16 SECTION 9. IC 4-15-2-22 IS AMENDED TO READ AS  
17 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 22. When an  
18 appointing authority desires to fill a vacancy in the classified service,  
19 and the director cannot certify the required number of eligibles for such  
20 vacancy because there is no appropriate list or because there is not a  
21 sufficient number of persons on appropriate lists who are willing to  
22 accept appointment, the ~~director~~ **search committee for the appointing**  
23 **authority** may ~~authorize the appointing authority~~ to fill the vacancy by  
24 provisional appointment. A provisional appointee shall hold his  
25 position only until an appropriate list has been established and the  
26 required certification can be made. No provisional appointee shall hold  
27 his position for more than six (6) months. No provisional appointment  
28 shall be renewed, and no person shall receive more than one (1)  
29 provisional appointment in any twelve-month period.

30 SECTION 10. IC 4-15-2-24 IS AMENDED TO READ AS  
31 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 24. ~~An A~~ **search**  
32 **committee for an** appointing authority may at any time assign an  
33 employee from one position to another position in the same class or  
34 rank in his division of the service. Upon making such an assignment  
35 the **search committee for the** appointing authority shall immediately  
36 give written notice of his action to the director. A transfer of an  
37 employee from a position in one division of the service to a position in  
38 the same class or rank in another division of the service may be made  
39 with the approval of the director and of the **search committees for the**  
40 appointing authorities of both divisions of the service. No employee  
41 shall be transferred from a position in one class to a position in another  
42 class of a higher rank or for which there are substantially dissimilar



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1 requirements for appointment unless he is appointed to the latter  
 2 position after certification of his name from a list in accordance with  
 3 this chapter. Any change of a regular employee from a position in one  
 4 class to a position in a class of a lower rank shall be considered a  
 5 demotion and shall be made only in accordance with the procedure  
 6 prescribed by section 34 of this chapter for cases of dismissal. An  
 7 employee thus demoted shall have the right to appeal under section 35  
 8 of this chapter. The removal of an employee from a promotional  
 9 working test is not appealable unless the removal results in a dismissal  
 10 or lay-off.

11 SECTION 11. IC 4-15-2-26 IS AMENDED TO READ AS  
 12 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 26. For positions  
 13 involving unskilled or semiskilled labor, when the character or place  
 14 of the work makes it impracticable to supply the needs of the service  
 15 by appointments made in accordance with the procedure prescribed by  
 16 this chapter, the director, subject to the rules, may adopt, or authorize  
 17 the use of, such other procedures as he determines to be appropriate in  
 18 order to meet the needs of the service, while assuring the selection of  
 19 such employees on the basis of merit and fitness. Such procedures may  
 20 include:

- 21 (1) the testing of applicants and the maintenance of lists of  
 22 eligibles by localities;
- 23 (2) the testing of applicants, singly or in groups, at periodic  
 24 intervals, at the place of employment or elsewhere after such  
 25 notice as the director considers adequate;
- 26 (3) the registration of applicants who pass a noncompetitive test  
 27 or submit satisfactory evidence of their qualifications, and  
 28 appointment of registered applicants in the order of their  
 29 application or by lot; or
- 30 (4) any variation or combination of the foregoing, or other  
 31 suitable method.

32 **A search committee shall make the appointments covered by this**  
 33 **section for an appointing authority.**

34 SECTION 12. IC 4-15-2-30 IS AMENDED TO READ AS  
 35 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 30. Every appointment,  
 36 transfer, promotion, demotion, dismissal, change of salary rate, absence  
 37 from duty, and other temporary or permanent changes in the status of  
 38 employees in both the unclassified and the classified service shall be  
 39 reported to the director at such time, in such form, and together with  
 40 such supporting or pertinent information, as the director may prescribe.  
 41 The director shall maintain a perpetual roster of all officers and  
 42 employees in the unclassified service and the classified service,



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1 showing for each such person the title of the position held, his  
 2 departmental or other agency assignment, his salary rate, date of  
 3 appointment, complete employment history, and such other data as the  
 4 director considers pertinent. The director shall also maintain such other  
 5 personnel records as he may consider desirable or as the board shall  
 6 direct, and shall make available to the governor, the general assembly,  
 7 the budget director, department and institution executives, and other  
 8 persons having a proper interest therein tabulations and analyses of  
 9 such personnel data as he has available. **Promotions in the classified  
 10 service shall be made in the same manner as appointments under  
 11 section 19 of this chapter.**

12 SECTION 13. IC 4-15-2-40 IS AMENDED TO READ AS  
 13 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 40. (a) In applying the  
 14 provisions of this chapter or in doing any of the things provided for in  
 15 this chapter, no officer or employee shall give any weight whatsoever  
 16 to political ~~religious or racial~~ considerations **or discriminate on the  
 17 basis of sex, race, national origin, disability, or age.** No person  
 18 holding a position in the state service nor any member of the board  
 19 shall be forced to make political contributions, nor be required to  
 20 participate in any form of political activity whatsoever other than to  
 21 express freely his views as a citizen and to cast his vote in any election.  
 22 **Each appointing authority shall establish policies to prevent  
 23 discrimination by employees and other agents of the appointing  
 24 authority, including the supervisor of an employee or other agent,  
 25 and standards to provide guidance to the employees and agents of  
 26 the agency, including the supervisor of an employee or other agent,  
 27 in taking corrective action to eliminate discrimination by the  
 28 employees and other agents of the appointing authority.**

29 (b) No person elected to state or federal public office may, during  
 30 the term for which he was elected, be appointed to any position in the  
 31 classified service.

32 (c) Any employee in the classified service who becomes a candidate  
 33 for local office shall, upon request, be granted a leave of absence; any  
 34 employee in the classified service who is elected to a state or federal  
 35 public office shall be considered to have resigned from the service.  
 36 This subsection does not apply to precinct committeemen, state or  
 37 national party convention delegates, or candidates for these party  
 38 positions.

39 (d) **If after a hearing, an appointing authority determines that  
 40 an employee or other agent of the appointing authority, including  
 41 the supervisor of an employee or other agent, has:**

42 (1) **discriminated; or**



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1           (2) failed to take corrective actions to eliminate  
2           discrimination;  
3           against any person on the basis of sex, race, national origin,  
4           disability, or age while acting in the apparent capacity of an  
5           employee or agent of the appointing authority, the appointing  
6           authority shall terminate the employee or agent's services to the  
7           appointing authority. A person terminated under this section shall  
8           not be rehired, promoted, or otherwise engaged to provide services  
9           for the appointing authority.

10          SECTION 14. IC 4-15-15 IS ADDED TO THE INDIANA CODE  
11          AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE  
12          JULY 1, 1999]:

13           **Chapter 15. Compensation Adjustments**

14           **Sec. 1. The definitions in IC 4-15-10-1 apply throughout this**  
15           **chapter.**

16           **Sec. 2. Each employee shall automatically receive a six percent**  
17           **(6%) salary increase each year beginning January 1 within the**  
18           **maximum salary range of the employee's classification plus the**  
19           **cost of living increase fixed by the governor.**

20          SECTION 15. IC 4-15-16 IS ADDED TO THE INDIANA CODE  
21          AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE  
22          JULY 1, 1999]:

23           **Chapter 16. Administrative Oversight Boards**

24           **Sec. 1. As used in this chapter, "board" refers to an**  
25           **administrative oversight board established under section 3 of this**  
26           **chapter.**

27           **Sec. 2. As used in this chapter, "state agency" has the meaning**  
28           **set forth in IC 4-12-1-2.**

29           **Sec. 3. An administrative oversight board is established for each**  
30           **state agency, except the offices of the governor, the lieutenant**  
31           **governor, the secretary of state, the auditor of state, and the**  
32           **treasurer of state.**

33           **Sec. 4. (a) The board consists of the following seven (7)**  
34           **members:**

35           **(1) Two (2) members appointed by the president pro tempore**  
36           **of the senate after consultation with the minority leader of the**  
37           **senate.**

38           **(2) Two (2) members of the house of representatives**  
39           **appointed by the speaker of the house of representatives after**  
40           **consultation with the minority leader of the house of**  
41           **representatives.**

42           **(3) Two (2) employees of the state agency who do not have**



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1 management or supervisory responsibilities to be appointed  
 2 by the affirmative vote of three (3) of the members appointed  
 3 under subdivisions (1) and (2).

4 (4) One (1) employee of the state agency who has management  
 5 responsibilities or supervisory responsibilities to be appointed  
 6 by the chief administrative officer of the state agency.

7 (b) Not more than one (1) of the members appointed under  
 8 subsection (a)(1) may be of the same political party.

9 (c) Not more than one (1) of the members appointed under  
 10 subsection (a)(2) may be of the same political party.

11 Sec. 5. A member appointed under section 4 of this chapter  
 12 serves at the pleasure of the appointing authority.

13 Sec. 6. Each member of the board who is not a state employee  
 14 is entitled to the minimum salary per diem provided by  
 15 IC 4-10-11-2.1(b). Each member of the board is entitled to  
 16 reimbursement for traveling expenses and other expenses actually  
 17 incurred in connection with the member's duties, as provided in the  
 18 state travel policies and procedures established by the department  
 19 of administration and approved by the state budget agency.

20 Sec. 7. Four (4) members of the board constitute a quorum.

21 Sec. 8. An official action of the board must be approved by at  
 22 least four (4) members of the board.

23 Sec. 9. The chairman of the legislative council shall appoint the  
 24 chairperson of each board. The chairperson of the board serves at  
 25 the pleasure of the chairman of the legislative council.

26 Sec. 10. (a) The board established for a state agency shall:

27 (1) review; and

28 (2) either:

29 (A) approve;

30 (B) disapprove; or

31 (C) modify and approve as modified;

32 all budgets, organizational changes, requirements for new offices  
 33 or branches, requirements for new personnel, and promotion needs  
 34 of the state agency.

35 (b) Subject to IC 4-12-1-13, IC 4-12-2-1, and IC 4-15-15-2, the  
 36 board for a state agency shall fix the salary of a new employee, new  
 37 positions, and promoted positions in the state agency before the  
 38 appointment of an employee to the position.

39 (c) A state agency shall not take an action subject to this section  
 40 without the approval of the board.

41 Sec. 11. (a) A member of the board is entitled to obtain any  
 42 information or other materials in the possession of the state agency

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1 served by the member or another state governmental entity that  
2 the member determines is needed for the board to promote the  
3 efficient operation of the state agency or the improvement of the  
4 services provided by the state agency.

5 (b) The information subject to this subsection must be provided  
6 to the member by the keeper of the information within thirty (30)  
7 days after the request is made.

8 (c) If information obtained under this section is confidential, the  
9 member must take reasonable steps to maintain the confidentiality  
10 of the information.

11 SECTION 16. IC 34-11-2-2 IS AMENDED TO READ AS  
12 FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 2. **Subject to section**  
13 **13 of this chapter**, an action against the state of Indiana relating to the  
14 terms, conditions, and privileges of employment (including, but not  
15 limited to, hiring, suspension, discharge, discipline, promotion,  
16 demotion, retirement, wages, or salary) must be brought within two (2)  
17 years of the date of the act or omission complained of. This section  
18 does not:

- 19 (1) expand the time for initiating any action, including any  
20 available administrative remedies; or
- 21 (2) excuse the exhaustion of administrative remedies where  
22 required by the administrative orders and procedures law (IC  
23 4-21.5).

24 SECTION 17. IC 34-11-2-13 IS ADDED TO THE INDIANA  
25 CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 13. **An administrative or civil**  
26 **action concerning a biased act or omission of a staff member**  
27 **described in IC 34-13-7-5 that is brought under IC 4-15-2-35,**  
28 **IC 22-9-1, IC 22-9-2, IC 34-13-7, or another law must be brought**  
29 **within:**

- 30 (1) **fifteen (15) years after the person with the cause of action**  
31 **believes or finds that the person was discriminated against**  
32 **after a series of events of discrimination or a pattern of**  
33 **practice; or**
- 34 (2) **ten (10) years after the person with the cause of action**  
35 **believes or finds that the person was discriminated against, if**  
36 **subdivision (1) does not apply.**

37 SECTION 18. IC 34-13-7 IS ADDED TO THE INDIANA CODE  
38 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE  
39 JULY 1, 1999]:

40 **Chapter 7. Civil Action for Victims of Bias by a State Agency**  
41 **Sec. 1. The remedies under this chapter supplement the**  
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1 remedies otherwise available to a person. However, a person shall  
2 not recover damages under:

- 3 (1) IC 34-24-3 or any other law; and  
4 (2) this chapter;

5 for the same offense.

6 Sec. 2. As used in this chapter, "agency" means a department,  
7 an agency, or another entity in the executive department of state  
8 government.

9 Sec. 3. As used in this chapter, "biased act or omission" means:

- 10 (1) discrimination against; or  
11 (2) failure to take corrective actions to eliminate  
12 discrimination against;

13 any person on the basis of sex, race, national origin, disability, or  
14 age.

15 Sec. 4. As used in this chapter, "staff member" means an  
16 employee or other agent of an agency, including the supervisor of  
17 an employee or other agent, who acts in the apparent capacity of  
18 an employee or agent of the agency.

19 Sec. 5. If a person suffers a loss, including emotional distress,  
20 because of the biased act or omission of a staff member, the person  
21 may bring a civil action against:

- 22 (1) the person that caused the loss;  
23 (2) the state; or  
24 (3) both the staff member and the state.

25 Sec. 6. In an action brought under section 5 of this chapter, the  
26 plaintiff may seek to recover the following:

- 27 (1) Actual and consequential damages.  
28 (2) Punitive damages.  
29 (3) The costs of the action.  
30 (4) Reasonable attorney's fees.

31 Sec. 7. The provisions limiting liability under IC 34-13-3 do not  
32 apply to an action under this chapter.

33 Sec. 8. The attorney general shall not defend a staff member in  
34 a civil action based on a violation of a person's civil rights under  
35 any law.

36 Sec. 9. The state shall not reimburse a staff member for the  
37 amount of any judgment awarded against the staff member as a  
38 result of a violation of a person's civil rights under any law.

39 SECTION 19. [EFFECTIVE JULY 1, 1999] (a) It is the intent of  
40 the general assembly that:

- 41 (1) all state employees employed by an agency in the executive  
42 department of state government, regardless of how it is

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1            named, be made subject to the laws governing merit  
 2            employees, other than employees who are excluded from the  
 3            definition of state service under IC 4-15-2-3.8, as amended by  
 4            this act, and inmates placed in unclassified service under  
 5            IC 4-15-2-7, as amended by this act; and  
 6            (2) the staffing levels, budgets, and organizational decisions of  
 7            each agency in the executive department of state government,  
 8            regardless of how it is named, be governed by an  
 9            administrative oversight board, other than an office of an  
 10           elected constitutional officer.

11           (b) A statute in conflict with this act is superseded. The  
 12           legislative council shall provide for the introduction of a bill in the  
 13           2000 session of the general assembly to bring any conflicting laws  
 14           which may exist into conformity with this act.

15           (c) Except for an employee who is excluded from the definition  
 16           of state service under IC 4-15-2-3.8, as amended by this act, or is  
 17           an inmate placed in the unclassified service under IC 4-15-2-7, as  
 18           amended by this act, an employee who:

- 19           (1) was not a merit employee before July 1, 1999; and
  - 20           (2) is employed in state service (as defined in IC 4-15-2-3.8, as  
 21           amended by this act) after June 30, 1999;
- 22           shall be treated after June 30, 1999, as a merit employee. The  
 23           employees to which this subsection applies include but are not  
 24           limited to employees employed in the department of  
 25           transportation, the department of natural resources, the Indiana  
 26           department of environmental management, the bureau of motor  
 27           vehicles, and the bureau of motor vehicles commission.

28           SECTION 20. THE FOLLOWING ARE REPEALED [EFFECTIVE  
 29           JULY 1, 1999]: IC 4-15-2.5; IC 34-13-4-4.

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