
HOUSE BILL No. 1205

DIGEST OF INTRODUCED BILL

Citations Affected: IC 4-15-10-7; IC 36-8-12.

Synopsis: Injured volunteer firefighters. Provides that the state, a political subdivision, or a private employer may not discipline an employee who is a member of a volunteer fire department and who is injured or absent from work because of an injury that occurs while the employee is engaged in emergency firefighting or emergency response activities. Provides that the employer may require the injured employee to provide evidence from a physician or other medical authority showing: (1) treatment for the injury at the time of the absence; and (2) a connection between the injury and the employee's emergency firefighting or emergency response activities. Requires the employer, to the extent required by federal or state law, to retain information about the injury in a separate medical file and to treat the information as a confidential medical record. Allows an injured employee to use sick leave when the employee is absent from work because of an injury that occurs while the employee is engaged in emergency firefighting or emergency response activities.

Effective: July 1, 2009.

Bischoff

January 12, 2009, read first time and referred to Committee on Veterans Affairs and Public Safety.

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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.

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HOUSE BILL No. 1205



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

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

1 SECTION 1. IC 4-15-10-7 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 7. **(a)** An employee
3 may not be disciplined for absence from work if:
4 (1) the employee is a member of a volunteer fire department
5 under IC 36-8-12;
6 (2) the employee has notified ~~his~~ **the employee's** immediate
7 supervisor in writing that ~~he~~ **the employee** is a member of a
8 volunteer fire department;
9 (3) the employee presents a written statement to ~~his~~ **the**
10 **employee's** immediate supervisor from the chief or other officer
11 in charge of the volunteer fire department that the employee was
12 engaged in emergency firefighting activity at the time of ~~his~~ **the**
13 **employee's** absence from work; and
14 (4) the employee secures authorization from ~~his~~ **the employee's**
15 supervisor to leave ~~his~~ **the employee's** duty station if the
16 employee has already reported for work.
17 **(b) An employee who:**



1 **(1) is a member of a volunteer fire department under**
2 **IC 36-8-12; and**
3 **(2) is injured while the employee is engaged in emergency**
4 **firefighting or other emergency response;**
5 **may not be disciplined as a result of the injury or an absence from**
6 **work because of the injury if the employee complies with**
7 **subsections (a) and (c).**
8 **(c) The immediate supervisor of an employee described in**
9 **subsection (b) may require the employee to provide evidence from**
10 **a physician or other medical authority showing:**
11 **(1) treatment for the injury at the time of the absence; and**
12 **(2) a connection between the injury and the employee's**
13 **emergency firefighting or other emergency response activities.**
14 **(d) To the extent required by federal or state law, information**
15 **obtained under subsection (c) by an immediate supervisor must be:**
16 **(1) retained in a separate medical file created for the**
17 **employee; and**
18 **(2) treated as a confidential medical record.**
19 SECTION 2. IC 36-8-12-10.5, AS AMENDED BY P.L.43-2005,
20 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
21 JULY 1, 2009]: Sec. 10.5. (a) This section does not apply to an
22 employee of the state subject to IC 4-15-10-7.
23 (b) This section applies to an employee of a political subdivision
24 who:
25 (1) is a volunteer firefighter or volunteer member; and
26 (2) has notified the employee's employer in writing that the
27 employee is a volunteer firefighter or volunteer member.
28 (c) The political subdivision employer may not discipline an
29 employee:
30 (1) for being absent from employment by reason of responding to
31 a fire or emergency call that was received before the time that the
32 employee was to report to employment; **or**
33 (2) for leaving the employee's duty station to respond to a fire or
34 an emergency call if the employee has secured authorization from
35 the employee's supervisor to leave the duty station in response to
36 a fire or an emergency call received after the employee has
37 reported to work; **or**
38 **(3) for:**
39 **(A) an injury; or**
40 **(B) an absence from work because of an injury;**
41 **that occurs while the employee is engaged in emergency**
42 **firefighting or other emergency response.**

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1 (d) The political subdivision employer may require an employee
2 who has been absent from employment as set forth in subsection ~~(c)(1)~~
3 ~~or (c)(2)~~ **(c)** to present a written statement from the fire chief or other
4 officer in charge of the volunteer fire department, or officer in charge
5 of the volunteer emergency medical services association, at the time of
6 the absence **or injury** indicating that the employee was engaged in
7 emergency firefighting or emergency activity at the time of the absence
8 **or injury.**

9 **(e) The political subdivision employer may require an employee**
10 **who is injured or absent from work as described in subsection**
11 **(c)(3) to provide evidence from a physician or other medical**
12 **authority showing:**

- 13 **(1) treatment for the injury at the time of the absence; and**
- 14 **(2) a connection between the injury and the employee's**
15 **emergency firefighting or other emergency response activities.**

16 **(f) To the extent required by federal or state law, information**
17 **obtained under subsection (e) by a political subdivision employer**
18 **must be:**

- 19 **(1) retained in a separate medical file created for the**
20 **employee; and**
- 21 **(2) treated as a confidential medical record.**

22 ~~(e)~~ **(g)** An employee who is disciplined by the employer in violation
23 of subsection (c) may bring a civil action against the employer in the
24 county of employment. In the action, the employee may seek the
25 following:

- 26 (1) Payment of back wages.
- 27 (2) Reinstatement to the employee's former position.
- 28 (3) Fringe benefits wrongly denied or withdrawn.
- 29 (4) Seniority rights wrongly denied or withdrawn.

30 An action brought under this subsection must be filed within one (1)
31 year after the date of the disciplinary action.

32 ~~(f)~~ **(h)** A public servant who permits or authorizes an employee of
33 a political subdivision under the supervision of the public servant to be
34 absent from employment as set forth in subsection (c) is not considered
35 to have committed a violation of IC 35-44-2-4(b).

36 SECTION 3. IC 36-8-12-10.7, AS ADDED BY P.L.43-2005,
37 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
38 JULY 1, 2009]: Sec. 10.7. (a) This section applies to an employee of
39 a private employer who:

- 40 (1) is a volunteer firefighter or volunteer member; and
- 41 (2) has notified the employee's employer in writing that the
42 employee is a volunteer firefighter or volunteer member.

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1 (b) Except as provided in subsection (c), the employer may not
2 discipline an employee:

3 (1) for being absent from employment by reason of responding to
4 a fire or emergency call that was received before the time that the
5 employee was to report to employment; **or**

6 (2) for leaving the employee's duty station to respond to a fire or
7 emergency call if the employee has secured authorization from
8 the employee's supervisor to leave the duty station in response to
9 a fire or an emergency call received after the employee has
10 reported to work; **or**

11 **(3) for:**

12 **(A) an injury; or**

13 **(B) an absence from work because of an injury;**

14 **that occurs while the employee is engaged in emergency**
15 **firefighting or other emergency response.**

16 (c) After the employer has received the notice required under
17 subsection (a)(2), the employer may reject the notification from the
18 employee on the grounds that the employee is an essential employee to
19 the employer. If the employer has rejected the notification of the
20 employee:

21 (1) subsection (b) does not apply to the employee; and

22 (2) the employee must promptly notify the:

23 (A) fire chief or other officer in charge of the volunteer fire
24 department; or

25 (B) the officer in charge of the volunteer emergency medical
26 services association;

27 of the rejection of the notice of the employee who is a volunteer
28 firefighter or a volunteer member.

29 (d) The employer may require an employee who has been absent
30 from employment as set forth in subsection (b) to present a written
31 statement from the fire chief or other officer in charge of the volunteer
32 fire department, or officer in charge of the emergency medical services
33 association, at the time of the absence **or injury** indicating that the
34 employee was engaged in emergency firefighting or emergency activity
35 at the time of the absence **or injury**.

36 **(e) The employer may require an employee who is injured or**
37 **absent from work as described in subsection (b)(3) to provide**
38 **evidence from a physician or other medical authority showing:**

39 **(1) treatment for the injury at the time of the absence; and**

40 **(2) a connection between the injury and the employee's**
41 **emergency firefighting or other emergency response activities.**

42 **(f) To the extent required by federal or state law, information**

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1 **obtained under subsection (e) by an employer must be:**
 2 **(1) retained in a separate medical file created for the**
 3 **employee; and**
 4 **(2) treated as a confidential medical record.**
 5 SECTION 4. IC 36-8-12-10.9, AS ADDED BY P.L.43-2005,
 6 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 7 JULY 1, 2009]: Sec. 10.9. (a) The employer may require an employee
 8 who will be absent from employment as set forth in:
 9 (1) section 10.5(c)(1); or
 10 (2) section 10.7(b)(1);
 11 of this chapter to notify the employer before the scheduled start time
 12 for the absence from employment to be excused by the employer.
 13 (b) The employer is not required to pay salary or wages to an
 14 employee who has been absent from employment as set forth in section
 15 10.5(c) or 10.7(b) of this chapter for the time away from the employee's
 16 duty station. The employee may seek remuneration for the absence
 17 from employment by the use of:
 18 (1) vacation leave;
 19 (2) personal time; or
 20 (3) compensatory time off; or
 21 **(4) in the case of an absence from employment as set forth in**
 22 **section 10.5(c)(3) or 10.7(b)(3) of this chapter, sick leave.**

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