

HOUSE BILL No. 1289

DIGEST OF INTRODUCED BILL

Citations Affected: IC 22-2-15-2.5; IC 22-5-3-3.

Synopsis: Employee misclassification. Requires the department of labor to employ an investigator to investigate complaints of employee misclassification. Provides that the investigator shall be located at the Marion County prosecutor's office. Extends whistleblower protections to any employee who reports, complains, or testifies about employee misclassification.

Effective: July 1, 2020.

Moseley

January 14, 2020, read first time and referred to Committee on Employment, Labor and Pensions.



Second Regular Session of the 121st General Assembly (2020)

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 2019 Regular Session of the General Assembly.

HOUSE BILL No. 1289

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

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

1 SECTION 1. IC 22-2-15-2.5 IS ADDED TO THE INDIANA CODE
2 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
3 1, 2020]: **Sec. 2.5. (a) The department shall employ an investigator**
4 **to conduct investigations into questions and complaints concerning**
5 **employee misclassification as described in this chapter. The**
6 **investigator has the same inspection and enforcement powers that**
7 **the department has in enforcing the labor laws of this state, and**
8 **shall report to the department concerning the investigations**
9 **described in this section.**

10 **(b) The investigator's office shall be located at the office of the**
11 **prosecuting attorney in Marion County and shall assist prosecutors**
12 **with the investigation of complaints described in subsection (a).**

13 **(c) The department and the office of the prosecuting attorney in**
14 **Marion County shall coordinate in the implementation of this**
15 **section.**

16 **(d) The investigator shall keep any information obtained during**
17 **the course of an investigation under this section confidential, if**



1 **required under state law.**

2 **(e) The department may adopt rules under IC 4-22-2 to**
 3 **implement this section.**

4 SECTION 2. IC 22-5-3-3, AS AMENDED BY P.L.149-2016,
 5 SECTION 67, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 6 JULY 1, 2020]: Sec. 3. (a) An employee of a private employer that is
 7 under public contract may report in writing the existence of:

- 8 (1) a violation of a federal law or regulation;
 9 (2) a violation of a state law or rule;
 10 (3) a violation of an ordinance of a political subdivision (as
 11 defined in IC 36-1-2-13); or
 12 (4) the misuse of public resources;

13 concerning the execution of public contract first to the private
 14 employer, unless the private employer is the person whom the
 15 employee believes is committing the violation or misuse of public
 16 resources. In that case, the employee may report the violation or misuse
 17 of public resources in writing to either the private employer or to any
 18 official or agency entitled to receive a report from the state ethics
 19 commission under IC 4-2-6-4(b)(2)(J) or IC 4-2-6-4(b)(2)(K). If a good
 20 faith effort is not made to correct the problem within a reasonable time,
 21 the employee may submit a written report of the incident to any person,
 22 agency, or organization.

23 (b) For having made a report under subsection (a), an employee may
 24 not:

- 25 (1) be dismissed from employment;
 26 (2) have salary increases or employment related benefits
 27 withheld;
 28 (3) be transferred or reassigned;
 29 (4) be denied a promotion that the employee otherwise would
 30 have received; or
 31 (5) be demoted.

32 **(c) An employee of a private employer may report the existence**
 33 **of employee misclassification by the employer to any official or**
 34 **agency entitled to receive a report concerning possible employee**
 35 **misclassification.**

36 **(d) An employee who:**

- 37 **(1) reports the existence of employee misclassification;**
 38 **(2) files a complaint concerning employee misclassification;**
 39 **(3) institutes or causes to be instituted any proceeding related**
 40 **to employee misclassification; or**
 41 **(4) testifies or will testify in a proceeding concerning employee**
 42 **misclassification;**



- 1 **may not be discharged or discriminated against in the manner**
2 **described in subsection (b).**
3 ~~(c)~~ **(e)** Notwithstanding subsections (a) through ~~(b)~~, **(d)**, an
4 employee must make a reasonable attempt to ascertain the correctness
5 of any information to be furnished and may be subject to disciplinary
6 actions for knowingly furnishing false information, including
7 suspension or dismissal, as determined by the employer. However, any
8 employee disciplined under this subsection is entitled to process an
9 appeal of the disciplinary action as a civil action in a court of general
10 jurisdiction.
11 ~~(d)~~ **(f)** An employer who violates this section commits a Class A
12 infraction.

