

# HOUSE BILL No. 1108

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 11-8-9-5; IC 25-26-24-19.

**Synopsis:** Powers of correctional police officers. Provides that a correctional police officer may sell merchandise from a commissary to a confined offender located in a correctional facility. Provides that a correctional police officer may receive confidential information from the Indiana scheduled prescription electronic collection and tracking (INSPECT) program.

**Effective:** July 1, 2023.

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## Lindauer

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January 10, 2023, read first time and referred to Committee on Courts and Criminal Code.

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First Regular Session of the 123rd General Assembly (2023)

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 2022 Regular Session of the General Assembly.

# HOUSE BILL No. 1108

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 11-8-9-5 IS ADDED TO THE INDIANA CODE  
2 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
3 1, 2023]: **Sec. 5. (a) This section applies to a correctional facility (as**  
4 **defined in IC 5-1.2-2-11) that has a commissary where**  
5 **merchandise is sold to a confined offender.**

6 **(b) A correctional police officer may sell merchandise from a**  
7 **commissary to a confined offender as described in subsection (a).**

8 SECTION 2. IC 25-26-24-19, AS ADDED BY P.L.51-2019,  
9 SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
10 JULY 1, 2023]: Sec. 19. (a) Information received by the INSPECT  
11 program under section 17 of this chapter is confidential.

12 (b) The board shall carry out a program to protect the confidentiality  
13 of the information described in subsection (a). The board may disclose  
14 the information to another person only under subsection (c), (d), or (g).

15 (c) The board may disclose confidential information described in  
16 subsection (a) to any person who is authorized to engage in receiving,  
17 processing, or storing the information.



1 (d) Except as provided in subsections (e) and (f), the board may  
 2 release confidential information described in subsection (a) to the  
 3 following persons:

4 (1) A member of the board or another governing body that  
 5 licenses practitioners and is engaged in an investigation, an  
 6 adjudication, or a prosecution of a violation under any state or  
 7 federal law that involves ephedrine, pseudoephedrine, or a  
 8 controlled substance.

9 (2) An investigator for the consumer protection division of the  
 10 office of the attorney general, a prosecuting attorney, the attorney  
 11 general, a deputy attorney general, or an investigator from the  
 12 office of the attorney general, who is engaged in:

13 (A) an investigation;

14 (B) an adjudication; or

15 (C) a prosecution;

16 of a violation under any state or federal law that involves  
 17 ephedrine, pseudoephedrine, or a controlled substance.

18 (3) A law enforcement officer, **including a correctional police**  
 19 **officer described in IC 11-8-9**, who is an employee of:

20 (A) a local, state, or federal law enforcement agency; or

21 (B) an entity that regulates ephedrine, pseudoephedrine, or  
 22 controlled substances or enforces ephedrine, pseudoephedrine,  
 23 or controlled substances rules or laws in another state;

24 that is certified to receive ephedrine, pseudoephedrine, or  
 25 controlled substance prescription drug information from the  
 26 INSPECT program.

27 (4) A practitioner or practitioner's agent certified to receive  
 28 information from the INSPECT program.

29 (5) An ephedrine, pseudoephedrine, or controlled substance  
 30 monitoring program in another state with which Indiana has  
 31 established an interoperability agreement.

32 (6) The state toxicologist.

33 (7) A certified representative of the Medicaid retrospective and  
 34 prospective drug utilization review program.

35 (8) A substance abuse assistance program for a licensed health  
 36 care provider who:

37 (A) has prescriptive authority under this title; and

38 (B) is participating in the assistance program.

39 (9) An individual who holds a valid temporary medical permit  
 40 issued under IC 25-22.5-5-4 or a noneducational commission for  
 41 foreign medical graduates certified graduate permit issued under  
 42 IC 25-22.5-5-4.6.



- 1 (10) A county coroner conducting a medical investigation of the  
 2 cause of death.
- 3 (11) The management performance hub established by  
 4 IC 4-3-26-8.
- 5 (12) The state epidemiologist under the **state Indiana** department  
 6 of health.
- 7 (e) Information provided to a person under:
- 8 (1) subsection (d)(3) is limited to information:
- 9 (A) concerning an individual or proceeding involving the  
 10 unlawful diversion or misuse of a schedule II, III, IV, or V  
 11 controlled substance; and  
 12 (B) that will assist in an investigation or proceeding;
- 13 (2) subsection (d)(4) may be released only for the purpose of:
- 14 (A) providing medical or pharmaceutical treatment; or  
 15 (B) evaluating the need for providing medical or  
 16 pharmaceutical treatment to a patient; and
- 17 (3) subsection (d)(11) must be released to the extent disclosure of  
 18 the information is not prohibited by applicable federal law.
- 19 (f) Before the board releases confidential information under  
 20 subsection (d), the applicant must be approved by the INSPECT  
 21 program in a manner prescribed by the board.
- 22 (g) The board may release to:
- 23 (1) a member of the board or another governing body that licenses  
 24 practitioners;
- 25 (2) an investigator for the consumer protection division of the  
 26 office of the attorney general, a prosecuting attorney, the attorney  
 27 general, a deputy attorney general, or an investigator from the  
 28 office of the attorney general; or
- 29 (3) a law enforcement officer, **including a correctional police**  
 30 **officer described in IC 11-8-9**, who is:
- 31 (A) authorized by the state police department to receive  
 32 ephedrine, pseudoephedrine, or controlled substance  
 33 prescription drug information; and  
 34 (B) approved by the board to receive the type of information  
 35 released;
- 36 confidential information generated from computer records that  
 37 identifies practitioners who are prescribing or dispensing large  
 38 quantities of a controlled substance.
- 39 (h) The information described in subsection (g) may not be released  
 40 until it has been reviewed by:
- 41 (1) a member of the board who is licensed in the same profession  
 42 as the prescribing or dispensing practitioner identified by the data;



- 1 or  
 2 (2) the board's designee;  
 3 and until that member or the designee has certified that further  
 4 investigation is warranted. However, failure to comply with this  
 5 subsection does not invalidate the use of any evidence that is otherwise  
 6 admissible in a proceeding described in subsection (i).
- 7 (i) An investigator or a law enforcement officer, **including a**  
 8 **correctional police officer described in IC 11-8-9**, receiving  
 9 confidential information under subsection (c), (d), or (g) may disclose  
 10 the information to a law enforcement officer or an attorney for the  
 11 office of the attorney general for use as evidence in the following:
- 12 (1) A proceeding under IC 16-42-20.
  - 13 (2) A proceeding under any state or federal law.
  - 14 (3) A criminal proceeding or a proceeding in juvenile court.
- 15 (j) The board may compile statistical reports from the information  
 16 described in subsection (a). The reports must not include information  
 17 that identifies any practitioner, ultimate user, or other person  
 18 administering ephedrine, pseudoephedrine, or a controlled substance.  
 19 Statistical reports compiled under this subsection are public records.
- 20 (k) Except as provided in subsection (q), and in addition to any  
 21 requirements provided in IC 25-22.5-13, the following practitioners  
 22 shall obtain information about a patient from the data base either  
 23 directly or through the patient's integrated health record before  
 24 prescribing an opioid or benzodiazepine to the patient:
- 25 (1) A practitioner who has had the information from the data base  
 26 integrated into the patient's electronic health records.
  - 27 (2) A practitioner who provides services to the patient in:
    - 28 (A) the emergency department of a hospital licensed under  
 29 IC 16-21; or
    - 30 (B) a pain management clinic.
  - 31 (3) Beginning January 1, 2020, a practitioner who provides  
 32 services to the patient in a hospital licensed under IC 16-21.
  - 33 (4) Beginning January 1, 2021, all practitioners.
- 34 However, a practitioner is not required to obtain information about a  
 35 patient who is subject to a pain management contract from the data  
 36 base more than once every ninety (90) days.
- 37 (l) A practitioner who checks the INSPECT program either directly  
 38 through the data base or through the patient's integrated health record  
 39 for the available data on a patient is immune from civil liability for an  
 40 injury, death, or loss to a person solely due to a practitioner:
- 41 (1) seeking information from the INSPECT program; and
  - 42 (2) in good faith using the information for the treatment of the



1 patient.

2 The civil immunity described in this subsection does not extend to a  
3 practitioner if the practitioner receives information directly from the  
4 INSPECT program or through the patient's integrated health record and  
5 then negligently misuses this information. This subsection does not  
6 apply to an act or omission that is a result of gross negligence or  
7 intentional misconduct.

8 (m) The board may review the records of the INSPECT program. If  
9 the board determines that a violation of the law may have occurred, the  
10 board shall notify the appropriate law enforcement agency or the  
11 relevant government body responsible for the licensure, regulation, or  
12 discipline of practitioners authorized by law to prescribe controlled  
13 substances.

14 (n) A practitioner who in good faith discloses information based on  
15 a report from the INSPECT program either directly through the data  
16 base or through the patient's integrated health record to a law  
17 enforcement agency is immune from criminal or civil liability. A  
18 practitioner that discloses information to a law enforcement agency  
19 under this subsection is presumed to have acted in good faith.

20 (o) A practitioner's agent may act as a delegate and check INSPECT  
21 program reports on behalf of the practitioner.

22 (p) A patient may access a report from the INSPECT program that  
23 has been included in the patient's medical file by a practitioner.

24 (q) A practitioner is not required under subsection (k) to obtain  
25 information about a patient from the data base or through the patient's  
26 integrated health record before prescribing an opioid or benzodiazepine  
27 if any of the following apply:

28 (1) The practitioner has obtained a waiver from the board because  
29 the practitioner does not have access to the Internet at the  
30 practitioner's place of business.

31 (2) The patient is:

32 (A) recovering; or

33 (B) in the process of completing a prescription that was  
34 prescribed by another practitioner;

35 while still being treated as an inpatient or in observation status.

36 (3) The data base described in section 18 of this chapter is  
37 suspended or is not operational if the practitioner documents in  
38 writing or electronically the date and time in the patient's medical  
39 record that the practitioner, dispenser, or delegate attempted to  
40 use the data base.

