
SENATE BILL No. 389

DIGEST OF INTRODUCED BILL

Citations Affected: IC 35-33-1.5.

Synopsis: Arrests by federal employees. Provides that before a federal employee may make an arrest, a search, or a seizure in Indiana, the federal employee must file a written notice with the sheriff who has jurisdiction in the county in which the arrest, search, or seizure will occur. Provides certain exceptions. Specifies that the written notice must contain certain information, including: (1) the name of the subject of the arrest, search, or seizure; (2) a clear statement describing the probable cause for the arrest, search, or seizure, or a copy of the federal arrest, search, or seizure warrant that contains a clear statement of probable cause; and (3) a description of specific assets to be searched for or seized. Allows a person who suffers a pecuniary loss as a result of a violation of the written notice requirements to bring a civil action against the person who caused the loss to recover certain damages and expenses. 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 any federal law that purports 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.

Effective: Upon passage.

Waterman

January 10, 2000, read first time and referred to Committee on Corrections, Criminal and Civil Procedures.

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Second Regular Session 111th General Assembly (2000)

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 1999 General Assembly.

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SENATE BILL No. 389



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 UPON PASSAGE]:

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 files a written notice concerning the arrest,**
10 **search, or seizure with the sheriff or the designee of the sheriff who**
11 **has jurisdiction in the county in which the arrest, search, or seizure**
12 **will occur.**

13 **(b) A federal employee described in subsection (a) may make an**
14 **arrest, a search, or a seizure without filing a written notice under**
15 **subsection (a) under any of the following conditions:**

16 **(1) The federal employee has filed the written notice required**
17 **under section 2 of this chapter and the arrest, search, or**



1 seizure will take place on a federal enclave for which
2 jurisdiction has been ceded to the United States under a state
3 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 filed the written notice required
12 under section 3 of this chapter and the federal employee has
13 probable cause to believe that the subject of the arrest, search,
14 or seizure has close connections with the sheriff that are likely
15 to result in the subject being informed of the impending
16 arrest, search, or seizure.

17 **Sec. 2.** Before a federal employee may make an arrest, a search,
18 or a seizure under section 1(b)(1) of this chapter, the federal
19 employee must file a written notice with the attorney general unless
20 the resulting delay in filing the written notice would probably
21 cause:

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

23 (2) the subject of the arrest, search, or seizure to flee
24 prosecution.

25 **Sec. 3.** Before a federal employee may make an arrest, a search,
26 or a seizure under section 1(b)(5) of this chapter, the federal
27 employee must file a written notice with the attorney general.

28 **Sec. 4. (a)** A written notice concerning an arrest, a search, or a
29 seizure that is filed with a sheriff or the designee of the sheriff or
30 filed with the attorney general under this chapter must contain the
31 following information:

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

33 (2) A clear statement describing the probable cause for the
34 arrest, search, or seizure, or a copy of the federal arrest,
35 search, or seizure warrant that contains a clear statement of
36 probable cause.

37 (3) A description of specific assets, if any, to be searched for
38 or seized.

39 (4) A statement of the date and time that the arrest, search, or
40 seizure is to occur.

41 (5) The address or location where the intended arrest, search,
42 or seizure will be attempted.

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1 (b) The written notice may be in letter form and either typed or
2 handwritten.

3 (c) If:

4 (1) a federal employee files a written notice concerning a
5 arrest, a search, or a seizure with a sheriff, a designee of a
6 sheriff, or with the attorney general under this chapter; and

7 (2) the arrest, search, or seizure does not occur within
8 forty-eight (48) hours after the time the notice is filed;

9 the federal employee must file a new notice with the sheriff,
10 designee of a sheriff, or attorney general before the arrest, search,
11 or seizure may occur.

12 (d) The sheriff or attorney general shall keep a copy of the
13 written notice on file.

14 Sec. 5. (a) If a person suffers a pecuniary loss as a result of a
15 violation of this chapter, the person may bring a civil action against
16 the person who caused the loss for the following:

17 (1) Punitive damages of not more than three (3) times the
18 person's actual damages.

19 (2) The costs of the action.

20 (3) Reasonable attorney's fees.

21 (4) Actual travel expenses that are not otherwise reimbursed
22 under subdivisions (1) through (3) and that are incurred by
23 the person suffering loss to:

24 (A) have the person suffering loss or an employee or agent
25 of the person file papers and attend court proceedings
26 related to the recovery of a judgment under this chapter;
27 or

28 (B) provide witnesses for court proceedings related to the
29 recovery of a judgment under this chapter.

30 (5) A reasonable amount to compensate the person suffering
31 loss for time used to:

32 (A) file papers and attend court proceedings related to the
33 recovery of a judgment under this chapter; or

34 (B) travel to and from activities described in clause (A).

35 (6) Actual direct and indirect expenses incurred by the person
36 suffering loss to compensate employees and agents for time
37 used to:

38 (A) file papers and attend court proceedings related to the
39 recovery of a judgment under this chapter; or

40 (B) travel to and from activities described in clause (A).

41 (7) All other reasonable costs of collection.

42 (b) For purposes of determining the amount of damages

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1 recoverable under subsection (a)(1), there is an irrebuttable
2 presumption that a person who brings a civil action under this
3 chapter suffers a pecuniary loss of at least three hundred dollars
4 (\$300).

5 **Sec. 6. Under the Tenth Amendment of the Constitution of the**
6 **United States and Indiana's compact with the other states, the**
7 **general assembly declares that any federal law that purports to**
8 **provide federal employees with the authority of a sheriff in Indiana**
9 **is:**

10 (1) not recognized by and is specifically rejected by Indiana;
11 and

12 (2) invalid in Indiana.

13 SECTION 2. An emergency is declared for this act.

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