

IC 11-11-3

Chapter 3. Correspondence, Censorship, and Visitation

IC 11-11-3-1

Construction of terms

Sec. 1. As used in this chapter, the terms defined in IC 11-11-2-1 have the meanings set out in that section.

As added by Acts 1979, P.L.120, SEC.4.

IC 11-11-3-2

Unlimited correspondence; exceptions; prior approval

Sec. 2. (a) A confined person may send and receive, in any language, an unlimited amount of correspondence to or from any person, except as provided by subsection (b).

(b) The department may require prior approval of correspondence between a confined person and another person if the other person is on parole or:

- (1) is being held in a correctional facility;
- (2) has been sentenced to a community corrections program;
- (3) is being held in a county jail; or
- (4) is participating in a work release program;

operated by the department, a county sheriff, a county, the United States, or any state.

(c) If the department determines that the correspondence referred to under subsection (b) is in the best interest of both the confined person and the facility involved, such correspondence shall be permitted.

(d) When the department has prohibited correspondence referred to under subsection (b) it shall follow the procedure for notification and availability of the grievance procedure as provided in sections 4(d) and 4(e) of this chapter.

As added by Acts 1979, P.L.120, SEC.4. Amended by P.L.150-1983, SEC.1; P.L.101-2006, SEC.21.

IC 11-11-3-3

Repealed

(Repealed by P.L.145-1995, SEC.2.)

IC 11-11-3-4

Inspecting and reading correspondence; removal of items

Sec. 4. (a) The department may read and examine correspondence sent to or from a confined person unless it is clearly marked as correspondence that is privileged under state or federal law. The department may not disclose the contents of the correspondence to another person unless:

- (1) the department has reasonable grounds to believe that the correspondence:

(A) poses an immediate danger to the safety of an individual or a serious threat to the security of the facility or program;

or

- (B) is prohibited under section 2(b) of this chapter;
- (2) the correspondence contains contraband or prohibited property;
- (3) the confined person has been:
 - (A) convicted of a crime that involved the use of correspondence to engage in an illegal activity; or
 - (B) found guilty after a hearing conducted by the department of using correspondence to commit misconduct;
- (4) the department receives a written request from a supervising authority of any federal or state law enforcement agency stating that the agency has reasonable grounds to believe that a crime is being committed or has been committed by the confined person and that the department should monitor the confined person's correspondence; or
- (5) the department has reasonable grounds to believe that the correspondence may pose a threat to national security.

(b) The department may open correspondence that is sent to or from a confined person to inspect for and remove contraband or prohibited property and to permit removal of funds for crediting to the confined person's account. The correspondence may not be read, censored, copied, or otherwise interfered with in regard to its prompt delivery unless it is not clearly marked as correspondence that is privileged by other law and:

- (1) the department has reasonable grounds to believe that the correspondence:
 - (A) poses an immediate danger to the safety of an individual or a serious threat to the security of the facility or program;
 - or
 - (B) is prohibited under section 2(b) of this chapter;
- (2) the correspondence contains contraband or prohibited property;
- (3) the confined person has been:
 - (A) convicted of a crime that involved the use of correspondence to engage in an illegal activity; or
 - (B) found guilty after a hearing conducted by the department of using correspondence to commit misconduct;
- (4) the department receives a written request from a supervising authority of any federal or state law enforcement agency stating that the agency has reasonable grounds to believe that a crime is being committed or has been committed by the confined person and that the department should monitor the confined person's correspondence; or
- (5) the department has reasonable grounds to believe that the correspondence may pose a threat to national security.

(c) The department may adopt procedures to inspect correspondence to or from an offender to determine whether the correspondence contains contraband or prohibited property under subsection (a) or (b). The department shall inform the offender whenever the department removes the offender's funds under subsection (b), including the dollar amount.

(d) For purposes of this section, disagreement with the sender's or receiver's apparent moral, political, ethical, ethnic, or religious values or attitudes, veracity, or choice of words may not be used as a reason for censoring, copying, delaying, or disallowing the delivery of a personal communication.

(e) This subsection does not apply to correspondence described under subsection (a)(4), (a)(5), (b)(4), or (b)(5). If the department delays, censors, copies, or withholds correspondence, it shall promptly notify the person. The notice must be in writing and specify the reason for the action, the name of the sender, the date of any postmark, the date the correspondence was received or deposited at the facility or program, the proposed disposition to be made of the correspondence, the name of the person who made the decision, and the fact that the department's action may be challenged through the grievance procedure.

(f) The department shall maintain a record of each decision to withhold, copy, delay, or otherwise interfere with the prompt transmission of correspondence. This record must indicate the information set forth in the notice prescribed in subsection (e). The department shall establish policies to ensure that the contents of any monitored correspondence shall be shared only with necessary department staff. However, if the department believes that any correspondence contains evidence of criminal activity, that correspondence, or a copy, may be shared with appropriate federal or state law enforcement officials.

As added by Acts 1979, P.L.120, SEC.4. Amended by P.L.150-1983, SEC.2; P.L.99-1986, SEC.2; P.L.145-1995, SEC.1; P.L.103-1999, SEC.1; P.L.101-2006, SEC.22.

IC 11-11-3-5

Stationery, envelopes, and postage

Sec. 5. The department shall provide a confined person, without cost, a reasonable amount of stationery, envelopes, and postage for transmission of correspondence, and shall make available for purchase additional stationery, envelopes, and postage.

As added by Acts 1979, P.L.120, SEC.4.

IC 11-11-3-6

Printed matter

Sec. 6. (a) A confined person may acquire and possess printed matter on any subject, from any source. However, unless a confined person or the sender receives prior approval from the superintendent for the confined person to receive a book, magazine, newspaper, or other periodical from another source, a confined person may receive a book, magazine, newspaper, or other periodical only if it is mailed to the confined person directly from the publisher, the distributor, or an accredited postsecondary educational institution. The department may inspect all printed matter and exclude any material that is contraband or prohibited property. However, in the case of a confined adult, the department may not exclude printed matter on the

grounds it is obscene or pornographic unless it is obscene under Indiana law. A periodical may be excluded only on an issue by issue basis. Printed matter obtained at cost to the confined person must be prepaid.

(b) If the department withholds printed matter, it must promptly notify the confined person. The notice must be in writing and include the title of the matter, the date the matter was received at the facility or program, the name of the person who made the decision, whether the matter is objectionable in whole or in part, the reason for the decision, and the fact that the department's action may be challenged through the grievance procedure.

As added by Acts 1979, P.L.120, SEC.4. Amended by P.L.156-1999, SEC.1; P.L.2-2007, SEC.152.

IC 11-11-3-7

Incoming and outgoing packages; inspection; notice of removal of funds, contraband, or prohibited property

Sec. 7. The department may open all incoming and outgoing packages to inspect for and remove funds, contraband, or prohibited property. If the department removes contraband or prohibited property, it must notify the confined person of the removal. The notice must be in writing and include a description of the property, the date it was received at the facility or program, the name of the person who made the decision, the reason for the action, and the fact that the action may be challenged through the grievance procedure. A confined person must be informed in writing of the removal of funds, including the amount.

As added by Acts 1979, P.L.120, SEC.4.

IC 11-11-3-8

Visitors; reasonable restriction

Sec. 8. A confined person may receive visitors at reasonable times. The department may, for the purpose of maintaining the security of its facilities and programs, the safety of individuals, and administrative manageability, place reasonable restrictions on visits consistent with the following:

(1) Visits may be conducted in areas where a confined person and his visitors are not physically separated and that allow for as much informality and privacy as possible. Contact visits may be denied for a confined person who is assigned to a maximum security unit.

(2) Any restrictions regarding visiting times, the number of visitors a person may receive on a particular occasion or during a designated period of time, or the duration of a particular visit must take into account the accessibility of the facility or program to the visiting public, including sources of public transportation to or from the facility or program, and the distance a potential visitor must travel to visit with an offender.

(3) Any restrictions imposed on visitation under this section must be communicated to the confined person and be made

accessible to the visiting public.

(4) The department may not impose restrictions on visitation that obstruct the availability of adequate legal representation, although an attorney or his agent may be required to visit during normal departmental working hours or at other reasonable times.

As added by Acts 1979, P.L.120, SEC.4. Amended by P.L.97-1988, SEC.1.

IC 11-11-3-9

Visitors; prohibition; notice to confined person

Sec. 9. (a) A person may be prohibited from visiting a confined person, or the visit may be restricted to an extent greater than allowed under section 8 of this chapter, if the department has reasonable grounds to believe that the visit would threaten the security of the facility or program or the safety of individuals.

(b) The department may restrict any person less than eighteen (18) years of age from visiting an offender, if:

(1) the offender has been:

(A) convicted of a sex offense under IC 35-42-4; or

(B) adjudicated delinquent as a result of an act that would be considered a sex offense under IC 35-42-4 if committed by an adult; and

(2) the victim of the sex offense was less than eighteen (18) years of age at the time of the offense.

(c) If the department prohibits or restricts visitation between a confined person and another person under this section, it shall notify the confined person of that prohibition or restriction. The notice must be in writing and include the reason for the action, the name of the person who made the decision, and the fact that the action may be challenged through the grievance procedure.

(d) The department shall establish written guidelines for implementing this section.

As added by Acts 1979, P.L.120, SEC.4. Amended by P.L.97-1988, SEC.2; P.L.85-2004, SEC.38.