

A return of common sense

It has been said that "success depends on your backbone, not your wishbone." And thankfully, partisan tensions have cooled in the Statehouse, and the General Assembly is back to work trying to make a difference for our state. We are well underway in the second half of the session and have already passed some important legislation.

This week, the House passed the Inspector General Bill with a unanimous, bipartisan vote of 98-0. Although Gov. Mitch Daniels had already appointed an inspector general, this bill will give the position official powers.

Under this legislation, the inspector general can initiate, supervise, and coordinate investigations, and recommend policies to deter, detect and eradicate fraud or misconduct in state government.

Most state workers are honest people trying to do their very best under difficult circumstances. But over the last few years, the scandals in state government have reached unprecedented levels, with major scandals at agencies like PERF, BMV, FSSA, DOT and the Lottery Commission.

In the case of the FSSA, innocent children whose lives and care were entrusted to this agency, were the ones that suffered. The profoundly tragic outcome of the FSSA scandal, which cost the lives of 229 children between 1999 through 2002, proves the need for a watchdog.

When the bill was initially introduced, there were bipartisan concerns about whether the legislation gave the inspector general powers that are too broad. However, the legislation was amended, and now every case of potential corruption must first be presented to a local prosecuting attorney for a 180-day review process before the inspector general takes jurisdiction over any matter involving corruption.

If a local prosecutor does not wish to proceed, the governor and the



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inspector general may move forward, but the case must first receive approval by an Indiana Court of Appeals judge, who has the option of appointing a special prosecutor instead of allowing the inspector general to proceed.

On a completely different topic, I had the opportunity to present three bills this week in the House Courts and Criminal Code Committee regarding the sentencing and probation of convicted criminals. All three bills passed out of committee unanimously and should make it to the House floor next week.

Senate Bill 95 would re-establish the sentencing policy study committee to evaluate sentencing laws and policies for an additional two years. The committee is examining current sentencing policy in our state to determine whether penalties for certain crimes are either too harsh or too lenient. It is also examining our sentencing system to determine which common-sense policy changes could make our system more efficient while continuing to promote public safety.

One example of a common-sense change is Senate Bill 98, which would give local judges greater flexibility in dealing with probation sentences. Under current law, if a probationer violates his probation, the judge is required to either do nothing or order execution of the probationer's entire suspended sentence. That often leads to a situation where a probationer is sent back to the Department of Correction for a minor or technical probation violation. This can lead to inappropriate

results for the probationer and high costs to the state.

Senate Bill 98 addresses the lack of flexibility by allowing a judge to order execution of all or part of a probationer's suspended sentence if the probationer violates a condition of probation. If the judge determines that full revocation of probation is appropriate, he or she can still implement that penalty. But if the judge believes that a partial revocation is more appropriate, he or she will have the flexibility to implement that approach.

Senate Bill 101 is another common-sense change that gives judges greater flexibility to hold a new probation hearing and modify a probationer's conditions of probation at any time during the probationary period. This is a change from previous law, which had standardized periods between probation hearings.

During our committee hearings last summer, several judges testified that small, preventative changes in probation early in the process could prevent large problems with a probationer later. For example, if a judge learns that a probationer with a drug conviction has returned to hanging out with drug-using friends, the judge may want to adjust the probation to prohibit any contact with that group. Senate Bill 101 would give the judge flexibility to make this sort of determination.

Hoosiers deserve to know that convicted criminals will serve their time. However, we must continue to reform our sentencing and probation laws to keep up with the times as well. Hopefully, these laws will give judges greater flexibility in dealing with the bureaucracy of the criminal justice system and help create a fairer, less rigid system for everyone involved.

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