



Reprinted
February 23, 2021

SENATE BILL No. 311

DIGEST OF SB 311 (Updated February 22, 2021 3:30 pm - DI 106)

Citations Affected: IC 35-41; IC 36-8.

Synopsis: Use of force and self defense. Prohibits a state or local law enforcement officer (officer) from firing warning shots. Allows a guard, official, or officer in a state or local penal facility to fire warning shots to prevent the escape of a person. Prohibits a law enforcement agency or merit board from taking an adverse employment action against a law enforcement officer who lawfully exercises the officer's right of self defense, and requires a law enforcement agency to indemnify a law enforcement officer for reasonable expenses incurred by the officer in successfully contesting an adverse employment action.

Effective: July 1, 2021.

**Baldwin, Sandlin, Garten, Koch,
Doriot, Rogers, Randolph Lonnie M**

January 11, 2021, read first time and referred to Committee on Corrections and Criminal Law.
February 18, 2021, amended, reported favorably — Do Pass.
February 22, 2021, read second time, amended, ordered engrossed.

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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.

SENATE BILL No. 311

A BILL FOR AN ACT to amend the Indiana Code concerning criminal law and procedure.

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

- 1 SECTION 1. IC 35-41-3-3 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 3. (a) A person other
3 than a law enforcement officer is justified in using reasonable force
4 against another person to effect an arrest or prevent the other person's
5 escape if:
6 (1) a felony has been committed; and
7 (2) there is probable cause to believe the other person committed
8 that felony.
9 However, such a person is not justified in using deadly force unless that
10 force is justified under section 2 of this chapter.
11 (b) A law enforcement officer is justified in using reasonable force
12 if the officer reasonably believes that the force is necessary to effect a
13 lawful arrest. However, an officer is justified in using deadly force only
14 if the officer:
15 (1) has probable cause to believe that that deadly force is
16 necessary:
17 (A) to prevent the commission of a forcible felony; or

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1 (B) to effect an arrest of a person who the officer has probable
 2 cause to believe poses a threat of serious bodily injury to the
 3 officer or a third person; and
 4 (2) has given a warning, if feasible, to the person against whom
 5 the deadly force is to be used.

6 **However, for purposes of subdivision (2), a law enforcement officer**
 7 **may not discharge a firearm as a warning.**

8 (c) A law enforcement officer making an arrest under an invalid
 9 warrant is justified in using force as if the warrant was valid, unless the
 10 officer knows that the warrant is invalid.

11 (d) A law enforcement officer who has an arrested person in custody
 12 is justified in using the same force to prevent the escape of the arrested
 13 person from custody that the officer would be justified in using if the
 14 officer was arresting that person. However, an officer is justified in
 15 using deadly force only if the officer:

16 (1) has probable cause to believe that deadly force is necessary to
 17 prevent the escape from custody of a person who the officer has
 18 probable cause to believe poses a threat of serious bodily injury
 19 to the officer or a third person; and

20 (2) has given a warning, if feasible, to the person against whom
 21 the deadly force is to be used.

22 **However, for purposes of subdivision (2), a law enforcement officer**
 23 **may not discharge a firearm as a warning.**

24 (e) A guard or other official in a penal facility or a law enforcement
 25 officer is justified in using reasonable force, including deadly force, if
 26 the officer has probable cause to believe that the force is necessary to
 27 prevent the escape of a person who is detained in the penal facility. **A**
 28 **guard or other official in a penal facility or a law enforcement**
 29 **officer may discharge a firearm as a warning to prevent the escape**
 30 **of a person under this subsection.**

31 (f) Notwithstanding subsection (b), (d), or (e), a law enforcement
 32 officer who is a defendant in a criminal prosecution has the same right
 33 as a person who is not a law enforcement officer to assert self-defense
 34 under IC 35-41-3-2.

35 SECTION 2. IC 36-8-2.3 IS ADDED TO THE INDIANA CODE
 36 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
 37 JULY 1, 2021]:

38 **Chapter 2.3. Law Enforcement Officers' Right to Self Defense**

39 **Sec. 1. As used in this chapter, an "adverse employment action"**
 40 **does not include a temporary suspension or reassignment that:**

41 (1) is put in place due to a pending or ongoing use of force
 42 investigation; and



1 (2) does not result in a reduction of pay or benefits.

2 Sec. 2. As used in this chapter, "law enforcement agency" means
3 a state agency, a political subdivision, a hospital police department
4 (as described in IC 16-18-4), or a public or private postsecondary
5 educational institution that employs a law enforcement officer.

6 Sec. 3. As used in this chapter, "law enforcement officer"
7 means:

8 (1) a police officer (including a correctional police officer),
9 sheriff, constable, marshal, prosecuting attorney, special
10 prosecuting attorney, special deputy prosecuting attorney, the
11 securities commissioner, or the inspector general;

12 (2) a deputy of any of those persons;

13 (3) an investigator for a prosecuting attorney (including an
14 adult protective services investigator) or for the inspector
15 general;

16 (4) a conservation officer;

17 (5) an enforcement officer of the alcohol and tobacco
18 commission;

19 (6) an enforcement officer of the securities division of the
20 office of the secretary of state;

21 (7) a gaming agent employed under IC 4-33-4.5;

22 (8) a gaming control officer employed by the gaming control
23 division under IC 4-33-20;

24 (9) a school resource officer (as defined in IC 20-26-18.2-1);

25 (10) a school corporation police officer appointed under
26 IC 20-26-16; and

27 (11) a deputy of a person described in this section.

28 Sec. 4. As used in this chapter, "merit board" means:

29 (A) a merit commission or merit board established in
30 accordance with IC 36-8-3.5, including a commission or
31 board initially established by ordinance or resolution
32 under:

33 (i) IC 36-1-4-14; or

34 (ii) a prior statute;

35 (B) a sheriff's merit board established under IC 36-8-10-3;
36 and

37 (C) the state police board established by IC 10-11-2-5.

38 Sec. 5. A law enforcement agency or a merit board may not take
39 an adverse employment action against a law enforcement officer
40 who, while acting within the scope of the officer's employment,
41 lawfully exercises the officer's right to self defense under
42 IC 35-41-3-2.



1 **Sec. 6. A law enforcement agency shall indemnify a law**
2 **enforcement officer who:**
3 **(1) brings an action, including administratively, to contest an**
4 **adverse employment action prohibited by section 5 of this**
5 **chapter; and**
6 **(2) prevails in the action;**
7 **for all reasonable expenses, including attorney's fees and lost**
8 **wages, incurred in contesting and as a consequence of the adverse**
9 **employment action.**



COMMITTEE REPORT

Madam President: The Senate Committee on Corrections and Criminal Law, to which was referred Senate Bill No. 311, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 2, delete lines 35 through 42, begin a new paragraph and insert:

"SECTION 2. IC 36-8-2.3 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]:

Chapter 2.3. Law Enforcement Officers' Right to Self Defense

Sec. 1. As used in this chapter, "law enforcement agency" means a state agency, a political subdivision, a hospital police department (as described in IC 16-18-4), or a public or private postsecondary educational institution that employs a law enforcement officer.

Sec. 2. As used in this chapter, "law enforcement officer" means:

- (1) a police officer (including a correctional police officer), sheriff, constable, marshal, prosecuting attorney, special prosecuting attorney, special deputy prosecuting attorney, the securities commissioner, or the inspector general;**
- (2) a deputy of any of those persons;**
- (3) an investigator for a prosecuting attorney (including an adult protective services investigator) or for the inspector general;**
- (4) a conservation officer;**
- (5) an enforcement officer of the alcohol and tobacco commission;**
- (6) an enforcement officer of the securities division of the office of the secretary of state;**
- (7) a gaming agent employed under IC 4-33-4.5;**
- (8) a gaming control officer employed by the gaming control division under IC 4-33-20;**
- (9) a school resource officer (as defined in IC 20-26-18.2-1);**
- (10) a school corporation police officer appointed under IC 20-26-16; and**
- (11) a deputy of a person described in this section.**

Sec. 3. A law enforcement agency may not take an adverse employment action against a law enforcement officer who, while acting within the scope of the officer's employment, lawfully exercises the officer's right to self defense under IC 35-41-3-2.

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Sec. 4. A law enforcement agency shall indemnify a law enforcement officer who:

(1) brings an action, including administratively, to contest an adverse employment action prohibited by section 3 of this chapter; and

(2) prevails in the action;

for all reasonable expenses, including attorney's fees and lost wages, incurred in contesting and as a consequence of the adverse employment action."

Delete pages 3 through 4.

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 311 as introduced.)

YOUNG M, Chairperson

Committee Vote: Yeas 8, Nays 1.

SENATE MOTION

Madam President: I move that Senate Bill 311 be amended to read as follows:

Page 2, between lines 38 and 39, begin a new paragraph and insert:

"Sec. 1. As used in this chapter, an "adverse employment action" does not include a temporary suspension or reassignment that:

(1) is put in place due to a pending or ongoing use of force investigation; and

(2) does not result in a reduction of pay or benefits."

Page 2, line 39, delete "Sec. 1." and insert "Sec. 2."

Page 3, line 1, delete "Sec. 2." and insert "Sec. 3."

Page 3, between lines 22 and 23, begin a new paragraph and insert:

"Sec. 4. As used in this chapter, "merit board" means:

(A) a merit commission or merit board established in accordance with IC 36-8-3.5, including a commission or board initially established by ordinance or resolution under:

(i) IC 36-1-4-14; or

(ii) a prior statute;

(B) a sheriff's merit board established under IC 36-8-10-3;

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and

(C) the state police board established by IC 10-11-2-5."

Page 3, line 23, delete "Sec. 3." and insert "**Sec. 5.**".

Page 3, line 23, after "agency" insert "**or a merit board**".

Page 3, line 27, delete "Sec. 4." and insert "**Sec. 6.**".

Page 3, line 30, delete "section 3" and insert "**section 5**".

(Reference is to SB 311 as printed February 19, 2021.)

BALDWIN

