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# HOUSE BILL No. 1275

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 4-13; IC 11-8-5-2; IC 11-11-1.5; IC 34-30-2.

**Synopsis:** Department of correction ombudsmen. Establishes the department of correction ombudsman bureau within the Indiana department of administration. Provides that the department of administration shall determine salaries and other personnel matters of the department of correction ombudsman bureau. Authorizes an ombudsman to receive, investigate, and attempt to resolve complaints from persons who allege their health or safety has been endangered or that the department of correction has violated a law, rule, or written policy. Specifies that the department of correction ombudsman has no authority to investigate complaints from department of correction employees relating to their employment. Provides that an ombudsman is immune from civil liability for the good faith performance of official duties and that a person who provides records to the ombudsman is immune from civil and criminal liability. Makes certain actions that impede an ombudsman's investigation a Class A misdemeanor.

**Effective:** July 1, 2002.

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### Smith V, Dillon, Ayres

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January 14, 2002, read first time and referred to Committee on Courts and Criminal Code.

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Second Regular Session 112th General Assembly (2002)

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 *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2001 General Assembly.

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# HOUSE BILL No. 1275



A BILL FOR AN ACT to amend the Indiana Code concerning corrections.

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

1 SECTION 1. IC 4-13-1-4, AS AMENDED BY P.L.53-2001,  
2 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
3 JULY 1, 2002]: Sec. 4. The department shall, subject to this chapter,  
4 do the following:

- 5 (1) Execute and administer all appropriations as provided by law,  
6 and execute and administer all provisions of law that impose  
7 duties and functions upon the executive department of  
8 government, including executive investigation of state agencies  
9 supported by appropriations and the assembly of all required data  
10 and information for the use of the executive department and the  
11 legislative department.
- 12 (2) Supervise and regulate the making of contracts by state  
13 agencies.
- 14 (3) Perform the property management functions required by  
15 IC 4-20.5-6.
- 16 (4) Assign office space and storage space for state agencies in the  
17 manner provided by IC 4-20.5-5.



1 (5) Maintain and operate the following for state agencies:

2 (A) Central duplicating.

3 (B) Printing.

4 (C) Machine tabulating.

5 (D) Mailing services.

6 (E) Centrally available supplemental personnel and other  
7 essential supporting services.

8 (F) Information services.

9 (G) Telecommunication services.

10 The department may require state agencies to use these general  
11 services in the interests of economy and efficiency. The general  
12 services rotary fund, the telephone rotary fund, and the data  
13 processing rotary fund are established through which these  
14 services may be rendered to state agencies. The budget agency  
15 shall determine the amount for each rotary fund.

16 (6) Control and supervise the acquisition, operation, maintenance,  
17 and replacement of state owned vehicles by all state agencies. The  
18 department may establish and operate, in the interest of economy  
19 and efficiency, a motor vehicle pool, and may finance the pool by  
20 a rotary fund. The budget agency shall determine the amount to  
21 be deposited in the rotary fund.

22 (7) Promulgate and enforce rules relative to the travel of officers  
23 and employees of all state agencies when engaged in the  
24 performance of state business. These rules may allow  
25 reimbursement for travel expenses by any of the following  
26 methods:

27 (A) Per diem.

28 (B) For expenses necessarily and actually incurred.

29 (C) Any combination of the methods in clauses (A) and (B).

30 The rules must require the approval of the travel by the  
31 commissioner and the head of the officer's or employee's  
32 department prior to payment.

33 (8) Administer IC 4-13.6.

34 (9) Prescribe the amount and form of certified checks, deposits,  
35 or bonds to be submitted in connection with bids and contracts  
36 when not otherwise provided for by law.

37 (10) Rent out, with the approval of the governor, any state  
38 property, real or personal:

39 (A) not needed for public use; or

40 (B) for the purpose of providing services to the state or  
41 employees of the state;

42 the rental of which is not otherwise provided for or prohibited by

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1 law. Property may not be rented out under this subdivision for a  
 2 term exceeding ten (10) years at a time. However, if property is  
 3 rented out for a term of more than four (4) years, the  
 4 commissioner must make a written determination stating the  
 5 reasons that it is in the best interests of the state to rent property  
 6 for the longer term. This subdivision does not include the power  
 7 to grant or issue permits or leases to explore for or take coal, sand,  
 8 gravel, stone, gas, oil, or other minerals or substances from or  
 9 under the bed of any of the navigable waters of the state or other  
 10 lands owned by the state.

11 (11) Have charge of all central storerooms, supply rooms, and  
 12 warehouses established and operated by the state and serving  
 13 more than one (1) agency.

14 (12) Enter into contracts and issue orders for printing as provided  
 15 by IC 4-13-4.1.

16 (13) Sell or dispose of surplus property under IC 5-22-22, or if  
 17 advantageous, to exchange or trade in the surplus property toward  
 18 the purchase of other supplies, materials, or equipment, and to  
 19 make proper adjustments in the accounts and inventory pertaining  
 20 to the state agencies concerned.

21 (14) With respect to power, heating, and lighting plants owned,  
 22 operated, or maintained by any state agency:

23 (A) inspect;

24 (B) regulate their operation; and

25 (C) recommend improvements to those plants to promote  
 26 economical and efficient operation.

27 **(15) Administer the department of correction ombudsman**  
 28 **bureau established by IC 4-13-1.2-3 and determine salaries**  
 29 **and other personnel matters of the bureau.**

30 SECTION 2. IC 4-13-1.2 IS ADDED TO THE INDIANA CODE  
 31 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE  
 32 JULY 1, 2002]:

33 **Chapter 1.2. Department of Correction Ombudsman Bureau**

34 **Sec. 1. As used in this chapter, "bureau" refers to the**  
 35 **department of correction ombudsman bureau established by**  
 36 **section 3 of this chapter. The term includes individuals approved**  
 37 **to act in the capacity of ombudsmen by the department of**  
 38 **correction ombudsman bureau.**

39 **Sec. 2. As used in this chapter, "ombudsman" means an**  
 40 **employee of the bureau or an individual approved by the bureau**  
 41 **to investigate and resolve complaints that the department of**  
 42 **correction endangered the health and safety of any person or**

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1 violated specific laws, rules, or written policies.

2 **Sec. 3.** The department of correction ombudsman bureau is  
3 established as a separate bureau within the Indiana department of  
4 administration.

5 **Sec. 4. (a)** The governor shall appoint a director of the bureau.  
6 The governor shall appoint a successor director within thirty (30)  
7 days after a vacancy occurs in the position of director. The director  
8 serves at the pleasure of the governor.

9 **(b)** The director may employ technical experts and other  
10 employees to carry out the purposes of this chapter. However, the  
11 director may not hire an individual to serve as an ombudsman who  
12 has been employed by the department of correction during the  
13 preceding year.

14 **Sec. 5. (a)** An ombudsman may receive, investigate, and attempt  
15 to resolve complaints asserting that the department of correction:

- 16 (1) violated a specific law, rule, or department written policy;  
17 or  
18 (2) endangered the health or safety of any person.

19 However, an ombudsman shall not investigate a complaint from an  
20 employee of the department of correction that relates to the  
21 employee's employment relationship with the department of  
22 correction.

23 **(b)** At the conclusion of an investigation of a complaint, the  
24 investigating ombudsman shall report the ombudsman's findings  
25 to the complainant.

26 **(c)** If the ombudsman who receives a complaint does not  
27 investigate the complaint, the ombudsman shall notify the  
28 complainant of the decision not to investigate and the reasons for  
29 the decision.

30 **Sec. 6. (a)** An ombudsman shall be given:

- 31 (1) appropriate access to the records of an offender who files  
32 a complaint under this chapter; and  
33 (2) immediate access to any correctional facility administered  
34 or supervised by the department of correction.

35 **(b)** A state or local governmental agency or entity that has  
36 records that are relevant to a complaint or an investigation  
37 conducted by the ombudsman shall provide the ombudsman with  
38 access to the records.

39 **(c)** A person is immune from:

- 40 (1) civil or criminal liability; and  
41 (2) actions taken under a professional disciplinary procedure  
42 against an employee of the department of correction;

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1 for the release or disclosure of records to an ombudsman under  
2 this chapter.

3 **Sec. 7. (a) The director of the bureau shall do the following:**

4 (1) Establish procedures to receive and investigate complaints.

5 (2) Establish access controls for all information maintained by  
6 the bureau.

7 (3) Except as is necessary to investigate and resolve a  
8 complaint, ensure that the identity of a complainant will not  
9 be disclosed by any employee of the bureau without:

10 (A) the complainant's written consent; or

11 (B) a court order.

12 (b) The correspondence and communication between an  
13 ombudsman and any person concerning a complaint is a privileged  
14 communication.

15 **Sec. 8. The bureau may adopt rules under IC 4-22-2 necessary  
16 to carry out this chapter.**

17 **Sec. 9. An ombudsman is not civilly liable for the good faith  
18 performance of official duties.**

19 **Sec. 10. (a) The director of the bureau shall prepare a report  
20 each year on the operations of the bureau.**

21 (b) A copy of the report shall be provided to the following:

22 (1) The governor.

23 (2) The legislative council.

24 (3) The Indiana department of administration.

25 (4) The department of correction.

26 **Sec. 11. A person who:**

27 (1) intentionally interferes with or prevents the completion of  
28 the work of an ombudsman;

29 (2) knowingly offers compensation to an ombudsman in an  
30 effort to affect the outcome of an investigation or a potential  
31 investigation;

32 (3) knowingly or intentionally retaliates against an offender  
33 or another person who provides information to an  
34 ombudsman; or

35 (4) makes threats because of an investigation or potential  
36 investigation against an ombudsman, a person who has filed  
37 a complaint, or a person who provides information to an  
38 ombudsman;

39 **commits a Class A misdemeanor.**

40 **Sec. 12. The Indiana department of administration shall provide  
41 and maintain office space for the bureau.**

42 **SECTION 3. IC 11-8-5-2 IS AMENDED TO READ AS FOLLOWS**

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1 [EFFECTIVE JULY 1, 2002]: Sec. 2. (a) The department may, under  
 2 IC 4-22-2, classify as confidential the following personal information  
 3 maintained on a person who has been committed to the department or  
 4 who has received correctional services from the department:

5 (1) Medical, psychiatric, or psychological data or opinion which  
 6 might adversely affect that person's emotional well-being.

7 (2) Information relating to a pending investigation of alleged  
 8 criminal activity or other misconduct.

9 (3) Information which, if disclosed, might result in physical harm  
 10 to that person or other persons.

11 (4) Sources of information obtained only upon a promise of  
 12 confidentiality.

13 (5) Information required by law or promulgated rule to be  
 14 maintained as confidential.

15 (b) The department may deny the person about whom the  
 16 information pertains and other persons access to information classified  
 17 as confidential under subsection (a). However, confidential information  
 18 shall be disclosed:

19 (1) upon the order of a court;

20 (2) to employees of the department who need the information in  
 21 the performance of their lawful duties;

22 (3) to other agencies in accord with IC 4-1-6-2(m) and  
 23 IC 4-1-6-8.5;

24 (4) to the governor or ~~his~~ **the governor's** designee;

25 (5) for research purposes in accord with IC 4-1-6-8.6(b); ~~or~~

26 **(6) to the department of correction ombudsman bureau in**  
 27 **accordance with IC 11-11-1.5; or**

28 **(7) if the commissioner determines there exists a compelling**  
 29 **public interest as defined in IC 4-1-6-1, for disclosure which**  
 30 **overrides the interest to be served by nondisclosure.**

31 (c) The department shall disclose information classified as  
 32 confidential under subsection (a)(1) to a physician, psychiatrist, or  
 33 psychologist designated in writing by the person about whom the  
 34 information pertains.

35 SECTION 4. IC 11-11-1.5 IS ADDED TO THE INDIANA CODE  
 36 AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE  
 37 JULY 1, 2002]:

38 **Chapter 1.5. Department of Correction Ombudsman Bureau**

39 **Sec. 1. As used in this chapter, "bureau" refers to the**  
 40 **department of correction ombudsman bureau established within**  
 41 **the Indiana department of administration by IC 4-13-1.2-3. The**  
 42 **term includes individuals who are approved by the department of**

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**correction ombudsman bureau to act as ombudsmen.**

**Sec. 2. As used in this chapter, "ombudsman" has the meaning set forth in IC 4-13-1.2-2.**

**Sec. 3. The department shall provide an ombudsman with:**

**(1) appropriate access to the records of an offender who files a complaint under IC 4-13-1.2-5; and**

**(2) immediate access to any correctional facility administered or supervised by the department of correction.**

**Sec. 4. The Indiana department of administration shall provide and maintain office space for the bureau.**

**Sec. 5. An ombudsman shall not investigate a complaint from an employee of the department that relates to the employee's employment relationship with the department.**

**SECTION 5. IC 34-30-2-2.3 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 2.3. IC 4-13-1.2-6 (Concerning a person who releases information to a department of correction ombudsman).**

**SECTION 6. IC 34-30-2-2.4 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 2.4. IC 4-13-1.2-9 (Concerning a department of correction ombudsman).**

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