

# HOUSE BILL No. 1210

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 5-2-24.

**Synopsis:** Statewide citizen review commission. Creates a statewide citizen review commission (commission) as an independent state agency that investigates and reviews the following: (1) All incidents involving a local law enforcement officer's use of force in attempting to apprehend or gain physical control of a person resulting in the person's death. (2) Citizen complaints involving local law enforcement officer misconduct that are unresolved by the officer's department. Provides that the commission: (1) consists of 15 citizen voting members appointed by the governor and five ex-officio nonvoting members; and (2) is chaired by the inspector general or the inspector general's designee.

**Effective:** July 1, 2021.

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## Porter

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January 14, 2021, read first time and referred to Committee on Veterans Affairs and Public Safety.

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First Regular Session of the 122nd General Assembly (2021)

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 2020 Regular Session of the General Assembly.

# HOUSE BILL No. 1210

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 5-2-24 IS ADDED TO THE INDIANA CODE AS  
2 A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY  
3 1, 2021]:  
4 **Chapter 24. Statewide Citizen Review Commission**  
5 **Sec. 1. As used in this chapter, "commission" means the**  
6 **statewide citizen review commission established by section 7 of this**  
7 **chapter.**  
8 **Sec. 2. As used in this chapter, "department" means the**  
9 **following:**  
10 (1) A city or town police department.  
11 (2) A sheriff's department.  
12 **Sec. 3. As used in this chapter "incident" means an incident**  
13 **involving a law enforcement officer's use of force in attempting to**  
14 **apprehend or gain physical control of a person that results in the**  
15 **person's death.**  
16 **Sec. 4. As used in this chapter, "misconduct" means conduct of**  
17 **a law enforcement officer in the performance of the officer's**



1 official duties, that consists of:

- 2 (1) use of excessive force;  
 3 (2) inappropriate language or attitude;  
 4 (3) harassment;  
 5 (4) discrimination in the provision of police services or other  
 6 discriminatory conduct on the basis of race, color, creed,  
 7 religion, ancestry, national origin, sex, disability, age, or  
 8 sexual orientation;  
 9 (5) failure to provide adequate or timely police protection;  
 10 (6) retaliation; or  
 11 (7) a violation of the department's policy and procedure  
 12 manual.

13 Sec. 5. As used in this chapter, "police executive" means the  
 14 chief executive officer of a department.

15 Sec. 6. As used in this chapter, "unit" means a county, city, or  
 16 town that has a department.

17 Sec. 7. (a) The statewide citizen review commission is  
 18 established as an independent state agency.

19 (b) The office of the inspector general established by IC 4-2-7-2  
 20 shall provide rooms and administrative support and assistance to  
 21 the commission.

22 Sec. 8. (a) The commission consists of the following:

23 (1) The following fifteen (15) voting members appointed by  
 24 the governor:

25 (A) Thirteen (13) citizen members. Each of the members  
 26 must reside within a different district of the state police  
 27 department.

28 (B) Two (2) citizen members chosen at large.

29 (2) Five (5) nonvoting members consisting of:

30 (A) The governor's designee.

31 (B) The superintendent of the state police department or  
 32 the superintendent's designee.

33 (C) The chief of capitol police or the chief's designee.

34 (D) The director of the department of natural resources or  
 35 the director's designee.

36 (E) The chairman of the alcohol and tobacco commission  
 37 or the chairman's designee.

38 (b) A voting member of the commission:

39 (1) may not:

40 (A) be an employee of a unit or the state;

41 (B) be an elected public office holder or a candidate for  
 42 elected public office; or



- 1           (C) have a felony conviction; and  
 2           (2) must meet any other requirements established by the  
 3           governor for membership on the commission.  
 4           Sec. 9. Eight (8) voting members of the commission constitutes  
 5           a quorum. The affirmative vote of eight (8) voting members is  
 6           required for the commission to take action, including adopting  
 7           recommendations under section 15 of this chapter.  
 8           Sec. 10. The commission shall review the following:  
 9           (1) Any incident.  
 10          (2) Any citizen complaint regarding law enforcement officer  
 11          misconduct that is filed with the unit. However, the  
 12          commission may not review a citizen complaint:  
 13          (A) that is the subject of pending:  
 14               (i) criminal investigation or proceedings; or  
 15               (ii) litigation;  
 16          (B) that alleges misconduct on the part of the law  
 17          enforcement officer:  
 18               (i) that occurred more than two hundred seventy (270)  
 19               days before the date the complaint was filed with the unit  
 20               or state department; or  
 21               (ii) that alleges a violation that is not within the  
 22               commission's jurisdiction;  
 23          (C) made by a complainant who does not have personal  
 24          knowledge of the misconduct that is alleged in the  
 25          complaint;  
 26          (D) that was resolved to the satisfaction of:  
 27               (i) the complainant; or  
 28               (ii) the unit's citizen review board;  
 29          (E) that was withdrawn by the complainant; or  
 30          (F) the allegations of which the unit's citizen review board  
 31          found to be false or unsubstantiated.  
 32          Sec. 11. (a) When a department and the unit's citizen review  
 33          board completes its investigation of an incident or a citizen  
 34          complaint that is not exempt under section 10(2) of this chapter,  
 35          the department and board shall provide a written report to the  
 36          commission containing:  
 37               (1) the findings of the investigation, summarizing and  
 38               including copies of any evidence supporting the findings; and  
 39               (2) any disciplinary action taken by the department or any  
 40               action taken to change department policies or regulations as  
 41               a result of the incident or citizen complaint.  
 42          Sec. 12. The commission may order one (1) or both of the



1 following:

2 (1) An investigation by the commission's own investigator into  
3 the incident or citizen complaint.

4 (2) An informal administrative hearing on the incident or  
5 citizen complaint.

6 Sec. 13. The commission may contract with:

7 (1) investigators; and

8 (2) legal counsel;

9 to aid in the investigation or review.

10 Sec. 14. (a) For purposes of conducting an investigation or an  
11 informal administrative hearing, the commission may subpoena  
12 witnesses and documents, except documents withheld from  
13 disclosure under IC 5-14-3. The commission's authority to issue  
14 subpoenas shall be enforceable by the county circuit or superior  
15 court.

16 (b) If the commission holds an informal administrative hearing,  
17 the commission shall give written notice to all parties and witnesses  
18 according to the rules and procedures adopted by the commission.

19 (c) The commission may require all testimony at the hearing to  
20 be given under oath.

21 Sec. 15. (a) The commission shall prepare a report of each  
22 review and may include recommendations regarding disciplinary  
23 action against the law enforcement officer or a change in policy or  
24 training.

25 (b) If the commission declines to review a citizen complaint, the  
26 commission shall notify the chief executive of the reasons for  
27 declining to review the complaint.

28 Sec. 16. Each voting member shall complete a training program  
29 determined by the governor, to assist the member in performing  
30 the member's duties. The program shall include instruction on use  
31 of force, constitutional law, stop search and arrest, and any other  
32 subject matter determined by the governor.

33 Sec. 17. (a) The inspector general or designee will chair the  
34 commission.

35 (b) The chair may establish subcommittees, rules, and  
36 procedures necessary to effectively implement its authority and  
37 responsibilities under this chapter. Subcommittees may include  
38 advisory nonmembers, if approved by the commission chair. All  
39 committees shall be chaired by a voting member of the commission.

40 Sec. 18. (a) A voting member shall serve the voting member's  
41 term and until a successor is appointed. Members may serve no  
42 more than two (2) terms. Initially, eight (8) voting members shall



1 be appointed for a term of one (1) year, and seven (7) voting  
2 members shall be appointed for an initial term of two (2) years.  
3 Thereafter, all terms shall be four (4) years.

4 (b) A commission member may be removed by the governor for  
5 any reason.

6 (c) If a vacancy on the commission occurs, the governor shall  
7 appoint a successor to complete the member's unexpired term.

8 (d) A commission member is entitled to reimbursement for  
9 expenses actually incurred in connection with the member's duties  
10 as provided in the state policies and procedures established by the  
11 Indiana department of administration and approved by the budget  
12 agency.

13 **Sec. 19.** All departments and agencies shall cooperate and  
14 provide assistance, records, and information to the commission as  
15 needed to perform its functions.

16 **Sec. 20. (a)** A law enforcement officer who appears before the  
17 commission may be represented by an attorney.

18 (b) A law enforcement officer shall have access to the  
19 commission process to defend the law enforcement officer's actions  
20 during the investigation and any administrative hearing.

21 **Sec. 21.** Any disciplinary action taken by a department against  
22 a law enforcement officer because of the law enforcement officer's  
23 involvement in an incident or as a result of a citizen complaint shall  
24 be communicated to the commission.

25 **Sec. 22.** Upon the completion of its review, the commission may  
26 make any of the following findings:

27 (1) Sustain the findings of the department or board.

28 (2) Not sustain the findings of the department or board.

29 (3) Exonerate the law enforcement officer, if the law  
30 enforcement officer is found to have acted lawfully and in  
31 accordance with the department's policies and regulations.

32 (4) Unfounded, if in the case of a citizen complaint, the  
33 commission finds the facts or allegations are false or  
34 unsupported by evidence.

35 **Sec. 23. (a)** The commission shall notify the police executive of  
36 the department of the commission's findings.

37 (b) The commission's findings are not subject to judicial review.

38 **Sec. 24. (a)** A commission member may not participate in the  
39 review of an incident or citizen's complaint in which the  
40 commission member has a personal, professional, or financial  
41 conflict of interest.

42 (b) A vacancy on the commission shall be filled for unexpired



1 terms by the original appointing authority.  
2       **Sec. 25. The commission shall establish rules and procedures for**  
3 **the conduct of business consistent with this chapter, including**  
4 **access controls for all information maintained by the commission.**

