

# HOUSE BILL No. 1291

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 12-7-2-190.8; IC 12-17.4-4.5.

**Synopsis:** Therapeutic foster care regulations. Prescribes guidelines for the delivery of therapeutic foster care services. Provides that a therapeutic foster family home is a foster family home: (1) that provides care to a child who has been diagnosed as being behaviorally disordered to the extent that the child is a serious threat to a person or property as shown by the child's demonstrated behavioral patterns; (2) in which the child receives an integrated array of services; and (3) that meets certain additional requirements. Provides that a therapeutic foster parent must be licensed as a regular foster parent and receive 25  
(Continued next page)

**Effective:** July 1, 1998.

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January 13, 1998, read first time and referred to Committee on Public Health.

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additional hours of specialized training in therapeutic foster care. Designates the division of family and children as the agency to administer therapeutic foster care. Provides that a licensed child placing agency may also administer therapeutic foster care if the agency adheres to certain additional requirements, including the following: (1) The total per diem per child may not exceed the maximum per diem by age set forth in the published special needs foster care per diem schedule in effect in Marion County in 1997. (2) County funds may not be used for therapeutic foster care. (3) The agency may not retain any part of the foster care per diem that exceeds two dollars per child. (4) The agency shall document the effectiveness of each child's therapeutic foster care placement and any treatment used on a therapeutic foster child, and the documentation must be used for research and evaluative purposes. Establishes written information and a court hearing that a relative of a therapeutic foster child may request for the purpose of having the court consider placing the therapeutic foster child with the relative. Establishes a five member, volunteer public review panel in order to monitor and improve the delivery of therapeutic foster care services. Requires copies of every therapeutic foster care contract between the state or a county and a licensed child placing agency to be filed and maintained at the office of the county recorder and provided to any interested person, upon request. Sets forth restrictions on the manner in which a therapeutic foster child may be medicated. Prohibits a parent of a therapeutic foster child from being required to reimburse any entity for the costs of care, treatment, or visitation with respect to the child. Addresses issues relating to therapeutic foster children who perpetrate sexual acts upon other children. Prescribes certain other guidelines for the delivery of therapeutic foster care services. Makes it a Class B felony for a person to violate the provisions regulating therapeutic foster care.

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Introduced

Second Regular Session 110th General Assembly (1998)

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 1997 General Assembly.

## HOUSE BILL No. 1291

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A BILL FOR AN ACT to amend the Indiana Code concerning human services.

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

1           SECTION 1. IC 12-7-2-190.8 IS ADDED TO THE INDIANA  
2 CODE AS A NEW SECTION TO READ AS FOLLOWS  
3 [EFFECTIVE JULY 1, 1998]: **Sec. 190.8. "Therapeutic foster family**  
4 **home", for purposes of IC 12-17.4-4.5, means a foster family home:**  
5           **(1) that provides care to a child who a licensed medical or**  
6 **psychological professional diagnoses as being behaviorally**  
7 **disordered to the extent that the child is a serious threat to a**  
8 **person or property as shown by the child's demonstrated**  
9 **behavioral patterns;**  
10           **(2) in which the child receives treatment in a family home**  
11 **through an integrated array of services; and**  
12           **(3) that meets the additional requirements under**  
13 **IC 12-17.4-4.5.**  
14           SECTION 2. IC 12-17.4-4.5 IS ADDED TO THE INDIANA  
15 CODE AS A NEW CHAPTER TO READ AS FOLLOWS



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1 [EFFECTIVE JULY 1, 1998]:

2 **Chapter 4.5. Regulation of Therapeutic Foster Homes**

3 **Sec. 1. A person may not operate a therapeutic foster family**  
4 **home without a license issued under this article.**

5 **Sec. 2. The state, a political subdivision of the state, or a**  
6 **private agency may not operate a therapeutic foster family home**  
7 **that is not licensed in accordance with this article.**

8 **Sec. 3. The division may only issue a license for a therapeutic**  
9 **foster family home that meets:**

10 (1) all of the licensing requirements of a foster family home;

11 and

12 (2) the additional requirements described in this chapter.

13 **Sec. 4. An applicant for a therapeutic foster family home**  
14 **license must:**

15 (1) be licensed as a foster parent under 470 IAC 3-1-1 et seq.;

16 and

17 (2) receive twenty-five (25) hours of specialized training in  
18 therapeutic foster care that is approved by the division and  
19 includes training in:

20 (A) the care of a child who is destructive to a person or  
21 property; and

22 (B) child sexual predation.

23 **Sec. 5. The division shall administer therapeutic foster care**  
24 **except as provided in this chapter.**

25 **Sec. 6. The division may adopt rules under IC 4-22-2 for the**  
26 **administration of therapeutic foster care under this chapter.**

27 **Sec. 7. (a) A licensed child placing agency may administer**  
28 **therapeutic foster care only if the licensed child placing agency**  
29 **adheres to the following requirements:**

30 (1) The total per diem paid per child does not exceed the  
31 maximum per diem by age set forth in the published special  
32 needs foster care per diem schedule in effect in Marion  
33 County in 1997.

34 (2) County funds may not be used for therapeutic foster care.

35 (3) A licensed child placing agency that administers  
36 therapeutic foster care may not retain any part of a  
37 therapeutic foster care per diem in an amount that exceeds  
38 two dollars (\$2) per child. The licensed child placing agency  
39 shall pay the remaining part of the per diem directly to the  
40 foster parents.

41 (4) The therapeutic foster care per diem described in  
42 subdivision (3) may be paid only with respect to a child who



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- 1 is:
- 2 (A) diagnosed as being in need of therapeutic foster care
- 3 services by a licensed medical or psychological
- 4 professional; and
- 5 (B) shown to be a serious threat to a person or property
- 6 through demonstrated behavioral patterns.
- 7 (5) A licensed child placing agency that administers
- 8 therapeutic foster care shall document the effectiveness of:
- 9 (A) each child's therapeutic foster care placement; and
- 10 (B) any treatment used on a therapeutic foster child;
- 11 through verifiable records, to be used for research,
- 12 evaluative, and decision making purposes.
- 13 (b) The records described in this section must be provided to
- 14 a parent, guardian, or custodian of a therapeutic foster child
- 15 without charge not more than five (5) days after the records are
- 16 requested.
- 17 **Sec. 8. (a) A child may not remain in therapeutic foster care**
- 18 **for longer than one (1) year, unless the child is placed in kinship**
- 19 **care.**
- 20 (b) Whenever the county office of family and children intends
- 21 to recommend that a child be placed in therapeutic foster care or
- 22 places a child in therapeutic foster care, the county office of family
- 23 and children shall send notice to any known and suitable adoptive
- 24 or blood relatives of the child of the relative's right to a full
- 25 evidentiary hearing at which time a court shall consider placing the
- 26 child with the relative.
- 27 (c) A court shall conduct the hearing not later than forty-five
- 28 (45) days after the child's relative requests the hearing. At the
- 29 hearing, the court shall consider the appropriateness of placing the
- 30 child with the child's relative if the child:
- 31 (1) is being considered for a therapeutic foster care
- 32 placement; or
- 33 (2) has been placed in therapeutic foster care.
- 34 The court shall give primary consideration to placing the child
- 35 with the child's relative.
- 36 (d) The rules of evidence must apply to the hearing. However,
- 37 the child in need of services records with respect to the child must
- 38 remain confidential in accordance with IC 31-33-18-2.
- 39 **Sec. 9. (a) Upon request, the division or a county office of**
- 40 **family and children shall provide any interested relatives of the**
- 41 **child with written information regarding the right of a relative of**
- 42 **a child to have a court consider the appropriateness of having the**



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1 relative provide kinship care to a child as described in section 8 of  
2 this chapter.

3 (b) The division or county office of family and children shall  
4 provide the information to a child's relative not more than seven  
5 (7) days after the relative requests the information.

6 Sec. 10. Any program, treatment, or therapy shown to be  
7 ineffective or detrimental to the health, safety, or welfare of a  
8 therapeutic foster child shall be:

9 (1) discontinued for the child; and

10 (2) discontinued and defunded for use with respect to any  
11 other therapeutic foster children.

12 Sec. 11. (a) As used in this section, "panel" refers to a public  
13 review panel established under this section.

14 (b) Each county in which therapeutic foster care is  
15 administered shall establish a public review panel. The appropriate  
16 county office of family and children shall administer the panel.

17 (c) The panel consists of five (5) unpaid volunteer residents of  
18 the county to be chosen through a publicized lottery held every two  
19 (2) years.

20 (d) The panel shall meet once every two (2) months, which  
21 must be reasonably publicized regarding the date, time, and  
22 location. The panel shall publicly review cases brought to the panel  
23 for recourse by:

24 (1) a foster parent;

25 (2) relatives of a foster child; or

26 (3) other interested parties;

27 without revealing the identity of any child, in order to monitor and  
28 improve the care of children in therapeutic foster care.

29 Sec. 12. The county office of family and children shall file a  
30 copy of every therapeutic foster care contract between the state or  
31 a county and a licensed child placing agency at the office of the  
32 county recorder:

33 (1) in a county where the therapeutic foster care services are  
34 to be delivered; and

35 (2) immediately upon execution of the contract.

36 The county recorder shall maintain the copies of the contracts.

37 Sec. 13. Upon request, the county recorder shall provide copies  
38 of a therapeutic foster care contract described in section 12 of this  
39 chapter to an interested person at a cost:

40 (1) not to exceed fifteen cents (\$0.15) per page; and

41 (2) of actual mailing costs, if applicable.

42 Sec. 14. A therapeutic foster child may not be medicated in any

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1 manner that conflicts with recommendations and cautions set forth  
 2 in the current edition of the Physician's Desk Reference. A person  
 3 shall notify the parent of a therapeutic foster child before  
 4 performing or administering any medical procedure or treatment  
 5 on the child, except in the case of an emergency. However, in the  
 6 case of an emergency, the person shall notify the parent  
 7 immediately after performing or administering the procedure or  
 8 treatment.

9 Sec. 15. A person who is the custodian of any medical records,  
 10 educational records, and records of treatment, counseling, and  
 11 therapy with respect to a therapeutic foster child shall provide  
 12 copies of the records at no cost to the child's parent not more than  
 13 ten (10) days after the parent requests the records.

14 Sec. 16. A parent of a therapeutic foster child may not be  
 15 required to reimburse any entity, private or governmental, for  
 16 costs of care, treatment, or visitation with respect to the child.

17 Sec. 17. (a) A child who is known to perpetrate sexual acts  
 18 upon other children, including committing incest against a sibling,  
 19 as determined by a licensed medical or psychological professional,  
 20 may not be placed in:

- 21 (1) a therapeutic foster home; or
- 22 (2) any other foster home;

23 with any other biological, adoptive, or foster children who are less  
 24 than twelve (12) years of age.

25 (b) An adolescent child who is known to have perpetrated  
 26 sexual acts upon other children may only be placed in a therapeutic  
 27 foster home:

- 28 (1) where there are no other children in the home; or
- 29 (2) with children who are at least four (4) years older than  
 30 the adolescent child.

31 (c) The agency that supervises a child's therapeutic foster care  
 32 shall notify a school or therapeutic foster parent whenever a child  
 33 who is known to commit sexual acts upon other children is being:

- 34 (1) enrolled in the school; or
- 35 (2) placed in the therapeutic foster parent's foster home.

36 Sec. 18. (a) The division shall keep records of all child sexual  
 37 predation, including sibling incest, that:

- 38 (1) occur in a therapeutic foster home; and
- 39 (2) are reported to the division;

40 for the purpose of research or evaluation of programs and  
 41 treatments for therapeutic foster children.

42 (b) Except as provided in section 17 of this chapter, the

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1 **identity of a child who is reported to the division under this section**  
2 **must be kept confidential.**

3 **Sec. 19. A person who recklessly, knowingly, or intentionally**  
4 **violates this chapter commits a Class B felony.**

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