SENATE BILL No. 14

DIGEST OF INTRODUCED BILL

Citations Affected: IC 4-6-2-1.5; IC 33-38-12-4.

Synopsis: Representation of judges in mandate litigation. Requires the attorney general to represent a court that has issued an order of mandate for funds for the operation of the court or court related functions. Prohibits the state from reimbursing a judge for expenses incurred in employing a private attorney to represent the court in an action for mandate of funds.

Effective: July 1, 2011.

Boots

January 5, 2011, read first time and referred to Committee on Judiciary.

C o p y

Introduced

First Regular Session 117th General Assembly (2011)

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 2010 Regular Session of the General Assembly.

C o p y

SENATE BILL No. 14

A BILL FOR AN ACT to amend the Indiana Code concerning courts and court officers.

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

SECTION 1. IC 4-6-2-1.5, AS AMENDED BY P.L.121-2009, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 1.5. (a) Whenever any state governmental official or employee, whether elected or appointed, is made a party to a suit, and the attorney general determines that said suit has arisen out of an act which such official or employee in good faith believed to be within the scope of the official's or employee's duties as prescribed by statute or duly adopted regulation, the attorney general shall defend such person throughout such action.

(b) Whenever a teacher (as defined in IC 20-18-2-22) is made a party to a civil suit, and the attorney general determines that the suit has arisen out of an act that the teacher in good faith believed was within the scope of the teacher's duties in enforcing discipline policies developed under IC 20-33-8-12, the attorney general shall defend the teacher throughout the action.

(c) Not later than August 15 of each year:

(1) the attorney general shall draft; and

(2) the state superintendent of public instruction shall disseminate in:

(A) written;

(B) electronic; or

(C) other;

form;

a notice to each teacher concerning the teacher's qualified immunity under IC 20-33-8-8(b)(3) and rights under this section.

(d) Whenever a school corporation (as defined in IC 20-26-2-4) is made a party to a civil suit and the attorney general determines that the suit has arisen out of an act authorized under IC 20-30-5-0.5 or IC 20-30-5-4.5, the attorney general shall defend the school corporation throughout the action.

(e) A determination by the attorney general under subsection (a), (b), or (d) shall not be admitted as evidence in the trial of any such civil action for damages.

(f) The attorney general shall represent the judge of a court that has issued an order for mandate of funds under Indiana Trial Rule 60.5.

~~(f)~~ **(g)** Nothing in this chapter shall be construed to deprive any such person of the person's right to select counsel of the person's own choice at the person's own expense.

SECTION 2. IC 33-38-12-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2011]: Sec. 4. **(a) Except as provided in subsection (b),** the state shall pay the expenses incurred by a judge from a threatened, pending, or completed action or proceeding that arises from:

(1) making;

(2) performing; or

(3) failing to make or perform;

a decision, a duty, an obligation, a privilege, or a responsibility of the judge's office.

(b) The state may not pay the expenses incurred by a judge in employing a private attorney to represent the court in an action for mandate of funds brought under Indiana Trial Rule 60.5.

C o p y