
HOUSE BILL No. 1100

DIGEST OF INTRODUCED BILL

Citations Affected: IC 22-2-4-7; IC 33-28-5-24.5; IC 35-44-2-4.

Synopsis: Continuation of wages when serving as a juror. Requires an employer to continue the wages or salary of an employee who has been summoned for jury service. Provides that an employer may require an employee whose wages or salary has been continued by the employer because the employee has been summoned for jury service to reimburse the employer for the amount that was paid to the employee by the county, city, or town for jury service. Allows an action to be filed in court by an employee who is due wages or salary from the employee's employer for the time spent away from employment for jury service, and allows additional liquidated damages and reasonable attorney's fees to be awarded by the court. Provides that: (1) an employee of a governmental entity who accepts property from a governmental entity; or (2) a public servant who permits the payment of property to an employee of a governmental entity; for jury service does not commit ghost employment.

Effective: July 1, 2012.

Stevenson

January 9, 2012, read first time and referred to Committee on Courts and Criminal Code.

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Second Regular Session 117th General Assembly (2012)

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 2011 Regular Session of the General Assembly.

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HOUSE BILL No. 1100



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

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

- 1 SECTION 1. IC 22-2-4-7 IS ADDED TO THE INDIANA CODE
- 2 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
- 3 1, 2012]: **Sec. 7. IC 33-28-5-24.5 applies to the continuation of**
- 4 **wages or salary if an employee has been summoned and reports for**
- 5 **jury service.**
- 6 SECTION 2. IC 33-28-5-24.5 IS ADDED TO THE INDIANA
- 7 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
- 8 [EFFECTIVE JULY 1, 2012]: **Sec. 24.5. (a) An employer shall**
- 9 **continue the wages or salary of an employee who:**
- 10 **(1) has been summoned for jury service; and**
- 11 **(2) reports to the summoning court on the day specified in the**
- 12 **summons until the jury is impaneled or after impaneling and**
- 13 **until the jury is discharged.**
- 14 **(b) An employer may require an employee whose wages or**
- 15 **salary has been continued by the employer because the employee**
- 16 **has been summoned for jury service to reimburse the employer for**
- 17 **the amount that was paid to the employee under**



1 IC 33-37-10-1(a)(2) or IC 33-37-10-1(d), or both. An employee who
 2 fails to reimburse the employee's employer for the sum paid under
 3 IC 33-37-10-1(a)(2) or IC 33-37-10-1(d), or both when requested to
 4 do so by the employer may be subject to disciplinary sanctions by
 5 the employer.

6 (c) An individual serving on a jury on July 1, 2012, shall receive
 7 continuation of wages or salary under this chapter for the
 8 individual's jury service occurring after June 30, 2012.

9 (d) If an employer fails to make payment of wages or salary to
 10 an employee as provided in subsection (a), the employee may file
 11 an action in a court to recover the amount due to the employee. In
 12 addition to the outstanding wages or salary, the employer shall pay
 13 liquidated damages in the amount of ten percent (10%) of the
 14 amount due to the employee for each day that the amount due to
 15 the employee remains unpaid, not to exceed double the amount of
 16 wages or salary due. In a suit brought to recover wages or salary
 17 and liquidated damages under this section, the court shall tax and
 18 assess reasonable attorney's fees as costs.

19 (e) Subsection (a) does not:

20 (1) excuse noncompliance with a provision of a collective
 21 bargaining agreement or other employment benefit program
 22 or plan in effect on July 1, 2012, that is not in substantial
 23 conflict with subsection (a); or

24 (2) justify an employer in reducing employment benefits for
 25 jury service provided by the employer that exceed the benefits
 26 required by subsection (a).

27 SECTION 3. IC 35-44-2-4 IS AMENDED TO READ AS
 28 FOLLOWS [EFFECTIVE JULY 1, 2012]: Sec. 4. (a) A public servant
 29 who knowingly or intentionally:

30 (1) hires an employee for the governmental entity that ~~he~~ **the**
 31 **public servant** serves; and

32 (2) fails to assign to the employee any duties, or assigns to the
 33 employee any duties not related to the operation of the
 34 governmental entity;

35 commits ghost employment, a Class D felony.

36 (b) A public servant who knowingly or intentionally assigns to an
 37 employee under ~~his~~ **the public servant's** supervision any duties not
 38 related to the operation of the governmental entity that ~~he~~ **the public**
 39 **servant** serves commits ghost employment, a Class D felony.

40 (c) A person employed by a governmental entity who, knowing that
 41 ~~he~~ **the person** has not been assigned any duties to perform for the
 42 entity, accepts property from the entity commits ghost employment, a

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1 Class D felony.

2 (d) A person employed by a governmental entity who knowingly or
3 intentionally accepts property from the entity for the performance of
4 duties not related to the operation of the entity commits ghost
5 employment, a Class D felony.

6 (e) Any person who accepts property from a governmental entity in
7 violation of this section and any public servant who permits the
8 payment of property in violation of this section are jointly and severally
9 liable to the governmental entity for that property. The attorney general
10 may bring a civil action to recover that property in the county where the
11 governmental entity is located or the person or public servant resides.

12 (f) For the purposes of this section, an employee of a governmental
13 entity who voluntarily performs services:

14 (1) that do not:

- 15 (A) promote religion;
16 (B) attempt to influence legislation or governmental policy; or
17 (C) attempt to influence elections to public office;

18 (2) for the benefit of:

- 19 (A) another governmental entity; or
20 (B) an organization that is exempt from federal income
21 taxation under Section 501(c)(3) of the Internal Revenue
22 Code;

23 (3) with the approval of the employee's supervisor; and

24 (4) in compliance with a policy or regulation that:

- 25 (A) is in writing;
26 (B) is issued by the executive officer of the governmental
27 entity; and
28 (C) contains a limitation on the total time during any calendar
29 year that the employee may spend performing the services
30 during normal hours of employment;

31 is considered to be performing duties related to the operation of the
32 governmental entity.

33 **(g) For purposes of this section:**

34 **(1) an employee of a governmental entity who accepts**
35 **property from a governmental entity; or**

36 **(2) a public servant who permits the payment of property to**
37 **an employee of a governmental entity;**

38 **for jury service as set forth in IC 33-28-5-24.5 does not commit**
39 **ghost employment.**

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