



SENATE MOTION

MADAM PRESIDENT:

I move that Engrossed House Bill 1270 be amended to read as follows:

- 1 Page 2, between lines 38 and 39, begin a new paragraph and insert:
- 2 "SECTION 3. IC 5-2-1-9, AS AMENDED BY THE TECHNICAL
- 3 CORRECTIONS BILL OF THE 2018 GENERAL ASSEMBLY, IS
- 4 AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]:
- 5 Sec. 9. (a) The board shall adopt in accordance with IC 4-22-2 all
- 6 necessary rules to carry out the provisions of this chapter. The rules,
- 7 which shall be adopted only after necessary and proper investigation
- 8 and inquiry by the board, shall include the establishment of the
- 9 following:
- 10 (1) Minimum standards of physical, educational, mental, and
- 11 moral fitness which shall govern the acceptance of any person for
- 12 training by any law enforcement training school or academy
- 13 meeting or exceeding the minimum standards established
- 14 pursuant to this chapter.
- 15 (2) Minimum standards for law enforcement training schools
- 16 administered by towns, cities, counties, law enforcement training
- 17 centers, agencies, or departments of the state.
- 18 (3) Minimum standards for courses of study, attendance
- 19 requirements, equipment, and facilities for approved town, city,
- 20 county, and state law enforcement officer, police reserve officer,
- 21 and conservation reserve officer training schools.
- 22 (4) Minimum standards for a course of study on cultural diversity
- 23 awareness, including training on the U nonimmigrant visa created
- 24 through the federal Victims of Trafficking and Violence
- 25 Protection Act of 2000 (P.L. 106-386) that must be required for
- 26 each person accepted for training at a law enforcement training
- 27 school or academy. Cultural diversity awareness study must

1 include an understanding of cultural issues related to race,
 2 religion, gender, age, domestic violence, national origin, and
 3 physical and mental disabilities.

4 (5) Minimum qualifications for instructors at approved law
 5 enforcement training schools.

6 (6) Minimum basic training requirements which law enforcement
 7 officers appointed to probationary terms shall complete before
 8 being eligible for continued or permanent employment.

9 (7) Minimum basic training requirements which law enforcement
 10 officers appointed on other than a permanent basis shall complete
 11 in order to be eligible for continued employment or permanent
 12 appointment.

13 (8) Minimum basic training requirements which law enforcement
 14 officers appointed on a permanent basis shall complete in order
 15 to be eligible for continued employment.

16 (9) Minimum basic training requirements for each person
 17 accepted for training at a law enforcement training school or
 18 academy that include six (6) hours of training in interacting with:

19 (A) persons with autism, mental illness, addictive disorders,
 20 intellectual disabilities, and developmental disabilities;

21 (B) missing endangered adults (as defined in IC 12-7-2-131.3);
 22 and

23 (C) persons with Alzheimer's disease or related senile
 24 dementia;

25 to be provided by persons approved by the secretary of family and
 26 social services and the board. The training must include an
 27 overview of the crisis intervention teams.

28 (10) Minimum standards for a course of study on human and
 29 sexual trafficking that must be required for each person accepted
 30 for training at a law enforcement training school or academy and
 31 for inservice training programs for law enforcement officers. The
 32 course must cover the following topics:

33 (A) Examination of the human and sexual trafficking laws
 34 (IC 35-42-3.5).

35 (B) Identification of human and sexual trafficking.

36 (C) Communicating with traumatized persons.

37 (D) Therapeutically appropriate investigative techniques.

38 (E) Collaboration with federal law enforcement officials.

39 (F) Rights of and protections afforded to victims.

40 (G) Providing documentation that satisfies the Declaration of
 41 Law Enforcement Officer for Victim of Trafficking in Persons
 42 (Form I-914, Supplement B) requirements established under
 43 federal law.

44 (H) The availability of community resources to assist human
 45 and sexual trafficking victims.

46 (b) A law enforcement officer appointed after July 5, 1972, and

before July 1, 1993, may not enforce the laws or ordinances of the state or any political subdivision unless the officer has, within one (1) year from the date of appointment, successfully completed the minimum basic training requirements established under this chapter by the board. If a person fails to successfully complete the basic training requirements within one (1) year from the date of employment, the officer may not perform any of the duties of a law enforcement officer involving control or direction of members of the public or exercising the power of arrest until the officer has successfully completed the training requirements. This subsection does not apply to any law enforcement officer appointed before July 6, 1972, or after June 30, 1993.

(c) Military leave or other authorized leave of absence from law enforcement duty during the first year of employment after July 6, 1972, shall toll the running of the first year, which shall be calculated by the aggregate of the time before and after the leave, for the purposes of this chapter.

(d) Except as provided in subsections (e), (m), (t), and (u), a law enforcement officer appointed to a law enforcement department or agency after June 30, 1993, may not:

- (1) make an arrest;
- (2) conduct a search or a seizure of a person or property; or
- (3) carry a firearm;

unless the law enforcement officer successfully completes, at a board certified law enforcement academy or at a law enforcement training center under section 10.5 or 15.2 of this chapter, the basic training requirements established by the board under this chapter.

(e) This subsection does not apply to:

- (1) a gaming agent employed as a law enforcement officer by the Indiana gaming commission; or
- (2) an:
 - (A) attorney; or
 - (B) investigator;

designated by the securities commissioner as a police officer of the state under IC 23-19-6-1(k).

Before a law enforcement officer appointed after June 30, 1993, completes the basic training requirements, the law enforcement officer may exercise the police powers described in subsection (d) if the officer successfully completes the pre-basic course established in subsection (f). Successful completion of the pre-basic course authorizes a law enforcement officer to exercise the police powers described in subsection (d) for one (1) year after the date the law enforcement officer is appointed.

(f) The board shall adopt rules under IC 4-22-2 to establish a pre-basic course for the purpose of training:

- (1) law enforcement officers;

(2) police reserve officers (as described in IC 36-8-3-20); and
 (3) conservation reserve officers (as described in IC 14-9-8-27);
 regarding the subjects of arrest, search and seizure, the lawful use of
 force, interacting with individuals with autism, and the operation of an
 emergency vehicle. The pre-basic course must be offered on a periodic
 basis throughout the year at regional sites statewide. The pre-basic
 course must consist of at least forty (40) hours of course work. The
 board may prepare the classroom part of the pre-basic course using
 available technology in conjunction with live instruction. The board
 shall provide the course material, the instructors, and the facilities at
 the regional sites throughout the state that are used for the pre-basic
 course. In addition, the board may certify pre-basic courses that may be
 conducted by other public or private training entities, including
 postsecondary educational institutions.

(g) Subject to subsection (h), the board shall adopt rules under
 IC 4-22-2 to establish a mandatory inservice training program for
 police officers and police reserve officers (as described in
 IC 36-8-3-20). After June 30, 1993, a law enforcement officer who has
 satisfactorily completed basic training and has been appointed to a law
 enforcement department or agency on either a full-time or part-time
 basis is not eligible for continued employment unless the officer
 satisfactorily completes the mandatory inservice training requirements
 established by rules adopted by the board. Inservice training must
 include training in interacting with persons with mental illness,
 addictive disorders, intellectual disabilities, autism, developmental
 disabilities, and Alzheimer's disease or related senile dementia, to be
 provided by persons approved by the secretary of family and social
 services and the board, and training concerning human and sexual
 trafficking and high risk missing persons (as defined in IC 5-2-17-1).
 The board may approve courses offered by other public or private
 training entities, including postsecondary educational institutions, as
 necessary in order to ensure the availability of an adequate number of
 inservice training programs. The board may waive an officer's inservice
 training requirements if the board determines that the officer's reason
 for lacking the required amount of inservice training hours is due to
 either an emergency situation or the unavailability of courses.

(h) This subsection applies only to a mandatory inservice training
 program under subsection (g). Notwithstanding subsection (g), the
 board may, without adopting rules under IC 4-22-2, modify the course
 work of a training subject matter, modify the number of hours of
 training required within a particular subject matter, or add a new
 subject matter, if the board satisfies the following requirements:

~~(A)~~ (1) The board must conduct at least two (2) public meetings
 on the proposed modification or addition.

~~(B)~~ (2) After approving the modification or addition at a public
 meeting, the board must post notice of the modification or

1 addition on the Indiana law enforcement academy's Internet web
2 site at least thirty (30) days before the modification or addition
3 takes effect.

4 If the board does not satisfy the requirements of this subsection, the
5 modification or addition is void. This subsection does not authorize the
6 board to eliminate any inservice training subject matter required under
7 subsection (g).

8 (i) The board shall also adopt rules establishing a town marshal
9 basic training program, subject to the following:

10 (1) The program must require fewer hours of instruction and class
11 attendance and fewer courses of study than are required for the
12 mandated basic training program.

13 (2) Certain parts of the course materials may be studied by a
14 candidate at the candidate's home in order to fulfill requirements
15 of the program.

16 (3) Law enforcement officers successfully completing the
17 requirements of the program are eligible for appointment only in
18 towns employing the town marshal system (IC 36-5-7) and having
19 not more than one (1) marshal and two (2) deputies.

20 (4) The limitation imposed by subdivision (3) does not apply to an
21 officer who has successfully completed the mandated basic
22 training program.

23 (5) The time limitations imposed by subsections (b) and (c) for
24 completing the training are also applicable to the town marshal
25 basic training program.

26 (6) The program must require training in interacting with
27 individuals with autism.

28 (j) The board shall adopt rules under IC 4-22-2 to establish an
29 executive training program. The executive training program must
30 include training in the following areas:

31 (1) Liability.

32 (2) Media relations.

33 (3) Accounting and administration.

34 (4) Discipline.

35 (5) Department policy making.

36 (6) Lawful use of force.

37 (7) Department programs.

38 (8) Emergency vehicle operation.

39 (9) Cultural diversity.

40 (k) A police chief shall apply for admission to the executive training
41 program within two (2) months of the date the police chief initially
42 takes office. A police chief must successfully complete the executive
43 training program within six (6) months of the date the police chief
44 initially takes office. However, if space in the executive training
45 program is not available at a time that will allow completion of the
46 executive training program within six (6) months of the date the police

chief initially takes office, the police chief must successfully complete the next available executive training program that is offered after the police chief initially takes office.

(l) A police chief who fails to comply with subsection (k) may not continue to serve as the police chief until completion of the executive training program. For the purposes of this subsection and subsection (k), "police chief" refers to:

- (1) the police chief of any city;
- (2) the police chief of any town having a metropolitan police department; and
- (3) the chief of a consolidated law enforcement department established under IC 36-3-1-5.1.

A town marshal is not considered to be a police chief for these purposes, but a town marshal may enroll in the executive training program.

(m) A fire investigator in the division of fire and building safety appointed after December 31, 1993, is required to comply with the basic training standards established under this chapter.

(n) The board shall adopt rules under IC 4-22-2 to establish a program to certify handgun safety courses, including courses offered in the private sector, that meet standards approved by the board for training probation officers in handgun safety as required by IC 11-13-1-3.5(3).

(o) The board shall adopt rules under IC 4-22-2 to establish a refresher course for an officer who:

- (1) is hired by an Indiana law enforcement department or agency as a law enforcement officer;
- (2) has not been employed as a law enforcement officer for:
 - (A) at least two (2) years; and
 - (B) less than six (6) years before the officer is hired under subdivision (1); and
- (3) completed at any time a basic training course certified or recognized by the board before the officer is hired under subdivision (1).

(p) An officer to whom subsection (o) applies must successfully complete the refresher course described in subsection (o) not later than six (6) months after the officer's date of hire, or the officer loses the officer's powers of:

- (1) arrest;
- (2) search; and
- (3) seizure.

(q) The board shall adopt rules under IC 4-22-2 to establish a refresher course for an officer who:

- (1) is appointed by an Indiana law enforcement department or agency as a reserve police officer; and
- (2) has not worked as a reserve police officer for at least two (2)

years after:

(A) completing the pre-basic course; or

(B) leaving the individual's last appointment as a reserve police officer.

An officer to whom this subsection applies must successfully complete the refresher course established by the board in order to work as a reserve police officer.

(r) This subsection applies to an individual who, at the time the individual completes a board certified or recognized basic training course, has not been appointed as a law enforcement officer by an Indiana law enforcement department or agency. If the individual is not employed as a law enforcement officer for at least two (2) years after completing the basic training course, the individual must successfully retake and complete the basic training course as set forth in subsection (d).

(s) The board shall adopt rules under IC 4-22-2 to establish a refresher course for an individual who:

(1) is appointed as a board certified instructor of law enforcement training; and

(2) has not provided law enforcement training instruction for more than one (1) year after the date the individual's instructor certification expired.

An individual to whom this subsection applies must successfully complete the refresher course established by the board in order to renew the individual's instructor certification.

(t) This subsection applies only to a gaming agent employed as a law enforcement officer by the Indiana gaming commission. A gaming agent appointed after June 30, 2005, may exercise the police powers described in subsection (d) if:

(1) the agent successfully completes the pre-basic course established in subsection (f); and

(2) the agent successfully completes any other training courses established by the Indiana gaming commission in conjunction with the board.

(u) This subsection applies only to a securities enforcement officer designated as a law enforcement officer by the securities commissioner. A securities enforcement officer may exercise the police powers described in subsection (d) if:

(1) the securities enforcement officer successfully completes the pre-basic course established in subsection (f); and

(2) the securities enforcement officer successfully completes any other training courses established by the securities commissioner in conjunction with the board.

(v) As used in this section, "upper level policymaking position" refers to the following:

(1) If the authorized size of the department or town marshal

1 system is not more than ten (10) members, the term refers to the
2 position held by the police chief or town marshal.

3 (2) If the authorized size of the department or town marshal
4 system is more than ten (10) members but less than fifty-one (51)
5 members, the term refers to:

6 (A) the position held by the police chief or town marshal; and

7 (B) each position held by the members of the police
8 department or town marshal system in the next rank and pay
9 grade immediately below the police chief or town marshal.

10 (3) If the authorized size of the department or town marshal
11 system is more than fifty (50) members, the term refers to:

12 (A) the position held by the police chief or town marshal; and

13 (B) each position held by the members of the police
14 department or town marshal system in the next two (2) ranks
15 and pay grades immediately below the police chief or town
16 marshal.

17 (w) This subsection applies only to a correctional police officer
18 employed by the department of correction. A correctional police officer
19 may exercise the police powers described in subsection (d) if:

20 (1) the officer successfully completes the pre-basic course
21 described in subsection (f); and

22 (2) the officer successfully completes any other training courses
23 established by the department of correction in conjunction with
24 the board.

25 **(x) This subsection applies to the following:**

26 **(1) Minimum basic training program required under**
27 **subsection (d).**

28 **(2) Mandatory inservice training program required under**
29 **subsection (g).**

30 **(3) Town marshal basic training program required under**
31 **subsection (i).**

32 **(4) Police chief executive training program required under**
33 **subsection (k).**

34 **(5) Any other training program for which the board adopts**
35 **standards.**

36 **After December 31, 2018, the standards adopted by the board for**
37 **each program described in this subsection must include**
38 **requirements for mandatory training in identifying, responding to,**
39 **and reporting bias motivated crimes in which the person who**
40 **committed the offense selected the victim who was injured or**
41 **whose property was damaged or otherwise affected because of the**
42 **actual or perceived race, color, creed, disability, national origin,**
43 **religion, sexual orientation, gender, or gender identity of the**
44 **victim."**

45 Page 16, between lines 38 and 39, begin a new paragraph and insert:
46 "SECTION 14. IC 34-24-5 IS ADDED TO THE INDIANA CODE

AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]:

Chapter 5. Civil Action for Victims of Bias Motivated Crimes

Sec. 1. This chapter applies only to causes of action that accrue after June 30, 2018.

Sec. 2. As used in this chapter, "bias motivated offender" means a person:

(1) who:

(A) committed a:

(i) criminal offense; or

(ii) delinquent act that would be a criminal offense if committed by an adult;

that injured an individual; and

(B) selected the individual as the victim of the criminal offense or delinquent act because of the actual or perceived race, color, creed, disability, national origin, religion, sexual orientation, gender, or gender identity of the victim; or

(2) who:

(A) committed a:

(i) criminal offense; or

(ii) delinquent act that would be a criminal offense if committed by an adult;

that damaged or otherwise affected property; and

(B) damaged or otherwise affected the property because of the actual or perceived race, color, creed, disability, national origin, religion, sexual orientation, gender, or gender identity of the individual who owned or occupied the property.

Sec. 3. If an individual suffers a pecuniary loss because of the commission of a criminal offense or delinquent act by a bias motivated offender, the individual may bring a civil action against the bias motivated offender who caused the loss.

Sec. 4. An individual bringing an action under section 3 of this chapter may seek to recover the following:

(1) Actual, compensatory, and consequential damages, including damages for emotional distress.

(2) Punitive damages.

(3) The costs of the action.

(4) Reasonable attorney's fees.

Sec. 5. Notwithstanding IC 34-31-4, a parent or guardian of a child is liable for damages awarded under this chapter if:

(1) the child is a bias motivated offender liable for damages awarded under this chapter;

(2) the parent or guardian has custody of the child; and

(3) the child is living with the parent or guardian.

Sec. 6. This chapter does not limit a person's rights or remedies

1 **under any other state or federal law."**

2 Page 30, between lines 37 and 38, begin a new paragraph and insert:
 3 "SECTION 35. IC 35-50-1-2, AS AMENDED BY P.L.13-2016,
 4 SECTION 18, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 5 JULY 1, 2018]: Sec. 2. (a) As used in this section, "crime of violence"
 6 means the following:

- 7 (1) Murder (IC 35-42-1-1).
- 8 (2) Attempted murder (IC 35-41-5-1).
- 9 (3) Voluntary manslaughter (IC 35-42-1-3).
- 10 (4) Involuntary manslaughter (IC 35-42-1-4).
- 11 (5) Reckless homicide (IC 35-42-1-5).
- 12 (6) Aggravated battery (IC 35-42-2-1.5).
- 13 (7) Kidnapping (IC 35-42-3-2).
- 14 (8) Rape (IC 35-42-4-1).
- 15 (9) Criminal deviate conduct (IC 35-42-4-2) (before its repeal).
- 16 (10) Child molesting (IC 35-42-4-3).
- 17 (11) Sexual misconduct with a minor as a Level 1 felony under
- 18 IC 35-42-4-9(a)(2) or a Level 2 felony under IC 35-42-4-9(b)(2).
- 19 (12) Robbery as a Level 2 felony or a Level 3 felony
- 20 (IC 35-42-5-1).
- 21 (13) Burglary as a Level 1 felony, Level 2 felony, Level 3 felony,
- 22 or Level 4 felony (IC 35-43-2-1).
- 23 (14) Operating a vehicle while intoxicated causing death
- 24 (IC 9-30-5-5).
- 25 (15) Operating a vehicle while intoxicated causing serious bodily
- 26 injury to another person (IC 9-30-5-4).
- 27 (16) Child exploitation as a Level 5 felony under IC 35-42-4-4(b)
- 28 or a Level 4 felony under IC 35-42-4-4(c).
- 29 (17) Resisting law enforcement as a felony (IC 35-44.1-3-1).
- 30 (18) Unlawful possession of a firearm by a serious violent felon
- 31 (IC 35-47-4-5).

32 (b) As used in this section, "episode of criminal conduct" means
 33 offenses or a connected series of offenses that are closely related in
 34 time, place, and circumstance.

35 (c) Except as provided in subsection (e) or (f) the court shall
 36 determine whether terms of imprisonment shall be served concurrently
 37 or consecutively. The court may consider the:

- 38 (1) aggravating circumstances in IC 35-38-1-7.1(a); and
- 39 (2) mitigating circumstances in IC 35-38-1-7.1(b);

40 in making a determination under this subsection. The court may order
 41 terms of imprisonment to be served consecutively even if the sentences
 42 are not imposed at the same time. However, except for crimes of
 43 violence, the total of the consecutive terms of imprisonment, exclusive
 44 of terms of imprisonment under IC 35-50-2-8, ~~and~~ IC 35-50-2-10
 45 (before its repeal), **and IC 35-50-2-18** to which the defendant is
 46 sentenced for felony convictions arising out of an episode of criminal

conduct shall not exceed the period described in subsection (d).

(d) Except as provided in subsection (c), the total of the consecutive terms of imprisonment to which the defendant is sentenced for felony convictions arising out of an episode of criminal conduct may not exceed the following:

(1) If the most serious crime for which the defendant is sentenced is a Level 6 felony, the total of the consecutive terms of imprisonment may not exceed four (4) years.

(2) If the most serious crime for which the defendant is sentenced is a Level 5 felony, the total of the consecutive terms of imprisonment may not exceed seven (7) years.

(3) If the most serious crime for which the defendant is sentenced is a Level 4 felony, the total of the consecutive terms of imprisonment may not exceed fifteen (15) years.

(4) If the most serious crime for which the defendant is sentenced is a Level 3 felony, the total of the consecutive terms of imprisonment may not exceed twenty (20) years.

(5) If the most serious crime for which the defendant is sentenced is a Level 2 felony, the total of the consecutive terms of imprisonment may not exceed thirty-two (32) years.

(6) If the most serious crime for which the defendant is sentenced is a Level 1 felony, the total of the consecutive terms of imprisonment may not exceed forty-two (42) years.

(e) If, after being arrested for one (1) crime, a person commits another crime:

(1) before the date the person is discharged from probation, parole, or a term of imprisonment imposed for the first crime; or

(2) while the person is released:

(A) upon the person's own recognizance; or

(B) on bond;

the terms of imprisonment for the crimes shall be served consecutively, regardless of the order in which the crimes are tried and sentences are imposed.

(f) If the factfinder determines under IC 35-50-2-11 that a person used a firearm in the commission of the offense for which the person was convicted, the term of imprisonment for the underlying offense and the additional term of imprisonment imposed under IC 35-50-2-11 must be served consecutively.

SECTION 36. IC 35-50-2-18 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2018]: **Sec. 18. (a) As used in this section, "bias crime offender" means an individual described in subsection (b).**

(b) The state may seek to have an individual sentenced as a bias crime offender by alleging, on a page separate from the rest of the charging instrument, that the individual knowingly or

- 1 intentionally:
2 (1) selected another individual injured; or
3 (2) damaged or otherwise affected property;
4 by an offense committed by the individual named as defendant in
5 the charging instrument because of the race, color, creed,
6 disability, national origin, religion, sexual orientation, gender, or
7 gender identity of the injured individual or of the owner or
8 occupant of the affected property.
9 (c) If an individual alleged to be a bias crime offender is
10 convicted of an offense, the court, at the sentencing hearing for the
11 offense, shall determine whether the individual is a bias crime
12 offender.
13 (d) If, after the sentencing hearing, the court finds that the
14 individual convicted of the offense that is the subject of the hearing
15 is a bias crime offender based on proof beyond a reasonable doubt,
16 the court shall sentence the individual to an additional fixed term
17 of not more than:
18 (1) five (5) years, if the offense is a felony; or
19 (2) three (3) years, if the offense is a misdemeanor;
20 to be added to the term of imprisonment imposed under this
21 chapter or IC 35-50-3."
22 Renumber all SECTIONS consecutively.
(Reference is to EHB 1270 as printed February 23, 2018.)

Senator TAYLOR G