

HOUSE BILL No. 1297

DIGEST OF INTRODUCED BILL

Citations Affected: IC 36-8-2.7.

Synopsis: Citizen review board. Requires: (1) counties; and (2) municipalities that have police departments; to establish a citizen review board not later than December 31, 2021, to review complaints filed by citizens having personal knowledge of alleged misconduct by a police officer.

Effective: July 1, 2021.

Smith V

January 14, 2021, read first time and referred to Committee on Veterans Affairs and Public Safety.



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.

HOUSE BILL No. 1297

A BILL FOR AN ACT to amend the Indiana Code concerning local government.

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

1 SECTION 1. IC 36-8-2.7 IS ADDED TO THE INDIANA CODE
2 AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2021]:

4 **Chapter 2.7. Citizen Review Board**

5 **Sec. 1. As used in this chapter, "department" means a:**

- 6 (1) **municipal police department; or**
- 7 (2) **sheriff's department.**

8 **Sec. 2. As used in this chapter, "police executive" means a:**

- 9 (1) **police chief, in the case of a citizen complaint regarding a**
- 10 **municipal police officer; or**
- 11 (2) **sheriff, in the case of a citizen complaint regarding a**
- 12 **county police officer.**

13 **Sec. 3. As used in this chapter, "review board" means the citizen**
14 **review board established under this chapter.**

15 **Sec. 4. Not later than December 31, 2021, the legislative body of**
16 **each unit that has a department shall establish by ordinance a**
17 **review board that:**



- 1 (1) is an independent department or agency of the unit; and
 2 (2) complies with this chapter.
- 3 **Sec. 5. (a) A review board shall consist of eight (8) voting**
 4 **members, not more than four (4) of whom are from the same**
 5 **political party, appointed as follows:**
- 6 (1) Four (4) members appointed by the legislative body of the
 7 unit.
- 8 (2) Four (4) members appointed by the executive of the unit.
- 9 (b) The appointing authority may remove a member from the
 10 review board. The appointing authority must mail notice of the
 11 removal, along with written reasons for the removal, if any, to the
 12 member at the member's residence address. A member who is
 13 removed may not appeal the removal to a court or otherwise.
- 14 (c) When a vacancy occurs on the review board for any reason,
 15 the original appointing authority shall appoint a qualified person
 16 to fill the remainder of the member's unexpired term.
- 17 (d) The ordinance establishing the review board may provide
 18 for the appointment of nonvoting advisory members to the review
 19 board.
- 20 **Sec. 6. A member of the review board:**
- 21 (1) must be a resident of the unit;
 22 (2) may not:
- 23 (A) be an employee of the unit;
 24 (B) be an elected public office holder or a candidate for
 25 elected public office;
 26 (C) be a party to any pending litigation against the unit; or
 27 (D) have a felony conviction; and
- 28 (3) must meet any other requirements established by the
 29 legislative body of the unit for membership on the review
 30 board.
- 31 **Sec. 7. (a) Five (5) members of the review board constitute a**
 32 **quorum for conducting business.**
- 33 (b) An affirmative vote of at least five (5) members is required
 34 for the review board to take action.
- 35 **Sec. 8. A member of the review board serves without**
 36 **compensation.**
- 37 **Sec. 9. (a) The review board shall elect a chair and vice chair**
 38 **from among its members for a term of one (1) year. The chair shall**
 39 **preside at meetings. The vice chair shall preside when the chair is**
 40 **absent or otherwise unable to preside.**
- 41 (b) Upon the request of the review board, the:
- 42 (1) police chief or police chief's designee, in the case of a



1 municipal review board; or
 2 (2) sheriff or sheriff's designee, in the case of a county review
 3 board;
 4 shall attend review board meetings to serve as an informational
 5 resource for the board.

6 **Sec. 10.** A member of the review board shall receive training in
 7 the department's policies and procedures. The legislative body of
 8 the unit shall determine the:

- 9 (1) number of hours of training required; and
 10 (2) time within which a board member must complete the
 11 training after being appointed to the board.

12 **Sec. 11.** The review board shall receive a complaint from a
 13 citizen who has personal knowledge of alleged misconduct by a
 14 police officer involving any of the following:

- 15 (1) Use of excessive force.
 16 (2) Inappropriate language or attitude.
 17 (3) Harassment.
 18 (4) Discrimination in the provision of police services or other
 19 discriminatory conduct on the basis of race, color, creed,
 20 religion, ancestry, national origin, sex, disability, age, or
 21 sexual orientation.
 22 (5) Failure to provide adequate or timely police protection.
 23 (6) Retaliation.
 24 (7) Any violation of the police department's policy and
 25 procedures manual.

26 **Sec. 12.** The review board shall review each citizen complaint
 27 that is not ineligible for review under section 13 of this chapter.

28 **Sec. 13.** A citizen complaint is not eligible for review by the
 29 review board if:

- 30 (1) the complaint:
 31 (A) relates to matters that are the subject of pending:
 32 (i) criminal investigation or proceedings; or
 33 (ii) litigation;
 34 (B) alleges criminal conduct on the part of the police
 35 officer;
 36 (C) alleges misconduct that occurred more than two
 37 hundred seventy (270) days before the date the complaint
 38 was filed; or
 39 (D) alleges a violation that is not within the board's
 40 jurisdiction; or
 41 (2) the complainant does not have personal knowledge of the
 42 misconduct that is alleged in the complaint.



1 **Sec. 14. The review board may contract with:**

2 (1) investigators; and

3 (2) legal counsel, if the municipal or county attorney is not
4 available;

5 to aid in the investigation of a citizen complaint.

6 **Sec. 15. (a) The review board shall forward a citizen complaint**
7 **that is not ineligible for review under section 13 of this chapter to**
8 **the:**

9 (1) appropriate police executive; and

10 (2) police officer alleged to be involved in the incident.

11 **(b) The department shall investigate the allegations made in the**
12 **complaint.**

13 **Sec. 16. (a) When the department completes its investigation of**
14 **the complaint, the department shall provide a written report to the**
15 **review board that specifies the following:**

16 (1) The department's findings of the investigation.

17 (2) Any disciplinary action taken on the complaint.

18 **(b) If the review board approves the findings of the investigation**
19 **and any disciplinary action, the review board shall notify the police**
20 **executive in writing that the board's review of the complaint is**
21 **concluded.**

22 **Sec. 17. (a) If the review board does not agree with the**
23 **department's conduct of the investigation, the findings of the**
24 **investigation, or any disciplinary action taken, the review board**
25 **may order one (1) or both of the following:**

26 (1) An investigation by the board's own investigator into the
27 allegations of the complaint.

28 (2) An informal administrative hearing on the complaint.

29 **(b) The ordinance establishing the review board may require**
30 **any or all proceedings of the review board to be conducted in**
31 **executive session.**

32 **Sec. 18. For purposes of conducting an investigation or an**
33 **informal administrative hearing, the review board may subpoena**
34 **witnesses and documents, except documents withheld from**
35 **disclosure under IC 5-14-3. The review board's authority to issue**
36 **subpoenas shall be enforceable by the county circuit or superior**
37 **court.**

38 **Sec. 19. (a) If the review board holds an informal administrative**
39 **hearing on the complaint, the review board shall give written**
40 **notice to all parties and witnesses according to the rules and**
41 **procedures adopted by the review board.**

42 **(b) The review board may require all testimony at the hearing**



1 to be given under oath.

2 **Sec. 20. (a)** A police officer who appears before the review board
3 may be represented by an attorney.

4 **(b)** A police officer shall have access to the review board process
5 to defend the police officer's actions during the investigation and
6 any administrative hearing.

7 **Sec. 21.** Any disciplinary action taken against a police officer
8 because of the police officer's involvement in an incident that
9 resulted in a complaint being filed with the review board shall be
10 communicated to the review board.

11 **Sec. 22.** Upon the completion of the investigation of the
12 complaint or after the informal administrative hearing, the review
13 board shall dispose of the complaint in one (1) or more of the
14 following ways:

15 **(1)** If the review board finds that a complaint's allegations are
16 not proved by clear and convincing evidence, the review
17 board shall make a recommendation to the police executive
18 that no action be taken on the complaint.

19 **(2)** If the review board finds that clear and convincing
20 evidence exists that proves the complaint's allegations, the
21 review board shall recommend to the police executive that
22 disciplinary or other remedial action be taken against the
23 police officer.

24 **(3)** If the review board finds that:

25 **(A)** the complaint's allegations are false or not factual; or

26 **(B)** the police officer acted lawfully and in accordance with
27 the department's policies and regulations;

28 the review board shall recommend to the police executive that
29 the police officer be exonerated.

30 **(4)** If the complainant requests that no further action be taken
31 on the complaint or an allegation in the complaint, the review
32 board may withdraw the complaint or allegation.

33 **Sec. 23. (a)** The review board shall notify the following of a final
34 disposition of a citizen complaint under section 22 of this chapter:

35 **(1)** The complainant.

36 **(2)** The police executive or the police executive's designee.

37 **(b)** A review board's findings or disposition of a citizen
38 complaint is not subject to judicial review.

39 **Sec. 24.** A review board member may not participate in the
40 review of any citizen complaint in which the review board member
41 has a personal, professional, or financial conflict of interest.

42 **Sec. 25. (a)** The initial appointments to the board shall be



- 1 **staggered as follows:**
2 **(1) Two (2) members first appointed by the legislative body of**
3 **the unit and two (2) members first appointed by the executive**
4 **of the unit shall each serve terms of two (2) years.**
5 **(2) Two (2) members first appointed by the legislative body of**
6 **the unit and two (2) members first appointed by the executive**
7 **of the unit shall each serve terms of three (3) years.**
8 **Thereafter, each member shall serve a term of three (3) years.**
9 **(b) A vacancy on the review board shall be filled for unexpired**
10 **terms by the original appointing authority.**
11 **Sec. 26. The review board shall establish rules and procedures**
12 **for the conduct of business consistent with this chapter, including**
13 **the following:**
14 **(1) Procedures to receive and investigate citizen complaints.**
15 **(2) Access controls for all information maintained by the**
16 **review board.**
17 **Sec. 27. This chapter does not affect a contract concerning**
18 **police officers executed or renewed before July 1, 2021.**

