

# SENATE BILL No. 208

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 25-3.6; IC 25-40; IC 34-46-3-1.

**Synopsis:** Drug counselors; employee assistance professionals. Allows the health professions bureau to license agencies that certify alcohol and drug abuse counselors. Provides for certification of employee assistance professionals. Defines an "employee assistance professional" as an individual trained to identify and assist employees and their dependents with drug or alcohol related problems or other personal problems that affect the performance of employees. Provides that matters communicated by a client to an employee assistance professional are privileged information and may not be disclosed except under certain circumstances.

**Effective:** July 1, 1999.

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January 6, 1999, read first time and referred to Committee on Health and Provider Services.

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First Regular Session 111th General Assembly (1999)

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 1998 General Assembly.

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## SENATE BILL No. 208



A BILL FOR AN ACT to amend the Indiana Code concerning professions and occupations.

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

1 SECTION 1. IC 25-3.6 IS ADDED TO THE INDIANA CODE AS  
2 A **NEW ARTICLE** TO READ AS FOLLOWS [EFFECTIVE JULY 1,  
3 1999]:

4 **ARTICLE 3.6. ALCOHOL AND DRUG ABUSE**  
5 **CERTIFICATION AGENCIES**

6 **Chapter 1. Definitions**

7 **Sec. 1. The definitions in this chapter apply throughout this**  
8 **article.**

9 **Sec. 2. "Agency" means a private agency located in Indiana that**  
10 **may certify alcohol and drug abuse counselors under this article.**

11 **Sec. 3. "Alcohol and drug abuse counseling" means:**

- 12 (1) **applying theories, principles, and techniques of chemical**
- 13 **substance abuse counseling to individuals and groups;**
- 14 (2) **teaching principles, theories, and techniques of chemical**
- 15 **substance abuse counseling to individuals and groups;**
- 16 (3) **providing chemical substance abuse counseling**
- 17 **administration; and**



1           (4) providing chemical substance abuse counseling  
 2           supervision to candidates for certification as counselors.  
 3           Sec. 4. "Bureau" refers to the health professions bureau  
 4           established in IC 25-1-5-3.  
 5           Sec. 5. "Counselor" means:  
 6           (1) a drug abuse counselor;  
 7           (2) an alcohol abuse counselor; or  
 8           (3) a drug and alcohol abuse counselor;  
 9           who is certified by an agency under this article.  
 10          Chapter 2. Alcohol and Drug Abuse Counselor Certification  
 11          Agencies  
 12          Sec. 1. (a) The bureau may:  
 13           (1) issue a license to an agency to certify counselors; and  
 14           (2) approve educational and training programs that must be  
 15           satisfied for certification of counselors.  
 16          (b) A license issued to an agency under this chapter expires two  
 17          (2) years after the date the license is issued.  
 18          Sec. 2. The bureau shall set agency licensing fees under this  
 19          chapter as provided in IC 25-1-8-2.  
 20          Sec. 3. An agency must meet the following minimum  
 21          requirements to obtain a license from the bureau under this  
 22          chapter:  
 23           (1) The agency must operate in Indiana for at least one (1)  
 24           year before the date the agency applies for a license.  
 25           (2) The agency must have at least one (1) full-time employee.  
 26           (3) The agency must have an established place of business that  
 27           is accessible to the general public.  
 28           (4) The agency must carry general liability insurance in an  
 29           amount established by the bureau.  
 30           (5) The agency must establish a certification committee that  
 31           is composed of:  
 32           (A) at least seven (7) members; and  
 33           (B) persons who have been certified by a licensed agency  
 34           under this chapter;  
 35           to administer certification examinations and regulatory  
 36           functions concerning the certification of counselors.  
 37           (6) The agency must adopt procedures for imposing sanctions  
 38           and providing for conditions of probation and decertification  
 39           of counselors.  
 40           (7) The agency must post a performance bond payable to the  
 41           state in an amount of at least twenty-five thousand dollars  
 42           (\$25,000).

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1 (8) The agency must adopt procedures and conditions for  
2 certifying counselors without examination if the counselors  
3 meet certain standards.

4 (9) The agency must meet any other requirements determined  
5 by the bureau.

6 Sec. 4. If an agency applies to the bureau to obtain a license or  
7 to renew a license under this chapter, the agency must provide the  
8 bureau with the following information concerning agency  
9 certification of counselors:

10 (1) The minimum experience, training, and education  
11 requirements used for each type of certified counselor.

12 (2) The methods used to assure due process for individuals  
13 who may appeal an action by the agency.

14 (3) The grievance procedures that may be used by certified  
15 counselors or applicants for certification.

16 (4) The curriculum, syllabus, and number of hours of training  
17 and education required for each type of counselor to be  
18 certified by the agency.

19 (5) An annual report of pass and fail statistics for all  
20 certification examinations given by the agency.

21 (6) The number of examinations the agency expects to offer  
22 annually for certification. An agency shall offer at least one

23 (1) examination each year for each type of counselor certified  
24 by the agency.

25 (7) A current list of all examiners used by the agency and the  
26 qualifications of the examiners.

27 (8) Standards of professional practice for certified counselors  
28 as adopted by the certification committee or the agency.

29 (9) Certification fees established by the agency.

30 (10) Other information that may be required by the bureau.

31 Sec. 5. (a) An agency that obtains a license from the bureau  
32 under this chapter may certify the following types of persons who  
33 provide alcohol and drug abuse counseling:

34 (1) Drug abuse counselors.

35 (2) Alcohol abuse counselors.

36 (3) Drug and alcohol abuse counselors.

37 (b) A certified counselor may not perform psychotherapy (as  
38 defined in IC 25-23.6-1-9).

39 Sec. 6. A person who is not certified by an agency under this  
40 chapter may not use any of the following titles:

41 (1) Certified drug abuse counselor.

42 (2) Certified alcohol abuse counselor.

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1           **(3) Certified drug and alcohol abuse counselor.**

2           **Sec. 7. A certification issued by an agency expires two (2) years**  
 3 **after the date the certification is issued.**

4           **Sec. 8. The bureau may regulate, suspend, and revoke the**  
 5 **license of an agency. However, the revocation or suspension of an**  
 6 **agency's license does not affect the validity of the counselor**  
 7 **certifications issued by the agency.**

8           **Sec. 9. The bureau may, on a permanent or temporary basis:**

9           **(1) administer examinations; and**

10          **(2) issue certifications;**

11 **as provided under this chapter if an agency ceases operation or**  
 12 **does not have a valid license issued by the bureau.**

13          **Sec. 10. An agency licensed by the bureau may not require a**  
 14 **person certified by the agency to hold a membership in the agency.**

15          **Sec. 11. The bureau may employ consultants and practitioners**  
 16 **with experience in the area of alcohol and drug abuse counseling**  
 17 **to assist with establishing standards for:**

18          **(1) agency licensing; and**

19          **(2) certification of counselors.**

20          **Sec. 12. (a) The attorney general shall provide a licensed agency**  
 21 **with copies of complaints filed against counselors certified by an**  
 22 **agency.**

23          **(b) An agency shall cooperate with the attorney general to**  
 24 **resolve all issues concerning complaints.**

25          **Sec. 13. The bureau may adopt rules under IC 4-22-2 to**  
 26 **implement this chapter.**

27          **SECTION 2. IC 25-40 IS ADDED TO THE INDIANA CODE AS**  
 28 **A NEW ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1,**  
 29 **1999]:**

30          **ARTICLE 40. EMPLOYEE ASSISTANCE PROFESSIONALS**

31          **Chapter 1. Definitions**

32          **Sec. 1. The definitions in this chapter apply throughout this**  
 33 **article.**

34          **Sec. 2. "Commission" refers to the employee assistance**  
 35 **certification commission, an autonomous organization that**  
 36 **operates under the auspices of the Employee Assistance**  
 37 **Professionals Association.**

38          **Sec. 3. "Employee assistance professional" means an individual**  
 39 **trained and certified by a program.**

40          **Sec. 4. "Program" means a local employee assistance**  
 41 **professionals program certified by the commission and designed to**  
 42 **train individuals to assist employees and the dependents of the**



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1 employees with drug or alcohol related problems or other personal  
2 problems that affect the performance of employees.

3 **Chapter 2. Training and Certification; Communications**

4 **Sec. 1. An individual who desires certification as an employee**  
5 **assistance professional must be certified by a program approved**  
6 **by the individual's employer and union, if any, or by the**  
7 **commission. To qualify for certification, the individual must be**  
8 **trained in the following areas:**

9 (1) **Identification of and directing employees to resources and**  
10 **professionals that resolve productivity problems associated**  
11 **with employees impaired by the following that may adversely**  
12 **affect employee job performance:**

13 (A) **Health concerns.**

14 (B) **Marital concerns.**

15 (C) **Family concerns.**

16 (D) **Financial concerns.**

17 (E) **Alcohol concerns.**

18 (F) **Drug concerns.**

19 (G) **Legal concerns.**

20 (H) **Emotional concerns.**

21 (I) **Other personal concerns.**

22 (2) **Selecting and evaluating available community resources.**

23 (3) **Making appropriate referrals.**

24 (4) **Knowledge of local and national employee assistance**  
25 **agreements.**

26 (5) **Client confidentiality.**

27 (6) **Other areas specified by the program.**

28 **Sec. 2. Matters communicated by a client to an employee**  
29 **assistance professional in the employee assistance professional's**  
30 **official capacity are privileged information and may not be**  
31 **disclosed by the employee assistance professional to any person,**  
32 **except under the following circumstances:**

33 (1) **In a criminal proceeding involving a homicide, if the**  
34 **disclosure relates directly to the fact or immediate**  
35 **circumstances of the homicide.**

36 (2) **When the communication reveals the contemplation or**  
37 **commission of a crime or a serious harmful act.**

38 (3) **When:**

39 (A) **the client is an unemancipated minor or an adult**  
40 **adjudicated to be incompetent; and**

41 (B) **the information communicated to the employee**  
42 **assistance professional indicates the client was the victim**



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- 1                   of abuse or a crime.
- 2           **(4) In a proceeding to determine mental competency, or a**
- 3           **proceeding in which a defense of mental incompetency is**
- 4           **raised.**
- 5           **(5) In a civil or criminal malpractice action against the**
- 6           **employee assistance professional.**
- 7           **(6) When the employee assistance professional has the express**
- 8           **consent of:**
- 9                   **(A) the client; or**
- 10                   **(B) in the case of a client's death or disability, the client's**
- 11                   **legal representative.**
- 12           **(7) To a physician when the physician is licensed under**
- 13           **IC 25-22.5 and has established a physician-patient**
- 14           **relationship with the client.**
- 15           **(8) When privileged communication is abrogated under**
- 16           **Indiana law.**
- 17           SECTION 3. IC 34-46-3-1 IS AMENDED TO READ AS
- 18           FOLLOWS [EFFECTIVE JULY 1, 1999]: Sec. 1. Except as otherwise
- 19           provided by statute, the following persons shall not be required to
- 20           testify regarding the following communications:
- 21                   (1) Attorneys, as to confidential communications made to them in
- 22                   the course of their professional business, and as to advice given
- 23                   in such cases.
- 24                   (2) Physicians, as to matters communicated to them by patients,
- 25                   in the course of their professional business, or advice given in
- 26                   such cases.
- 27                   (3) Clergymen, as to the following confessions, admissions, or
- 28                   confidential communications:
- 29                           (A) Confessions or admissions made to a clergyman in the
- 30                           course of discipline enjoined by the clergyman's church.
- 31                           (B) A confidential communication made to a clergyman in the
- 32                           clergyman's professional character as a spiritual adviser or
- 33                           counselor.
- 34                   (4) Husband and wife, as to communications made to each other.
- 35           **(5) Employee assistance professionals certified under**
- 36           **IC 25-40, with respect to confidential communications made**
- 37           **to them by:**
- 38                   **(A) a client; or**
- 39                   **(B) another employee assistance professional.**

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