



January 11, 2022

HOUSE BILL No. 1059

DIGEST OF HB 1059 (Updated January 11, 2022 8:58 am - DI 116)

Citations Affected: IC 10-16.

Synopsis: Indiana guard reserve. Provides that the Indiana guard reserve (guard) is comprised of volunteer citizens. Provides that the adjutant general (general) may adopt policies for the guard. Requires the general to establish certain structures, processes, and organizational controls for the guard. Repeals a provision concerning the guard serving outside Indiana. Repeals a provision regarding military forces in fresh pursuit. Repeals a provision regarding the oath of officers for guard members. Provides that, if called for voluntary service, the guard must follow the rules and procedures of the Indiana national guard and those set by the general. Amends a provision to specify that the general may obtain insurance for the guard under certain circumstances. Repeals a provision regarding quarterly pay for the guard.

Effective: July 1, 2022.

Bartels, May

January 4, 2022, read first time and referred to Committee on Veterans Affairs and Public Safety.
January 11, 2022, amended, reported — Do Pass.

HB 1059—LS 6428/DI 143



January 11, 2022

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.

HOUSE BILL No. 1059

A BILL FOR AN ACT to amend the Indiana Code concerning public safety.

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

1 SECTION 1. IC 10-16-8-1 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2022]: Sec. 1. (a) To supplement
3 the Indiana national guard, the governor may organize and maintain
4 within Indiana military forces the governor considers necessary to
5 ~~defend~~ **support** Indiana if any part of the Indiana national guard is in
6 active federal service **or is engaged in state active duty**.

7 (b) The Indiana guard reserve shall be composed of ~~officers;~~
8 ~~commissioned or assigned;~~ and able bodied citizens who volunteer for
9 service. ~~supplemented; if necessary; by members of the militia enrolled~~
10 ~~by draft or otherwise as provided by law.~~

11 (c) These forces:
12 (1) are additional to and distinct from the Indiana national guard;
13 and
14 (2) shall be known as the Indiana guard reserve.

15 The members of the Indiana guard reserve may be uniformed **pursuant**
16 **to regulation or policy established by the adjutant general.**

17 SECTION 2. IC 10-16-8-2 IS AMENDED TO READ AS

HB 1059—LS 6428/DI 143



1 FOLLOWS [EFFECTIVE JULY 1, 2022]: Sec. 2. (a) The ~~governor~~
 2 **adjutant general** may adopt rules, **policies**, and regulations not
 3 inconsistent with this chapter governing the ~~enlistment~~, organization,
 4 administration, equipment, maintenance, training, and discipline of
 5 members of the Indiana guard reserve. ~~However, the rules and~~
 6 ~~regulations must conform to applicable law governing and pertaining~~
 7 ~~to the Indiana national guard and the rules and regulations adopted~~
 8 ~~under those laws and under regulations as the Secretary of Defense of~~
 9 ~~the United States may prescribe for the organization, standard of~~
 10 ~~training, instruction, and discipline.~~

11 (b) The adjutant general is designated as the commanding officer of
 12 the Indiana guard reserve, **and the Indiana guard reserve shall**
 13 **operate in a similar fashion to other national guard units or**
 14 **directorates under the adjutant general's command.** The
 15 administration of the Indiana guard reserve shall be in the ~~state military~~
 16 ~~department.~~ **adjutant general's office.**

17 (c) **The adjutant general shall establish an appropriate internal**
 18 **structure and organization of the Indiana guard reserve that is**
 19 **consistent with the needs of the Indiana national guard and the size**
 20 **and capabilities of the Indiana guard reserve.**

21 (d) **The adjutant general shall establish a process or procedure**
 22 **that provides for the promotion, demotion, and discipline of**
 23 **citizens who volunteer for the Indiana guard reserve. This process**
 24 **shall not be inconsistent with the process and procedure developed**
 25 **and used by the Indiana national guard for its members. However,**
 26 **volunteers with the Indiana guard reserve are not:**

27 (1) **subject to military court-martial procedures under**
 28 **IC 10-16-9; or**

29 (2) **covered by immunity protections under IC 10-16-7-7.**

30 (e) **Volunteers with the Indiana guard reserve shall respond to**
 31 **calls for voluntary service as established by the Indiana national**
 32 **guard.**

33 (f) **The Indiana guard reserve shall not be placed on state active**
 34 **duty under IC 10-16-7.**

35 (g) **The adjutant general retains final command authority over**
 36 **the Indiana guard reserve. However, the adjutant general may**
 37 **delegate operational and administrative control of the Indiana**
 38 **guard reserve to subordinate directorates within the Indiana**
 39 **national guard or the adjutant general's office that the adjutant**
 40 **general deems necessary and prudent for efficient operations.**

41 (h) **Upon recommendation of the adjutant general, the**
 42 **governor may disband the Indiana guard reserve. at any time the**



1 governor considers necessary and safe.

2 SECTION 3. IC 10-16-8-4 IS AMENDED TO READ AS
3 FOLLOWS [EFFECTIVE JULY 1, 2022]: Sec. 4. (a) For the use of
4 members of the Indiana guard reserve; the governor may requisition
5 from the secretary of defense arms; ammunition; clothing; and
6 equipment that the secretary of defense may issue.

7 (b) (a) The **governor state armory board** shall make available the
8 facilities of state armories and their equipment and other state premises
9 and property as may be available.

10 (c) (b) School authorities may allow the use of school buildings and
11 school grounds by the Indiana guard reserve, on the terms and
12 conditions set out by the adjutant general.

13 SECTION 4. IC 10-16-8-5 IS REPEALED [EFFECTIVE JULY 1,
14 2022]. Sec. 5: The Indiana guard reserve may not be required to serve
15 outside Indiana except as follows:

16 (1) Upon the request of the governor of another state; the
17 governor of Indiana may order any part of or all the Indiana guard
18 reserve to assist the military or police forces of another state who
19 are engaged in defending the other state. The governor may recall
20 these forces:

21 (2) An organization; a unit; or a detachment of the Indiana guard
22 reserve; upon order of the officer in immediate command of the
23 guard reserve; may continue in fresh pursuit of insurrectionists;
24 saboteurs; enemies; or enemy forces beyond the borders of
25 Indiana into another state until the insurrectionists; saboteurs;
26 enemies; or enemy forces are apprehended or captured by the
27 organization; unit; or detachment or until the military or police
28 forces of the other state or the forces of the United States have
29 had a reasonable opportunity to take up the pursuit or to
30 apprehend or capture the persons. The pursuit is not authorized
31 unless the other state gives authority by law for the pursuit by
32 forces of Indiana. Any persons who are apprehended or captured
33 in another state by an organization; unit; or detachment of the
34 forces of Indiana shall without unnecessary delay be surrendered
35 to the military or police forces of the state in which they are taken
36 or to the United States. The surrender of insurrectionists or
37 saboteurs to the military or police forces of the other state does
38 not constitute a waiver by Indiana of its right to extradite or
39 prosecute the insurrectionists or saboteurs for any crime
40 committed in Indiana.

41 SECTION 5. IC 10-16-8-6 IS REPEALED [EFFECTIVE JULY 1,
42 2022]. Sec. 6: (a) Military forces; organizations; units; or detachments



1 of another state that are in fresh pursuit of insurrectionists, saboteurs,
 2 enemies, or enemy forces may continue the pursuit into Indiana until
 3 the military or police forces of Indiana or the forces of the United
 4 States have had a reasonable opportunity to take up the pursuit or to
 5 apprehend or capture the insurrectionists, saboteurs, enemies, or enemy
 6 forces.

7 (b) Military forces, organizations, units, or detachments of another
 8 state may arrest or capture insurrectionists, saboteurs, enemies, or
 9 enemy forces within Indiana while in fresh pursuit. A person who is
 10 captured or arrested by the military forces of the other state while in
 11 Indiana shall without unnecessary delay be surrendered to the military
 12 or police forces of Indiana to be dealt with according to law.

13 (c) This section may not be construed to make unlawful any arrest
 14 in Indiana that would otherwise be lawful. This section does not repeat
 15 any provision of IC 35-33-3.

16 SECTION 6. IC 10-16-8-7 IS AMENDED TO READ AS
 17 FOLLOWS [EFFECTIVE JULY 1, 2022]: Sec. 7. This chapter may not
 18 be construed to authorize the Indiana guard reserve or any part of the
 19 Indiana guard reserve to be called, ordered, or in any manner drafted
 20 into the military services of the United States. However, a person may
 21 not, by reason of the person's ~~enlistment or commission~~ **voluntary**
 22 **service** in the Indiana guard reserve, be exempted from United States
 23 military service required under any law of the United States.

24 SECTION 7. IC 10-16-8-8 IS AMENDED TO READ AS
 25 FOLLOWS [EFFECTIVE JULY 1, 2022]: Sec. 8. A civil organization,
 26 a society, a club, a post, an order, a fraternity, an association, a
 27 brotherhood, a body, a union, a league, or any other combination of
 28 persons or civil groups may not ~~be enlisted~~ **provide voluntary service**
 29 in the Indiana guard reserve as an organization or unit.

30 SECTION 8. IC 10-16-8-9 IS AMENDED TO READ AS
 31 FOLLOWS [EFFECTIVE JULY 1, 2022]: Sec. 9. A person may not be
 32 ~~commissioned or enlisted in~~ **permitted to volunteer with** the Indiana
 33 guard reserve if the person is not a citizen of the United States or if the
 34 person has been expelled or dishonorably discharged from any military
 35 or naval organization of this state, of another state, or of the United
 36 States.

37 SECTION 9. IC 10-16-8-10 IS REPEALED [EFFECTIVE JULY 1,
 38 2022]. Sec. 10. The oath to be taken by officers commissioned in the
 39 Indiana guard reserve shall be substantially in the form prescribed for
 40 officers of the national guard, substituting the words "Indiana guard
 41 reserve" where necessary.

42 SECTION 10. IC 10-16-8-11 IS AMENDED TO READ AS



1 FOLLOWS [EFFECTIVE JULY 1, 2022]: Sec. 11. A person may not
 2 be ~~enlisted for more than~~ **make a commitment for volunteer service**
 3 **exceeding** three (3) years. However, ~~an enlistment a commitment~~ may
 4 be renewed. The oath to be taken upon ~~enlistment commitment to~~
 5 **voluntary service** in the Indiana guard reserve shall be substantially
 6 in the form prescribed for enlisted persons of the national guard,
 7 substituting the words "Indiana guard reserve" where necessary.

8 SECTION 11. IC 10-16-8-12 IS AMENDED TO READ AS
 9 FOLLOWS [EFFECTIVE JULY 1, 2022]: Sec. 12. (a) If the Indiana
 10 guard reserve or any part of the Indiana guard reserve is ~~ordered out for~~
 11 ~~active service or armory drill:~~

12 (1) ~~the uniform code of military justice governing the Indiana~~
 13 ~~national guard relating to courts-martial, their jurisdiction, and the~~
 14 ~~limits of punishment; and~~

15 (2) ~~the rules and regulations prescribed under the uniform code of~~
 16 ~~military justice;~~

17 ~~are in full force and effect as provided for in IC 10-16-9-1.~~ **requested**
 18 **to provide voluntary service, the members of the Indiana guard**
 19 **reserve shall follow the orders and guidance of the Indiana**
 20 **national guard's chain of command and the rules and regulations**
 21 **adopted by the adjutant general under section 2 of this chapter**
 22 **regarding the discipline of members of the Indiana guard reserve.**

23 (b) ~~An officer or enlisted person of~~ **A volunteer responding to a**
 24 **call to voluntary service with** the Indiana guard reserve may not be
 25 arrested on any warrant, except for treason or felony, while going to,
 26 remaining at, or returning from a place where ~~ordered~~ **requested** to
 27 attend for ~~military duty.~~ **voluntary service with the state.** ~~An officer~~
 28 ~~and enlisted person~~ **A volunteer** of the Indiana guard reserve is, during
 29 the service in the Indiana guard reserve, exempt from service upon any
 30 posse comitatus.

31 SECTION 12. IC 10-16-8-13 IS AMENDED TO READ AS
 32 FOLLOWS [EFFECTIVE JULY 1, 2022]: Sec. 13. The adjutant
 33 general of Indiana, with the approval of the governor **and subject to**
 34 **the availability of funds,** may procure a policy of group insurance for
 35 and covering members of the ~~military forces of Indiana~~ **guard reserve**
 36 covering and insuring against any injury received or had by members
 37 from any accident while ~~on drill or active duty.~~ **actively providing**
 38 **voluntary service to the state.**

39 SECTION 13. IC 10-16-8-14 IS REPEALED [EFFECTIVE JULY
 40 1, 2022]. Sec. ~~14.~~ (a) ~~The members of the Indiana guard reserve~~
 41 ~~provided for in this chapter shall receive pay quarterly for time spent~~
 42 ~~in authorized drill and instruction to be paid from any appropriation~~



1 enacted for that purpose.

2 (b) The adjutant general shall:

3 (1) cause quarterly payrolls to be prepared and submitted; and

4 (2) provide regulations for the processing of payrolls.

5 (c) This section applies only to drill and instruction pay and does not
6 apply to payroll for active duty.

7 SECTION 14. IC 10-16-8-15 IS AMENDED TO READ AS
8 FOLLOWS [EFFECTIVE JULY 1, 2022]: Sec. 15. (a) Adequate
9 provisions shall be made to ~~allow the enlistment and induction~~ **permit**
10 **voluntary service** of able bodied citizens of each and all racial **and**
11 **ethnic** groups in Indiana into all branches and departments of the
12 Indiana guard reserve organized to ~~defend and enforce the laws of~~
13 **support the Indiana national guard**. ~~To that end, all racial groups in~~
14 ~~Indiana are entitled to that representation in each branch or department~~
15 ~~of the Indiana guard reserve in approximate proportion to the group or~~
16 ~~groups to the population of Indiana. However, this section or any other~~
17 ~~statute may not be construed so as to allow racial segregation.~~

18 (b) Race, or color, **religion, national origin, sex, or gender** may
19 not be a cause for excluding ~~the or denying an individual's~~
20 application to serve or the service of any person in any branch of
21 service provided for in this chapter. **for voluntary service in the**
22 **Indiana guard reserves.**



COMMITTEE REPORT

Mr. Speaker: Your Committee on Veterans Affairs and Public Safety, to which was referred House Bill 1059, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 6, delete lines 23 through 42.

Delete page 7.

and when so amended that said bill do pass.

(Reference is to HB 1059 as introduced.)

FRYE R

Committee Vote: yeas 10, nays 0.

