



January 18, 2019

HOUSE BILL No. 1065

DIGEST OF HB 1065 (Updated January 16, 2019 1:23 pm - DI 131)

Citations Affected: IC 5-2; IC 11-12; IC 35-38.

Synopsis: Regional holding facility. Specifies that a county sheriff may contract with the department of correction (department) to transfer a confined jail offender from a county jail to a regional holding facility established and operated by the department if the county jail is overcrowded. Provides that reimbursements paid by the state to the county for the costs of incarcerating a confined jail offender shall be used to pay for a confined jail offender housed in either a regional holding facility or a county jail. Provides that the Indiana criminal justice institute shall identify any federal, state, or local grants that can be used to assist in the funding and operation of regional holding facilities.

Effective: July 1, 2019.

**Frye R, Steuerwald, McNamara,
DeLaney**

January 3, 2019, read first time and referred to Committee on Courts and Criminal Code.
January 17, 2019, amended, reported — Do Pass. Referred to Committee on Ways and Means pursuant to Rule 127.

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January 18, 2019

First Regular Session of the 121st General Assembly (2019)

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 2018 Regular and Special Session of the General Assembly.

HOUSE BILL No. 1065

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

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

- 1 SECTION 1. IC 5-2-6-3, AS AMENDED BY P.L.102-2017,
2 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2019]: Sec. 3. The institute is established to do the following:
4 (1) Evaluate state and local programs associated with:
5 (A) the prevention, detection, and solution of criminal
6 offenses;
7 (B) law enforcement; and
8 (C) the administration of criminal and juvenile justice.
9 (2) Improve and coordinate all aspects of law enforcement,
10 juvenile justice, and criminal justice in this state.
11 (3) Stimulate criminal and juvenile justice research.
12 (4) Develop new methods for the prevention and reduction of
13 crime.
14 (5) Prepare applications for funds under the Omnibus Act and the
15 Juvenile Justice Act.
16 (6) Administer victim and witness assistance funds.
17 (7) Administer the traffic safety functions assigned to the institute

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- 1 under IC 9-27-2.
- 2 (8) Compile and analyze information and disseminate the
- 3 information to persons who make criminal justice decisions in this
- 4 state.
- 5 (9) Serve as the criminal justice statistical analysis center for this
- 6 state.
- 7 (10) Identify grants and other funds that can be used by the
- 8 department of correction to carry out its responsibilities
- 9 concerning sex or violent offender registration under IC 11-8-8.
- 10 (11) Administer the application and approval process for
- 11 designating an area of a consolidated or second class city as a
- 12 public safety improvement area under IC 36-8-19.5.
- 13 (12) Develop and maintain a meth watch program to inform
- 14 retailers and the public about illicit methamphetamine production,
- 15 distribution, and use in Indiana.
- 16 (13) Develop and manage the gang crime witness protection
- 17 program established by section 21 of this chapter.
- 18 (14) Identify grants and other funds that can be used to fund the
- 19 gang crime witness protection program.
- 20 (15) Administer any sexual offense services.
- 21 (16) Administer domestic violence programs.
- 22 (17) Administer assistance to victims of human sexual trafficking
- 23 offenses as provided in IC 35-42-3.5-4.
- 24 (18) Administer the domestic violence prevention and treatment
- 25 fund under IC 5-2-6.7.
- 26 (19) Administer the family violence and victim assistance fund
- 27 under IC 5-2-6.8.
- 28 (20) Monitor and evaluate criminal code reform under
- 29 IC 5-2-6-24.
- 30 (21) Administer the enhanced enforcement drug mitigation area
- 31 fund and pilot program established under IC 5-2-11.5.
- 32 (22) Administer the ignition interlock inspection account
- 33 established under IC 9-30-8-7.
- 34 **(23) Identify any federal, state, or local grants that can be**
- 35 **used to assist in the funding and operation of regional holding**
- 36 **facilities under IC 11-12-6.5.**
- 37 SECTION 2. IC 11-12-6.5 IS ADDED TO THE INDIANA CODE
- 38 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
- 39 JULY 1, 2019]:
- 40 **Chapter 6.5. Regional Holding Facilities**
- 41 **Sec. 1. (a) As used in this chapter, "confined jail offender"**
- 42 **means a person convicted of a Level 6 felony and sentenced to a**



1 period of imprisonment in a county jail. The term does not include
2 a person convicted of a felony other than a Level 6 felony.

3 (b) As used in this chapter, "overcrowded" means that the
4 county jail is at one hundred percent (100%) capacity.

5 (c) As used in this chapter, "prisoner" means a criminal
6 offender who is convicted of a crime and is:

7 (1) serving a sentence for a conviction other than a Level 6
8 felony conviction; and

9 (2) committed to the department of correction.

10 (d) As used in this chapter, "regional holding facility" means a
11 facility that:

12 (1) is established and operated by the department for the
13 purpose of housing a confined jail offender from a county jail
14 when the county jail is overcrowded; and

15 (2) does not include any prisoners from the general prison
16 population who are committed to the department of
17 correction.

18 (e) As used in this chapter, "regional holding facility
19 agreement" means an agreement described in section 2 of this
20 chapter.

21 Sec. 2. (a) Subject to the requirements of this chapter, a county
22 sheriff may contract with the department to transfer a confined jail
23 offender from the county jail to a regional holding facility
24 established and operated by the department if the county jail is
25 overcrowded.

26 (b) An agreement between the county sheriff and the
27 department may be made under this chapter only if:

28 (1) the confined jail offender is serving a sentence for a Level
29 6 felony conviction;

30 (2) the county jail is overcrowded; and

31 (3) the commissioner has agreed to accept custody of the
32 confined jail offender from the sheriff.

33 (c) Whenever the county jail is no longer overcrowded, the
34 department shall return the confined jail offender from the
35 regional holding facility to the county jail from which the confined
36 jail offender was transferred.

37 Sec. 3. When a confined jail offender is transferred under this
38 chapter, the sheriff of the county from which the confined jail
39 offender is transferred shall be responsible for transporting the
40 confined jail offender to and from the regional holding facility. If
41 the sheriff is unable to adequately protect the confined jail offender
42 during a transfer, the sheriff may request assistance from any



1 other law enforcement agency.

2 **Sec. 4. The costs of incarcerating a confined jail offender under**
 3 **IC 35-38-3-3(f) shall be used to pay for the confined jail offender**
 4 **housed in either a regional holding facility or a county jail.**

5 **Sec. 5. The state auditor shall semiannually provide to the**
 6 **department and the general assembly, in an electronic format**
 7 **under IC 5-14-6, an itemized record of the per diem and medical**
 8 **expense reimbursements received by a county under section 4 of**
 9 **this chapter.**

10 **Sec. 6. If a confined jail offender is transferred:**

11 (1) from a county jail to a regional holding facility, the
 12 confined jail offender's commissary account or trust account
 13 shall be transferred to the department; or

14 (2) from a regional holding facility to a county jail, the
 15 confined jail offender's commissary account or trust account
 16 shall be transferred to the county jail.

17 **Sec. 7. A regional holding facility agreement must include terms**
 18 **concerning the standards that will apply to the establishment and**
 19 **operation of a regional holding facility.**

20 **Sec. 8. (a) The Indiana criminal justice institute shall identify**
 21 **any federal, state, or local grants that can be used to assist in the**
 22 **funding and operation of regional holding facilities.**

23 (b) To obtain necessary funding for the establishment and
 24 operation of regional holding facilities, or to provide such services
 25 through contractual agreements with public and private agencies,
 26 the commissioner may accept gifts, grants, and subsidies from any
 27 lawful source and apply for and accept federal funds.

28 **Sec. 9. This chapter supplements and does not limit the**
 29 **authority of any entity to enter into an agreement under**
 30 **IC 11-12-5.5 concerning regional jails or IC 36-1-7 concerning**
 31 **regional or multicounty jails.**

32 **Sec. 10. The department shall adopt rules under IC 4-22-2 to**
 33 **implement this chapter.**

34 SECTION 3. IC 35-38-3-3, AS AMENDED BY P.L.184-2018,
 35 SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 36 JULY 1, 2019]: Sec. 3. (a) Except as provided by subsection (b), a
 37 person convicted of a misdemeanor may not be committed to the
 38 department of correction.

39 (b) Upon a request from the sheriff, the commissioner may agree to
 40 accept custody of a misdemeanor:

41 (1) if placement in the county jail:

42 (A) places the inmate in danger of serious bodily injury or



- 1 death; or
 2 (B) represents a substantial threat to the safety of others;
 3 (2) for other good cause shown; or
 4 (3) if a person has more than five hundred forty-seven (547) days
 5 remaining before the person's earliest release date as a result of:
 6 (A) consecutive misdemeanor sentences; or
 7 (B) a sentencing enhancement applied to a misdemeanor
 8 sentence.
- 9 (c) After June 30, 2014, and before January 1, 2016, a court may not
 10 commit a person convicted of a Level 6 felony to the department of
 11 correction if the person's earliest possible release date is less than
 12 ninety-one (91) days from the date of sentencing, unless the
 13 commitment is due to the person violating a condition of probation,
 14 parole, or community corrections by committing a new criminal
 15 offense.
- 16 (d) After December 31, 2015, a court may not commit a person
 17 convicted of a Level 6 felony to the department of correction unless:
 18 (1) the commitment is due to the revocation of the person's
 19 sentence for violating probation, parole, or community corrections
 20 and the revocation of the person's sentence is due to a new
 21 criminal offense; ~~or~~
 22 (2) the person:
 23 (A) is convicted of a Level 6 felony and the sentence for that
 24 felony is ordered to be served consecutively to the sentence for
 25 another felony;
 26 (B) is convicted of a Level 6 felony that is enhanced by an
 27 additional fixed term under IC 35-50-2-8 through
 28 IC 35-50-2-16; or
 29 (C) has received an enhanced sentence under IC 9-30-15.5-2;
 30 and the person's earliest possible release date is more than three
 31 hundred sixty-five (365) days after the date of sentencing; **or**
 32 **(3) the commitment is due to an agreement made between the**
 33 **sheriff and the department of correction under IC 11-12-6.5.**
 34 A person who may not be committed to the department of correction
 35 may be placed on probation, committed to the county jail, or placed in
 36 community corrections for assignment to an appropriate community
 37 corrections program.
- 38 (e) Subject to appropriation from the general assembly, a sheriff is
 39 entitled to a per diem and medical expense reimbursement from the
 40 department of correction for the cost of incarcerating a person
 41 described in subsections (c) and (d) in a county jail. The sheriff is
 42 entitled to a per diem and medical expense reimbursement only for the



1 time that the person described in subsections (c) and (d) is incarcerated
2 in the county jail.

3 (f) Per diem and medical expense reimbursements received by a
4 county under this section or received by a county from the state under
5 any other law for the purpose of reimbursing sheriffs for the cost of
6 incarcerating in county jails persons convicted of felonies:

7 (1) shall be deposited in the county general fund; and
8 (2) upon appropriation by the county fiscal body, shall be used by
9 the county sheriff only for the purposes of paying the costs of
10 incarcerating in the county jail persons described in subsections
11 (c) and (d) or other persons convicted of felonies.

12 (g) The county auditor shall semiannually provide to the county
13 fiscal body and the county sheriff an itemized record of the per diem
14 and medical expense reimbursements received by the county under this
15 section or under any other law for the purpose of reimbursing sheriffs
16 for the cost of incarcerating persons convicted of felonies.



COMMITTEE REPORT

Mr. Speaker: Your Committee on Courts and Criminal Code, to which was referred House Bill 1065, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 3, line 1, after "jail." insert "**The term does not include a person convicted of a felony other than a Level 6 felony.**".

and when so amended that said bill do pass.

(Reference is to HB 1065 as introduced.)

MCNAMARA

Committee Vote: yeas 7, nays 3.

