



April 7, 2009

**ENGROSSED
SENATE BILL No. 223**

DIGEST OF SB 223 (Updated March 24, 2009 4:13 pm - DI 107)

Citations Affected: IC 33-37; IC 34-10; IC 34-58; IC 35-44.

Synopsis: Prosecution costs, inmate litigation, and trafficking with inmates. Requires the state to pay all costs of trial in a prosecution: (1) for any offense committed at a state correctional facility; and (2) in the county in which the correctional facility is located. (Current law requires the state to pay all costs of trial only for an offense committed by an inmate of a state correctional facility in the county in which the correctional facility is located.) Provides that an offender who has filed at least three civil action that have been dismissed as frivolous may not file a new complaint or petition as an indigent person unless the offender is in immediate danger of serious bodily injury. Makes trafficking with an inmate (which is, without enhancement, a Class A misdemeanor) a Class C felony if the item trafficked is a cellular telephone. Makes it a Class A misdemeanor if a person possesses or carries into a penal facility or a juvenile facility a controlled substance or a deadly weapon.

Effective: July 1, 2009.

**Arnold, Young R Michael,
Randolph, Skinner**

(HOUSE SPONSORS — TINCHER, DERMODY, VANDENBURGH,
LAWSON L)

January 7, 2009, read first time and referred to Committee on Corrections, Criminal, and Civil Matters.

February 17, 2009, reported favorably — Do Pass.

February 19, 2009, read second time, ordered engrossed.

February 20, 2009, engrossed.

February 23, 2009, read third time, passed. Yeas 46, nays 3.

HOUSE ACTION

March 2, 2009, read first time and referred to Committee on Judiciary.

April 6, 2009, amended, reported — Do Pass.

ES 223—LS 6736/DI 107+



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April 7, 2009

First Regular Session 116th General Assembly (2009)

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 2008 Regular Session of the General Assembly.

ENGROSSED SENATE BILL No. 223

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 33-37-2-4 IS AMENDED TO READ AS
 2 FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 4. (a) The state shall
 3 pay all costs of trial in a prosecution: ~~for an offense committed:~~
 4 (1) ~~by an inmate of~~ **for an offense committed at** a state
 5 correctional facility; and
 6 (2) in the county in which the correctional facility is located.
 7 (b) The costs of trial to be paid under this section include:
 8 (1) court fees; and
 9 (2) expenses incurred by the county sheriff in returning the
 10 defendant to the jurisdiction of the court and keeping the
 11 defendant in custody until trial.
 12 SECTION 2. IC 34-10-1-3 IS ADDED TO THE INDIANA CODE
 13 AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE JULY
 14 1, 2009]: **Sec. 3. If an offender has filed at least three (3) civil**
 15 **actions in which a state court has dismissed the action or a claim**
 16 **under IC 34-58-1-2, the offender may not file a new complaint or**
 17 **petition as an indigent person under this chapter, unless a court**

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1 **determines the offender is in immediate danger of serious bodily**
2 **injury.**

3 SECTION 3. IC 35-44-3-9 IS AMENDED TO READ AS
4 FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 9. (a) As used in this
5 section, "juvenile facility" means the following:

6 (1) A secure facility (as defined in IC 31-9-2-114) in which a
7 child is detained under IC 31 or used for a child awaiting
8 adjudication or adjudicated under IC 31 as a child in need of
9 services or a delinquent child.

10 (2) A shelter care facility (as defined in IC 31-9-2-117) in which
11 a child is detained under IC 31 or used for a child awaiting
12 adjudication or adjudicated under IC 31 as a child in need of
13 services or a delinquent child.

14 (b) Except as provided in subsection (d), a person who, without the
15 prior authorization of the person in charge of a penal facility or juvenile
16 facility knowingly or intentionally:

17 (1) delivers, or carries into the penal facility or juvenile facility
18 with intent to deliver, an article to an inmate or child of the
19 facility;

20 (2) carries, or receives with intent to carry out of the penal facility
21 or juvenile facility, an article from an inmate or child of the
22 facility; **or**

23 (3) delivers, or carries to a worksite with the intent to deliver,
24 alcoholic beverages to an inmate or child of a jail work crew or
25 community work crew; **or**

26 **(4) possesses in or carries into a penal facility or a juvenile**
27 **facility:**

28 **(A) a controlled substance; or**

29 **(B) a deadly weapon;**

30 commits trafficking with an inmate, a Class A misdemeanor.

31 (c) If the person who committed the offense under subsection (b) is
32 an employee of:

33 (1) the department of correction; or

34 (2) a penal facility;

35 and the article is a cigarette or tobacco product (as defined in
36 IC 6-7-2-5), the court shall impose a mandatory five thousand dollar
37 (\$5,000) fine under IC 35-50-3-2, in addition to any term of
38 imprisonment imposed under IC 35-50-3-2.

39 (d) The offense under subsection (b) is a Class C felony if the article
40 is:

41 (1) a controlled substance; **or**

42 (2) a deadly weapon; **or**

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1 **(3) a cellular telephone or other wireless or cellular**
2 **communications device.**
3 SECTION 4. IC 34-58-2-1 IS REPEALED [EFFECTIVE JULY 1,
4 2009].

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COMMITTEE REPORT

Madam President: The Senate Committee on Corrections, Criminal, and Civil Matters, to which was referred Senate Bill No. 223, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill DO PASS.

(Reference is made to Senate Bill 223 as introduced.)

STEELE, Chairperson

Committee Vote: Yeas 6, Nays 3.



COMMITTEE REPORT

Mr. Speaker: Your Committee on Judiciary, to which was referred Senate Bill 223, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 33-37-2-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 4. (a) The state shall pay all costs of trial in a prosecution: ~~for an offense committed:~~

- (1) ~~by an inmate of~~ **for an offense committed at** a state correctional facility; and
- (2) in the county in which the correctional facility is located.
- (b) The costs of trial to be paid under this section include:
 - (1) court fees; and
 - (2) expenses incurred by the county sheriff in returning the defendant to the jurisdiction of the court and keeping the defendant in custody until trial.

SECTION 2. IC 34-10-1-3 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 3. If an offender has filed at least three (3) civil actions in which a state court has dismissed the action or a claim under IC 34-58-1-2, the offender may not file a new complaint or petition as an indigent person under this chapter, unless a court determines the offender is in immediate danger of serious bodily injury.**".

Page 2, line 3, strike "or".

Page 2, line 6, after "crew;" insert "**or**

(4) possesses in or carries into a penal facility or a juvenile

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facility:

(A) a controlled substance; or

(B) a deadly weapon."

Page 2, after line 21, begin a new paragraph and insert:

"SECTION 4. IC 34-58-2-1 IS REPEALED [EFFECTIVE JULY 1, 2009]."

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 223 as printed February 18, 2009.)

LAWSON L, Chair

Committee Vote: yeas 10, nays 0.

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