

HOUSE BILL No. 1282

DIGEST OF INTRODUCED BILL

Citations Affected: IC 5-8-1-38.

Synopsis: Removal of public officers. Provides that a public officer who has been removed from office after conviction of a felony is not entitled to be reinstated to the office if the conviction is reversed, vacated, set aside, reduced to a Class A misdemeanor, or not entered.

Effective: Upon passage.

Thompson

January 23, 2013, read first time and referred to Committee on Education.

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First Regular Session 118th General Assembly (2013)

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 2012 Regular Session of the General Assembly.

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HOUSE BILL No. 1282



A BILL FOR AN ACT to amend the Indiana Code concerning state and local administration.

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

- 1 SECTION 1. IC 5-8-1-38, AS ADDED BY P.L.37-2008, SECTION
- 2 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON
- 3 PASSAGE]: Sec. 38. (a) The following definitions apply throughout
- 4 this section:
- 5 (1) "Felony" has the meaning set forth in IC 3-8-1-5.
- 6 (2) "Public officer" means any person, elected or appointed, who
- 7 holds any state, county, township, city, or town office.
- 8 (b) Any public officer convicted of a felony during the public
- 9 officer's term of office shall:
- 10 (1) be removed from office by operation of law when:
- 11 (A) in a jury trial, a jury publicly announces a verdict against
- 12 the person for a felony;
- 13 (B) in a bench trial, the court publicly announces a verdict
- 14 against the person for a felony; or
- 15 (C) in a guilty plea hearing, the person pleads guilty or nolo
- 16 contendere to a felony; and
- 17 (2) not receive any salary or remuneration from the time the



- 1 public officer is removed from office under subdivision (1).
 2 (c) The subsequent reduction of a felony to a Class A misdemeanor
 3 under IC 35-50-2-7 or IC 35-38-1-1.5 after the:
 4 (1) jury has announced its verdict against the person for a felony;
 5 (2) court has announced its verdict against the person for a felony;
 6 or
 7 (3) person has pleaded guilty or nolo contendere to a felony;
 8 does not affect the operation of subsection (b).
 9 (d) **Subsection (e) applies to a public officer** if the **public officer's**
 10 conviction is:
 11 (1) reversed;
 12 (2) vacated;
 13 (3) set aside;
 14 (4) for a felony other than a felony arising out of an action taken
 15 in the public officer's official capacity, **that is subsequently**
 16 reduced to a Class A misdemeanor under IC 35-50-2-7 or
 17 IC 35-38-1-1.5; or
 18 (5) not entered because the trial court did not accept the guilty
 19 plea.
 20 and the public officer's term has not expired; the public officer shall be
 21 reinstated in office and receive any salary or other remuneration that
 22 the public officer would have received had the public officer not been
 23 removed from office.
 24 (e) If the conviction is reversed; vacated; or set aside and the public
 25 officer's term has expired; **The A public officer described in**
 26 **subsection (d): shall**
 27 **(1) is entitled to** receive any salary or other remuneration that the
 28 public officer would have received had the public officer not been
 29 removed from office; **but**
 30 **(2) is not entitled to be reinstated in the office from which the**
 31 **public officer was removed under subsection (b).**
 32 (f) A vacancy in a public office caused by the removal of a public
 33 officer under this section shall be filled as provided by law. **If a**
 34 **convicted public officer is reinstated; the person filling the office**
 35 **during the appeal shall cease to hold the office.**
 36 (g) This subsection applies whenever:
 37 (1) a public officer is removed from office by operation of law
 38 under subsection (b); and
 39 (2) a vacancy occurs in a state, county, township, city, or town
 40 office as the result of the removal from office.
 41 The court must file a certified copy of the sentencing order with the
 42 person who is entitled under IC 5-8-6 to receive notice of the death of

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1 an individual holding the office. The person receiving a copy of the
2 sentencing order must give notice of the vacancy in the same manner
3 as if the person had received a notice under IC 5-8-6. The person who
4 is required or permitted to fill the vacancy must comply with IC 3-13.

5 (h) This subsection applies if a public officer is reinstated in office
6 under subsection (d). The court must file a certified copy of the order
7 reversing, vacating, reducing, or setting aside the conviction with the
8 person who is entitled under IC 5-8-6 to receive notice of the death of
9 an individual holding the office. The person receiving a copy of the
10 order must give notice of the reinstatement in the same manner as
11 notice of a vacancy would be given under IC 5-8-6. The person
12 receiving a copy of the order must also give notice to the person who
13 was selected to fill the vacancy before the reinstatement occurred.

14 SECTION 2. An emergency is declared for this act.

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