

# SENATE BILL No. 276

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 34-6-2; IC 34-13-10.

**Synopsis:** Cause of action for civil rights violations. Prohibits a governmental entity (entity), including a state educational institution (institution), from discriminating against persons: (1) over the exercise of rights provided or protected by the Constitution of the United States; or (2) by granting preferential treatment to any individual or group on the basis of race, sex, color, ethnicity, or national origin in the operation of public employment, public education, or public contracting. Specifies certain exemptions. Provides that prohibited discrimination may be asserted as a claim or defense in a judicial or administrative proceeding regardless of whether the relevant entity or institution is a party to the proceeding. Provides that, if the relevant entity or institution is not a party to a proceeding, the relevant entity or institution has an unconditional right to intervene in order to respond to an action or claim alleging discrimination. Specifies certain awards and remedies. Defines certain terms.

**Effective:** July 1, 2022.

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January 10, 2022, read first time and referred to Committee on Judiciary.

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Second Regular Session of the 122nd General Assembly (2022)

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 2021 Regular Session of the General Assembly.

# SENATE BILL No. 276

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

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

1 SECTION 1. IC 34-6-2-34.6 IS ADDED TO THE INDIANA CODE  
2 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
3 1, 2022]: **Sec. 34.6. "Discriminate against", for purposes of**  
4 **IC 34-13-10, has the meaning set forth in IC 34-13-10-3.**

5 SECTION 2. IC 34-6-2-49, AS AMENDED BY P.L.220-2013,  
6 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
7 JULY 1, 2022]: Sec. 49. (a) "Governmental entity", for purposes of  
8 section 91 of this chapter, IC 34-13-2, IC 34-13-3, and IC 34-13-4,  
9 means the state or a political subdivision of the state. For purposes of  
10 IC 34-13-2, IC 34-13-3, and IC 34-13-4, the term includes a charter  
11 school.

12 (b) "Governmental entity", for purposes of section 103(j) of this  
13 chapter, means the state or a political subdivision of the state.

14 (c) **"Governmental entity", for purposes of IC 34-13-10, has the**  
15 **meaning set forth in IC 34-13-10-4.**

16 SECTION 3. IC 34-6-2-141.5 IS ADDED TO THE INDIANA  
17 CODE AS A **NEW** SECTION TO READ AS FOLLOWS



1 [EFFECTIVE JULY 1, 2022]: **Sec. 141.5. "State educational**  
 2 **institution", for purposes of IC 34-13-10, has the meaning set forth**  
 3 **in IC 34-13-10-5.**

4 SECTION 4. IC 34-13-10 IS ADDED TO THE INDIANA CODE  
 5 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE  
 6 JULY 1, 2022]:

7 **Chapter 10. Protection of Civil and Constitutional Rights**

8 **Sec. 1. This chapter does not apply to the following:**

- 9 (1) Any policy, procedure, or protocol intended to protect or  
 10 ensure the safety of any inmate or employee of a penal  
 11 institution.  
 12 (2) The enforcement or prosecution of any criminal statute  
 13 under state or federal law.  
 14 (3) Any restriction or condition placed on a person:  
 15 (A) participating in:  
 16 (i) a community corrections program (IC 11-12-1);  
 17 (ii) a forensic diversion program (IC 11-12-3.7); or  
 18 (iii) a pretrial diversion program (IC 33-39-1);  
 19 (B) subject to pretrial release;  
 20 (C) currently serving the remainder of a criminal sentence  
 21 while on probation or parole; or  
 22 (D) subject to a protective order issued under IC 34-26-5.  
 23 (4) Any bona fide qualifications based on sex that are  
 24 reasonably necessary to the normal operation of public  
 25 employment, public education, or public contracting.  
 26 (5) Any claim or cause of action initiated on or before June 30,  
 27 2022.  
 28 (6) Any court order, settlement, consent decree, or  
 29 comparable settlement or resolution issued or executed on or  
 30 before June 30, 2022.

31 **Sec. 2. (a) Subject to subsection (b), this chapter applies to all**  
 32 **governmental entity statutes, ordinances, resolutions, executive or**  
 33 **administrative orders, regulations, customs, and usages, including**  
 34 **the implementation or application thereof, regardless of whether**  
 35 **enacted, adopted, or initiated before, on, or after July 1, 2022.**

36 (b) A governmental entity statute, ordinance, resolution,  
 37 executive or administrative order, regulation, custom, or usage  
 38 may not be construed to be exempt from the application of this  
 39 chapter unless a state statute expressly exempts the statute,  
 40 ordinance, resolution, executive or administrative order,  
 41 regulation, custom, or usage from the application of this chapter by  
 42 citation to this chapter.



1           **Sec. 3. As used in this chapter, "discriminate against" means**  
 2 **either of the following:**

3           **(1) The taking of one (1) or more of the following actions in**  
 4 **response to a person's exercise of a right provided or**  
 5 **protected by the Constitution of the United States:**

6           **(A) Refusing to enter into a contract with the person.**

7           **(B) Terminating an existing contract with the person.**

8           **(C) Refusing to employ the person.**

9           **(D) Terminating the employment of the person.**

10           **(E) Denying the use of property to the person if the person**  
 11 **would otherwise be eligible to use the property.**

12           **(F) Denying the person entry to a property if the person**  
 13 **would otherwise be eligible to enter the property.**

14           **(2) Granting preferential treatment to any individual or**  
 15 **group on the basis of race, sex, color, ethnicity, or national**  
 16 **origin in the operation of public employment, public**  
 17 **education, or public contracting.**

18           **Sec. 4. As used in this chapter, "governmental entity" includes**  
 19 **the whole or any part of a branch, department, agency,**  
 20 **instrumentality, official, or other individual or entity acting under**  
 21 **color of law of any of the following:**

22           **(1) State government.**

23           **(2) A political subdivision (as defined in IC 36-1-2-13).**

24           **(3) An instrumentality of a governmental entity described in**  
 25 **subdivision (1) or (2), including a state educational institution,**  
 26 **a body politic, a body corporate and politic, or any other**  
 27 **similar entity established by law.**

28           **Sec. 5. As used in this chapter, "state educational institution"**  
 29 **has the meaning set forth in IC 21-7-13-32.**

30           **Sec. 6. A governmental entity may not discriminate against:**

31           **(1) a person;**

32           **(2) an employee of a person; or**

33           **(3) the relative of an employee of a person.**

34           **Sec. 7. A person that has been discriminated against by a**  
 35 **governmental entity may assert the discrimination as a claim or**  
 36 **defense in a judicial or administrative proceeding regardless of**  
 37 **whether the governmental entity is a party to the proceeding. If the**  
 38 **relevant governmental entity is not a party to the proceeding, the**  
 39 **relevant governmental entity has an unconditional right to**  
 40 **intervene in order to respond to the person's invocation of this**  
 41 **chapter.**

42           **Sec. 8. (a) If a court or other tribunal in which a violation of this**



1 chapter is asserted determines that a governmental entity has  
2 discriminated against a person in violation of this chapter, relief  
3 against the offending governmental entity:

4 (1) shall include statutory damages of one thousand dollars  
5 (\$1,000) a day until the violation is cured; and

6 (2) may include one (1) or more of the following:

7 (A) Declaratory relief.

8 (B) Injunctive relief for the purpose of preventing,  
9 restraining, correcting, or abating the violation of this  
10 chapter.

11 (C) Actual damages.

12 (D) Compensatory damages.

13 (b) If appropriate, the court or other tribunal may also award  
14 all or part of the costs of litigation, including reasonable attorney's  
15 fees, to a person that prevails against a governmental entity under  
16 this chapter.

17 Sec. 9. Nothing in this chapter may be construed to create a  
18 claim or private cause of action against a private person or entity.

19 Sec. 10. Nothing in this chapter may be construed to negate any  
20 right available under the Constitution of the State of Indiana.

21 Sec. 11. If any part of this chapter is found to be in conflict with  
22 the Constitution of the United States or federal law, this chapter  
23 shall be implemented to the maximum extent permissible by the  
24 Constitution of the United States or federal law. Any provision held  
25 invalid shall be severable from the remaining portions of this  
26 chapter as provided under IC 1-1-1-8.

